

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL Nos.7557-7559 OF 2021
(Arising out of SLP (Civil) No.9024-9026 of 2021)

SHRI KSHETRIMAYUM BIREN SINGH

Appellant

VERSUS

THE HON'BLE SPEAKER,
MANIPUR LEGISLATIVE ASSEMBLY & ORS. ETC.

Respondents

O R D E R

1. Leave granted.

2. These appeals challenge the common judgment and final order dated 02.06.2021 passed by the High Court of Manipur at Imphal in W.P. (C) Nos.332 of 2020, 360 of 2020 and 361 of 2020.

3. In the elections to the 11th Manipur Legislative Assembly held in March 2017, the appellant was elected as a Member of the Legislative Assembly from 8-Lamlai Assembly Constituency, Manipur as an official candidate of the Indian National Congress ("INC" for short).

4. A petition being Disqualification Case No.2 of 2019 under paragraph 2(1)(a) and (2) of the Tenth Schedule of the Constitution of India read with Article 191(2) of the Constitution of India was thereafter filed by Shri

Khundrakpam Gopal Singh and Shri Soibam Ingotombi Singh as electors from 8-Lamlai Assembly Constituency, seeking disqualification of the appellant on the ground that the appellant had voluntarily given up his membership of the political party INC and had joined the ruling Bhartiya Janata Party ("BJP" for short). The petition was premised on certain reports in local newspapers to the effect that at a reception ceremony, the appellant had joined political party BJP led by the Chief Minister of Manipur and he was wearing a cap and shawl of BJP and identifying himself as a member of the political party BJP.

5. To similar effect, another Disqualification Case No.7 of 2019 was filed by an elector from 8-Lamlai Assembly Constituency seeking disqualification of the appellant on identical grounds.

6. These two petitions were followed by a third petition being Disqualification Case No.9 of 2019 by one Okram Henry Singh, a member of the legislative assembly coming from INC seeking identical relief.

7. Thus, these three petitions seeking disqualification were founded on newspaper reports indicating that the appellant had aligned himself with political party BJP and had thus given up his membership of INC.

8. The basic allegations made in the petition seeking disqualification were denied by the appellant as under:

"3. That, with reference to Para 5 of the Disqualification petitions, Respondent denies the allegation made therein and beg to state that the Newspaper reports can't be relied as it is not trustworthy and therefore, disqualification proceedings under Para 2(1)(a) of the X Schedule of the Constitution of India cannot be taken up against the Respondent(s) on the basis of the Newspaper report/clippings which has been relied without following the established norms under the law in this regard.

4. That, with reference to Para 6 of the Disqualification petition, Respondent denies the allegation made therein and Respondent beg to state that Respondent has never joined BJP and thus, this question of defection do not arise and therefore, Disqualification petition filed under para 2(1)(a) of the X Schedule of the Constitution is liable to be rejected for the ends of justice."

9. The matters were, thereafter, posted for hearing before the Speaker of the Legislative Assembly of Manipur ("the Speaker", for short) and were directed to be taken up on 22.06.2020.

10. It appears that communications were thereafter addressed to the appellant stating *inter alia* that the matters were preponed and would be taken up on 18.06.2020 instead of 22.06.2020. Some other disqualification petitions which were pending before the Speaker were also preponed in similar fashion to 18.06.2020.

11. One Paonam Brojen Singh therefore challenged the action of preponement by way of Writ Petition (Civil) No.298 of 2020 which came up for hearing before the High Court of Manipur on 18.06.2020. After noticing the submissions made by the rival parties, the High Court observed as under:

"5. Their submissions that the manner in which the proceedings have been taken up by the Speaker today without prior notice being given to them and without they being heard, have some merit and require consideration by this Court and moreover, it is well settled that any order passed by a Court or a Tribunal without hearing the parties or their counsels will be rendered bad in law being violative of the principles of Natural Justice and provisions of the Article 14 of the Constitution. In fact, this Court is not concerned with the election of the Rajya Sabha nor is it concerned with the Political development in the State. All that this Court is concerned, is the disposal of the petitions in accordance with law and in particular, the manner in which the petitions are disposed of by the Hon'ble Speaker's Tribunal. It may be noted that on 15-06-2020 when the writ petitions were listed before this Court, it was submitted by Shri Tarunkumar, Advocate appearing for the Speaker that no time period could be indicated by the Speaker, as it would take some time for disposal of the petitions for the reason that evidence would be required to be adduced by the parties. But all of a sudden, the fact that the petitions were rescheduled on 18-06-2020 in the manner as stated above and without disclosing any reason thereof, appears to be prima facie unfair and unreasonable.

