

LHAINEIC
HONG
HAOKIP

Digitally signed by
LHAINEICHONG
HAOKIP
Date: 2021.07.13
13:32:58 +05'30'

IN THE HIGH COURT OF MANIPUR

AT IMPHAL

WP(C) No. 387 of 2020

Shri T. Thangzalam Haokip, S/o Late T. Thongzachin Haokip, aged about 65 years, present resident of I.B. Road, Chiengkongpang, P.O. Chiengkongpang, P.S. Churachandpur, Manipur-795128.

....Petitioner.

-Versus -

1. The Speaker, Manipur Legislative Assembly, Assembly Complex, P.O. & P.S. Imphal, Imphal West, Manipur-795001.
2. The Secretary, Manipur Legislative Assembly, Assembly Complex, P.O. & P.S. Imphal, Imphal West, Manipur – 795001.
3. The Election Commission of India, represented by the Chief Election Commissioner, Nirvachan Bhawan, New Delhi-110001.
4. Shri. T. Lenzakhup Haokip, S/o T. Thangzalam Haokip, Resident of 2Nd Street, New Lambulane, P.O. & P.S. Porompat, Imphal East, Manipur-795005.
5. Shri. Tunsei Haokip, S/o Late Jamkhogin Haokip, Resident of Tuibuong Distt. Hqtr, Part II., P.O. & P.S. Churachandpur, Manipur-795128.
6. Shri Paongam Haokip, S/o Late Haokhothong Haokip, Resident of Village Najang, P.O. & P.S. Henglep, Churachandpur, Manipur-795128.
7. Shri Lienmang Gangte, S/o Late Seikkhojang Gangte, Resident of K. Phaicham, P.O. Chiengkongpang, P.S. Churachandpur, Manipur – 795128.
8. Manipur Pradesh Congress Committee, having its Office at BT Road through its General Secretary (Admn.) Shri Hareshwari Goshwami aged about 61 years old. S/o Prangour Goswami, a resident of Wangkhei Konsam Leikai, P.O. Imphal, P.S. Porompat, Imphal East District-795001.

...Respondents.

With

WP(C) No. 396 of 2020

Samuel Jendai, aged about 61 years, S/o Gaigongrei of Lukhambi Part V, Lukhambi, P.O. & P.S. Tamenglong, Tamenglong District, Manipur-795159.

...Petitioner.

-Versus-

1. The Hon'ble Speaker, Manipur Legislative Assembly, Assembly Complex, P.O. & P.S. Imphal, Imphal West District, Manipur-795001.
2. The Manipur Legislative Assembly through its Secretary, Assembly Complex, P.O. & P.S. Imphal, Imphal West District, Manipur-795001.
3. Manipur Pradesh Congress Committee, having its Office at BT Road through its General Secretary (Adm.) Shri Hareshwar Goshwami, aged about 61 years old, S/o Prangour Goswami, a resident of Wangkhei Konsam Leikai, P.O. Imphal & P.S. Porompat, Imphal East District, Manipur-795001.

.... Respondents.

With

WP(C) No. 433 of 2020

Shri S. Subhaschandra Singh, aged about 54 years S/o (L) S. Tomba Singh, a resident of Ningombam Mayai Leikai, P.O. Canchipur & P.S. Singjamei, Imphal West District, Manipur.

...Petitioner.

-Versus-

1. The Manipur Legislative Assembly through its Secretary, Manipur Legislative Assembly, Office at Manipur Legislative Assembly Secretariat, Chingmeirong, P.O. & P.S. Imphal, Imphal West District, Manipur-795001.
2. The Hon'ble Speaker, Manipur Legislative Assembly, Imphal, Manipur, Office at Manipur Legislative Assembly Secretariat, Chingmeirong, P.O. & P.S. Imphal, Imphal West District, Manipur-795001.

..Respondents.

3. Shri Heisnam Ingoba Singh, aged about 36 years, S/o. H. Manglem

Singh, a resident of Hiyangthang Maning Leikai, P.O. & P.S. Wangoi, District Imphal West, Manipur, a personal driver of Shri Soibam Subhaschandra Singh, Ex-MLA, elected from 21-Naoriya Pakhanglakpa AC.

...Proforma Respondent

4. Manipur Pradesh Congress Committee, having its office at B.T. Road through its General Secretary (Adm.) Shri Hareshwar Goshwami, aged about 61 years old, S/o Prangour Goswami, a resident of Wangkhei Konsam Leikai, P.O. Imphal, P.S. Porompat, Imphal East District, Manipur -795001.

