
(2002) 09 KAR CK 0043

In the Karnataka High Court

Case No : Writ Petition No's. 21902 and 21903 of 2002

Smt. Ananda Lakshmi and Another

APPELLANT

Vs

Deputy Commissioner, Mysore District and Others

RESPONDENT

Date of Decision : 30-09-2002

Acts Referred:

Constitution of India, 1950 — Article 226

Karnataka Local Authorities (Prohibition of Defection) Act, 1987 — Section 3 (1) (b), 3 A

Citation : (2002) ILR (Kar) 5199 : (2003) 1 KarLJ 423 : (2002) 4 KCCR 371 SN

Hon'ble Judges : H. Rangavittalachar, J

Bench : Single Bench

Advocate : Ravivarma Kumar, for the Appellant; Suman Hegde, High Court Government Pleader for Respondents-1 and 2, T.H. Narayan, for Respondent-3 and A. Nagarajappa, for Respondents-4 to 7, for the Respondent

Final Decision : Dismissed

Judgement

H. Rangavittalachar, J.—Writ petitioners have challenged the order passed by the Deputy Commissioner, Mysore District, dated 25-7-2002 declaring them as being disqualified to hold the office of Municipal Councillors, Town Municipal Council, Hunsur.

Briefly stated the facts as gathered from the arguments and the records are:

By a Gazette Notification, dated 8-5-2002 in ELN 90(1)/2000-01, the Deputy Commissioner, Mysore, notified 23 persons as elected members for the Town Municipal Council, Hunsur. As per the notification, 9 Councillors were from the Indian National Congress (referred to as "INC" for brevity) including the writ petitioners herein, 8 from the Janata Dal (S), 3 from Bharatiya Janata Party and 3 independents among them being Ambi Sridhar and Hazrath Jan.

2. For the post of President and the Vice-President of the Hunsur Municipal Council, elections were held on 30-12-2001. The INC had set up Smt. Ananda

Lakshmi as its candidate for the post of President and Sri D. Narayana, 5th respondent herein, for the post of Vice-President. According to the contesting respondents, a whip was issued by the Congress Party to all the elected Councillors to cast their votes in favour of the official candidates for the post of President and to the post of Vice-President-D. Narayana. The 1st petitioner-Smt. Ananda Lakshmi was unanimously elected as the President. Since both the petitioners herein who were members of the INC Party; contrary to the whip issued, voted against the official candidate D. Narayana and in favour of the Janata Dal candidate Kannaiah, the said official candidate D. Narayana was defeated and Kannaiah was elected.

3. Subsequent to the result of the election of President and Vice-president being declared, respondents 3 to 7 herein filed a complaint u/s 3(1)(b) of the Karnataka Local Authorities (Prohibition of Defection) Act, 1987 (hereinafter referred to as the "Act" for brevity) before the Deputy Commissioner, Mysore for disqualifying the writ petitioners herein as having violated the provisions of the Act. The petitioners herein defended the petition by contending that they and the two councillors Ambi Sridhar and Hazrath Jan who were also Congress Party Members constituted a group consisting of not less than 1/3rd of the Congress Party Councillors as a result of split in the Congress Party and they voted for the elected Vice-President Kannaiah, as a separate faction. Therefore, having regard to language of Section 3-A of the Act, they did not suffer any disqualification. Alternatively, they also contended that the issuing of a whip was not in order.

4. The Deputy Commissioner framed two issues as arising for his decision having regard to the rival contentions taken before him, namely.--

1. Whether u/s 3-A of the Act, respondents 1 and 2 and the 2 independent members constitute the group representing a faction which has arisen as a result of split in the INC Party. Whether such group consists of not less than 1/3rd of the members of such political party.

2. Whether respondents 1 and 2 have violated Section 3(1)(b) of the Act?

5. On Issue 1, Deputy Commissioner held "that the 2 Councillors Ambi Sridhar and Hazrath Jan were declared elected as Councillors as "independent candidates" in the Gazette Notification. Subsequent to the said declaration, except producing a receipt signed by the District Congress Committee Secretary for having received Rs. 2/- to prove Ambi Sridhar was a primary member of Congress, and examining Chandra Prabha Urs, R.W. 3 to the effect that both the Councillors had joined the INC on the day of the result, no other material was produced in proof of the 2 Councillors being admitted to Congress Party. More so when the evidence in this regard was conflicting among the members of Congress Party inasmuch as the DCC President had said they were not admitted to the party, and in the absence of any corroborative evidence, it cannot be said that the 2 independent Councillors were also the members of the Congress Party when the voting for the Vice-President's post took place". He has therefore,

rejected the contention of the petitioners regarding the theory of split in the Congress Party.

