

(2016) 01 GAU CK 0006
In the Gauhati High Court
Case No : Writ Petition No. 6193 of 2015

Wanglam Sawin and Others	Vs	APPELLANT
The Speaker, Arunachal Pradesh Legislative Assembly and Others		RESPONDENT

Date of Decision : 12-01-2016

Acts Referred:

Constitution of India, 1950 — Article 19(3)(b), Article 190, Article 190(3), Article 190(3)(b), Article 191, Article 226
Evidence Act, 1872 — Section 114(e)

Citation : (2016) AIR(Gauhati) 43 : (2016) 2 GauLJ 663 : (2016) 2 GauLR 478 : (2016) 1 GauLT 616 : (2016) 1 GLD 717 : (2016) 2 NEJ 60 : (2016) 5 RCRCivil 817

Hon'ble Judges : Tinlianhang Vaiphei, Actg. C.J. and M.R. Pathak, J.

Bench : Division Bench

Advocate : D.K. Mishra, Sr. Adv., P.K. Tiwari, H.A. Sarkar and S. Jahan, Advocates, for the Appellant; M.N. Krishnamani, Sr. Adv., R. Thomas, M.G. Singh, D. Baruah, Standing Counsel and M. Borah, Govt. Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Tinlianhang Vaiphei, Actg. C.J.

1. Whether the Speaker of Arunachal Pradesh Legislative Assembly is correct in accepting the resignation letters of the petitioners as Members of the Legislative Assembly of Arunachal Pradesh, is the moot point in this writ petition.

2. Before proceeding further, we may straightaway record the sequence of events leading to the filing of the writ petition as pleaded by the petitioners. Both the petitioners are MLAs of the current Arunachal Pradesh Legislative Assembly ("the Assembly" for short). While the petitioner No. 1 is representing 55, Khonsa (East) (ST) Assembly Constituency, the petitioner No. 2 is representing 58, Kanubari (ST) Assembly Constituency respectively; both of them were elected to the Assembly in the year 2014. In that election, the Indian National Congress

(INC) won 47 seats out of the total seats of 60 in the Assembly. According to the petitioners, on 16-9-2015, the Chief Minister of Arunachal Pradesh (AP) hosted a get together party for 17 Members of Legislative Assembly (MLA) of AP including the petitioners. In the party, some of the MLAs present there told the gathering that whosoever in the party was in support of the Chief Minister would give a letter declaring support to the Chief Minister; a stereo-typed letters of support of the CM were stated to have been circulated among the MLAs indicating therein that these MLA would not support any person other than the CM and that any MLA supporting any other person would resign from the membership of the Assembly. The said letters were signed by the seventeen MLAs who were present at the party. The petitioners claim that they have not been given copies of the said letters purported to be signed by them till the date of filing the writ petition. According to the petitioners, the said letters did not indicate the date on which they were purported to be signed by them or the date on which their resignations were to be become effective. Due to political differences and out of political vendetta, these letters were apparently handed over to the Speaker behind the back of the petitioners; in fact, they were not at all aware that these letters were actually handed over to the Speaker. According to the petitioners, the said letter dated 1-10-2015 was hand delivered to the office of the Speaker on 5-10-2015 since 2nd, 3rd and 4th October, 2015 happened to be holidays. In the after noon of 5-10-2015, the Secretary, Arunachal Pradesh Legislative Assembly issued the notification by ante-dating it as "1-10-2015" stating that the Speaker had accepted the resignations of the petitioners and that the seats held by them, ipso facto, had fallen vacant; the notification, however, does not mention as to when the resignations were accepted by the Speaker. According to the petitioners, they had never signed any letter of resignation or handed over any resignation letter to the Speaker personally. The notification accepting the purported resignation letters of the petitioners by the Speaker was issued without holding any enquiry even though their resignation letters were not personally handed over to the Speaker by the petitioners; this is contrary to Rule 200(2) of the Rules of Procedure and Conduct of Business in the Arunachal Pradesh Legislative Assembly ("the Rules"), and is, therefore, liable to be quashed.

