

(2012) 02 GAU CK 0043
In the Gauhati High Court
Case No : Writ Petition (C) No. 317 of 2010

Md. Lechu Miah

APPELLANT

Vs

The State of Tripura and Others

RESPONDENT

Date of Decision : 21-02-2012

Acts Referred:

Tripura Panchayats (Administration) Rules, 1994 — Rule 3, 4, 5, 6
Tripura Panchayats (Election of Office Bearers) Rules, 1994 — Rule 27, 27(3)
Tripura Panchayats Act, 1993 — Section 128, 16, 16(3), 23, 23(2)

Citation : (2012) 2 GLD 362

Hon'ble Judges : Swapan Chandra Das, J

Bench : Single Bench

Advocate : N. Das and Mr. A. Nandi, for the Appellant; A.S. Lodh, A.G.A., for Respondent Nos. 1 to 4, Mr. J. Majumder, Advocate, for Respondent Nos. 5, Mr. M.C. Dey, Advocate, Ms. P. Bhowmik, Advocate, for Respondent Nos. 7 to 9, Mr. P.K. Biswas, Advocate, Mr. Somik Deb, Advocate, Mr. S. Lodh, Advocate, Mr. M.K. Biswas, Advocate, Mr. H.K. Bhowmik, Advocate, for Respondent Nos. 6, 10 to 13, for the Respondent

Final Decision : Dismissed

Judgement

S.C. Dass

1. Both the writ petitions were taken up together with the consent of learned counsel of both sides. Both the writ petitioners, been disqualified as Member of Noorpur Gram Panchayat under Gournagar R.D. Block, Kailashahar, North Tripura, filed separate writ petitions challenging the order of disqualification against the same set of respondents on same and identical question of facts and laws, and hence, this single judgment/order shall govern both the cases.

2. I have heard learned counsel, Mr. N. Das and learned counsel, Mr. A. Nandi for the petitioners of both the writ petitions, and learned Addl. G.A., MRs. A.S. Lodh for respondent Nos.1 to 4, learned counsel, Mr. J. Majumder for respondent No. 5, learned counsels, Mr. P.K. Biswas, Mr. Somik Deb, Mr. H.K. Bhowmik, Mr. S.

Lodh and Mr. M.K. Biswas for respondent Nos.6 and 10 to 13. None appeared for respondent Nos.7 to 9. Each of the writ petitioners made the other writ petitioner as respondent No. 14 in their respective writ petition.

3. The petitioners, inter alia, stated that Election to the Noorpur Gram Panchayats was held on 23.07.2009 and the petitioners as well as the respondent Nos.10 to 13 were set up as candidates sponsored by the Indian National Congress (INC) and they won the election as Member of the Panchayat. Rspdt. Nos.7, 8 and 9 were sponsored by rival political party and they also won the election. Noorpur Gram Panchayat(for short G.P.) consisted of 9(nine) members. They took oath as Member of Panchayat on 06.08.2009, and thereafter, Rspdt. Nos.10 and 11 were elected/appointed as Pradhan and Upa-Pradhan of the said Panchayat as per provisions prescribed in The Tripura Panchayats(Election of Office Bearers) Rules, 1994(hereinafter mentioned as the Rules of 1994). The said Pradhan and Upa-Pradhan (Rspdt Nos.10 and 11) were indulged in illegal activities and financial corruption, and therefore, the petitioners along with Rspdt. Nos.7 to 9 issued notice u/s 23(2) of The Tripura Panchayats Act, 1993 (hereinafter mentioned as the Act of 1993) on 14.05.2010 for removal of Pradhan and Upa-Pradhan and on receipt of that notice (Annexure-4 to the writ petitions), Rspdt. No. 3, being the prescribed authority, issued notice dated 18.05.2010 calling for a special meeting to be held on 08.06.2010, and accordingly, meeting was held on 08.06.2010 at 10.30 AM in the office of Noorpur Gram Panchayat. The meeting was presided over by Rspdt. No. 5. In the meeting all the nine members were present and after detailed discussions, the no confidence motion against Pradhan and Upa-Pradhan for their removal was put to vote, whereupon the petitioners and Rspdt. Nos.7 to 9 voted in favour of the motion and the Rspdt. Nos.10 to 13 voted against the motion, and the motion was accordingly passed and consequence thereupon Rspdt. Nos.10 and 11 were removed from the posts of Pradhan and Upa-Pradhan by Memo. dated 11.06.2010 (Annexure-6 to the writ petitions). It was stated that no whip was issued by the INC and nothing was mentioned in the meeting held on 08.06.2010 by Rspdt. No. 5 regarding any such whip issued by INC. The petitioners requested Rspdt. No. 3 for appointing temporary Pradhan and Upa-Pradhan, and Rspdt. No. 3 accordingly, wrote letter (Annexure-8 to the writ petitions) to Rspdt. No. 4 but Rspdt. No. 4 without complying it, wrote a letter dated 22.06.2010 (Annexure-9 to the writ petitions) to Rspdt. No. 2, informing that the petitioners cast their votes in the no confidence motion violating the whip/direction issued by the INC party and that a report in Form 6A to that effect has been submitted referring the question of disqualification and Rspdt. No. 4, therefore, sought instructions from Rspdt. No. 2, who was the ultimate authority. It was alleged that writing such a letter, Rspdt. No. 4 violated direction issued by Rspdt. No. 3. It was also alleged that on 09.06.2010, after collection of a copy of whip (Annexure-12 to the writ petitions), the petitioners first came to know about the alleged whip issued by Rspdt. No. 6. It was further alleged that the Rspdt. No. 6 had no authority to issue such a whip and that the said whip was

not brought to the notice of the petitioners on 08.06.2010, the date of meeting of no confidence motion, and therefore, Rspdt. No. 4 was not supposed to act upon any such whip. The petitioners were asked by notice, dated 22.06.2010 (Annexure-10 to the writ petitions) by the Rspdt. No. 4, to show cause on the basis of Annexure-12, the alleged whip issued by the Rspdt. No. 6, and in response to it the petitioners submitted their reply (Annexure-11), and thereafter, nothing was informed and the Rspdt. No. 4 again issued notice dated 15.07.2010 (Annexure-14 to the writ petitions), and thereafter, to their surprise, issued declaration in Form 6B (Annexure-17 to the writ petitions) declaring the petitioners disqualified as member of Noorpur G.P. u/s 16 of the Act of 1993. The show cause reply dated 20.07.2010 given by Rspdt. No. 4 (Annexure-19 to the writ petitions) was also received by them on the same date along with Annexure-17. The petitioners alleged that the Annexure-17 was illegal and violative of principles of natural justice, and therefore, prayed for setting aside and quashing the same in exercise of writ jurisdiction by this Court.

