

(1997) 03 BOM CK 0025
In the Bombay High Court
Case No : Writ Petition No. 249 of 1997

Pandurang Dagadu Parte

APPELLANT

Vs

Ramchandra Baburao Hirve and Others

RESPONDENT

Date of Decision : 27-03-1997

Acts Referred:

Maharashtra Local Authority Members Disqualification Rules, 1987 — Rule 3
Maharashtra Municipal Authority Members Disqualification Act, 1986 — Section 2, 3(2)

Citation : AIR 1997 Bom 387 : (1997) 3 ALLMR 578 : (1997) 3 BomCR 161 :
(1997) 2 MhLj 759

Hon'ble Judges : Ashok Agarwal, J;A.Y. Sakhare, J

Bench : Division Bench

Advocate : K.K. Singhvi, M.A. Rane, R.D. Soni and P.S. Dani, for the Appellant;
R.S. Desai, R.V. Pai, A.R. Patil and C.R. Sonawane, A.G.P., for the Respondent

Judgement

Agarwal, J.—By the present petition. Petitioner seeks a declaration that Respondent Nos. 1 to 9, who have been elected as Members of the Mahabaleshwar Dewasthan Municipal Council, Respondent No. 10 herein, have incurred a disqualification and hence are no longer entitled to function as Councillors of Respondent No. 10 Council. Petitioner has also prayed for other consequential reliefs ensuing from the aforesaid declaration.

2. Petitioner is a ratepayer and is a resident of Mahabaleshwar. He has also been elected as a Councillor along with Respondent Nos. 1 to 9 and others to the aforesaid Municipal Council. Elections to the Municipal Council were held on 1st of December, 1996. Petitioner was declared elected from Ward No. 8 whereas Respondent Nos. 1 to 9 were declared elected from certain other wards of the Council. There being seventeen wards in the Council, seventeen councillors are elected. Each of the Councillors elected were not associated with any political party or aghadi/front. Each of them contested the elections as independent candidates and are elected as such.

3. Soon after the elections, i.e. on the 2nd of the Dec. 1996 itself, Respondent

Nos. 1 to 9 formed themselves into an Aghadi/Front in the name and style of Mahabaleshwar Girishthan Nagar Parishad Shahar vikas Aghadi. The first meeting of the Aghadi was held on the 2nd of December, 1996 when it was decided to prepare its constitution and Rules which would govern the working of the Aghadi. Respondent No. 8 was elected as the leader of the Aghadi, whereas, Respondent No. 5 as Treasurer and Respondent No. 1 as the Secretary. A decision was taken to register the aghadi as per the provisions of the Maharashtra Municipal Authority Members Disqualification Act, 1986 (hereinafter referred to as the Act for short) and the Maharashtra Local Authority Members Disqualification Rules, 1987 (hereinafter referred to as the Rules for short). A further meeting of the Aghadi was held on 4th of Dec. 1996 when respondent Nos. 1 to 9 and nineteen other respectable persons supporting the Aghadi, took part in the proceedings. The local M.L.A. from the area was also present at the meeting and it was agreed that all the members of the Aghadi will jointly endeavour together for the complete progress, upliftment and development of Mahabaleshwar. A further meeting of the Aghadi was held on the 16th of December, 1996 and Ward-wise Supervisory Committees were selected. On 16th of Dec. 1996 respondent No. 8, in his capacity of being the leader of the Aghadi, filled a form under Rule 3 of the Rules and furnished the names of members of the Aghadi together with other particulars regarding such members, in the office of the Collector, the respondent No. 11 herein. Similar requisite forms were filled in by respondent Nos. 1 to 9. Individual affidavits were filed by respondent Nos. 1 to 9 declaring that they have decided to form a municipal party in the house of the Municipal Council. On 17th of Dec. 1996, respondent No. 8 as the leader of the Aghadi applied to the Collector for registering the Aghadi as per the provisions of the Act.