3. The writ petition is opposed by the Speaker, who has filed his affidavit-in-opposition through the Secretary of the Assembly. According to the answering respondents, the writ petition was filed on 7-10-2015, while the resignations of the petitioners had already been accepted on 30-9-2015, which was notified on 1-10-2015. As the acceptance of the resignations was notified on 1-10-2015, the writ petition has become infructuous. It is submitted by the answering respondents that the acceptance of the resignations of the petitioners by the Speaker is final whereupon their seats became vacant on 30-9-2015 under Article 190(3) of the Constitution. The provision of Rule 200 of the Rules is not consistent with Article 190(3)(b) of the Constitution inasmuch as the latter provision does not make any distinction between a resignation received through

the Chief Whip of the party or through post. What is of most utmost importance is that the resignation letter has to be signed and should be addressed to the Speaker. To the extent of this inconsistency, the Rule is void ab initio; the power of the Speaker given by the Constitution cannot be circumscribed by the subordinate legislation. In any case, the letters of resignations of the petitioners are admitted to have been given on 16-9-2015. The petitioners are educated persons and gave their resignation letters voluntarily, unconditionally and unambiguously, and the same were, according to the official records, accepted on 30-9-2015, which were notified in the official Gazette on 1-10-2015. It was only on 5-10-2015 i.e. six days after acceptance of their resignation letters that the petitioners claimed to withdraw the same by ante-dating their letters of resignations as "1-10-2015"; resignation letters already accepted cannot be withdrawn five days after their acceptance. This is made clear by Rule 200(4) of the Rules. If their resignations were not voluntary, they should have challenged the same at least on the next day itself i.e. on 17-9-2015 and they could not have kept silent till their resignations were accepted, and challenged the same 14 days later. It is not pleaded by the petitioners that criminal intimidation and coercion were exerted upon. It is, therefore, contended by the answering respondents that no case is made out by the petitioners for the interference of this Court and that the writ petition is liable to be dismissed at the very threshold with exemplary costs.

4. The provision dealing with resignation of MLAs is found at Article 190(3) of the Constitution, which reads thus:

"190. Vacation of seats.-(1) * * *

(2) * * *

(3) If a member of a House of the Legislature of a State-

(a) becomes subject to any of the disqualifications mentioned in clause (1) or clause (2)] of Article 191; or

(b) resigns his seat by writing under his hand addressed to the Speaker or the Chairman, as the case may be, and his resignation is accepted by the Speaker or the Chairman, as the case may be,

his seat shall thereupon become vacant:

Provided that in the case of any resignation referred to in sub-clause (b), if from information received or otherwise and after making such inquiry as he thinks fit, the Speaker or the Chairman, as the case may be, is satisfied that such resignation is not voluntary or genuine, he shall not accept such resignation."

5. Art. 190(3) of the Constitution of India lays down in no uncertain terms that if a member of a House of the Legislature of a State (meaning either House) resigns his seat by writing under his hand addressed to the Speaker or the Chairman, as the case may be, his seat shall thereupon become vacant. This

Article appears under the caption of Disqualification of Member". A letter of resignation given by such a member in his own hand but addressed to Speaker or the Chairman, as the case may be, is the imposition of a voluntary disqualification on the person. The other clauses of Article 190 do set out the involuntary disqualifications which will bind a member in the circumstances and situations referred to therein. Therefore, if a disqualification is thus brought about on his own volition by the member writing a letter of resignation under his hand and addressed to the Speaker, the seat shall become vacant. The legal position prior to 1974 is that the letter of resignation must proceed from the member and that the resignation must relate to the membership held by the person who sends the same, and it must be the result of a voluntary act of his. It is true that the mere receipt by the Speaker of a letter of resignation will not cause vacancy in the seat of the member. It is open to the Speaker to enquire whether the letter is a genuine letter or forged letter, or obtained by force or fraud. Rule 200 of the Rules deals with the procedure for resignation and vacation of Seats in the House and is reproduced hereunder:

"200.(1) A member who desires to resign his seat in the Assembly shall intimate in writing under his hand addressed to the Speaker, his intention to resign his seat in the Assembly in the appropriate form set out in the Fifth Schedule and shall not give any reason for his resignation.