4. Rspdt. Nos.1 to 4 submitted affidavit-in-opposition, inter alia, stating that the petitioners and Rspdt. Nos.7 to 9 issued notice dated 14.05.2010 u/s 23(2) of the Act of 1993 for removal of Pradhan and Upa-pradhan and based on that notice a special meeting of Noorpur G.P. was convened on 08.06.2010 at Noorpur G.P. and the meeting was conducted by Rspdt. No. 5, and in the said meeting, the petitioners and Rspdt. Nos.7 to 9 voted in favour of the no-confidence motion and Rspdt. Nos.10 to 13 voted against the no-confidence motion. A whip/direction was received by the Rspdts., which was issued by Md. Badruzzaman, Member of the Tripura Pradesh Congress Committee (TPCC) and the whip was explained in the meeting held on 08.06.2010, and since the petitioners in violation of the whip, cast their votes in favour of the no-confidence motion against the Pradhan and Upa-Pradhan, being elected Members, sponsored as candidates of INC, therefore, the Rspdt. No. 5 submitted a report in Form 6A as per Rule 27 of the Rules of 1994 to the Rspdt. No. 4. A copy of the report marked as Annexure-R.3 to the counter affidavit. Thereafter, Rspdt. No. 4 observing formalities as prescribed by law declared the petitioners as disqualified u/s 6 of the Act of 1993 (Annexure-R.4 to the counter affidavit). No illegality or impropriety was done by the Rspdts., and there was no collusion between the official Rspdts. with Rspdt. Nos.6 and 10 to 13.

5. Rspdt. No. 5 did not put any written statement.

6. Rspdt. Nos.6 and 10 to 13 submitted a joint written statement, inter alia, stating that the petitioners and Rspdt. Nos.10 to 13 were sponsored/set up by the INC as candidates and they won the election as Member of Noorpur G.P. They were therefore bound to follow the rules, procedures and instructions of the authority of INC party. In utter violation of the rules and procedures and party direction/whip, the petitioners shifted their allegiance and brought the no-confidence motion along with Rspdt. Nos.7 to 9 by issuing letter dated 14.05.2010 (Annexure-4 to the writ petitions), and immediately thereafter,

Rspdt. No. 6, being a member of TPCC authorized by the President of TPCC, issued whip to all the Congress sponsored members of the Panchayat i.e. the petitioners and Rspdt. Nos.10 to 13 to cast their votes against the no-confidence motion brought against Pradhan and Upa-Pradhan in the meeting scheduled to be held on 08.06.2010 and also directed them to remain present in the meeting. The whip was issued on 24.05.2010 and a copy of the whip was also sent to the Rspdt. Nos.3 and 4 for compliance. A copy of the same annexed as Annexure-3 to the affidavit-in-opposition. It was further alleged that the petitioners refused to receive letter containing the whip and the postal endorsement on the envelopes containing entry of refusal by the petitioners were collected by the Rspdts. were annexed with the counter affidavit and marked as Annexure-2. Rspdt. No. 6 also wrote letter to the Postmaster, Kailashahar Post Office regarding those registered letters containing whip to the petitioners and in response to that letter, Postmaster, Kailashahar MDG wrote letter dated 20.08.2010 to Rspdt. No. 6 informing that those registered letters were returned on 01.06.2010 since the petitioners refused to receive the same. A copy of that letter dated 21.08.2010 marked as Annexure-1 to the counter affidavit. The Respondents further stated that the whip issued by the party was explained in the meeting dated 08.06.2010 and in utter violation of the whip the petitioners cast their votes in favour of the no-confidence motion brought by them against Pradhan and Upa-Pradhan (Rspdt. Nos.10 and 11) and thereby they violated the provisions of Section 16 of the Act of 1993 coupled with Rule 27 of the Rules of 1994 and brought themselves under the peril of disqualification. Rspdt. No. 5, who conducted the meeting dated 08.06.2010 submitted report to Rspdt. No. 4 in prescribed format and also submitted a minutes of the proceedings of the meeting held on that day and a copy of the same marked as Annexure-7 to the affidavit-in-opposition. The Rspdt. No. 4 acting on the documentary evidence and after hearing the petitioners issued the declaration, declaring them as disqualified as a Member of the Panchayat for defection and the decision was rightly taken and does not deserve interference.

7. Rspdt. Nos.7, 8 and 9 also submitted counter affidavit supporting contention of the writ petitioners, inter alia, stating that they along with petitioners issued notice dated 14.05.2010 to convene a special meeting, and accordingly, the no-confidence motion was brought in the meeting dated 08.06.2010 and in the said meeting no whip issued by INC was brought to the notice of the petitioners and that they along with the petitioners voted in favour of the motion and Rspdt. Nos.10 to 13 voted against the motion and the Pradhan and Upa Pradhan were removed as no-confidence motion was passed. The Rspdts. supported the contention of the petitioners.

8. The petitioners filed rejoinder affidavits after filing of the affidavit-in-opposition by the respondents and Rspdt. Nos.6 and 10 to 13 also filed rejoinder affidavits after the rejoinder filed by the petitioners.