6. On the question that the whip issued was not in order, Deputy Commissioner has held "the evidence of the District Congress Committee President (Rural) examined as P.W. 2, proves that such a whip was issued and that, the P.W. 2 had the necessary authorisation as per the evidence of the INC Secretary --Amir Rahmatullah Khan and the letter of authorisation, Ex. P. 3". Basing also on the admission of the petitioners that they had voted against the official candidate D. Narayana in favour of Kannaiah, he has held "the petitioners as guilty of violating the directions issued by a political party i.e., INC to which party the petitioners belonged at the relevant time" and thus has passed the order disqualifying them from holding the post of Municipal Councillors. This order, as stated, is under challenge.

7. Detail statement of objections has been filed by the respondents and the learned Government Advocate has also made available the original records.

8. Sri. Ravivarma Kumar, learned Counsel for the petitioners firstly submitted that the proceedings u/s 4 of the Act is "quasi-criminal" in nature and having regard to the serious consequences that flow from the act of "disqualifying" the elected Councillors, the complainants had to prove when they complained of violation of any direction by the party, the said fact "beyond reasonable doubt" by adducing positive and acceptable evidence. In support of the said contention, learned Counsel referred to the decisions of this Court in B.N. Suryanarayana Shetty v. Chief Secretary, Zilla Parishad, Bangalore Rural District and Ors. 1989 (3) Kar. L.J. 331 and Viswanath Kappathanavar and Another Vs. Channu Patil and Another, the Division Bench judgment of this Court in C.S. Kale Gowda and Ors. v. Chief Secretary, Hassan District Zilla Parishad and Ors. 1996 (2) Kar. L.J. 221. Learned Counsel submitted that the complainants before the Deputy Commissioner did not produce any positive evidence to prove that the INC Party had authorised P.W. 2, the DCC President to issue a whip. Hence, the person issuing a whip was incompetent and if so, petitioners cannot be held guilty of violating the whip

9. In the alternative, he submitted that the evidence of one of the members of the Congress Party clearly proved the 2 councillors Ambi Sridhar and Hazrath Jan had joined the INC, the said two persons together with the petitioners constituted 1/3rd of the membership of the Congress Party (i.e., the number of Councillors belonging to the INC being 9). Since a whip was issued contrary to electoral understanding amongst the Councillors the 4 members, in order to keep up their promise, had broken out from the INC as a separate faction and voted against the official candidate. u/s 3-A of the Act, they could do so.

10. It was also contended that the order of the Deputy Commissioner suffers from an error of record inasmuch as the Deputy Commissioner did not consider the evidence of the Vice-President. Similarly, he overlooked the written whip

which was not signed by the authorised person. Lastly, he submitted, the complainants had not proved that any whip was issued.

11. In answer to this, it was contended by the learned Counsel for the respondents that the petitioners having admitted both in pleadings and in evidence, that a whip was issued by the INC to vote for the official candidate D. Narayana and having violated the whip, cannot contend about the irregularities regarding the issuance of whip or that there is no proof to prove the fact of whip being issued. Even otherwise according to them, the evidence of P.W. 2. the DCC President, clinches the issue on proof and the Deputy Commissioner only on the basis of this evidence, has held that a whip was issued. The finding being a finding of fact based on admissible evidence, the same cannot be disturbed by this Court in exercise of its powers under Article 226 of the Constitution.

12. Insofar as the second contention of the petitioner about the theory of split, it was contended that admittedly, the 2 councillors Ambi Sridhar and Hazrath Jan were notified as Councillors elected as "independent candidates" in the Gazette Notification. Unless there was evidence that subsequent to the notification they were admitted to INC Party, and in the presence of the evidence of P.W. 2 who has said that they were not admitted to the INC, the said 2 Councillors cannot be treated as belonging to INC at the time the election to the Vice-President's post was held. Therefore, no such theory of split can be countenanced. Learned Government Advocate also submitted by reading the provisions of Section 3-A(b) and other provisions of the Act, to contend that when any group of members of a political party breakaway from the original party to which they belonged and violate a whip, in order to rely on the doctrine of split, they should necessarily form a new political party or join an existing political party. Mere breaking away without forming a political party or joining another political party is not the intendment of Section 3-A and such breakaway members may at best form a group but not members of a "political party within the meaning of Section 3-A. In the case, except contending that the petitioners and Hazrath Jan and Ambi Sridhar had formed a group, no contention is even taken much less evidence is adduced to show that the four of them joined any political party or formed a different political party than the INC. Therefore, they cannot claim the benefit of Section 3-A of the Act.