...Respondent

B E F O R E

HON'BLE MR. JUSTICE LANUSUNGKUM JAMIR

HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH

For the Petitioners : Mr. HS. Paonam, Sr. Adv. assisted by Mr. A. Arunkumar, Adv., Mr. M. Hemchandra, Sr. Adv. assisted by Md. Juno Rahman, Adv. and Dr. RK. Deepak, Adv.

For the respondents : Mr. Kapil Sibal, Sr. Adv., Mr. N. Ibotombi, Sr. Adv., Mr. S.G. Hasnain, Sr. Adv. assisted by Syed Md. Fazal, Adv., Mr. S. Chitaranjan Singh, Adv. and Mr. Kh. Samarjit, Adv.

Date of Hearing : 16.09.2020, 22.10.2020, 04.11.2020, 01.12.2020 and 18.12.2020.

Date of Order : **13.07.2021**

JUDGMENT AND ORDER

(CAV)

(A. Bimol Singh, J)

[1] Heard Mr. HS. Paonam, learned Senior Advocate assisted by Mr. A. Arunkumar, Adv., Mr. M. Hemchandra, learned Senior Advocate assisted by Md. Juno Rahman, Adv., and Dr. RK. Deepak, learned Advocate appearing for the petitioners. Heard also Mr. Kapil Sibal, learned Senior Advocate, Mr. N. Ibotombi, learned Senior Advocate, Mr. S.G. Hasnain,

learned Senior Advocate assisted by Syed Md. Fazal, learned Advocate appearing for Manipur Pradesh Congress Committee through its General Secretary, Mr. S. Chitaranjan Singh, learned Advocate appearing for the Speaker and Secretary, Manipur Legislative Assembly and Mr. Kh. Samarjit, learned Advocate appearing for the Election Commission of India. None appeared for the other private respondents despite service of notice upon them.

[2] The petitioners filed the present 3(three) writ petitions challenging the Bulletin Part-II bearing No. 36, 37 and 38 all dated 18.06.2020 issued by the Secretary, Manipur Legislative Assembly, publishing the acceptance of the resignation tendered by the petitioners from being a member of the Manipur Legislative Assembly and also notifying the vacancy of 3(three) Assembly Constituencies, viz., 57-Henglep (ST), 21-Naoriya Pakhanglakpa and 53-Tamenglong (ST) consequent upon the resignation of the petitioners, coupled with a prayer for issuing a writ of mandamus directing the Speaker, Manipur Legislative Assembly to consider/revoke the acceptance of resignation tendered by the petitioners from being a member of the Manipur Legislative Assembly.

As the facts and question of laws raised in the present 3(three) writ petitions are common, all the 3(three) writ petitions were jointly heard and being disposed of by this common judgment and order.

[3] The case of the petitioners in a nut-shell is that the petitioners contested in the 11th General Election of Manipur Legislative Assembly

held in 2017 as BJP candidates and they were elected as members of the Manipur Legislative Assembly from 57-Henglep (ST), 53-Tamenglong (ST) and 21-Naoriya Pakhanglakpa Assembly Constituencies as BJP candidates. Thereafter, all the petitioners along with other elected candidates were sworn in as members of the 11th Manipur Legislative Assembly on 19.03.2017 by the Protem Speaker.

[4] It has been stated that for the last about 6(six) months to 1(one) year prior to their tendering resignation, the petitioners felt that they have been sidelined by the present BJP led coalition Government by giving more importance to some other aspiring candidates who belonged to other parties in taking up welfare activities in their respective Assembly Constituencies and as such, there were lot of discontentment among the party members of their respective constituencies. It has also been stated that during the political turmoil in the present BJP led Government and just before the Rajya Sabha election scheduled to be held on 19.06.2020, the petitioners were pressurised to resign from BJP by some influential party workers who felt that their Assembly Constituencies have been neglected and ignored in order to give a wrong image to the voters of the said constituencies regarding the capability of the petitioners as leaders of their respective constituencies. Having no other alternative and under threat and pressure of some influential party workers, the petitioners were compelled to resign from being member of the Manipur Legislative Assembly by writing a letter each, all dated 17.06.2020 addressed to the Speaker,

Manipur Legislative Assembly and by delivering the same through a third party. In the resignation letters written by the petitioners themselves, they tender their resignation from being a member of the Manipur Legislative Assembly w.e.f. 17.06.2020. It has also been stated that the said resignation letters were delivered to the Speaker, Manipur Legislative Assembly in the evening of 17.06.202 through a third party to subside the emotion of the workers of the petitioners and with the intention to withdraw the same on a later date after convincing the petitioners' workers to continue in the BJP.