Provided that where any member gives any reason or introduces any extraneous matter, the Speaker shall omit such words, phrases or matter and the same shall not be read out in the House.

(2) If a member hands over the letter of resignation to the Speaker personally, and informs him that the resignation is voluntary and genuine and the Speaker has no information or knowledge to the contrary, the Speaker may accept the resignation immediately.

If the Speaker receives the letter of resignation either by post or through someone else, the Speaker may make such inquiry as he thinks fit to satisfy himself that the resignation is voluntary and genuine. If the Speaker after making a summary inquiry either himself or through the agency of legislative Assembly Secretariat or through such other agency, as he may deem fit, is satisfied that the resignation is not voluntary or genuine, he shall not accept the resignation.

(4) A member may withdraw his letter of resignation at any time before it is accepted by the Speaker.

(5) The Speaker shall, as soon as may be, after he has accepted the resignation of a member, inform the House that the member has resigned his seat in the House and he has accepted the resignation.

Explanation : When the House is not in session, the Speaker shall inform the House about it immediately after the House re-assembles.

(6) The Secretary shall, as soon as may be, after the Speaker has accepted the resignation of a member, cause the information to be published in the Bulletin and the Gazette and forward a copy of notification to the Governor and to Election Commission for taking steps to fill vacancy thus caused:

Provided that where the resignation is to take effect from a future date, the information shall be published in the Bulletin and the Gazette not earlier than the date from which it is to take effect."

6. It is the contention of Mr. D.K. Mishra, the learned senior counsel for the petitioners, that in the instant case where the resignation letters of the petitioners were not admittedly handed over personally by them to the Speaker, it is the second limb of Rule 200(2) which is applicable and the Speaker is thus under an obligation to make inquiry to satisfy himself that their resignations were voluntary and genuine and having failed to do so, their resignation letters were null and void, which should not have been acted upon by the Speaker. He further submits that the purported resignation letters of the petitioners were not submitted in accordance with the form prescribed under the Rules, and the Speaker ought to have rejected them therefor. Submitting the resignation letters in consonance with the prescribed form is, according to the learned senior counsel, mandatory and will lend assurance that the resignation is genuine and voluntary. Quoting from the celebrated rule, the learned senior counsel reminds us that where a power is given to do a certain thing in a certain manner, the thing must be done in that way or not at all. To fortify his submissions, the learned senior counsel takes us to the decision of the Allahabad High Court in *Nazir Ahmad v. King Emperor*, AIR 1936 PC 253 and *Surat Singh Yadav v. Sudama Prasad Goswami*, AIR 1965 ALL 536. He also points out that the purported resignation letters of the petitioners contained the reasons for their resignation which is not in conformity with the Fifth Schedule to the Constitution, and such resignation letters so tendered in violation of the mandatory provision of the Constitution should have been rejected by the Speaker then and there. It is also contended by the learned senior counsel that neither the record produced before this Court nor the affidavit filed by the respondent authorities disclose as to how the resignation letters of the petitioners came into the possession of the Speaker thereby reinforcing their case that they had never signed any letter of resignation or personally handed over the same to the Speaker thereby firmly ruling out the applicability of Rule 200(2) of The Rules and, conversely, of firmly attracting the provision of Rule 200(3) of the Rules, which casts a duty on the Speaker to make an enquiry about the voluntariness or genuineness of their resignation letters.

7. It is also the contention of the learned senior counsel for the petitioners that even assuming that the resignation letters were handed over to the Speaker on 16-9-2015, there should be a note from the Speaker not only stating that the resignation letters were handed over to him by the petitioners personally but also stating that the resignations were voluntary and genuine, and such vital