4. On 23rd of Dec. 1996 the Collector issued a notice convening a meeting on 31st of Dec. 1996 for electing the President of the Council. For the said election, the Aghadi sponsored respondent No. 4 as its candidate. As the leader of the Aghadi, respondent No. 8 issued a whip to all its councillor members -- Respondent Nos. 1 to 9, to vote for the Aghadi candidate. In the meeting held on the 31st of Dec. 1996, respondent No. 4 was declared elected President for the year 1977-98, she having secured 9 votes as against 8 votes secured by the candidate who was defeated.

5. Petitioner, in the meanwhile, had made an application, to the Collector for disqualifying respondent Nos. 1 to 9 as Councillors on the ground that after being elected as independent Councillors, they had joined an Aghadi and had thereby incurred disqualification. By an order passed on the 28th of Dec. 1996 the Collector has rejected the Application.

6. The short question that has been agitated before us by the contending parties, is, whether respondents Nos. 1 to 9 who had contested the present elections as independent candidates, have incurred a disqualification on account of their having joined an Aghadi and have, thereby, disentitled themselves to continue as Councillors.

7. Before making a reference to the Act under which petitioner claims the disqualification of Respondents Nos. 1 to 9, a reference can usefully be made to a similar provision appearing in the Constitution (Fifty-second Amendment) Act, 1985. Statement of Objects and Reasons for bringing about the Amendment recites as under.

"Prefatory Note -- Statement of Objects and Reasons -- The evil of political defections has been a matter of national concern. If it is not combated, it is likely to undermine the very foundations of our 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 in the current session of Parliament an anti-defection Bill. This Bill is meant for outlawing defection and fulfilling the above assurance.

2. The Bill seeks to amend the Constitution to provide that an elected member of Parliament or a State Legislature, who has been elected as a candidate set up by a political party and a nominated member of Parliament or a State Legislature who is a member of a political party at the time he takes his seat or who becomes a member of a political party within six months after he takes his seat would be disqualified on the ground of defection if he voluntarily relinquishes his membership of such political party or votes or abstains from voting in such House contrary to any direction of such party or is expelled from such party. An independent member of parliament or a a State Legislature shall also be disqualified if he joins any political party after his election. A nominated member of Parliament or a State Legislature who is not a member of a political party at the time of his nomination and who has not become a member of any political party before the expiry of six months from the date on which he takes his seat shall be disqualified if he joins any political party after the expiry of the said period of six months. The Bill also makes suitable provisions with respect to splits in, and mergers of, political parties. A special provision has been included in the Bill to enable a person who has been elected as the presiding officer of a House to sever his connections with his political party. The question as to whether a member of a House of Parliament or State Legislature has become subject to the proposed disqualification will be determination by the presiding officer of the House where the question is with reference to the presiding officer himself, it will be decided by a member of the House elected by the House in that behalf."

3. The Bill seeks to achieve the above objects."

8.The aforesaid Amendment Act has been incorporated in the Tenth Schedule of the Constitution of India which has been brought into effect from the 1st of March, 1985. Based on the aforesaid Amendment Act the State of Maharashtra has promulgated the Act which incorporates provisions similar to those in The Constitution (Fifty Second Amendment) Act. 1985 with minor modifications suited to the local requirement of local authorities.

9. The term "Aghadi" or "front" has been defined in Section 2(a) of the Act,

which provides as under :

"2. Definition :

In this Act unless the context otherwise requires :--

(a) "Aghadi" or "front" means, a group of persons who have formed themselves into party for the purpose of setting up candidates for election to a local authority:"

10. The provision in respect of disqualification of Councillors on grounds of defection are found in Section 3 of the said Act. Sub-section (2) of Section 3, which is relevant for the present enquiry, provides as under :

"3. Disqualification on ground of defection.

(1)

(2) An elected councillor, or as the case may be, member who has been elected as such otherwise than as a candidate set up by political party or Aghadi or front shall be disqualified for being a councillor, or as the case may be, a member if he joins any political party or Aghadi or front after such election."

