
(1993) 04 DEL CK 0003

In the Delhi High Court

Case No : Civil Writ Appeal No. 2029 of 1993

S.S. Karana

APPELLANT

Vs

The Election Commission and Another

RESPONDENT

Date of Decision : 27-04-1993

Acts Referred:

Representation of the People Act, 1951 — Section 29(A)(9)

Citation : (1993) ILR Delhi 412

Hon'ble Judges : G.C. Mittal, J;A.D. Singh, J

Bench : Division Bench

Advocate : M.T. Siddique, for the Appellant;

Judgement

Gokul Chand Mital, J.

(1) C.J., S.S.Karana, who claims to be an active Congress (1) worker for the last 4-5 years baa approached this Court under Article 226 of the Constitution of India for issue of an appropriate writ restraining the President of the All India Congress Committee (1) from nominating two members on the Congress Working Committee to the seats vacated by the elected members in the Triputi Session of Aicc (I). as the same would be in contravention of the party's constitution.

(2) It cannot be disputed that All India Congress Party (1) is a registered political party and is not amenable to the jurisdiction of this Court under Article 226 of the Constitution of India. But to maintain a p

(3) Section 29A provides for registration of political parties with the Election Commission. Under sub-section (1) art association or body of individuals calling itself a political party and intending to avail itself of the previsions of Part IV-A has to make an application to the Election Commission for its registration as a political party for the purposes of the Act. Sub-section provides how the application has to be made. Sub-section provides who is to sign the application and to whom it is to be presented or sent. Sub-section (4) would be more

relevant for our consideration. It provides what particulars are to be contained in such application. It says to give the name of the association or body the State in which its head office is situated; the address to which letters and other communications meant for it should be sent; the names of its President, secretary, treasurer and other office-bearers, the numerical strength of its members, and if there are categories of its members, the numerical strength in each category; whether it has any local units; if so, at what levels; and whether it is represented by any member or members in either House of Parliament or of any State Legislature; if so, the number of such member or members.

(4) SUB-SECTION (5) provides that application under subsection (1) shall be accompanied by a copy of the memorandum or rules and regulations of the association or body and such memorandum or rules and regulations are required to contain a specific provision that the association or body shall bear true faith and allegiance to the Constitution of India as by law established, and to the principles of socialism and democracy, and would uphold the sovereignty, unity and integrity of India.

(5) Under sub-section (6) the Commission may call any other particulars as it may deem think fit. Sub-section (7) provides that after considering all the particulars, the Commission has to decide either to register such a body or association as a political party or not. Under sub-section (8) the decision of the Commission shall be final. Now we come to sub-section (9), which is the other important sub-section to be considered and reads as follows :

"(9)After an association or body has been registered as a political party as aforesaid, any change in its name, head office, office-bearers, address or in any other material matters shall be communicated to the Commission without delay."

(6) The entire argument by counsel for the petitioner was that under sub-section (9) it is the duty of the Election Commission to see that a registered political party complies with its memorandum or rules and regulations and if any political party does not conform to them, a writ petition would lie. A reading of sub-section (9) shows that after an association or body has been registered as a political party, any change in its name, head office, office bearers, address or in any other material matters shall be communicated to the Commission without delay. This only shows that if there is any change in the particulars, which were contained in the application at the time of registration, as required by sub-section (4), that has to be intimated to the Election Commission for the facility of the political party and there is no duty enjoined on the Election Commission. The duty is cast on the political party, that if there is any change in the aforesaid particulars, the Election Commission may be informed immediately so that it may make correction in its record and if there is any communication to be addressed, it may be addressed in the name of the correct person and at the correct address. The petitioner does not disclose us to what duty was enjoined upon the Election Commission, which it has failed to carry out.

(7) It is urged by the learned counsel for the petitioner that the members or the Aicc attending the Suraj Kund: Session agreed to devote from the party constitution and thereby illegally empowered the President of the Aicc to nominate two members to the Working Committee, who according to the constitution of the organisation have to be elected. To our mind it is internal affair of she political party and deviation. if any, cannot he called in question in a petition under Article 226 of the Constitution of India.

(8) Before running with the case, we may note that counsel for the petitioner relied on the Norton v. Counties Conservative Permanent Benefit Building Society, 1894 (1) Q.B. 246 and Madan Mohan Sen Gupta and Another Vs. State of West Bengal and Others, . We are of the view that these judgments are not helpful in deciding the matter under issue.

(9) Accordingly, we are of the view that the writ petition is not amenable against a political party and the same is dismissed in limine.