9. Following undisputed facts emerged on the pleadings of the parties:

(i) The petitioners and Rspdt. Nos.10 to 13 were sponsored/set up as candidates by INC in the Panchayat Election of Noorpur G.P., held on 23.07.2009 and they all returned successful and became Members of Noorpur Gram Panchayat. They took oath as such Members on 06.08.2009. Thereafter, Rspdt. Nos.10 and 11 were elected/ appointed as Pradhan and Upa-pradhan of the Panchayat.

(ii) Rspdt. Nos.7, 8 and 9 were also elected as members

of the Panchayat, sponsored by a rival political party to that of the petitioners and Rspdt. Nos.10 to 13.

(iii) The petitioners and Rspdt. Nos.7, 8 and 9 issued notice dated 14.05.2010(Annexure-4 to the writ petition) u/s 23(2) of the Act of 1993 for removal of Pradhan and Upa-Pradhan(Rspdt. Nos.10 and 11), and pursuant to that notice, Rspdt. No. 3 issued letter dated 18.05.2010(Annexure-5 to the writ petition) for holding special meeting of Noorpur G.P. on 08.06.2010 at 10.30 AM in the office of Noorpur G.P. and that meeting was conducted and presided over by Rspdt. No. 5, the Panchayat Extension Officer.

(iv) In the meeting, the no-confidence motion was put to vote and the petitioners as well as the Rspdt. Nos.7 to 9 voted in favour of the motion and Rspdt. Nos.10 to 13 voted against the motion and the motion was accordingly passed and consequent thereto Rspdt. Nos.10 to 11 were removed from the posts of Pradhan and Upa-Pradhan.

(v) The petitioners were declared as disqualified by declaration dated 21.07.2010(Annexure-17 to the writ petitions) made by Rspdt. No. 4 as per Section 16 of the Act of 1993 read with Rule 27 of the Rules of 1994, holding that they violated the whip issued by the political party, which set up them as candidates for membership of the Gram Panchayat.

10. Learned counsel, Mr. Das has strenuously argued that the petitioners were set up/sponsored as candidates by the Indian National Congress (INC) for election as member to the Noorpur G.P. and they successfully returned as such members being elected by the electorates and as such, they were bound to protect the interest of the people, who elected them. They found Pradhan and Upa-Pradhan (Rspdt. Nos.10 and 11) were indulged in illegal activities and also involved in financial corruption, and therefore, they along with Rspdt. Nos.7 to 9 brought no-confidence motion against Pradhan and Upa-Pradhan and they had a legal right to bring such no-confidence motion as prescribed by the Act of 1993. It is further submitted by learned counsel, Mr. Das that no whip was issued or served on the petitioners before meeting dated 08.06.2010, and only on 09.06.2010, after collection of a copy of Annexure-12 to the writ petitions, they came to know that such a whip was issued by Rspdt. No. 6 and that Rspdt. No. 6 had no such authority to issue such a whip. He has also submitted that according to the Constitution of INC only AICC has the authority to issue whip and none else. He has, however, admitted that the petitioners were set up as candidates to the election under the authority of the President of TPCC. It is also submitted by

learned counsel that the petitioners were not afforded with the opportunity to defend themselves in respect of the alleged violation of the whip and principle of natural justice, therefore, has been ignored, and therefore, Annexure-17 should be quashed and set aside.

In support of his contention, learned counsel also referred the following case laws:

- (i) Ram Beti Vs. District Panchayat Raj Adhikari and Others,
- (ii) Mohan Lal Tripathi Vs. District Magistrate, Rae Bareilly and others,
- (iii) L. Hirday Narain Vs. Income Tax Officer, Bareilly,
- (iv) AIR 1981 SC 344 : Fertilizer Corporation Kamagar Union (Regd.) Sindri & ORs. Vs. Union of India & ORs.
- (v) L. Chandra Kumar Vs. Union of India and others,
- (vi) Lal Chand Vs. State of Haryana and Others,

11. Appearing on behalf of Rspdt. Nos.1 to 4, learned Addl. G.A., MRs. Lodh has submitted that the no-confidence motion was brought by the petitioners and Rspdt. Nos.7, 8 and 9 by issuing a notice, dated 14.05.2010, and the official respondents were bound to act on it, and accordingly, a special meeting of the Panchayat was called on 08.06.2010, and notice was issued by Rspdt. No. 3. The meeting was accordingly held and all the nine members of the Panchayat were present and Rspdt. No. 5, the Panchayat Extension Officer, was the Presiding Officer of the meeting. A whip (Annexure-12 to the writ petitions) was issued by Rspdt. No. 6, Md. Badruzzaman, and a copy of the same was sent to the official Rspdt. Nos.3 and 4, and while conducting the meeting Rspdt. No. 5 brought the whip to the notice of the members and after observing all legal formalities the whip was put to vote. The petitioners and Rspdt. Nos.7 to 9 cast their votes in favour of the motion and the rest members against the motion, and thereby the motion was passed and the Pradhan and Upa-Pradhan were removed. She has also submitted that Rspdt. No. 5 submitted report in Form-A regarding violation of the whip by the petitioners along with a minute of the proceeding of the meeting based on which Rspdt. No. 4, being the competent authority as prescribed by law, has taken action after issuing show cause notice to the petitioners and declared them disqualified from being member of the Panchayat under the anti-defection law. There was nothing wrong done by the official respondents.

12. Learned counsel, Mr. J. Majumder for Rspdt. No. 5 has submitted that the action of Rspdt. No. 5 was statutory and that has not been challenged by the petitioners, and therefore, he simply supported the contentions of learned Addl. G.A.