[5] It has also been stated that after submission of their resignation letters and on the same day, a press conference was held and in the said press conference, the petitioners under pressure and duress were compelled to announce that they have on their own volition resigned from being a member of the Manipur Legislative Assembly.

It is the case of the petitioners that without holding any enquiry as contemplated under Rule 315(3) of the Rules of Procedure and Conduct of Business in the Manipur Legislative Assembly (hereinafter referred to as "Procedure & Conduct Rules" for short) promptly accepted the resignation tendered by the petitioners and issued the three impugned Bulletins dated 18.06.2020 publishing the acceptance of the resignation tendered by the petitioners and notifying the vacancies of the 3(three) Assembly Constituencies consequent upon the resignation of the

petitioners. The said 3(three) Bulletins No. 36, 37 and 38 were published in the Manipur Gazette bearing No. 61, 62 and 63 dated 18.06.2020.

Having been aggrieved, the petitioners assailed the said Bulletins by filing the present writ petitions.

[6] The learned counsel appearing for the petitioners draw the attention of this Court to the provisions of Article 190(3) (b) of the Constitution of India and Rule 315(3) of the “Procedure & Conduct Rules” wherein it is provided as under:-

Article 190(3) of the Constitution of India:

“190. (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.”

Rule 315 of the “Procedure & Conduct Rules”:

“315. (1) *A member who desires to resign his seat in the House shall intimate in writing under his hand addressed to*

the Speaker, his intention to resign his seat in the House in the following form and shall not give any reason for his resignation:

To

*The Speaker,
Manipur Legislative Assembly,
Imphal*

Sir,

*I hereby tender my resignation of my seat in the Manipur
Legislative Assembly with effect from*

.....

Place.....

Yours faithfully,

Date.....

Member of the Legislative Assembly

Provided that where any member gives any reason or introduces any extraneous matter the Speaker may, in his discretion, 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.

(3) If the Speaker receives the letter of resignation either by post or through someone else, the Speaker may make such enquiry as he thinks fit to satisfy himself that the resignation is voluntary and genuine. If the Speaker, after making a summary enquiry either himself or through the agency of the 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 Assembly and he has accepted the resignation.

Explanation:- When the House is not in session, the Speaker shall inform the House 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 the notification to the Governor and Election Commission for taking steps to fill the 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.”

[7] By relying on the provisions under Rule 315(3) of the “Procedure & Conduct Rules” read with Article 190(3) (b) of the Constitution, it has been strenuously submitted by the counsel for the petitioners that before accepting the resignation tendered by the petitioners, the Speaker is mandated to hold an enquiry as he thinks fit to satisfy himself that the resignation is voluntary and genuine, especially when the resignation letters were submitted through a third party and that only after holding such an enquiry and after satisfying himself that the resignation is voluntary and genuine, the Speaker can accept the resignation. Acceptance of the resignation tendered by the petitioners without holding any enquiry as contemplated under Rule 315(3) of the “Procedure & Conduct Rules” read with Article 190(3)(b) of the constitution is illegal and not sustainable in the eye of law.

[8] It has further been submitted by the learned counsel appearing for the petitioners that in the present cases, the petitioners did not voluntarily

submit their resignation letters but they have been compelled to tender their resignation from being a member of the Manipur Legislative Assembly due to the pressure exerted by their workers and supporters and the resignation letters of the petitioners were submitted to the Speaker through a third party. On receiving the resignation letters submitted by the petitioners, the Speaker accepted the resignation tendered by the petitioners without holding any enquiry. The learned counsel for the petitioners strenuously submitted that accepting the resignation, which have been submitted through a third party, in hot-haste and without holding any enquiry to ascertain as to whether the resignation tendered by the petitioners are voluntary or genuine, amounts to arbitrary exercise of power and is liable to be interfered with as such exercise of power is ultra-vires the provisions of Rule 315(3) of the "Procedure & Conduct Rules" read with Article 190(3)(b) of the Constitution of India.