6. In view of the above, let notice be issued to the respondents returnable on 19-06-2020 i.e., tomorrow and since notices have been accepted by the learned counsels appearing for the parties, no formal notice is called for.

By way of interim measure and in order to avoid further complicacy in the disposal of the petitions pending before the Hon'ble Speaker, it is directed that the judgment/order which is reserved and to be pronounced today by the Hon'ble Speaker, shall be kept in abeyance till tomorrow. It is made clear that the order/judgment reserved today by the Hon'ble Speaker, shall not be pronounced by him till tomorrow.

Copies of this order shall be sent to the counsels appearing for the parties and also to the Secretary, Manipur Legislative Assembly through WhatsApp/e-mail. Mr. Kh. Tarunkumar, learned counsel appearing for the Speaker and the Secretary, Manipur Legislative Assembly is requested to inform the Secretary, Manipur Legislative Assembly for compliance of this order."

12. The High Court thus noted the submissions advanced on behalf of the Speaker that the evidence would be required to be adduced by the concerned parties to resolve the controversy raised before the Speaker.

13. However, by order dated 18.06.2020 passed in the instant matter when none of the sides was represented by any Advocate or had appeared in-person, the Speaker allowed those Disqualification Cases No.2 of 2019, 7 of 2019 and 9 of 2019. It was observed in the order:

"14. On minute scrutiny of the pleadings of the parties including the annexure/documents produced by both the parties, it is clear that there is an authenticated document i.e. the original Newspaper Poknapham Local Daily for proving that the Respondent in fact has voluntarily given up his original party, INC on 15.07.2017. But the other documents i.e. copies of newspapers, etc., are

required to be proved by the original documents published by the authorities concerned to the extent that the reports made therein are correct reports. At the same time, the respondent failed to deny the existence and circulation of the Poknapham Local Newspaper. There is also no denial of the reports made in the newspaper.

15. It is the position that the Respondent failed to deny the existence of the Local Daily Poknapham published on 16.07.2017 which is marked as Annexure-A/5 to the petition in Disqualification Case No.9 of 2019, except that Newspaper reports cannot be relied as it is not trustworthy. This being the situation it can safely be concluded that the petitioners in Disqualification Case No.9 of 2019 is able to discharge their burden in proving that the Respondent had voluntarily given up his original Political Party i.e. the INC and joined the BJP on 15-07-2017."

14. It was thus concluded that the appellant had voluntarily given up his membership of the INC and had thus incurred disqualification in terms of paragraph 2(1)(a) of the Tenth Schedule to the Constitution of India read with Article 191(2) of the Constitution of India.

15. The aforesaid order passed by the Speaker was put in challenge by the appellant by filing Writ Petitions (Civil) No.332 of 2020, 360 of 2020 and 361 of 2020. The High Court however affirmed the order passed by the Speaker and dismissed said writ petitions. The point in issue was considered by the High Court as under;

"[43] The Speaker heard all the Disqualification Cases jointly on 18.06.2020 and after taking into consideration all the pleadings, newspaper

reports, the photographs and DVDs in connection with the Disqualification Cases, passed the impugned order disqualifying the writ petitioner for being a member of the Manipur Legislative Assembly under Para 2(1)(a) of the Tenth Schedule of the Constitution of India. While passing the said impugned order dated 18.06.2020, the Speaker had relied on the news reports published by many printed and electronic medias showing the writ petitioner participating in the reception ceremony organised by the BJP and being facilitated by the BJP leaders. Since the writ petitioner failed to deny the existence and authenticity of the said news reports, the Speaker was satisfied that an inference can be made that the writ petitioner had voluntarily given up the membership of INC and accordingly the Speaker disqualified the writ petitioner for being a member of the Manipur Legislative Assembly in terms of Para 2(1)(a) of the Tenth Schedule of the Constitution of India read with Article 191(2) of the Constitution of India.