13. Learned counsel, Mr. P.K. Biswas and learned counsel, Mr. S. Deb, appearing for Rspdt. Nos.6 and 10 to 13, made a lengthy submission stating that the

petitioners in utter violation of law, shifted their allegiance and within a few months of the election, they, in connivance with the members of the rival political party in the Panchayat, brought the no-confidence motion, issuing letter dated 14.05.2010, and that notice dated 14.05.2010 was issued without approval of INC, who sponsored them as candidates for being member of the Panchayat. They got themselves disqualified for being member of the Panchayat when they signed notice dated 14.05.2010 itself. By signing the no confidence motion against Pradhan and Upa-Pradhan of their own party (INC), without approval or authority of the party which set up them as candidate in the election, they shifted their loyalty for their personal interest in connivance with the members of rival party, they have not only violated the law but also tarnished the democratic norms and ethics and all values of parliamentary democracy. Their presence for a moment in the democratic institution like a Panchayat at grass root level will destroy the very fabric of the institution and will send wrong message to the nation. The whip was issued on 24.05.2010 by Rspdt. No. 6, being duly authorized by the President of TPCC vide letter dated 17.05.2010(Annexure-13 to the writ petitions) and Annexure-3 to the affidavit-in-opposition filed by the respondents. The whip was sent to all the Congress sponsored members including the petitioners and to the official Rspdt. Nos.3 and 4 for compliance. The whips were sent to the petitioners by registered post but they refused to receive the same and their refusal was recorded by the Postal Department on 01.06.2010. The copies of the envelopes with endorsements of such refusal recorded by Postal Department and a certificate to that effect issued by the Postmaster of Kailashahar Post Office annexed as Annexure-1 and 2 to their counter affidavit. It is submitted by the learned counsels that the petitioners in utter disregard to the whip acted in violation of all norms and ethics and the provisions of Act and Rules framed thereunder, and therefore, they were bound to be disqualified. Rspdt. No. 4, being the appropriate authority, rightly acted on the whip. It has also been submitted that Rspdt. Nos.10 to 13, all received the whip, and categorically stated that the whip was explained by Rspdt. No. 5 in the meeting and that they have obeyed and complied the whip. In support of their contentions, learned counsels referred the following case laws-

- (i) Kihota Hollohon Vs. Zachilhu and Others,
- (ii) Shri Kihota Hollohon Vs. Mr. Zachilhu and others,
- (iii) Sadashiv H. Patil Vs. Vithal D. Teke and Others,
- (iv) Sri Rajendra Singh Rana and Others Vs. Swami Prasad Maurya and Others,
- (v) (2011) 5 GLR 113 : Bengia Menia vs. Deputy Commissioner & ORs.
- (vi) Kedar Shashikant Deshpande Vs. Bhor Municipal Council and Others etc. etc.,
- (vii) Ravi S. Naik and Sanjay Bandekar Vs. Union of India and others,

14. From the pleadings of the parties as well as from the submission of the learned counsels of both side, following points emerged for decision before this

Court-

(i) Whether the petitioners in defiance of the whip issued by the INC, having knowledge of such whip, issued by the party, which set up/sponsored them as candidates for election of members to the Noorpur G.P., voted in the no-confidence motion, brought against Pradhan and Upa-Pradhan of Noorpur Gram Panchayat.

(ii) Whether Rspdt. No. 6 was competent and having authority to issue any such whip on the petitioners and Rspdt. Nos.10 to 13.

(iii) Whether statutory requirements and principle of natural justice was followed while issuing declaration dated 21.07.2010(Annexure-17 to the writ petitions) declaring the petitioners as disqualified as members of Noorpur G.P.

15. For ready reference and for fair appreciation of the rival contentions, let us reproduce here the relevant provisions of the Act of 1993 and Rule of 1994. Section 16 of the Act of 1993 prescribes disqualification on ground of defection. Sub-section 1 of Section 16 reads thus:

16(1) A member of a Gram Panchayat belonging to any political party shall be disqualified for being a member of the Gram Panchayat-

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

(b) if he votes or abstains from voting in the 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 in either case, the prior written permission of such political party, persons or authority and such voting or abstention has not been condoned by such political party, person or authority within thirty days from the date of such voting or abstention.

EXPLANATION: For the purpose of this sub-section, a member of a Gram Panchayat 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.

Rule 27 of the Rules of 1994 reads thus:

27. (1) In any meeting of a Gram Panchayat, or a Panchayat Samiti or a Zilla Parishad, where vote is taken for election or for any other purpose, the Presiding Officer shall, if his attention is drawn that any member has voted or abstained from voting contrary to the direction of the political party to which he belongs and thereby has earned disqualification u/s 16, or Section 76, or Section-128, record the facts in the Remarks Column of the record of proceedings of the meeting, obtain clarification from such member and then refer the question to the Block Development Officer or, as the case may be, the District Magistrate having jurisdiction for decision in Form 6A, or 12A or 17A as the case may be.

(2) If the Gram Panchayat or a Panchayat Samiti or a Zilla Parishad received a written information from a political party or from a member that the member has

voluntarily given up the membership of the party or the member having been elected otherwise than as a member of a political party has joined the political party, the Pradhan or Upa Pradhan in case of Gram Panchayat, the Chairman or Vice Chairman in case of Panchayat Samiti or Sabhadhipati or Sahakari Sabhadhipati in case of Zilla Parishad shall refer the question to the Block Development Officer or, as the case may be, the District Magistrate to decide whether such member has earned disqualification u/s 16, or Section 76, or Section 128 in Form 6A, 12A or 17A as the case may be.

3. Every such member who is alleged to have earned disqualification by reason of voting or abstained from voting contrary to the direction of his political party, may submit letter or prior permission or condonation to the Block Development Officer or, as the case may be, the District Magistrate having jurisdiction within thirty days from the date of voting and such authority shall take up the question of disqualification only after expiry of the said period of thirty days and decide the same within fifteen days from the expiry of the said period of thirty days.

4. If the authority, as aforesaid, is satisfied on the basis of the report of the Presiding Officer and after making such enquiry as he may consider necessary that any such member has become disqualified u/s 16 or, as the case may be, Section 76 or Section 128, record his decision, communicate it to the Gram Panchayat concerned, or, as the case may be, the Panchayat Samiti or the Zilla Parishad and make declaration in Form 6B, or 12B, or 17B as the case may be, that the member has ceased to be the member of that Gram Panchayat or, as the case may be, the Panchayat Samiti or the Zilla Parishad.