[9] In support of their contentions, the counsel for the petitioners relied on the judgment rendered by the Apex Court in the following cases:-

(i) ***"Shrimanth Balasaheb Patil Vs. Speaker, Karnataka Legislative Assembly &Ors."*** reported in (2020) 2 SCC 595-

"73. We are unable to agree with this contention. It is true that 33rd Constitutional Amendment changed the constitutional position by conferring discretion on the Speaker to reject the resignation. However, such discretion is not unqualified, as the resignation can only be rejected if the Speaker is "satisfied that such resignation is not voluntary or genuine". Determination of whether the resignations were "voluntary" or "genuine" cannot be based on the ipse dixit of the Speaker, instead it has to be based on his "satisfaction". Even though the satisfaction is subjective, it has to be based on objective material showing that resignation is not voluntary or genuine. When a Member tenders his resignation in writing, the Speaker must immediately

conduct an inquiry to ascertain if the Member intends to relinquish his membership. The inquiry must be in accordance with the provisions of the Constitution and the applicable rules of the House. This satisfaction of the Speaker is subject to judicial review.

“74. The next logical question which arises for consideration concerns the ambit of the terms “voluntary” and “genuine” in Article 190(3)(b) of the Constitution. Prior to the 33rd Constitutional Amendment, Article 190(3)(b) reads as follows:

“190. (3) If a Member of a House of the Legislature of a State-

(a) * * *

(b) resigns his seat by writing under his hand addressed to the Speaker or the Chairman, as the case may be.”

“75. The 33rd Constitutional Amendment amended Article 190(3)(b) of the Constitution and added a proviso. The revised clause reads as follows:

“190. (3)(b) If a Member of a House of the legislature of a State-

(a) * * *

(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.”

“76. Thus, prior to the 33rd Constitutional Amendment, there was no provision in the article which required the resignation to be accepted by the Speaker to become effective. Originally, the position was that a Member of a Legislative Assembly could resign from office by a unilateral act, and the acceptance of resignation was not required. [Refer to Union of India V. Gopal Chandra Misra and Moti Ram V. Param Dev.]

“77. First, as a starting principle, it has to be accepted that a Member of the Legislature has a right to resign. Nothing in the Constitution, or any statute, prevents him from resigning. A Member may choose to resign for a variety of reasons and his reasons may be good or bad, but it is his sole prerogative to resign. An elected Member cannot be compelled to continue his office if he chooses to resign. The 33rd Constitutional Amendment does not change this position. On the contrary, it ensures that his resignation is on account of his free will.

“78. Second, the 33rd Constitutional Amendment requires acceptance of resignation by the Speaker. Thus, merely addressing a resignation letter to the Speaker would not lead to the seat automatically falling vacant. The Speaker has to accept such resignation for the seat to become vacant. However, as discussed above, the Speaker has limited discretion for rejecting the resignation. If the resignation is voluntary or genuine, the Speaker has to accept the resignation and communicate the same.

“83. In view of our above discussion we hold that the Speaker can reject a resignation only if the inquiry demonstrates that it is not “voluntary” or “genuine”. The inquiry should be limited to ascertaining if the Member intends to relinquish his membership out of his free will. Once it is demonstrated that a Member is willing to resign out of his free will, the Speaker has no option but to accept the resignation. It is constitutionally impermissible for the Speaker to take into account any other extraneous factors while considering the resignation. The satisfaction of the Speaker is subject to judicial review.”

(ii) “Shivraj Singh Chouhan Vs. Speaker Madhya Pradesh Legislative Assembly & Ors.” reported in 2020 SCC Online SC 363-

“23. Article 190 contains provisions for the “vacation of seats”. Clause (3) of the Article states:

“(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.”

Sub-clause (b) of clause (3) of Article 190 indicates that a seat “shall thereupon become vacant” when a Member “resigns his seat” and the resignation is accepted by the Speaker and the Chairman, as the case may be. The provisions of sub-clause (b) of clause (3) of Article 190 were amended by the Constitution (Thirty-Third Amendment) Act 1974 to incorporate a specific provision for the acceptance of the resignation of a Member by the Speaker. The expression “shall thereupon become vacant” indicates that a vacancy arises only upon the acceptance of the resignation by the Speaker, or as the case may be, the Chairman of the House. The proviso to clause (3) of Article 190 indicates that a resignation shall not be accepted if the Speaker or Chairman is not satisfied that the resignation is “voluntary or genuine”. Before this satisfaction is arrived at, the proviso requires the Speaker or the Chairman (as the case may be) to make an enquiry as is thought to be fit. These provisions were introduced through a constitutional amendment to safeguard the membership of elected members of the legislature being forfeited by coercion or misrepresentation. The Statement of Objects and Reasons accompanying the constitutional amendment explained its purpose in the following terms:

“...In the recent past, there have been instances where coercive measures have been resorted to for compelling members of a Legislative Assembly to resign their membership. If this is not checked, it might become difficult for Legislatures to function in accordance with the provisions of the Constitution. It is, therefore proposed to amend the above two articles to impose a requirement as to acceptance of the resignation by the Speaker or the Chairman and to provide that the resignation shall not be accepted by the Speaker or the Chairman if he is satisfied after making such inquiry as he thinks fit that the resignation is not voluntary or genuine.”

