

(1988) 08 KAR CK 0011
In the Karnataka High Court
Case No : W.P. No. 4382 to 4384/1988

Sri A.G. Channabasappa

APPELLANT

Vs

Chief Secretary and Others

RESPONDENT

Date of Decision : 30-08-1988

Acts Referred:

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

Citation : (1988) 2 KarLJ 363

Hon'ble Judges : M. P. Chandrakantaraj Urs, J

Judgement

Chandrakantharaj Urs, J.-These petitions coming up for orders are disposed of by the following order after hearing learned counsel for both parties.

The short question that falls for consideration is, whether opportunity was given by the 1st respondent to Chief Secretary, Shimoga Zilla Parishad, Shimoga, to the petitioners to defend charge of violation under Section 3(1) of the Karnataka Local Authorities (Prohibition of Defections) Act, 1987 ("the Act" for short).

Briefly stated the facts are as follows:

That on a complaint received from One M. Rangappa (Respondent-3 herein), respondent-1 the Chief Secretary caused show-cause notice to be issued to the petitioners on 10-3-1988 calling upon them to show cause why they should not be disqualified in terms of Section 3(1) of the Act. The petitioners appear to have shown cause having appeared before him on 14-3-1988. In their reply they have stated that they have not joined any other political party and they continued to be the members of Janata Party and that they have not violated the provisions of the Act. Thereafter an order has been passed stating that it should be inferred that the petitioners have acted contrary to the interest of the Party without obtaining previous permission by voting in favour of the candidates belonging to the opposite party.

There is no discussion as to the evidence on the basis of which the 1st respondent came to that conclusion. It is essential that in a case like this,

persons who are deprived of the elective posts in a local authority are to be given sufficient opportunity to know what specific charges are made and on what material, charges are to be proved and any person giving oral or written statement in support of the charge or charges is liable to be produced for cross-examination. If these things are not done, then the procedure falls short of what is judicially considered as minimum requisite for the observance of rules of natural justice.

In these cases, procedure adopted clearly falls short the requirement of rules of natural justice, in that, there is no communication or confrontation of the material on the basis of which conclusion was reached for disqualifying the petitioners.

Therefore the impugned orders requires to be set aside with liberty reserved to the first respondent to proceed with the matter in accordance with law and in the light of the observations made in this order. The petitioners and the respondents will appear before the Chief Secretary on 26th of September 1988 to proceed further in the matter.

Copy of this order forthwith shall be sent to the 1st respondent. Rule made absolute.

Writ petition allowed.