11. As far as respondents Nos. 1 to 9 are concerned, it is undisputed that they have formed an Aghadi. i.e. a group of persons, who have formed themselves into a party. It is also undisputed that each of them were candidates who were not set up by any political party or Aghadi or front at the elections. Each of them contested as independent candidates. After being so elected. they have formed themselves into an Aghadi and have started functioning as such. It is the contention advanced by Shri Singhvi, who appears on behalf of the petitioners, that the aforesaid respondents, who were elected as independent candidates, have chosen to abandon their character of being independent councillors and have formed themselves into an Aghadi and have, therefore, incurred a disqualification under the aforesaid sub-section (2) of Section 3 of the Act. On the other hand, it is the contention of Shri Pai and Shri Desai, appearing on behalf of respondent Nos. 1 to 9, that the Aghadi, which respondents Nos. 1 to 9 have joined, has been formed after the elections. They have not joined an Aghadi which was already existing prior to the elections. Constitution of an Aghadi after the elections and the joining of the said Aghadi by respondents Nos. 1 to 9, will not attract the disqualification contemplated under the aforesaid provisions of the Act. It is the further contention of Shri Pai and Shri Desai that the Aghadi which has been constituted is not for the purpose of setting up candidates for the elections to a local authority. Elections to the local authority have already taken place before its constitution. Therefore, the present Aghadi will not fall within the definition of Aghadi u/s 2(a) of the said Act. Hence, joining of the said Aghadi, even though after relinquishing their status of independent councillors, would not fall within the mischief of the aforesaid provision.

12. In this behalf a reference to the other relevant provisions of Section 3 can

usefully be made. Section 3, in so far as is relevant, provides as under:

"3. Disqualification on ground of defection.

(1) Subject to the provisions of Sections 4 and 5, a councillor, or a member belonging to any political party or Aghadi or front shall be disqualified for being a councillor or a member-

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

(b)

Provided

Explanation. -- For the purposes of this section-

(a) a person elected as a councillor, or as the case may be, a member shall be deemed to belong to the political party or Aghadi or front, if any, by which he was set up as a candidate for election as such councillor or member:

(b) a nominated or co-opted councillor or member shall-

(i) Where he is a member of any political party or Aghadi or front on the date of his nomination, or as case may be, co-option as such councillor, or as the case may be, member be deemed to belong to such political party or Aghadi or front.

(ii) in any other case, be deemed to belong to the Political party or Aghadi or front of which he becomes, or as the case may be, first becomes a member of such party or Aghadi or front before the expiry of six months from the date on which he is nominated or co-opted as such councillor, or as the case may be, member:

13. Sub-section (1) of Section 3, thus, provides that a councillor or a member belonging to any political party. Aghadi or front, shall be disqualified for being a councillor or a member if he voluntarily gives up his membership of such political party Aghadi or front. It would, thus, appear that Aghadi or front are placed at par along with political parties and just as giving up membership of a political party attracts disqualification, similarly giving up membership of an Aghadi or front also attracts the same disqualification.

14. Section 3(1)(b) makes it incumbent on councillors or members of political parties. Aghadi or front to cast votes at the meetings of local authorities, as per the directions of the party and if a member or a councillor fails to comply, he, under the aforesaid provisions, incurs a disqualification. Clause (a) of the Explanation contains the deemed provision in respect of a councillor being a member of a political party. Aghadi or front. Hence, if a councillor is elected on being sponsored by a political party he will be deemed to belong to that party. Similarly, if he is sponsored by an Aghadi or front he will be deemed to be member of that Aghadi of front. Sub-section (2) of Section 3 of the Act seeks to place an independent candidate in the same position as candidates belonging to

a political party, Aghadi or front. Just as a candidate who ceases to be a member of his original political party, incurs a disqualification for being a councillor, similarly, an independent candidate, who has been elected as such, incurs a similar disqualification, if he ceases to be an independent councillor and joins a political party or Aghadi or front.