[44] On examining the photographs/videos and newspaper reports filed in connection with the Disqualification Cases, the existence of which was never denied by the writ petitioner, we are of the considered view that there were enough materials before the Speaker to draw an inference that the writ petitioner had voluntarily given up his membership of the Indian National Congress (INC). Further, in the absence of any specific denial by the writ petitioner to the allegations made against him in the disqualification cases especially the existence of the newspapers and the authenticity of the reports made therein, we do not find any infirmity which should vitiate the order passed by the Speaker disqualifying the writ petitioner and we find no ground or justification for interfering with the impugned order passed by the Speaker.

[45] On examination of the records of the Disqualification cases which were placed before us, we found that the Disqualification Cases were filed on 07.12.2017, 17.02.2018 & 26.11.2018 and notice was issued on 10.07.2019. Soon after receiving notice, the present writ petitioner

entered appearance through his counsel. Instead of filing written statement, the writ petitioner filed miscellaneous applications raising preliminary objections of the maintainability of the said disqualification cases. Only after dismissal of the preliminary objections raised by the writ petitioner in his applications, the writ petitioner filed his written statement in the Disqualification Case on 12.06.2020.

By an order dated 06.06.2020 passed by the Speaker all the disqualification cases were fixed on 17.06.2020 for further proceedings, however, on the direction of the Speaker, the date of hearing of the Disqualification Cases was rescheduled to 22.06.2020 on account of the illness of the Speaker. However, the hearing of the disqualification cases were again preponed from 22.06.2020 to 18.06.2020 at 1:00 p.m. by issuing a notice dated 17.06.2020 in view of the improvement of the health condition of the Speaker and also in view of the urgent need for early disposal of the disqualification cases as directed by the Hon'ble Supreme Court in its judgment and order dated 21.01.2020 passed in the case of "KeishamMeghachandra Singh Vs. Hon"ble Speaker Manipur Legislative Assembly" reported in AIR Online 2020 SC 54, wherein the Speaker has been directed to decide the disqualification petitions pending before him within a period of 4(four) weeks from the date on which the judgment of the Apex Court was intimated to him.

[46] We are also in agreement with the submissions advanced by the counsel for the respondents that the writ petitioner and his counsel have knowledge in time about the issuance of the said notice dated 17.06.2020 preponing the date of hearing of the disqualification cases for the simple reason that the said notice dated 17.06.2020 had been challenged before this Court by filing WP(C) No. 298 of 2020 on 18.06.2020 by the counsel of the writ petitioner representing one of the MLAs against whom disqualification cases was pending.

Despite having knowledge about the preponement of the hearing of the disqualification cases, the writ petitioner and his counsel choose not to

appear before the Tribunal and accordingly the Speaker heard and disposed of the disqualification cases in their absence.”

16. In these appeals challenging the decision of the High Court, we have heard Mr. S.K. Bhattacharya, learned Advocate in support of the appeals and Mr. Dama Seshadri Naidu, learned Senior Advocate for the Speaker. The original applicants who had preferred Disqualification Applications, according to the report of the Registry, were duly served but have not chosen to file any appearance in these matters.

17. With the assistance of the learned counsel, we have gone through the pleadings exchanged between the parties and the facts on record. It is quite clear that the petitions were directed to be taken up for hearing on 22.06.2020 but were preponed to 18.06.2020.

18. Without going into the question whether such preponement was to the knowledge of the parties, the fact of the matter is that the record does not indicate any urgency why the matters were preponed from 22.06.2020 to 18.06.2020. It is also a matter of record that none of the parties was represented before the Speaker. As submitted by the learned counsel who had appeared on behalf of the Speaker, which submission was noted by the High Court in its order dated 18.06.2020, the matter required leading of evidence.

19. The questions - whether mere reporting in the newspapers could be taken as sufficient proof of "voluntarily giving up of the membership of a political party" and, whether the matters require leading of evidence, had to be gone into by the Speaker. In our view, the essential features of the matter demanded leading of evidence as well as giving adequate opportunity to the parties to present their viewpoint.