16. Section 16 of the Act of 1993 is perimateria of Tenth Schedule to the Constitution. Sub para 1 of paragraph 2 of 10th Schedule is reproduced here for ready reference, which reads thus:

2. Disqualification on ground of defection.- (1) Subject to the provisions of [paragraphs 4 & 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 given 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 authorized 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.

17. Tenth Schedule was appended to the Constitution by introducing 52nd Amendment Act of 1985. The statements of object and reasons of the said Amendment Bill read thus:

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.

18. Let us now have a glimpse to the case laws referred by both sides during argument. There is no challenge before us of the law prescribed in the Act and Rules reproduced above. In the case of *Kihota Hollohan*(supra), the Apex Court discussed on the constitutional validity of 52nd Amendment Act and the Court held that the provisions are salutary and are intended to strengthen the fabric of Indian Parliamentary Democracy by curbing unprincipled and unethical political defections.

In the case of *Rabi Naik*(supra), the Apex Court has held that the judicial review is open only in the case of violation of principles of natural justice and further held that there must be fair play in action by the competent authorities in respect of deciding of disqualification of a member. The Court also held that 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 the absence of a formal resignation from membership, an inference can be drawn from the conduct of the member that he has voluntarily given up his membership of a political party to which he belongs.

In the case of *Rajendra Singh Rana* (supra) the principles regarding voluntarily giving up of membership of the original political party inter alia has been discussed and the Apex Court laid down the principles thereof.

In the case of *Sadashiv H. Patil* (supra) the Apex Court discussed on the issue of issuance of whip by the leader of a group of parties and such whip was acted upon.

In the case of *Kedar Sashikant Deshpande*(supra), the Apex Court laid down the law regarding jurisdiction of the authority to which once a person has submitted, he cannot challenge the same on the ground of lack of jurisdiction and also held that merely quoting up wrong provision of a statute while exercising power would not invalidate the order passed by the authority if it is shown that such order could be passed under other provisions of the statute.

In the case of *Bengia Menia*(supra), the Single Bench of this Court while deciding almost a similar case of disqualification on political defection in paragraph 13 and 14 held thus:

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.

In the case of Mohan Lal Tripathi(supra), legality of the motion of no-confidence was challenged and the facts of that case has no bearing with the facts of the present case in hand.

The cases of Fertilizer Corporation Kamagar Union(Regd.) Sindri(supra) and Hriday Narain(supra) were on different context and the facts of those reported cases have no bearing at all in the facts of the present cases.

In the case of L. Chandra Kumar (supra), the Apex Court laid down the law regarding judicial review and there is no dispute on the point which has already been settled and no such question raised in this case calling upon this court for a decision.

In the case of Ram Beti(supra), the question of moving of no-confidence motion has been discussed and the facts of that case has no bearing on the facts of the present case.

In the case of Ranjan Ramnath Patil(supra) the question of disqualification on the ground of diverting of funds were discussed by the Bombay High Court and the fact of that case has no bearing on the facts posed in this case.

The case of Lal Chand(supra) of Punjab & Haryana High Court is on different context and the facts of that case is completely different to that of the facts of the present case in hand.

19. India has established the largest multiparty democracy in the world. It has been perfected in the meantime. The nation feels proud of its democratic norms, ethics and values. At a point of time "horse trading" blemished and/or stigmatized our democratic values. To protect democracy from the hand of unscrupulous political gamblers, Tenth Schedule was incorporated in the Constitution of India. Keeping parity with the constitutional provisions, to protect democratic institutions, in other enactments also similar provisions were introduced through out the country by the legislature and with the same spirit Section 16 to the Tripura Panchayats Act, 1993 was introduced and Rules also framed thereunder. The solemn object of the law should be applied with all sincerity and vigour. No leniency should be shown to a detractor if it is found established that a person, after getting elected by the people, changed his affiliation or allegiance or loyalty to the party which sponsored him for election to the democratic institution. Once a person is nominated or set up by a political party as candidate and he returned successful in the election he becomes a trustee of the electorate. His conducts and activities must conform to public trust and morals. In the event he violates it, and is not condoned by the party which

nominated him, he should be deemed to have disqualified himself from being a member of such democratic institution. The erring member may try to justify his unbecoming conduct raising various pleas, but those should be closely scrutinized. Burden would be strictly on the violator or the detractor to prove innocence. Such burden cannot be shifted on the reverse side. Once the allegation is brought home, no leniency should be shown to a political mocker.

Keeping in mind the democratic ethos and values and the relevant law interpreted by the apex Court and this Court time to time, let us now decide the points formulated for decision in this case.

DECISION ON POINT No. -(i)

20. Having regard to the facts and circumstances and the legal position explained above, the points emerged for decision has been considered. Annexure-12 to the writ petitions and Annexure-3 to the affidavit-in-opposition filed by respondent Nos.6, 10 to 13 makes it clear that a whip was issued by Md. Badruzzaman(Rspdt. No. 6), a member of TPCC directing all the Congress sponsored/set up returned members of the Noorpur G.P. to remain present on the date of no-confidence motion i.e. on 08.06.2010 and to cast their votes against the motion. The petitioners have pleaded that they did not receive the no-confidence motion but Rspdt. Nos.10 to 13 asserted that they received the whip. Rspdt. Nos.1 to 4 i.e. official Rspdts. also contended that the whip was received by Rspdt. Nos.3 and 4 and Rspdt. No. 5 explained the whip in the meeting. Rspdt. Nos.6 and 10 to 13 submitted the certificate issued by the Postmaster of Kailashahar Post Office and the envelopes of the registered letter, containing the whip addressed to the petitioners and those exhibits show that the registered letters were tendered to the petitioners but they refused to receive the same. Such refusal by the petitioners amounts to proper service of whips on them and the petitioners knowing fully well refused to receive the letter, which is evident from the conduct of the petitioners. Exbt. R.3 to the counter affidavit filed by official Rspdt. Nos.1 to 4 shows that Rspdt. No. 5, while conducting the no-confidence meeting on 08.06.2010 submitted a report in Form-6A to the BDO(Rspdt. No. 4) regarding the violation of whip by the petitioners and that is not denied by the petitioners. For fair appreciation, Exbt. R.3 may be reproduced herein, which reads thus:

FORM-6A

[See sub rule (1) & (2) of Rule-27]

To the Block Development Officer, Gournagar R.D.(Name of the Block) North Tripura

Sub:- Report under sub-rule (2) of Rule-27.