15. As far as respondents Nos. 1 to 9 are concerned, each of them have contested and have been elected as independent candidates. After being so elected, they have formed themselves into an Aghadi. They have, therefore, ceased to be independent councillors. After having formed themselves into an Aghadi they have taken steps to register the Aghadi under the Rules. They have chosen their leader and officer bearers. They have nominated respondent No. 4 as their candidate for the Presidential election. The Aghadi has issued a whip calling upon its members to vote for respondent No. 4 and none else. Since the Aghadi consists of nine councillors, respondent No. 4 has secured all the nine votes and has been declared elected. The aforesaid facts, in our judgment, would include the said Aghadi within the four corners of its definition u/s 2(a) of the Act. Respondents Nos. 1 to 9 are a group of persons who have formed themselves into a party. Having so formed themselves into a party, they have set up respondent No. 4 as their candidate for the elections to the post of President. The election of the President, in our view, is also an election to the local authority. It is not possible to accede to the contention advanced by Shri Pai that it is only the initial general elections of the local authority which is covered under the aforesaid definition and the elections thereafter held for electing the President and other office bearers will not be the elections of a local authority. Election of President and other office bearers, in our judgment, are as much a part of the election of the council as the general election of the Council.

16. The present Act, as is clear, has been enacted to eradicate the menace of defection. Hence, the disqualification, which is provided, cannot be applied only at the initial stage of general elections to the Local Authorities but will continue to apply during the entire tenure of office of the councillors or members of local authorities. This is clear from the provisions of Section 3(1)(b) which provides for disqualification for acts or omissions done or committed by councillors during the meetings of the local authorities. If a Councillor chooses to vote or abstain from voting against the directions of his political party or Aghadi or front, at any meeting during his entire tenure as a Councillor he is deemed to have incurred a disqualification.

17. It is, however, contended by Shri Pai that before respondents Nos. 1 to 9 can be said to have incurred a disqualification, it will have to be held that they have joined an Aghadi. As far as his clients are concerned they have not joined an already existing Aghadi. They have merely formed themselves into an Aghadi. Joining, an existing Aghadi, according to him, is entirely distinct from forming themselves into a new Aghadi. Placing reliance in the case of AIR 1933 216 (Privy Council) Shri Pai contended that the words "if he joins any political party

or Aghadi or front..... "should be given its plain grammatical construction. The same should not be confuse with constituting an Aghadi or front". The Privy Council in the aforesaid decision, has observed, as under:

"It is the rule that words are use in an Act of Parliament correctly and exactly and not loosely and inexactly. Upon those who assert that that rule has been broken the burden of establishing their proposition lies heavily, and they can discharge it only by pointing to something in the context which goes to show that the loose and inexact meaning must be preferred."

18. Shri Pai next relied on the case of "Judgalkishore Saraf v. M/s. Raw Cotton Co. Ltd." AIR 1955 SC 376 wherein the Supreme Court has observed, as under (at p. 381 of AIR):

"The cardinal rule of construction of statutes is to read the statute literally, that is, by giving to the words used by the legislature their ordinary, natural and grammatical meaning. If, however, such a reading leads to absurdity and the words are susceptible of another meaning the Court may adopt the same. But if no such alternative construction is possible, the Court must adopt the ordinary rule of literal interpretation."

19. Further reliance is placed by Shri Pai on the case of Kanai Lal Sur Vs. Paramnidhi Sadhukhan, . The Supreme Court has observed, as under:

"The first and primary rule of construction is that the intention of the Legislature must be found in the words used by the Legislature itself. If the words used are capable of one construction only then it would not be open to the Courts to adopt any other hypothetical construction on the ground that such hypothetical construction is more consistent with the alleged object and policy of the Act. The words used in the material provisions of the statute must be interpreted in their plain grammatical meaning and it is only when such words are cable to two constructions that the question of giving effect to the policy or object of the Act can legitimately arise. When the material words are capable to two constructions, one of which is likely to defeat or impair the policy of the Act whilst the other construction is likely to assist the achievement of the said policy, then the Courts would prefer to adopt the latter construction. It is only in such cases that it becomes relevant to consider the mischief and defect which the Act purports to remedy and correct."