“24. *The role of the Speaker in accepting resignations and determining disqualifications was the subject of a three judge Bench decision of this Court in ShrimanthBalasaheb Patil V. Karnataka Legislative Assembly. While elaborating on the provisions of Article 190(3)(b) as amended, the judgment lays down the following principles:*

- (i) A Member of the legislature is vested with the sole prerogative to determine whether or not to continue in office;*

- (ii) A Member who seeks to resign cannot be compelled to continue in office;
- (iii) A resignation is required to be accepted by the Speaker or the Chairman, as the case may be;
- (iv) The seat occupied by the Member falls vacant only upon acceptance of the resignation;
- (v) The role of the Speaker is to determine whether a resignation is “voluntary or genuine”;
- (vi) The satisfaction of the Speaker should be based on the information received or otherwise and upon making such enquiry as is considered to be fit;
- (vii) Though, the term “genuine” has not been defined, what is meant is the authenticity of the letter of resignation; and
- (viii) Though, the expression “voluntary” has not been defined, it would mean that a resignation should not be a result of threat of force or coercion.

Justice NV Ramana speaking for the three-judge bench of this Court elaborated on the role which has been entrusted to the Speaker, stating:

“79. Third, the Speaker can reject the resignation, if the Speaker is satisfied that the resignation was “not voluntary or genuine”. Herein, our attention is drawn to the Chapter 22, Rule 202(2) of the Rules of Procedure and Conduct of Business in Karnataka Legislative Assembly [...] Reading the rule in consonance with Article 190(3)(b) of the Constitution and its proviso, it is clear that the Speaker’s satisfaction should be based on the information received and after making such inquiry as he thinks fit. The aforesaid aspects do not require a roving inquiry and with the experience of a Speaker, who is the head of the House, he is expected to conduct such inquiry as is necessary and pass an order. If a Member appears before him and gives a letter in writing, an inquiry may be a limited inquiry. But if he receives information that a Member tendered his resignation under coercion, he may choose to commence a formal inquiry to ascertain if the resignation was voluntary and genuine.”

The three judge Bench of this Court finally held:

“83. In view of our above discussion we hold that the Speaker can reject a resignation only if the inquiry demonstrates that it is not “voluntary” or “genuine”. The inquiry should be limited to ascertaining if the Member intends to relinquish his membership out of his free will. Once it is demonstrated that a Member is willing to resign out of his free will, the Speaker has no option but to accept the resignation. It is constitutionally

impermissible for the Speaker to take into account any other extraneous factors while considering the resignation. The satisfaction of the Speaker is subject to judicial review.”

It is in the above context that the inquiry by the Speaker or Chairman (as the case may be) has to be understood. The Court cannot fetter the discretion of the Speaker to conduct an inquiry into whether a resignation is “voluntary” or “genuine”. However, neither can the Speaker exceed the terms of the mandate and conduct an overbroad inquiry into the underlying motives of the Member. It is sufficient that the Speaker is satisfied that the Member’s resignation is “voluntary” and “genuine”.

[10] The next ground raised by the counsel for the petitioners is that Rule 315(4) of the “Procedure & Conduct Rules” provides a valuable right to a member of the Manipur Legislative Assembly to withdraw his resignation before the same is accepted by the Speaker. But in the present cases, the Speaker accepted the resignations tendered by the petitioners in a very hot-haste manner and on the eve of Rajya Sabha Election without following the requirements of Rule 315(3) of the “Procedure & Conduct Rules” read with Article 190(3)(b) of the constitution thereby depriving the petitioners of their opportunity to change their mind and withdraw the resignation letters submitted by them. Such action of the Speaker amounts to mala-fide exercise of power and accordingly, the same is liable to be quashed and set aside.