Sir,

A meeting of the Noorpur Gram Panchayat was, held on 08.06.2010 and I

presided over the meeting. From the records of votes taken in that meetings(which are enclosed herewith) it appears that some members have earned disqualification u/s 16 of the Tripura Panchayat Act, 1993. I am, therefore, referring to you the question of their disqualification for a decision under sub-section (2) or, as the case may be (3), or both of Section 16 of the Act. The particulars relating to the question of disqualification are given below:

1. Name of the Gram Panchayat: NOORPUR

2. Name of the Presiding Officer

And Designation : Sri Debashish Datta Roy

Panchayat Extension Officer

3. Date of the meeting : 08.06.2010.

4. Name of the Members referred for deciding the question of their disqualification u/s 16 and the political party to which they belong : 1. Md. Hachan Ali Indian National Congress Party

2. Md. Lechu Mia. Indian National Congress Party

5. Direction of the political party(if any letter of direction to be enclosed : Whip issued by Md. Madruzzaman, Member, Tripura Pradesh Congress Committee.

6. Name of the members referred for deciding the question of their disqualification under sub-section (2) of Section 76 who has been elected otherwise then as a candidate of a political party set up by any political party and join in any political party -----

7. Copy of the any letter of intimation submitted to the Presiding Officer -----

Date : 08.06.2010 Signature of Presiding Officer

Place : Gournagar Name & Designation of the Presiding Officer (DEBASHISH DATTA ROY) Panchayat Extension Officer Gournagar R.D. Block North Tripura

21. Exbt.R.7 to the counter affidavit filed by Rspdt.

Nos.6 and 10 to 13 is the proceeding of the special meeting of the Noorpur G.P., which was submitted by Rspdt. No. 5 after presiding over the meeting and that may be reproduced here for fair appreciation, which reads thus:

PROCEEDING OF THE SPECIAL MEETING OF NOORPUR GRAM PANCHAYAT FOR REMOVAL OF UPA-PRADHAN OF THE NOORPUR GRAM PANCHAYAT.

Venue:- Noorpur Gram Date:-08.06.2010 Time:- 1-30 PM Panchat Office

A special meeting of Noorpur Gram Panchayat was held on 08.06.2010 at 1-30 P.M. for removal of Upa-Pradhan of Noorpur Gram Panchayat in the Noorpur Gram Panchayat Office. The meeting was convened by the District Panchayat Officer, North Tripura District vide Section-23 of the Tripura Panchayats Act, 1993.

The meeting was presided over by me under sub-rule-3 of Rule-5 of the Tripura Panchayats(Administration) Rules, 1994 and vide sub-section-5 of Section-23 of the Tripura Panchayats Act, 1993 and being authorized by the District Panchayat Officer, North Tripura District vide his order no-36-40/F.4(2)/DPO/N/ELEC/2010-11 dated 22.05.2010.

At the outset of the meeting attendance of the Members present was taken in the attendance sheet which is enclosed herewith. On scrutiny it was observed that out of the total 9 (nine) elected Members of the Gram Panchayat, 9(nine) Members were present which formed the quorum of the said meeting. The name of the Members who were present in the meeting are given below:-

1. Md. Lechu Mia. 2. Md. Ranu Mia. 3. Smt. Asma Begam. 4. Md. Kabir Hussai. 5. Md. Mahammad Ali. 6. Smt. Tarakumari Singha.
7. Md. Safique Ali 8. Md. Hachan Ali. 9. Smt. Rajia Begam.

I received a Party whip/Direction issued issued by Md. Badruzzaman, Member, Tripura Pradesh Congress Committee. In that Party whip/Direction, Md. Badruzzaman, Member, Tripura Pradesh Congress Committee instructed the following Members of the Noorpur Gram Panchayat to remain present in the special meeting on 08.06.2010 & to vote against the motion(Copy of whip enclosed)

1. Md. Ranu Mia. 2. Md. Kabir Hussain. 3. Md. Lechu Mia. 4. Md. Safique Ali. 5. Smt. Asma Begam. 6. Md. Hachan Ali.

I also read out the said Party whip/Direction before Members present in the meeting.

In the meeting I have explained the provisions laid down in the Section 16 of the Tripura Panchayats Act, 1993 and Rule-27 of the Tripura Panchayats(Election of Office Bearers) Rules, 1994 and informed the Members that, if any Member may violated the Party whip which he/she belongs, his/her Membership likely to be ceased as per explained provisions of the Tripura Panchayats Act, 1993 and the Tripura Panchayats(Election of Office Bearers) Rules, 1994.

At the beginning of the meeting I read out the notice in Form-2 given under sub-section-2 of Section-23 of the Tripura Panchayats Act, 1993 before the Members of the Gram Panchayat present in the meeting. After that one hour time had given for discussion the motion. Members present took part in the discussion. Several points had been raised in favour & against the motion. After expiry of one hour time, the motion for removal of Upa-Pradhan was put to vote and accordingly vote was taken by show of hands.

In regards to removal of Upa-Pradhan, the following Members of Noorpur Gram Panchayat voted in favour of the motion i.e. against the Upa-Pradhan.

1. Md. Lechu Mia 2. Md. Hachan Ali. 3. Smt. Rajia Begam 4. Smt. Tarakumari Singha. 5. Md. Mahammad Ali.

In regards to removal of Upa-Pradhan, the following Members of Noorpur Gram Panchayat voted against the motion i.e. in favour of the Upa-Pradhan.