13. In reply, to the contentions of the respondents, it was contended by the petitioners Counsel that even if the petitioners are said to have admitted that a whip was issued, still it will not absolve the complainants from proving the fact of a "whip being issued" as a matter of fact in the manner known to law by adducing positive evidence. Admission cannot substitute proof. On the question of the formation of a political party by a breakaway group or joining of an existing political party, in order to constitute a split, learned Counsel submitted that, that is not the requirement of law.

14. I have given my consideration to the rival submissions and have gone through the records.

15. The Karnataka Local Authorities (Prohibition of Defection) Act, 1987 is passed to put an end to the defections of Councillors elected to various local bodies like the Municipal Corporations, Zilla Panchayats, etc., who though were elected from a particular political party, during the course of their tenure in office changing sides or joining other political parties. To prevent, in the words of Thakur, J., in Viswanath Kappathanavar's case, supra, "unethical and unprincipled conduct on the part of members of political party".

16. To achieve the purpose of the Act, Act has defined what is a "political party", what constitutes a "defection" and the "consequences of defection". Since one of the main questions canvassed by the petitioner is the "saving from disqualification on the theory of split" while respondent contends that to the facts of the case the theory of split does not apply. In order to appreciate the rival contentions, I will refer to the relevant provisions of the Act.

17. By Section 2(vi), "political party" has been defined as:

"Political Party" in relation to a Councillor or member means a political party recognised by the Election Commission of India as a National Party or a State Party in the State of Karnataka under the Election Symbols (Reservation and Allotment) Order, 1968, and to which he belongs for the purpose of Sub-section (1) of Section 3".

18. Section 3 is the main section through which the purpose of the Act is sought to be achieved and it states the circumstances under which a Councillor incurs disqualification. Section 3 reads as:

"3. Disqualification on the ground of defection.--(1) Subject to the provisions of Sections 3-A, 3-B and 4, a Councillor or a member, belonging to any political party, shall be disqualified for being such Councillor or member.--

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

(b) if he votes or abstains from voting in, or intentionally remains absent from any meeting of the Municipal Corporation, Municipal Council, Town Panchayat, Zilla Panchayat or Taluk Panchayat, contrary to any direction issued by the political party to which he belongs or by any person or authority authorised by it in this behalf without obtaining the prior permission of such party, person or authority and such voting, abstention or absence has not been condoned by such political party, person or authority within fifteen days from the date of voting or such abstention or absence.

Explanation.--For the purpose of this sub-section--

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

(b) a person elected as a Councillor or as the case may be, a member, otherwise than as a candidate set up by a political party shall be deemed to belong to the

political party of which he becomes a member before the expiry of six months from the date of commencement of his term, of office, or in the case of a Councillor or member whose term of office has commenced on or before the date of commencement of the Karnataka Local Authorities (Prohibition of Defection) (Amendment) Act, 1995, within six months from such date.

(2) An elected Councillor, as the case may be, a member, who has been elected as such, otherwise than as a candidate set up by a political party shall be disqualified for being a Councillor or, as the case may be a member if he joins a political party after expiry of six months from the date of commencement of his term of office, or in the case of a Councillor or member whose term of office has commenced on or before the date of commencement of the Karnataka Local Authorities (Prohibition of Defection) (Amendment) Act, 1995, after expiry of six months from such date.

(3) xxx xxx xxx (4) Notwithstanding anything contained in the foregoing provisions of this section, a person who on the commencement of this Act, is a Councillor shall--

(a) where he was a member of a political party immediately before such commencement, be deemed for purposes of Subsection (1) to have been elected as a Councillor as a candidate set up by such political party;

(b) in any other case, be deemed to be an elected Councillor who has been elected as such otherwise than as a candidate set up by any political party for the purpose of Sub-section (2)".