omissions render the action of the Speaker illegal and liable to be interfered with. It is also submitted by the learned senior counsel that the respondents admitted in their affidavit that the resignation letters were not personally handed over to the Speaker by the petitioners in which event, the provision of Rule 200(3) would be attracted, but when they soon realized that by such admission, the Speaker was bound to make an inquiry whereupon, in order to circumvent this clause relating to the need for inquiry, they take resort to the curious stance that this clause is void being inconsistent with Article 190(3)(b) of the Constitution and need not be acted upon, which is impermissible. How can the respondents themselves challenge the legality of the very Rules made by them whereunder the Speaker also accepted the resignation letters of the petitioners, questions the learned senior counsel? To substantiate this contention, the learned senior counsel relies on *Vikram Singh v. Shri Ram Ballabhij Kasat*, , AIR 1995 MP 140. Even before the 33rd Amendment of the Constitution, the Speakers were careful enough to inquire whether the resignations were genuine and voluntary, and such action, when challenged, was upheld by the Kerala High Court in *Thankamma N. Menon v. A.M. Thomas*, AIR 1952 TC 166. The learned senior counsel points out that the record is conspicuous by its silence as to how the purported resignation letters of the petitioners landed up at the Speaker's table and contends that this reinforces the stance taken by the petitioners that they had never signed any letter of resignation or personally handed over the same to the Speaker. As for the query of this Court on the effect of the delay in withdrawing the resignation letters of the petitioners, the learned senior counsel submits that there was no such delay inasmuch as they submitted letters withdrawing their purported resignations without any loss of time immediately after they came to know that they were sent to the Speaker. Moreover, maintains the learned senior counsel for the petitioners, the purported letters were not even dated, but the Chief Minister, who was in possession of such letters, in collusion with the Speaker, were free to put any date of their choice on the body of such letters for oblique purposes. The learned senior counsel, therefore, submits that on the proven facts indicated above, the resignation theory floated by the respondent authorities is a cock and bull story, and the Speaker has acted with mala fide and contrary to law in accepting such resignations which have no existence in the eye of law. This, according to the learned senior counsel, is a fit case for the interference of this Court by quashing the impugned notifications and restoring the petitioners to their respective seats held by them in the Assembly with their full rights and privileges.

8. Per contra, Mr. M.N. Krishnamani, the learned senior counsel for the Speaker, supports the impugned notifications and submits that they do not suffer any infirmity calling for the interference of this Court sitting in a judicial review. According to the learned senior counsel, the fact that the petitioners actually tendered their resignation letters is demonstrated by the admission of their signatures in their respective resignation letters; they never pleaded that they put their signatures thereon under duress or fraud. It is also contended by the

learned senior counsel that the petitioners cannot at same time take the stance that they never signed the resignation letters and at the same breath have the audacity to claim that they gave undated resignation letters thereby exposing the hollowness of their claims. He further submits that they made allegations against the Chief Minister of the State stating that he filled up the date of his choice to make it appear that there was inordinate delay in withdrawing their resignation letters. Such allegations cannot be acted without making the Chief Minister personally as the party-respondent: the writ petition thus suffers from the vice of non-joinder of necessary parties and is, ipso facto, liable to be dismissed at the very threshold. The learned senior counsel submits that the resignation letters were submitted by the petitioners of their own free will and without any coercion or undue influence from the respondent authorities. When the petitioners did not choose to withdraw their resignation letters immediately or when there was no information before the Speaker that the resignation letters of the petitioners were submitted under duress or undue influence, he has no obligation to make an inquiry regarding the genuineness or voluntariness of their resignations. Moreover, submits the learned senior counsel, once the resignation letters were accepted by the Speaker, there is no question of withdrawal of the resignation letters of the petitioners. He, therefore, submits that there is no merit in this writ petition, which is liable to be dismissed.

9. We have seen both the resignation letters of the petitioners, which are couched in the same language. For better appreciation of the controversy, reproduction of the contents of the disputed resignation letter of the petitioner No. 2 (Gabriel Dewang Wangsu), as representative of the other, will be in order and same is as under:

"16th September, 2015

To

The Hon''ble Speaker Arunachal Pradesh State Legislative Assembly Naharlagun

Sub- Resignation (irrevocable) as MLA Arunachal Pradesh

Hon''ble Sir,

With utmost respect, I am to state that owing to moral grounds, I hereby tender my resignation as member of Legislative Assembly, Arunachal Pradesh in full conscience and without duress or pressure from any person or community.