20. In the circumstances, we allow these appeals, set-aside the orders passed by the Speaker and the High Court and restore Disqualification Cases No.2 of 2019, 7 of 2019 and 9 of 2019 to the file of the Speaker to be decided afresh purely on merits without being influenced by any of the observations in the earlier orders of the Speaker and the High Court.

21. Since the order passed by the Speaker has now been set-aside, till the matter is disposed of by the Speaker, the appellant shall continue to represent the electorate in the concerned house of the Legislature.

22. We may also observe that the matters have been pending in the Courts of law for a while. We therefore request the Speaker to consider disposing of the pending

Disqualification Applications as early as possible, in accordance with law.

23. With these observations, the appeals stand allowed to the extent indicated above, with no order as to costs.

.....J.
(UDAY UMESH LALIT)

.....J.
(S. RAVINDRA BHAT)

.....J.
(BELA M. TRIVEDI)

New Delhi,
December 08, 2021

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.7560 OF 2021

(Arising out of SLP (Civil) No.9606 of 2021)

SHRI YENGMHOM SURCHANDRA SINGH

Appellant

VERSUS

THE HON'BLE SPEAKER,
MANIPUR LEGISLATIVE ASSEMBLY & ORS.

Respondents

WITH

CIVIL APPEAL NOS.7561-7563 OF 2021

(Arising out of SLP (Civil) Nos.10501-10503 of 2021)

SHRI SANASAM BIRA SINGH

Appellant

VERSUS

THE HON'BLE SPEAKER,
MANIPUR LEGISLATIVE ASSEMBLY & ORS. ETC.

Respondents

O R D E R

Leave granted.

Learned counsel appearing for the parties accept the fact that the impugned orders are based on similar/identical reasons as had weighed with the Speaker and the High Court in the lead matter.

Consequently, these appeals are also allowed. The original Disqualification Applications are restored to the file of the Speaker to be decided afresh in accordance with law.

The appellants shall be entitled to represent their electorate in the House of the Legislative Assembly till such time the Disqualification Applications are not disposed of by the Speaker.

Since the matters have been pending in the Courts with law for a while, we request the Speaker to consider disposing of the pending applications as early as possible, in accordance with law.

.....J.
(UDAY UMESH LALIT)

.....J.
(S. RAVINDRA BHAT)

.....J.
(BELA M. TRIVEDI)

New Delhi,
December 08, 2021

ITEM NO.26

COURT NO.2

SECTION XIV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition for Special Leave to Appeal (C) Nos.9024-9026/2021

(Arising out of impugned final judgment and order dated 02-06-2021 in WP(C) No.332/2020, 02-06-2021 in WP(C) No.360/2020, 02-06-2021 in WP(C) No.361/2020 passed by the High Court Of Manipur At Imphal)

SHRI KSHETRIMAYUM BIREN SINGH

Petitioner(s)

VERSUS

THE HON'BLE SPEAKER,
MANIPUR LEGISLATIVE ASSEMBLY & ORS. ETC.

Respondent(s)

(FOR ADMISSION and I.R.; and, IA No.78600/2021 - FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

WITH

SLP(C) No.9606/2021 (XIV)

(FOR ADMISSION and I.R.; and, IA No.79277/2021 - FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) Nos.10501-10503/2021 (XIV)

(FOR ADMISSION and I.R.; and, IA No.80013/2021 - FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 08-12-2021 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MS. JUSTICE BELA M. TRIVEDI

For Petitioner(s) Mr. L.K. Paonam, Adv.
Ms. Tomthinnganbi Koijam, Adv.
Mr. Niraj Bobby Paonam, Adv.
Mr. S. K. Bhattacharya, AOR

For Respondent(s) Mr. Dama Seshadri Naidu, Sr. Adv.
Mr. Lenin Hijam Singh, AAG
Mr. Anish R. Shah, AOR
Mr. Abdulrahiman Tamboli, Adv.
Ms. Shivali Chaudhary, Adv.
Mr. Ananvay Anandvardan, Adv.
Mr. Siddharth Chapalgaonkar, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeals are allowed, in terms of the Signed Orders.

Pending applications, if any, also stand disposed of.

(MUKESH NASA)
COURT MASTER

(VIRENDER SINGH)
BRANCH OFFICER

(Two Signed Orders are placed on the File)