1. Md. Ranu Mia 2. Smt. Achma Bega. 3. Md. Kabir Hussain. 4. Md. Safique Ali.

On count of votes the result is found as under:-

1. Members voted in favour of the motion:- 05.

2. Members voted against the motion :- 04.

In the meeting it has been observed by myself that 2 (two) Members of the Noorpur Gram Panchayat namely 1) Md. Hachan Ali & 2) Md. Lechu Mia voted in favour of the motion i.e. against the Upa-Pradhan by violation of ship issued by Md. Badruzzaman, Member, Tripura Pradesh Congress Committee under sub-section 1(b) of Section 16 of the Tripura Panchayats Act, 1993.

After that myself declared the result of the motion.

On the basis of the votes, the motion for removal of the Upa-Pradhan namely Md. Ranu Mia passed/carried out by the majority of votes i.e. 5 (five) No. of Members of the present Members of the Noorpur Gram Pranchayat.

After that the minutes of the special meeting signed by me declaring the result of the motion.

The entire proceedings of the meeting were completed under Rule 3, 4, 5 & 6 of the Tripura Panchayats (Administration) Rules, 1994.

After that the meeting concluded with thanks to all Members from myself.

Place:- Noorpur Gram Panchayat Office Date:- 08.06.2010

(Debashish Datta Roy) Panchayat Extension Officer Gournagar R.D. Block North Tripura Presiding Officer

22. A bare reading of the above two documents, Annexure-R.3 and R.7 makes it amply clear that after the notice dated 14.05.2010 was signed and issued by the petitioners and the Rspdt. Nos.7 to 9, Rspdt. No. 6, being authorized by the President, TPCC, issued whip to the petitioners and the Rspdt. Nos.10 to 13 to abide by it, to remain present in the meeting and to vote against the motion but the petitioners with utter disregard to the whip voted against the motion, and thereby, brought themselves to the peril of disqualification as prescribed u/s 16 of the Act of 1993. The petitioners have taken several unfounded pleas to justify their wrong but could not establish the same at all.

DECISION ON POINT No. -(ii)

23. On point No. (ii), I find that Rspdt. No. 6, being authorized by the President, issued the whip dated 24.05.2010, well before the date of no-confidence meeting. He was authorized by the President of TPCC and a copy of that authorization letter dated 17.05.2010 marked as Annexure-13 to the writ

petitions.

It is contended by the petitioners that the President, TPCC has no authority to authorize Rspdt. No. 6 for issuing such a whip. Rspdt. Nos.6 and 10 to 13 along with their rejoinder affidavit dated 10.01.2011 have submitted Annexure-R.8, a Memorandum dated 16.05.2010 issued by AICC authorizing the President of Tripura Pradesh Congress to issue whip by himself or to authorize any member of INC to issue whip u/s 16 of the Tripura Panchayats Act. It is an undisputed fact that the petitioners were set up as candidates of the Congress Party by the TPCC and so TPCC definitely has the authority to issue a whip to upkeep the democratic values and norms. Learned counsels of the petitioners failed to convince this Court producing materials that TPCC President had no authority to authorize Rspdt. No. 6 to issue whip. Further neither Sri Surajit Datta, President, TPCC, nor INC or AICC made a party in these writ petitions. So, while the petitioners brought on record a letter of authority issued by Sri Surajit Datta, President, TPCC, in favour of Rspdt. No. 6, they cannot challenge the same in absence of Sri Surajit Datta, President, TPCC and INC. Under such circumstances, the whip issued by Rspdt. No. 6, being authorized by President of TPCC was found to have issued having authority and the petitioners could not make out a case to put Annexure-12 to the writ petitions overboard. The point accordingly goes against the petitioners.

DECISION ON POINT No. -(iii)

24. The third point, which emerged for decision has also been carefully considered. The statutory provisions as prescribed in Section 16 of the Act of 1993 and Rule 27 of the Rules of 1994, as it appears, have been followed. The petitioners could not show that they were condoned by the political party, which set up them as candidates within thirty days from the date they voted defying the whip. Rspdt. No. 4, being the appropriate authority as prescribed under the Act issued first show cause notice on 22.06.2010(Annexure 10 to the writ petitions) and in response thereof the petitioners filed reply to Rspdt. No. 4(Annexure-11 to the writ petitions). They stated, they did not receive the whip and that Rspdt. No. 6 had no authority to issue such a whip. Rspdt. No. 4 issued second show cause notice on 15.07.2010(Annexure-14 to the writ petitions), which reads thus:

GOVERNMENT OF TRIPURA OFFICE OF THE BLOCK DEVELOPMENT OFFICER
GOURNAGAR R.D. BLOCK : NORTH TRIPURA

No. 3882/F.5(43)/BDO/GNR/REMOVAL/2010-11 Dated Gournagar The 15th July, 2010

To

Md. Lechu Mia. Member.

Noorpur Gram Panchayat.

Gournagar R.D. Block, North Tripura.

Subject:- Show Cause notice regarding disqualification of Membership as Member of Noorpur Gram Panchayat.

Sir,

Whereas, reference to the subject I am to inform you that in pursuance of the Section-23 of the Tripura Panchayats Act, 1993, a special meeting was held in the Noorpur Gram Panchayat Office on 08/06/2010 for removal of Pradhan and Upa-Pradhan of Noorpur Gram Panchayat where you had casted your vote violating the direction of authorized person of Indian National Congress Party namely Md. Badrujjaman, Member, Tripura Pradesh Congress Committee though you are belongs to I.N.C. Party as you have been elected as Candidate set up by I.N.C.

