

(1980) 04 SC CK 0056

In the Supreme Court Of India

Case No : Petition For Special Leave To Appeal (Civil) No. 4885 Of 1980

Shri. Ramakrishna Hegde

APPELLANT

Vs

Election Commission of India and Another

RESPONDENT

Date of Decision : 29-04-1980

Acts Referred:

Constitution of India, 1950 — Article 324

Citation : (1980) 3 SCC 286 : (1980) 12 UJ 697

Hon'ble Judges : V. R. Krishna Iyer, J;R. S. Pathak, J;O. Chinnappa Reddy, J

Bench : Full Bench

Final Decision : Disposed Of

Judgement

V.R. Krishna Iyer, J.—Brevity is a necessity, especially when dealing with a matter essentially interlocutory and unwitting observations may hit a mark the archer never meant'. So we pass this laconic order disposing of the special leave petition.

2. Leave is sought to challenge an order of the Chief Election Commissioner of India which in its concluding portions runs thus:

18. Having regard to the above considerations and pending final decision in the matter arising out of the petition of Dr. Murli Manohar Joshi, dated 14th April, 1980, claiming to be the real Janata Party, the Commission in exercise of its powers conferred on it by Article 324 of the Constitution read with Rules 5 and 10 of the Conduct of Election Rules, 1961, paragraphs 3, 6, 7, 8 and 18 of Election Symbols (Reservation and Allotment) Order, 1968, and all other powers enabling it in that behalf hereby orders that;-

(a) The Symbol 'Haldhar within Wheel (Chakra Haldhar)' reserved hitherto for the Janata Party be formen until further orders :

(ii) The group of the Janata Party led by Shri Atal Bihari Vajapajee be recognised as National Party under the name "Bharatiya Janata Party":

(iii) The symbol 'Lotus' be reserved for the said Bharatiya Janata Party : and

(iv) The symbol 'Lotus' be omitted from the list of free symbols for all these States where it is so included in that list.

3. The subject matter relates to a squabble over a symbol which has attained white heat because of the elections to the State Assemblies coming shortly.

4. The pathology of political parties suffering self division sometimes projects itself on the forensic screen and the present leave petition is but an illustration. The Janata Party underwent a fission and what was once a national party, became on account of this metamorphosis two groups, each claiming to be the real Janata Party. The split-personality syndrome resulted in the claim for the Janata Party symbol by both the groups. Rule 15 of the Election Symbols (Reservation and Allotment) Order, 1968 vests power in the Commission to allot symbols when rivals claim the same. The Chief Election Commissioner pending final determination, passed the order allotting the symbol 'Lotus' to the Bharatiya Janata Party. He also recognised as a National Party the said Bharatiya Janata Party. The original symbol of Janata Party 'Chakra-haldhar' was however, frozen until further orders. This resulted in the petitioner's group of the Janata Party without recognition as a National Party and without a symbol to fight the election with. Aggrieved by this order the petitioner's group, which claims to be the pristine Janata Party, has challenged the validity of the order.

5. We have heard Shri Tarkunde for the petitioner-group Shri Shanti Bhushan for the Bharatiya Janata Party and Shri Abdul Khader for the Election Commission. We do not articulate our reasons, as expressions of opinion in the process or ratiocination in a SLP arising out of an interlocutory proceeding, may effect on adversely one party or the other. We make the following direction, which commands broad consensus and Counsel for the Election Commission also agrees that the Chief Election Commissioner will implement it.

6. We direct the Chief Election Commissioner, in the light of the materials placed before us, to recognise the petitioner's party as a National Party, for the purpose of the forthcoming elections, within the meaning of Rule 7. We further direct the Election Commission to allot a symbol to the petitioner's party on application forthwith.

7. The final decision may take time although it may have to be done as expeditiously as circumstances permit. But we influence the Commission in its decision.

8. The battle for the ballot is won, if we may venture an obiter, not by symbolic struggle for symbols but by the plurality of little Indians Making their little marks in the little booths for those who serve and deserve.