In support of their contentions, the counsel for the petitioners relied on the judgment rendered by the Apex Court in the following cases:-

(i) **“Bahadursingh Lakhubhai Gohil Vs. Jagdishbhai M. Kamalia & Ors.”** reported in (2004) 2 SCC 65 –

“25. *In S.P. Kapoor (Dr) V. State of H.P. this Court held that when a thing is done in a post-haste manner, mala fide would be presumed, stating: (SCC p. 739, para 33)*

“33. *... The post-haste manner in which these things have been done on 3-11-1979 suggests that some higher-up was interested in pushing through the matter hastily when the Regular Secretary, Health and Family Welfare was on leave.”*

(ii) “D. Sudhakar (2) &Ors. Vs. D.N. Jeevaraju&Ors.”

reported in (2012) 2 SCC 708 –

“75. *It is obvious from the procedure adopted by the Speaker that he was trying to meet the time schedule set by the Governor for the trial of strength in the Assembly and to ensure that the appellants and the 13 BJP MLAs stood disqualified prior to the date on which the floor test was to be held. Having concluded the hearing on 10-10-2010 by 5.00 p.m., the Speaker passed detailed orders, in which various judgments, both of Indian courts and foreign courts, and principles of law from various authorities were referred to, on the same day, holding that the appellants and the other MLAs stood disqualified as Members of the House. The vote of confidence took place on 11-10-2010, in which the disqualified Members could not participate, and in their absence Shri B.S. Yeddyurappa was able to prove his majority in the House.*

“76. *Unless it was to ensure that the trust vote did not go against the Chief Minister, there was hardly any reason for the Speaker to have taken up the disqualification applications in such a great haste.*

“77. *We cannot lose sight of the fact that although the same allegations as had been made by Shri Yeddyurappa against the disqualified BJP MLAs, were made also against Shri M.P. Renukacharya and Shri Narasimha Nayak, whose retraction was accepted by the Speaker, despite the view expressed by him that upon submitting the letter withdrawing support to the BJP Government led by Shri B.S. Yeddyurappa, all the MLAs stood immediately disqualified under Para 2(1)(a) of the Tenth Schedule to the Constitution, the said two legislators were not disqualified and they were allowed to participate in the confidence vote, for reasons which are obvious.*

“78. *Therefore, we hold that the impugned order of the Speaker is vitiated by mala fides.”*

[11] The last ground raised by the counsel for the petitioners is that neither any specific order was passed or issued by the Speaker while accepting the resignation tendered by the petitioners, nor did the Speaker communicate any order of acceptance to the petitioners. Accordingly, it has been vehemently submitted that un-communicated order cannot affect or bind the petitioners. In support of their contentions, learned counsel appearing for the petitioners relied on the judgment rendered by the Apex Court in the following cases:-

(i) **“Bachhittar Singh Vs. State of Punjab &Ors.”**

reported in AIR 1963 SC 395-

“10. The business of State is a complicated one and has necessarily to be conducted through the agency of a large number of officials and authorities. The Constitution, therefore, requires and so did the Rules of Business framed by the Rajpramukh of Pepsu provide, that the action must be taken by the authority concerned in the name of the Rajpramukh. It is not till this formality is observed that the action can be regarded as that of the State or here, by the Rajpramukh. We may further observe that, constitutionally speaking, the Minister is no more than an adviser and that the head of the State, the Governor or Rajpramukh, is to act with the aid and advice of his Council of Ministers. Therefore, until such advice is accepted by the Governor whatever the Minister or the Council of Ministers may say in regard to a particular matter does not become the action of the State until the advice of the Council of Ministers is accepted or deemed to be accepted by the Head of the State. Indeed, it is possible that after expressing one opinion about a particular matter at a particular stage a Minister or the Council of Ministers may express quite a different opinion, one which may be completely opposed to the earlier opinion. Which of them can be regarded as the ‘order’ of the State Government? Therefore, to make the opinion amount to a decision of the Government it must be communicated to the person concerned. In this connection we may quote the following from the judgment of this Court in the State of Punjab V. Sodhi Sukhdev Singh, AIR 1961 SC 493 at p. 512:

“Mr. Gopal Singh attempted to argue that before the final order was passed the Council of Ministers had decided to

accept the respondent's representation and to reinstate him, and that, according to him, the respondents seeks to prove by calling the two original orders. We are unable to understand this argument. Even if the Council of Ministers had provisionally decided to reinstate the respondent that would not prevent the Council from reconsidering the matter and coming to a contrary conclusion later on, until a final decision is reached by them and is communicated to the Rajpramukh in the form of advice and acted upon by him by issuing an order in that behalf to the respondent."

