

WRIT PETITION (C) NO. 317 OF 2020

Mr. Tongbram Robindro Singh, aged about 49 years, s/o T. Tompok Singh, Keirenphabi Mamang Leikai, P.O. Moirang, P.S. Keibul Lamjao, Bishnupur District, Manipur-795126

... Petitioner

-Versus-

1. Hon'ble Speaker, Manipur Legislative Assembly, Acting as Presiding Officer of the Tribunal constituted under 10th Schedule to the Constitution of India, Assembly Complex, P.O. & P.S. Imphal, Imphal West District, Manipur, Pin-795001.
2. The Secretary, Manipur Legislative Assembly, Assembly Complex, P.O. & P.S. Imphal, Imphal West District, Manipur, Pin-795001.
3. Shri Thokchom Satyabrata Singh, aged about 43 years old, S/o Th. Birchand Singh, a resident of Singjamei Wangma Bheigyabati Leikai, Imphal East District, P.O. & P.S. Porompat, Manipur – 795005, presently the MLA of 14-Yaiskul Assembly Constituency, Manipur Legislative Assembly.

... Respondents

BEFORE
HON'BLE THE CHIEF JUSTICE MR. SANJAY KUMAR
HON'BLE MR. JUSTICE M V MURALIDARAN

For the Petitioner : Mr. Juno Rahman, Advocate.
For the Respondents : Mr. Lenin Hijam, Additional Advocate General, Manipur.
Date of Order : 29.11.2021.

ORDER (ORAL)

(Sanjay Kumar, CJ)

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The petitioner was elected as a member of the 11th Manipur

Legislative Assembly in the general elections held in March, 2017. He was however held to be disqualified to hold the said post by the Speaker of the Manipur Legislative Assembly, vide order dated 18/06/2020 passed in Disqualification Case No.1 of 2020. Aggrieved thereby, he filed this writ petition.

2. By order dated 10/07/2020, this Court suspended the operation of the disqualification order dated 18/06/2020 till the next date of hearing. This interim order was extended thereafter from time to time and is still operative as on date.

3. Despite ample opportunity being given, the respondents in this writ petition did not choose to file their counter affidavits. In fact, on 20/09/2021, this Court considered the number of adjournments already taken for the purpose of filing a counter and opined that one last and final opportunity should be given to the respondents to do the needful. The matter underwent one more adjournment thereafter on 17/11/2021 but today, when the matter is taken up, Mr. Lenin Hijam, learned Additional Advocate General, Manipur, would concede that no counter has been filed till date. However, he would seek to justify the disqualification order by placing reliance on the decision of the Supreme Court in **Ravi S. Naik vs. Union of India [1994 Supp. (2) SCC 641]**.

4. Perusal of the impugned disqualification order dated 18/06/2020 manifests that the writ petitioner was not heard prior to its passing. It was recorded therein that no one appeared for him despite due notice. The allegation against the petitioner was that he had voluntarily given up the BJP, his original political party, and had supported the INC on 17/06/2020. The Speaker of the Assembly placed reliance on 3 (three) local newspapers and concluded that the petitioner had voluntarily given up his original party on 17/06/2020. It was on this basis that the Speaker held that the petitioner had violated the provisions of the Tenth Schedule to the Constitution of India and disqualified him from being a member of the Legislative Assembly.

5. In this petition, the petitioner categorically asserted that no notice had ever been issued to him and without an opportunity of hearing being given, the disqualification order was passed against him. He pointed out that in the daily cause list dated 18/06/2020 published by the Secretary of the Assembly under the authority of the Speaker, the subject, 'Disqualification Case No.1 of 2020' was not even included. He claimed to have come to know of his disqualification only thereafter, when the voter list for election to the Council of the State by elected members of the Assembly was issued. The statement in the impugned disqualification order that no one had appeared for the petitioner despite due notice was therefore contested by him. However, as the respondents did not choose to file their counters or produce any material to the contrary, this allegation remains unrebutted. The impugned order itself manifests that the case was heard on 18/06/2020 and

reliance was placed on three newspapers published on 18/06/2020 and the order was also pronounced on the very same day. In effect, there was no time lag practically for issuance and service of notice upon the petitioner. The allegation of the petitioner that he was not put on notice therefore merits acceptance.

6. In so far as the arguments of Mr. Lenin Hijam, learned Additional Advocate General, Manipur, are concerned, his reliance upon the observations of the Supreme Court in **Ravi S. Naik** (*supra*) is misplaced. In that case, reliance was placed by the Speaker upon a photograph printed in the newspapers and an inference was drawn about the photograph which was not denied by the other side. Such reliance was held to be valid. However, in the case on hand, the Speaker placed reliance on newspaper reports and not photographs, inasmuch as he specifically recorded that the photographs required to be proved by the authority concerned and there were no materials on record to prove that the photographs were actually taken with the due process of law. The Speaker however noted that the petitioner had failed to deny the existence and circulation of the local daily newspapers and the reports made therein. To enable such denial, the petitioner needed to be put on notice but as already stated *supra*, there is no evidence or possibility of any notice having been given to the petitioner as everything seems to have taken place on one single day, viz., 18/06/2020, itself. Significantly, in the case before the Supreme Court, notice and opportunity of hearing were given to the persons concerned before their disqualification, unlike the case on hand.

therefore has no application to the fact situation obtaining presently. There is a clear and flagrant violation of the principles of natural justice and the petitioner, an elected member of the Assembly, was divested of his position without even being put on notice and being given an opportunity of hearing, basing on newspaper reports which remained untested. This Court therefore has no hesitation in holding the impugned disqualification order to be unsustainable in law.

The writ petition is accordingly allowed setting aside the disqualification order dated 18/06/2020 passed by the Speaker, Manipur Legislative Assembly, in Disqualification Case No.1 of 2020.

There shall be no order as to costs.

A copy of this order shall be supplied online or through whatsapp to the learned counsel for the parties.

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JUDGE

CHIEF JUSTICE