20. Reliance is also placed on the case of Lt.-Col. Prithi Pal Singh Bedi and Others Vs. Union of India (UOI) and Others, wherein it is observed by the Supreme Court, as under (at p 1419 of AIR) :

"The dominant purpose in construing a statute is to ascertain the intention of the Parliament. One of the well recognised canons of construction is that the legislature speaks its mind by use of correct expression and unless there is any ambiguity in the language of the provisions the Court should adopt literal construction if it does not lead to an absurdity. The first question to be posed is

whether there is any ambiguity in the language used in the provision. If there is none, it would mean the language used, speaks, the mind of Parliament and there is no need to look somewhere else to discover the intention or meaning. If the literal construction leads to an absurdity, external aids to construction can be resorted to. To ascertain the literal meaning it is equally necessary first to ascertain the juxtaposition in which the rule is placed, the purpose for which it is enacted and the object which it is required to observe and the authority by which the rule is framed."

21. Based on the aforesaid decisions Shri Pai strenuously urged that this is not a case of joining a political party or Aghadi but one of the constituting a political party or Aghadi. The aforesaid words of joining a political party or Aghadi should be given its natural meaning and the same should not be confused with "forming themselves into a Aghadi or front". Respondent Nos. 1 to 9, in the circumstances, have not incurred any disqualification.

22. In the context of will be useful to make a reference to various dictionaries in order to find out the true and precise meaning of the term "join", (a) Law Lexicon dictionary has explained the word "join" as "1. To combine : To mingle together with loss of distinction of elements that completely merge with one another. 2. To unite : The joining or combining of things to form a single whole. 3. To associate : joining with another or others as companion, partner, etc : Ramashankar Kaushik and Another Vs. Election Commission of India and Another, (b) Webster dictionary has explained the same as "1. v. t. to bring (things or persons) together to make a single unit, to join hands, to join in matrimony : to bring (two things) together so that they communicate, the rivers are joined by a canal : to fasten (one thing to another), join the skirt to the bodice by a band : to be contiguous with, the U.S.A. joins Canada along an immense frontier : to become a member of (an organisation or group) : to enter into the company of (another person or persons), will you join us for dinner?: v.i. to become united : to be contiguous : to become a member of an organisation or group to join into take part in, to join in a discussion to join up to enlist in the armed forces. 2.n. the act of joining : a point, line, or surface of contact, the joins can hardly be seen : O.F. joindre (joining.) :". (c) Strouts dictionary explain the said word as "(Australia : Crimes Act 1900 (N.S.W.).s..545C (1)). "joins" an unlawful assembly means "to associate or combine" R. v. O'Sullivan. 48 N.S.W.S.R. 400."

23. The term "join", therefore, has a wide connotation and the same, in our view would include constitution of a group by various individuals getting together for the purposes of forming an Aghadi. Respondent Nos. 1 to 9 have mingled themselves together and have constituted the Aghadi. They have united themselves to form the Aghadi. They can, therefore, be said to have joined the Aghadi. As far as respondent Nos. 1 to 9 are concerned, it is to be remembered that they have been elected not as members of any political party, aghadi or front but as independent candidates. By forming the Aghadi they have lost their

identity of being independent members. They have now become members of the Aghadi.

24. As far as Maharashtra Local Authority Members Disqualification Act is concerned the report of the Joint Committees issued on the 3rd of June, 1987, prior to the passing of the Act, inter alia recites as under:

"The Committee however felt that elections to local authorities are not always fought on political or party lines but individuals or groups come together on some common programme and form a front or Aghadi for the purpose of contesting election. The Committee therefore thought it necessary to define "Aghadi" or "front" so that they could also be considered as a party for purpose of this Act....."