I am tendering this resignation on the ground that I have not lived up to the expectation of my people and therefore don't deserve to continue with this post and responsibility.

I would therefore like to earnestly request you to accept my resignation with immediate effect.

Yours faithfully,

Sd/- Illegible

(Gabriel D Wangsu) MLA

58-Kanubari".

10. It may also be beneficial to refer to the contents of both the letters of withdrawal of "irrevocable" and undated resignation letter. As both the letters were drafted exactly in the same language, the letter of the petitioner No. 2, as representative of the two letters, is reproduced below:

"Dated Kanubari 1st Oct 2015

To

The Hon"ble Speaker Legislative Assembly Arunachal Pradesh Naharlagun

Sub:-- Withdrawal of irrevocable and undated resignation letter.

Hon"ble Sir

With due regard, I, the undersigned Member of Legislative Assembly of the Sixth Arunachal Pradesh Legislative Assembly, would like to appraise your benign authority that following an invitation for a dinner p[arty on 16th September 2015 the prevailing political issue was discussed by a group of around 17 MLAs with the Hon"ble Chief Minister Shri Nabam Tuki at his official residence. Soon after an "irrevocable" resignation letter signed by each of the MLAs were collected and handed over to the Chief Minister.

The letter announcing resignation from the membership of the Legislative Assembly contained that in case of betrayal and failure to support any person other than the present CLP leader and Chief Minister Tuki the letter would be submitted to the Hon"ble Speaker to get it approved and thus lose our membership of the Legislative Assembly.

Remarkably, were directed not mention date on the letter, which were photocopies of one single letter, excepting our signature.

All these were done against our consent or free will and above all against the democratic spirit. Such resignation would be a sheer betrayal of the mandate and faith of the people whom we represent, and thus would be a mockery of democracy. My loyalty or support to any person or group of persons would be of free will and on my own choice.

I, therefore, humbly request your august authority not to accept the undated resignation letter if submitted to you by anybody on our behalf at any point of time. The same may be treated as invalid, null and void and unless I come in person to submit the resignation letter, if need be, to your office.

Yours faithfully,

Sd/- Illegible

(Gabriel Denwang Wangsu) MLA, 58-Kanubari (ST) A/Constituency Longding District, AP Camp-Kanubari."

11. A perusal of the letter of resignation reproduced in the foregoing will show that the letter is dated as "16-9-2015" thereby negating the claim of the petitioners that they were not dated as they did not do so when they signed at the dinner party of the Chief Minister. Neither is it the case of the petitioners that they are uneducated, and are incapable of understanding the contents of the letter over which they gave their signature. Nor is it the case of the petitioners that the signatures appearing in both the said letters are not their signatures. It is firmly pleaded by the respondents that the resignation letters of the petitioners were signed by them on 16-9-2015, which were accepted by the Speaker on 30-9-2015 and the notifications to that effect were issued on 1-10-2015. Disputing this, the petitioners assert that they signed them under duress without putting the date of the signing thereof. In our opinion, such self-serving statement will not do inasmuch as they also elsewhere in the writ petition pleaded that they never signed any letter of resignation inasmuch as they cannot claim that they never signed the letters and at the same time assert that they were compelled to sign them under coercion or criminal intimidation; these two statements cannot go together thereby raising reasonable doubt on the case pleaded by them that they never tender any resignation letters. Assuming that they signed the letters of their resignations under duress on the night of the dinner party at the residence of the Chief Minister, what prevented them from disowning in public such letters next day itself or from approaching the Speaker for withdrawing such letters or from requesting the Speaker not to accept their purported resignation letters as they were not genuine or were not voluntary when it is not their case that such course of action was not possible as they were not aware of the existence of such letters. On the other hand, it took them 14 long days to send their letters to the Speaker for withdrawal of their letters of "irrevocable" resignations even though it is never their case that they could not do so as they had been kept under confinement or prevented from doing so by the respondents.