Thus it is of the essence that the order has to be communicated to the person who would be affected by that order before the State and that person can be bound by that order. For, until the order is communicated to the person affected by it, it would be upon to the Council of Ministers to consider the matter over and over against and, therefore, till its communication the order cannot be regarded as anything more than provisional in character."

(ii) Sethi Auto Service Station and Anr. Vs. Delhi

Development Authority & Ors." reported in (2009) 1 SCC 180 –

"14. It is trite to state that nothings in a departmental file do not have the sanction of law to be an effective order. A noting by an officer is an expression of his viewpoint on the subject. It is no more than an opinion by an officer for internal use and consideration of the other officials of the department and for the benefit of the final decision-making authority. Needless to add that internal notings are not meant for outside exposure. Notings in the file culminate into an executable order, affecting the rights of the parties, only when it reaches the final decision-making authority in the department, gets his approval and the final order is communicated to the person concerned.

"15. In Bachhittar Singh V. State of Punjab, a Constitution Bench of this Court had the occasion to consider the effect of an order passed by a Minister on a file, which order was not communicated to the person concerned. Referring to Article 166(1) of the Constitution, the Court held that order of the Minister could not amount to an order by the State Government unless it was expressed in the name of the Rajpramukh, as required by the said article and was then communicated to the party concerned. The Court observed that business of State is a complicated one and has necessarily to be conducted through the agency of a large number of officials and authorities. Before an action is taken by the authority concerned in the name of the Rajpramukh, which formality is a constitutional necessity, nothing done would amount to an order creating rights or casting

liabilities to third parties. It is possible, observed the Court, that after expressing one opinion about a particular matter at a particular stage a Minister or the Council of Ministers may express quite a different opinion which may be opposed to the earlier opinion. In such cases, which of the two opinions can be regarded as the "order" of the State Government? It was held that opinion becomes a decision of the Government only when it is communicated to the person concerned.

"16. To the like effect are the observations of this Court in Laxminarayan R. Bhattad V. State of Maharashtra, wherein it was said that a right created under an order of a statutory authority must be communicated to the person concerned so as to confer an enforceable right."

[12] In the affidavit-in-opposition filed on behalf of the respondents No. 1 & 2, it has been stated that in the evening of 17.06.2020, 3(three) members of the 11th Manipur Legislative Assembly, namely, Shri Samuel Jendai Kamei of 53-Tamenglong (ST) Assembly Constituency, Shri. S. Subhaschandra Singh of 21-Naoriya Pakhanglakpa Assembly Constituency and Shri. T. Thangzalam Haokip of 57-Henglep (ST) Assembly Constituency, intimated in writing under their respective hand and addressed to the Speaker, their intention to resign their respective seats in the House in the form provided under Rule 315(1) of the "Procedure & Conduct Rules". The said resignation letters were submitted through a third party and the said resignation letters were placed before the Speaker who accepted the resignation tendered by the petitioners by endorsing "accepted" on the resignation letter itself on the same day as no time limit for acceptance of such resignation is provided either under the Constitution or under the "Procedure & Conduct Rules". It has also been stated that conventionally, no specific order of acceptance is passed and

issued and that neither under the Constitution of India nor under the “Procedure & Conduct Rules” provides for passing and issuing any specific order of acceptance and for communicating the same.

[13] It has also been stated that neither under the Constitution of India nor under the “Procedure & Conduct Rules”, the Speaker is mandated to make an enquiry before acceptance of resignation of a member and that making an enquiry to satisfy that the resignation is voluntary and genuine is just a discretion given to the Speaker. Accordingly, it has been stated that no enquiry was made by the Speaker before accepting the resignation tendered by the petitioners.

[14] It has also been stated that as soon as the Speaker accepted the resignation tendered by the petitioners, the information was published and notified in the impugned Bulletins. The impugned Bulletins were also published in the Official Gazette on 18.06.2020 and copies were forwarded to the Governor and Election Commission as provided under Rule 315(6) of the “Procedure & Conduct Rules”. Thereafter, the Speaker informed the House which re-assembled on 10.08.2020 about the resignation tendered by the petitioners and acceptance thereof in terms of Rules 315(5) of the “Procedure & Conduct Rules”.

[15] It has lastly been averred that as provided under Rule 315(4) of the “Procedure & Conduct Rules”, a member may withdraw his letter of resignation at any time before it is accepted by the Speaker and that right to withdraw such resignation letter must be exercised before the same is

accepted by the Speaker. In the present case, the petitioners failed to withdraw the resignation letters submitted by them before the resignation was accepted by the Speaker.