19. By Act 13 of 1995 with effect from 3-5-1995, Sections 3-A and 3-B were introduced. Section 3-A reads as:

"3-A. Disqualification on the ground of defection not to apply in case of split.-- Where a Councillor or a member makes a claim that he and any other members of his political party constitute the group representing a faction which has arisen as a result of a split in his political party and such group consists of not less than one-third of the members of such political party:

(a) he shall not be disqualified under Sub-section (1) of Section 3 on the ground.--

(i) that he has voluntarily given up his membership of his political party; or

(ii) that he has voted or abstained from voting in, or intentionally remained absent from, any meeting of the Municipal Corporation, Municipal Council, Town Panchayat, Zilla Panchayat or Taluk Panchayat, contrary to any direction issued by the political party to which he belongs or by any person or authority authorised by it in this behalf, without obtaining in any case, the prior permission of such political party, person or authority and such voting or abstention or absence has not been condoned by such political party, person or authority within fifteen days from the date of voting or such abstention or absence; and

(b) from the date of such split, such faction shall be deemed to be the political party to which he belongs for the purpose of Sub-section (1) of Section 3 and to be his political party for the purpose of this section".

20. A-conjoint reading of Sections 3 and 3-A shows that Section 3-A is in the nature of an exception to Section 3. Therefore, the burden of proving the exception is on the person who relies on the same as defense to Section 3 i.e., on the petitioner herein.

21. By a close analysis of Section 3-A, any person setting up the defence of split has to prove.--

(i) that a split occurred in the political party to which he belonged;

(ii) that in the split, he and his co-members of his political party constitute not less than 1/3rd of the members as a faction;

(iii) and as a member of this faction of the breakaway group, voted against the directions issued from the erstwhile political party.

22. Section 3-A(b) states what constitutes a "faction" and its status; a close reading of Section 3-A(b) of the Act shows that the breakaway group or faction shall be deemed to be the "political party" for purposes of Section 3(1) of the Act, which means to say, by the definition of a "political party" that the newly formed "group" or "faction" should either form a "new political party" or must join an existing separate party. If this newly breakaway group does not either form a new "political party" or join an already formed existing "political party" but remains only as conglomeration of persons, without doing anything in common, to such a group the exception of Section 3-A cannot apply. Any other interpretation of Sections 3-A(b) and 3(1) of the Act will make Section 3(1) of the Act unworkable. To illustrate, subsequent to the formation of this new group, if one among the breakaway group were to contest as a candidate for the post of President or Vice-President, who among the members of this newly formed faction can claim the authority to issue a direction and as since there is no political party to which this group belongs; can any Councillor disobeying the directions issued by any member of the faction be disqualified as no direction will be issued by the political party? Such a situation runs contrary to the spirit of Section 3-A(b) of the Act.

23. If these petitioners and two Councillors referred to never formed a "political party" at the time of the split or did not join the already existing political party but, remained only as a conglomeration of persons without any further act of forming the political party, they cannot advance the theory of split and take shelter under the provisions of Section 3-A of the Act.

24. Even if the breakaway members form a political party or join an existing political party still they have to prove another important ingredient of Section 3-A of the Act, that all the members of the faction must belong to the same political party at the time of split and constitute not less than 1/3rd of the total

membership of the political party.

25. It is a cardinal rule of evidence in each case the best evidence of which the case in its very nature is susceptible should always be given. In this case, petitioners during trial before the Deputy Commissioner, had produced the copy of the constitution of INC as Ex. R. 1; Article 5 of the Constitution under the heading "Membership" categorizes membership into 2 categories -- "Primary" and "Active" and provides procedure for becoming a member, etc. According to Article 5-A(a)(i), any person of the age of 18 years is entitled to become a primary member on making a written declaration in Form A and on payment of triennial subscription of Rs. 3/-. Article 3-A(a)(iv) states that a permanent register of members must be maintained by the jurisdictional authorities. Article 5-B provides for the procedure for becoming an active member. Every primary member on fulfilling the conditions stated therein is entitled to become an active member. The rules provide for issuing of membership forms and also for maintenance of a "permanent register" for primary members which contains information regarding the name of the person enrolled as a member, his father's name, permanent address, date of enrollment, serial number and name of primary unit, term of membership, etc. Admittedly, in this case, the petitioner who had taken up the contention that Hazrath Jan and Ambi Sridhar who were independent candidates had become members of the INC, had not produced the register of members nor had made any efforts for summoning the "Register of Members" before the Deputy Commissioner. No reasons are forthcoming for non-production of the said documents. The register would have thrown light, perhaps would have conclusively proved the contention that the independent candidates were admitted to Congress Party. That has not been done in this case.

