

(2004) 02 DEL CK 0099

In the Delhi High Court

Case No : WPC No. 1676 of 2004 and CM No. 1451 of 2004

Rattan Singh Pal

APPELLANT

Vs

Union of India (UOI) and Another

RESPONDENT

Date of Decision : 05-02-2004

Acts Referred:

Constitution of India, 1950 — Article 74, 83(2), 85

Citation : (2004) 02 DEL CK 0099

Hon'ble Judges : B.C. Patel, C.J.;Badar Durrez Ahmed, J

Bench : Division Bench

Advocate : Party-in-Person, for the Appellant; Neeraj Jain, for the Respondent

Judgement

B.C. Patel, C.J.—The petitioner has filed this petition in public interest, inter alia, praying for the quashing of the decision of the Union Cabinet dated 27.01.2004, whereby the Cabinet has recommended to His Excellency the President of India to dissolve the 13th Lok Sabha. The petitioner has contended that huge amount of money from the Public Exchequer is spent every time on each general election. Therefore, the House cannot be dissolved before it completes its full five-year term at the whims and fancies of the Members of the Union Cabinet. According to the petitioner, any decision of the Union Cabinet has to be based on legal principles and in accordance with the Constitution of India and must be in public interest and cannot be with a mala fide intention to retain power. These are the main contentions raised by the petitioner.

2. Here, it would be pertinent to have a look at Article 83(2) of the Constitution of India which reads as under:-

"83. Duration of House of Parliament.--(1)...

xxxx xxxx xxxx xxxx xxxx xxxx xxxx

(2) The House of the People, unless sooner dissolved, shall continue for five years from the date appointed for its first meeting and no longer and the

expiration of the said period of five years shall operate as a dissolution of the House:

Provided that the said period may, while a Proclamation of Emergency is in operation, be extended by Parliament by law for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate."

From the aforesaid provision, it is clear that the House of the People may be dissolved sooner than the normal period of five years.

3. Article 85 of the Constitution provides that the President may dissolve the House of the People. Article 74 stipulates that the President, in exercise of his functions, shall act in accordance with the advice tendered by the Council of Ministers. In the present case, it is alleged that the Council of Ministers has recommended the dissolution of the 13th Lok Sabha. The President is required to act upon such advice. There is no bar to dissolve the House of the People prior to the completion of the five-year term. This is clear from Article 83(2) of the Constitution. Thus, looking at the various Constitutional provisions referred to above, we find no merits in the petition and, accordingly, the petition as well as the application for stay stand dismissed.