As observed the Joint Committee, elections to local authorities are not always fought on political lines or party lines but individuals or groups come together on some common programme and form and aghadi or front for the purpose of contesting elections.

25. The term "Aghadi" or "front", we have seen, has been defined in Section 2(a). Aghadi or front means a group of persons who have formed themselves into party for the purpose of setting up candidates for election to a local authority. Section 3 provides for disqualification on ground of defection. The same makes it clear that "Aghadi" or "front" has been given the same status as that of a political party. Just as a councillor or member belonging to a political party incurs a disqualification by voluntarily giving up his membership to such political party, similarly, a councillor or a member belonging to an Aghadi or front incurs a similar disqualification if he gives up his membership of such Aghadi or front. Provisions of sub-section (2) of Section 3 are crucial. The same provides that a Councillor or a member who has been elected as an independent candidate shall be disqualified for being a councillor or a member if he joins any political party or Aghadi or front after such election. Hence, just as a Councillor or a member, who has been elected as a member of a political party, aghadi or front incurs a disqualification if he gives up his membership of such political party, aghadi or front, similarly an independent Councillor or member incurs a similar disqualification in case he ceases to be an independent Councillor or member and joins a political party. Aghadi or front.

26. With reference to fifty-second Constitution Amendment, Supreme Court, in the case of G. Viswanathan Vs. The Hon"ble Speaker, Tamil Nadu Legislative Assembly, Madras and another, , has observed, as under (at p 1063 of AIR):"

7A. The legislative background for enacting the law affords a key for an understanding of the relevant provisions. What impelled the Parliament to insert the Tenth Schedule can be seen from the Statement of Objects and Reasons appended to the Bill which ultimately resulted in the constitution (Fifty-Second Amendment) Act, 1985, quoted in the decision. Shri Kihota Hollohon Vs. Mr. Zachilhu and others, . It is to the following effect::

"The evil of political defections has been a matter of national concern. If it is not combated it is likely to undermine the very foundation of our 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 in the current session of Parliament an anti defection Bill. This Bill is meant for outlawing defection and fulfilling the above assurance."

When the constitutionality of the above provisions was challenged, this court, after referring to paragraphs 2,3 and 4 of the Tenth Schedule of the constitution stated in *Kihoto Hollohan AIR 1992 SCW 3497 (supra)*, as under :--

"These provisions in the Tenth Schedule give recognition to the role 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. 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 paragraph (2) (1) (a) proceed on the premise that political propriety and morality demand that if such a person, after the election, changes his affiliation and leaves 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. The same yardstick is applied to a person who is elected as an Independent candidate and wishes to join a political party after the election."

27. The provisions of the Act are similar to those of the Tenth Schedule. The object and purpose of the said Act is the same as that of the Tenth Schedule. The Maharashtra Act has been enacted after carrying out minor modifications having regard to the local conditions prevailing in respect of elections to local bodies. Provisions of Sub Paragraph 2 of Para 2 of the Tenth Schedule of Fifty-Second Amendment are in para materia to the provisions of Sub-section (2) of Section 3 of the Maharashtra Act. As has been observed in the case of *Shri Kihota Hollohon Vs. Mr. Zachilhu and others*, and which has been noted in the aforesaid case of *G. Viswanathan Vs. The Hon'ble Speaker, Tamil Nadu Legislative Assembly, Madras* and another, the same yardstick is applied to a person who is elected as an independent candidate and joins a political party after the election. As far as respondent Nos. 1 to 9 are concerned, they were elected as members of the Municipal Council as independent candidates. After being so elected, they have joined themselves into an Aghadi or front. Even if the word "join" is given its literal and grammatical interpretation, the same would include their having constituted and joined into a Aghadi or front. They have, therefore, squarely fallen within the mischief of Section 3 (2) of the Act.