26. On facts, the Deputy Commissioner has held that no material has been produced on record to show that Hazrath Jan and Ambi Sridhar who were elected as "independent candidates" had subsequently become members of the Congress Party at the time of voting. According to the Deputy Commissioner, "the evidence of the DCC President Subbaiah is to the effect that these two persons were not admitted to the Congress Party. Excepting a receipt, Ex. R. 2 which only showed that Ambi Sridhar had paid Rs. 2A, no other documentary material have been produced in that connection". Commenting on the evidence of Chandraprabha Urs, R.W. 3, the Commissioner has stated "that this evidence is contrary to the evidence of the President of the DCC and in the absence of any independent corroborative material, no credence can be given to her evidence". It is not the case of the petitioners before this Court that the Deputy Commissioner has misread the evidence or has omitted to consider any other relevant evidence in this regard. Though the petitioners made a faint attempt to contend that the evidence of Vice-President Narayana was not looked into, it is difficult to appreciate how Narayana could be considered as a competent witness to prove the fact that Ambi Sridhar and Hazrath Jan were Congress members when they voted in favour of the Vice-Presidential candidate.

27. Therefore, one of the basic ingredients of Section 3-A was not proved by the petitioners. Even on this ground, petitioners were not entitled to advance the theory of split. I do not therefore, find that the Deputy Commissioner committed any error of record while appreciating the evidence nor while evaluating the evidence has acted illegally. This finding of the Deputy Commissioner based on facts is a finding of fact in the absence of the above stated reasons, has to be accepted. Therefore, the theory of split advanced by the petitioners deserves to be rejected.

28. On the contention of the petitioners that "the burden of proving that the Congress Party had issued a whip to the petitioners" was very heavy on the complainants and the same is not discharged by leading any positive evidence.

No doubt, the nature of trial u/s 4 of the Act, having regard to the serious consequences, namely, the political career of a person will be at stake, and unseating a person from office in whom majority of the electorate had reposed confidence, are treated as "quasi-criminal" in nature. That means the allegations when "disputed" has to be proved by acceptable evidence and the standard of proof may also be of a higher degree than in ordinary civil litigation. But, certainly it is not as contended by Sri Ravivarma Kumar the allegations have to be proved "beyond reasonable doubt" as in criminal cases.

29. Reliance placed on C.S. Kale Gowda's case, supra, by the petitioner is misplaced. In the case of C.S. Kale Gowda, supra, it was contended "that the allegations made in the complaint that a person elected on the Janata Party ticket had voluntarily left the party and joined Congress I, was not specifically denied in the written statement. Therefore, on the strength of "deemed admission" the charge got proved". The Bench rejected the contention on the ground that the proceedings before the authorities u/s 4 of the Act are "quasi-criminal" in nature and the law requires proof of such allegation and the burden of proving is on the person who alleges. The Court also ruled that the "minimum requirement of proof must be insisted upon". This is how the Court has stated: "Where law insists a matter to be proved by positive evidence, even without the minimum evidence from the fact of non-denial a presumption cannot arise". But, the Court did not rule as contended that in all cases the allegations must be proved "beyond reasonable doubt".

30. It is well-recognized by the rules of evidence that a "fact in issue" can be proved by "confessions", "admissions", "by positive evidence" or in some cases the Court can take the aid of presumptions which is a rule of convenience; the best form of evidence is "confessions" and "admissions" provided they answer the requirement of law. An "admission" can both be by record or evidence, i.e., if a person voluntarily with the knowledge of the facts "admits" regarding any matter in issue before a judicial or quasi-judicial proceeding and such an "Admission" is not "retracted" before being acted upon by the other side, the same operates as an estoppel against the person making it. An admission by person unless explained furnishes the best evidence. The fact that the

proceeding is of a "quasi- criminal nature" is of no consequence for the application of the principles.