AND

Whereas, in pursuance of the sub-section-(3) of the Section 16 of The Tripura Panchayats Act, 1993 and sub-rule-(1) of Rule-27 of Tripura Panchayats(Election of Office Bearers) Rules, 1994 the matter referred to the undersigned by the Presiding Officer of that meeting that, you have

violated the whip issued for special meeting held on 08/06/2010 & you have become subject to

disqualification from Membership of the Noorpur G.P. as per sub-section-(1) of Section-16 of the Tripura Panchayats Act, 1993 & sub-rule(3) of the Rule-27 of the Tripura Panchayats(Election of Office Bearers) Rules, 1994.

AND

Whereas, no condonation letter in favour of you, have been received from the I.N.C. Party to which you belongs within the stipulated period as per provision of sub-rule(3) of Rule-27 of the Tripura Panchayats(Election of Office Bearers) Rules, 1994, that shows you have not been condoned by your Political Party to which you belongs.

Under such circumstances you are hereby asked to show the reason as to why your Membership will not be ceased to be the Member of the Noorpur Gram Panchayats as per sub-rule(4) of the Rule-27 of Tripura Panchayats(Election of Office Bearers) Rules, 1994 and declaration in FORM-6B would not be declared about disqualification of your Membership from the Noorpur Gram Panchayat of Gournagar R.D. Block, North Tripura.

In this regard you are hereby requested to appear in the Office chamber of the undersigned on 20.07.2010 at 4-00 P.M. positively and submit your reply in writing signed in front of me. Failing of which decision in this regards will be taken exparte.

Yours faithfully Block Development Officer Gournagar R.D. Block North Tripura

It was also admitted by the petitioners that they appeared before the Rspdt. No. 6 in response to that notice. The Rspdt. No. 4 before issuing Annexure-17 informed the petitioners in respect of his decision on the issue of disqualification and communicated his decision to the petitioners vide Annexure-19 to the writ petitions, which reads thus:

GOVERNMENT OF TRIPURA OFFICE OF THE BLOCK DEVELOPMENT OFFICER
GOURNAGAR R.D. BLOCK : NORTH TRIPURA

No. 4088/F.5(43)/BDO/GNR/REMOVAL/2010-11 Dated Gournagar The 20th July, 2010

To

Md. Lechu Mia. Member

Noorput Gram Panchayat.

Gournagar R.D. Block, North Tripura.

Subject:- Reply of Show Cause notice regarding disqualification of Membership as Member of Noorpur Gram Panchayat.....views of the undersigned.

Sir,

In reference to the subject captioned above I am to inform you that, your reply against the show cause notice issued from this end vide this Office letter No. 3881/F.5(43)/BDO/GNR/REMOVAL/2010-11 dated 15th July, 2010, which has been submitted by you in writings on 20.07.2010 is carefully perused from this end. I do hereby furnishing my findings as follows:-

1. In your reply as submitted on 20.07.2010, you have stated nothing in regards to contents of show cause notice dated 15th July, 2010 and you have stated that, you have submitted your comments in the written statement submitted to the Office of the undersigned on 3rd July, 2010, that means, your reply against the show cause notice issued on 15th July, 2010 is the same as you have submitted on 3rd July, 2010.
2. In your written statement dated 3rd July, 2010, you have stated that, no whip/direction has been received by you for special meeting held on 08.06.2010 for removal of both Pradhan & Upa-Pradhan of Noorpur Gram Panchayat under Gournagar R.D. Block. But the Office of the prescribed authority received the copy of said whip/direction from the authorized person of INC Party to which you belongs and it is mentionable here that the said whip/direction was issued by the authorized person of Indian National Congress Party namely Md. Badrujjaman, Member, Tripura Pradesh Congress Committee as you are belongs to I.N.C. Party and you have been elected as Candidate set up by I.N.C. Party.
3. The said whip/direction also read out by the Presiding Officer of the special meeting on 08.06.2010 in the meeting and explained the provisions laid down in the Section 16 of The Tripura Panchayats Act, 1993 and Rule-27 of The Tripura

Panchayats(Election of Office Bearers) Rules, 1994 and informed to all present Members that, if any Member would violated the Party whip which he/she belongs, his/her Membership likely to be ceased as per explained provisions of The Tripura Panchayats Act, 1993 and The Tripura Panchayats(Election of Office Bearers) Rules, 1994. From the records it has been revealed that you have voted in favour of the motion in that meeting violated the whip/direction of the Party you belongs to.

4. As per provision of sub-section-(3) of Section 16 of The Tripura Panchayats Act, 1993 and sub- rule-(1) of Rule-27 of The Tripura Panchayats(Election of Office Bearers) Rules, 1994 you have become subject to disqualification from Membership of the Noorpur G.P. in regards to violation of whip/direction of the Party you have belongs.

5. No condonation letter in favour of you, have been received from the I.N.C. Party to which you belongs within the stipulated period as per provision of sub-rule(3) of Rule-27 of The Tripura Panchayats(Election of Office Bearers) Rules, 1994, that shows you have not been condoned by your Political Party to which you belongs.

Under such circumstances, you are hereby informed that disqualification of Membership from the Member of Noorpur Gram Panchayat under Gournagar R.D. Block in regards to violation of whip/direction has been established against you and next course of in this regard from the part of the undersigned would be taken as per provision of The Tripura Panchayats Act, 1993 and The Tripura Panchayats(Election of Office Bearers) Rules, 1994.

Yours faithfully Block Development Officer Gournagar R.D. Block North Tripura.

25. In view of the above, it is absolutely clear that statutory requirements as prescribed u/s 16 of the Act and Rule 27 of the Rules of 1994 as well as the principles of natural justice were followed by Rspdt. No. 4 and the allegation of violation of the principles of natural justice has been made in the air having no substance at all. The petitioners given goodbye to the democratic norms and ethics. They have abruptly violated the whip issued by the political party, to which they belonged and were sponsored and got elected as member of the Panchayat. Therefore, they were rightly held responsible and declared as disqualified by Rspdt. No. 4 and the decision deserves no interference at all. The petitioners, as it appears, approached this Court with unclean hand, and therefore, they slapped with a cost of Rs. 5,000/- each. The writ petitions stand dismissed.