12. It is the pleaded case of the petitioners that it was in the afternoon of 5-10-2015 that the Secretary of Assembly issued the notification, which was, however, ante-dated by them as "1-10-2015"; this is illegal. To verify the claims and counterclaims of the parties, we have seen the file relating to the decision-making process of the acceptance of the disputed resignations produced by Mr. R. Thomas, the learned Advocate General. It is noticed from the notings therein that the disputed resignation letters were apparently received by the Office of the Speaker on or before 22-9-2015, and the same were endorsed to him on that day. It was only on 30-9-2015 that the disputed resignation letters were accepted by the Speaker. A notification to that effect was issued by the Secretary, AP Legislative Assembly on 1-10-2015. These are on record; the record speaks for itself. There is always presumption of regularity of an official act, the higher the official, the higher the presumption. The disputed resignation

letters were accepted by no less an authority than the Speaker of the Assembly, who is a constitutional functionary. It may be noted that the Speaker enjoys a very high status and position of great respect and esteem the parliamentary traditions.--See *Jagjit Singh v. State of Haryana*, , (2006) 11 SCC 1. Section 35 and Section 114(e) of the Evidence Act, 1872 declare that there is always presumption of regularity of an official act. Of course, such presumption is a rebuttable presumption, but then the onus of proving that the official act in question is not regular is upon the petitioner. In the instant case, it is on record that the disputed resignation letters were there before the Speaker on 22-9-2015, and the same were accepted by him on 30-9-2015. However, apart from making bold claim that they never signed the disputed resignation letters or alternatively they were signed by them under duress or criminal intimidation or that they were submitted only on 1-10-2015 which was accepted only on 5-10-2015 by ante-dating it as "1-10-2015", no clinching evidence is forthcoming to bring home such allegations. Moreover, the kind of evidence which can prove the case of the petitioners that they never signed, or did sign the disputed signatures under coercion or criminal intimidation or their resignation letters were notified on 1-10-2015 though it was actually issued on 5-10-2015 cannot be weighed or examined by this Court in exercise of its summary jurisdiction under Article 226 of the Constitution. When there is no clinching evidence to demonstrate that the disputed resignation letters were not sought to be withdrawn by the petitioners for a considerable period of time, the decision of the Speaker in accepting the resignation letters of the petitioners dated 16-9-2015 on 30-9-2015, cannot be said to suffer from any infirmity. In other words, if the Speaker did not choose to make an inquiry on the facts found by us, although he certainly has such discretion, he cannot be faulted with, particularly, there was nothing on record till 30-9-2015 to show that there was complaint about the lack of genuineness or voluntariness on the part of the petitioners while signing the disputed resignation letters. The Speaker could not be expected to make roving inquiry under such circumstances. All that the proviso to Article 19(3)(b) of the Constitution said is that if a member resigns his seat by writing under his hand addressed to the Speaker, but the Speaker from an information or otherwise and after making an inquiry if he thinks fit that such resignation is not voluntary or genuine, then he should not accept such resignation. A discretion was given to the Speaker by Article 190(3)(b) of the Constitution to make the inquiry, but he was not mandated to do so. Of course, if we were sitting in his chair, we may have thought it fit to make an inquiry to assure ourselves that the resignations were voluntary and genuine as it would have been better to do so, but, sitting in a Court of law, that too, in exercise of the power of judicial review, the fact that it would have been better had the Speaker held such an inquiry does not and cannot permit us to substitute his decision not to hold the inquiry by our decision to the contrary as we thought our decision to be a better decision. In other words, the decision taken by the Speaker not to hold the inquiry, on the facts found by us, does not suffer from irrationality/perversity, arbitrariness or illegality warranting our interference.