31. In Nagubai Ammal and Others Vs. B. Shama Rao and Others, , Venkatarama Ayyar, J., as he then was, on the evidentiary value of an admission has stated, relying on the observations of Baron Parke in *Slatterie v. Pooley* (1840) 6 M.W 664 as "what a party himself admits to be true may reasonably be presumed to be so". Learned Judge however has only added a rider before the admission can be acted upon to the said proposition by stating that "before it can be invoked, it must be shown that there is a clear and unambiguous statement by the opponent such as will be conclusive unless explained".

(emphasis supplied)

32. Similarly, in *Sowcar T. Thimmappa v. S.L. Prasad, Venkatachalaiah, J.*, as he then was, speaking for the Bench, has echoed the ruling in *Nagubai Ammal's* case, *supra*, in the following words: "It is no doubt true that admissions are not conclusive but, what a party himself admits to be the true state of affairs may reasonably be presumed to be so unless the admission is satisfactorily explained or successfully withdrawn".

33. Reverting to the facts of this case; to the complaint made by the contesting respondents that the petitioners have violated the whip issued by the DCC President in voting against the official candidate, this is what has been stated by the petitioner-Ananda Lakshmi at para 4 of the objection statement. Para 4 reads "DCC President issued whips to all the 11 Councillors belonging to Congress Party to vote for Smt. Ananda Lakshmi for the post of President and Sri B. Narayana for the post of Vice-President". She has stated further that as "A whip issued by the party". Both the petitioners, Ravishankar and Ananda Lakshmi have examined themselves before the Deputy Commissioner. They have admitted in their evidence that the DCC President had issued a whip to vote for the official Vice-Presidential candidate Narayana, but, they disobeyed the whip and voted for the Janata Dal candidate Kannaiah. Since the admissions made by them is already extracted by the Deputy Commissioner in his order impugned, I do not propose to re-extract the same herein. Even in the writ petition, at para 4 this is what the petitioners have stated: "In this behalf, the Congress Party issued whips to all the 11 persons including the aforementioned Hazrath Jan and Ambi Sridhar. Since the said whip was contrary to the electoral understanding reached in the matter, there was a serious division in the party resulting in a split, 6 persons supporting the respondent-Narayana and the remaining 4 Councillors supporting the candidate of Kannaiah". Thus, by a reading of the extracted portion above, there cannot be any room to doubt that the petitioners had admitted both by record and by evidence in clear and unambiguous terms that a "whip was issued to them which they disobeyed". It is not the case of the petitioners either before the Deputy Commissioner or before this Court, this "admission" was made either without knowledge of the facts or on a wrong understanding of facts. They have not even retracted from the "admission" while filing this petition. Per contra,

they have reiterated the "admissions" made by them. Having categorically "admitted" in clear and unambiguous terms, it is not open to the petitioners to contend that this "admission" must be ignored and some more positive evidence must be insisted by independent witnesses in proof of the said fact; even on this count, petitioner has to fail as there has been the evidence of the President of the DCC, to the effect that he had issued a whip which the petitioners had disobeyed. The Deputy Commissioner in his order has in detail referred to the evidence of P.W. 2 in this regard. I have also gone through the evidence of P.W. 2. This is what he has stated on this question:

34. However, Sri Ravivarma Kumar, learned Counsel made a submission that there is nothing on record to show that P.W. 2 was authorised to issue a whip. Therefore, the very issuing of whip by P.W. 2 was illegal. When the DCC President has sworn to that he was authorised by the Karnataka Congress Pradesh General Secretary on 27-12-2001 to issue a whip in pursuance of which he has issued the whip, unless there is contrary evidence either on record or otherwise on a mere assertion by the petitioners it cannot be said that he had no authority. In Ex. R. 1 produced by the petitioners, i.e., the Congress I constitution, nowhere it is stated who are the competent persons to issue a whip or authorised to issue a whip. The best person to say in this regard in the absence of any rules or regulations governing is the very President of the party who has spoken to above. Therefore, this contention of Sri Ravivarma Kumar cannot be accepted.

35. Looked from the admissions and the evidence of P.W. 2, it cannot be said that the Deputy Commissioner had committed any error either of law or record when he has held that a whip was issued to the petitioners.

36. In the light of the discussions made above, the other contentions raised by the learned Counsel for the petitioners is of no significance and liable to be rejected.

37. In the result, the writ petitions are dismissed and in the facts and circumstances of the case, there would be no order as to costs.