28. As far as the contention regarding the meaning to be given to "if he "joins" any political party or aghadi or front" is concerned, it is not really necessary to depart from its strict literal and grammatical construction. We have seen the meaning given to the term "join" in different dictionaries and we have found that the same includes the forming of several individual into one group. Though not

necessary, even if it were to have become necessary to depart from its strict literal meaning, the same would still have been justified. It is true that normally while interpreting a statute a literal and grammatical meaning has to be given to the words and phrases used in a statute. The same, however is not a hard and fast rule. There would be cases where Courts would be justified in departing from the literal and grammatical meaning if the same becomes necessary for giving effect to the intention of the legislature. This has often been done in order to further the object of the enactment.

29. In the case of Kanwar Singh Vs. Delhi Administration, the Supreme Court has observed, as under (at p. 874 of AIR):

"It is the duty of the Court in construing a statute to give effect to the intention of the legislature. If, therefore, giving a literal meaning to a word used by the draftsman, particularly in a penal statute, would defeat the object of the legislature, which is to suppress a mischief, the Court can depart from the dictionary meaning or even the popular meaning of the word and instead give it a meaning which will advance the remedy and suppress the mischief."

In the case of The State of Gujarat Vs. Chaturbhuj Maganlal, the Supreme Court has observed, as under (at p. 1700 of AIR):

"It is well recognised that where the language of a statutory provision is susceptible of two interpretations, the one which promotes the object of the provisions comports best with its purpose and preserves its smooth working should be chosen in preference to other which introduces inconvenience and uncertainty in the working of the system. This rule will apply in full force where the provision confers ample discretion on the Government for a specific purpose to enable it to bring about an effective result."

In the case of The Vanguard Fire and General Insurance Co. Ltd., Madras Vs. Fraser and Ross and Another, the Supreme Court has observed, as under (at p. 975 of AIR):

"..... the Court has not only to look at the words but also at the context, the collocation and the object of such words and interpret the meaning intended to be conveyed by the use of the words under the circumstances".

30. The object and reasons for enacting the Constitution (Fifty-Second Amendment) Act, 1985 and The Maharashtra Local Authority Members Disqualification Act, 1986 are clear. The same seeks to prevent defection. The same further prevents independent members from losing their character as such and prohibits them from joining a political party, aghadi or front. If one has regard to the object that is sought to be achieved by the above enactments, the Constitution of an Aghadi by Respondent Nos. 1 to 9 and their joining the same after abandoning their character of independent Councillors, in which capacity they were elected, would tantamount to their joining the Aghadi and would squarely fall within the mischief of Section 3 (2) of the Act. For the very same

reasons, we are inclined to hold that the term "Agadi" or "front" would not only include Aghadi or fronts which had been formed prior to the holding of elections but would also include Agadi or front which has been formed after the holding of elections. This interpretation is the only interpretation which will further the aim and object of the enactment and will prevent the mischief sought to be avoided.

31. In the circumstances, we are inclined to hold that the order passed by the Collector, which purports to dismiss petitioner's application, filed u/s 7 of the Act, is liable to be quashed. In the result, the Petition succeeds and it is declared that Respondent Nos. 1 to 9, who have been elected as Councillors of Respondent No. 10 Municipal Council, as independent candidates and have, thereafter, joined themselves into an Aghadi named and styled as Mahabaleshwar Shahar Vikas Aghadi, by constituting the same, have incurred a disqualification provided u/s 3 (2) of the Act and have, therefore, ceased to be Councillors of the Municipal Council.

32. Rule is, in the circumstances, made absolute in terms of prayer clauses (bb) and (bbb). There will, however, be, in the circumstances of this case, no orders as to costs.

33. At this stage, counsel for Respondent Nos. 1 to 9 prays for stay of our order to enable his clients to approach the Apex Court. Our order is stayed up to 15th of May, 1997 on condition that the Respondent Nos. 1 to 9, during the pendency of stay, will be entitled to attend the meetings but will not be entitled to deliberate, vote and draw their remunerations.

34. Expedite the issue of certified copy.

35. Order accordingly.

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