13. In our judgment, the proviso can be attracted only if there is information or otherwise to raise any suspicion that the resignation is not voluntary or genuine. In other words, in a given case, the Speaker after receiving some information or otherwise has entertained the suspicion that the resignation is not voluntary or genuine, then it can be said that he has the power or, rather, the duty, to make an inquiry about the voluntariness or genuineness of the resignation otherwise, in our opinion, no duty is cast upon him to make such an inquiry. We cannot always proceed on the assumption that every functionary of this republic is a crook and, therefore, cannot be trusted. As already noticed from the file, between 22-9-2015 and 30-9-2015, when the resignations were accepted, there was nothing on record for the Speaker to raise even a needle of suspicion pointing towards possibility that the resignation letters of the petitioners were not genuine or were not tendered voluntarily. In the absence of information, through press report or otherwise, the Speaker cannot be expected to undertake the exercise of making an inquiry every time a Member of the Legislative Assembly decides to resign and send in his resignation letter through a third agency; such obligation is not cast upon him by the Constitution. Rule 200(3) of Rules shall have to be read with the proviso to Article 190(3)(b) of the Constitution. So read, there is no substantial conflict between the two provisions even though an attempt is sought to be made to create a conflict of sort between them. Reading and re-reading of the two seemingly conflicting provisions in juxtaposition, in our judgment, Rule 200(3) of the Rules does not in terms say that in the event of the Speaker receiving the resignation letter by post or through someone else, he must make an inquiry to satisfy himself that the resignation is voluntary and genuine. What it says, in our understanding, is that the Speaker may make an inquiry for that purpose. It is not that he is not given any discretion to waive an inquiry in a situation where he is otherwise satisfied that there is no material for him to form an opinion that the resignation is not voluntary or genuine. Rule 200(3) cannot be read in isolation or divorced from the constitutional provision in question but shall have to be read harmoniously so as to give effect to both, more so, when there is no inherent contradiction between them.

14. Coming now to the contention that the resignation letters were not tendered in accordance with Rule 200(1) of the Rules and should not have been accepted by the Speaker, this contention, in our considered view, overlooks the vital point that such provision does not provide any adverse consequence for the violation thereof. Rule 200(3) is in the following terms:

"200.(1) A member who desires to resign his seat in the Assembly shall intimate in writing under his hand addressed to the Speaker, his intention to resign his seat in the Assembly in the appropriate form set out in the Fifth Schedule and shall not give any reason for his resignation:

Provided that where any member gives any reason or introduces any extraneous matter, the Speaker shall omit such words, phrases or matter and the same shall

not be read out in the House.

* * *

15. From the provisions extracted above, it is thus obvious that the conditions for resignation as MLA are that (i) there must be an intimation in writing under his hand addressed to the Speaker of his intention to resign his seat in the Assembly; (ii) such intimation to resign his seat should be in the appropriate form set out in the Fifth Schedule and (iii) such intimation shall not give any reason for his resignation. There can be no dispute in this case that the resignation letters were not presented in the prescribed form required by the Fifth Schedule and that some reasons were also given by the petitioners which purportedly prompted them to resign from their seats. However, the question to be determined is whether these omissions or inadequacies can have the effect of rendering their resignations vitiated? We do not think so for more than one reason. Though the word used in Rule 200(1) is "shall", use of such word does not necessarily mean that the provision shall have to be read as mandatory. For ascertaining the real intention of the Legislature", points out SUBBARAO, J., "the Court may consider, inter alia, the nature and design of the statute, and the consequences which would follow from construing it one way or the other; the impact of other provisions whereby the necessity of complying with the provisions in question is avoided; the circumstances, namely, that the statute provides for a contingency of non-compliance with the provisions; the fact that the non-compliance with the provisions is or is not visited by some penalty; the serious or trivial consequences that flow therefrom; and above all, whether the object of the legislation will be defeated or furthered".--See G.P. Singh's "Principles of Statutory Interpretation", 9th Edn. p. 339. The statute undoubtedly provides for a contingency of noncompliance with the provision with respect to the giving of reason for the resignation, namely, the Speaker shall have to omit such words or phrases or matter while reading out the resignation in the House. No other contingency, much less, penalty, is provided for by the Rules for failure/refusal/omission to comply with the other conditions of Rule 200(1) of the Rules. After examining the case from all angles, we are satisfied that the Speaker has not violated any mandatory provision of law in not rejecting the resignation letters of the petitioners, and is rather correct in accepting the resignation letters of the petitioners. In any case, by such omission, no prejudice is caused to the house or the public.

16. For the reasons stated in the foregoing, there is no merit in this writ petition, which is hereby dismissed. The parties are, however, directed to bear their respective costs.