[16] Mr. Kapil Sibal, learned Senior counsel appearing on behalf of the Manipur Pradesh Congress Committee represented by its General Secretary (Adm.), which is one of the private respondents in all the 3(three) writ petitions, submitted that on 17.06.2020, all the 3(three) writ petitioners voluntarily resigned from the primary membership of the Bharatiya Janata Party as well as from the membership of the Manipur Legislative Assembly w.e.f. 17.06.2020 and thereafter, all the 3(three) petitioners join the Indian National Congress and obtained primary membership on 17.06.2020. The factum of resignation of the 3(three) petitioners from the primary membership of BJP as well as from the membership of Manipur Legislative Assembly and thereafter joining the Indian National Congress on 17.06.2020 was announced before the public by the petitioners themselves in a press conference held on 17.06.2020 in the presence of some leaders of Indian National Congress. Such announcement made by the petitioners in the said press conference was widely broadcast in the public domain in various electronic and print media. The learned Senior counsel vehemently submitted that the 3(three) petitioners admitted the factum of their voluntarily resigning from the primary membership of the BJP as well as from the membership of the Manipur Legislative Assembly and thereafter joining the Indian National Congress.

[17] The learned Senior counsel submitted that the President of the BJP, Manipur Pradesh issued an order dated 18.06.2020 expelling the 3(three) petitioners from the primary membership of the BJP for 6(six) years for their anti-party activities w.e.f. 18.06.2020.

[18] The learned Senior counsel also submitted that the petitioner have categorically accepted the fact that they were sidelined by the present BJP led government and there was discontentment among the party members of the entire State and that due to political pressure exerted by their own party workers, the petitioners have resigned and as such, the same amounts to voluntarily resigning from the membership of the Legislative Assembly and there can be no doubt as to the voluntariness or genuineness of their resignation and that terming their resignation as involuntarily by the petitioners is totally out of place and unacceptable. In support of his contentions, the learned Senior Advocate placed reliance on para 82 of the Judgment of the Apex Court in the case of “***Shrimanth Balasaheb Patil Vs. Speaker, Karnataka Legislative Assembly &Ors***” reported in (2020) 2 SCC 595, which reads as under:-

“82. The learned Senior Counsel, Mr Kapil Sibal, has contended that a Speaker, as a part of his inquiry, can also go into the motive of the Member and reject his resignation if it was done under political pressure. We are unable to accept this contention. The language of article 190(3)(b) of the Constitution does not permit the Speaker to inquire into the motive of the resignation. When a Member is resigning on political pressure, he is still voluntarily doing so. Once the Member tenders his resignation it would be “voluntary” and if the writing can be attributed to him, it would be “genuine”. Our view is also supported by the debates on the 33rd Constitutional Amendment. It may be necessary to quote the debate dated 3-5-1974 on the 33rd Constitutional amendment, which is extracted below:

H.R. Gokhale.- I do not want to reply elaborately to all the points because I know I will have to deal with these points when the Bill comes up for consideration. In a way, I am thankful to the Hon'ble Members. They have given me notice of what they are going to say. I will deal with some points raised. Sir, the idea that the Bill prevents any Members from resigning is absolutely wrong. On the contrary, the basis on which the Bill proceeds is, the right of resignation is protected and the idea of acceptance of a resignation is also subject to a proviso that the acceptance is in the normal course and (sic non-acceptance of the) the resignation can take place only in the event of a conclusion being reached that either it is not genuine or it is not voluntary. Therefore, to proceed on the basis that the right of a Member to resign is taken away, is entirely wrong. This can be seen if the Bill is properly studied. The other thing they said was, in the name of democracy, how do you prevent people from resigning. Nobody is prevented from resigning. On the contrary, the basic idea is, the ordinary right of a person to say 'I do not want to continue to be a Member of the House' is maintained. But , is it a democratic way, when a Member does not want to resign, people pressurise him to resign – not political pressure but by threat of violence – as had occurred in the recent past. The person has no option but to resign. The Speaker has no option but to accept the resignation in the present set-up. This is a matter which was true in Gujarat. It may be true elsewhere. It was true in Gujarat. It had happened. A large number of people, about 200-300 people, went and indulged in acts of violence, held out threats and under duress, signatures were obtained. In some cases, Members were carried physically from their constituencies to the Speaker for giving resignations.”

[19] The learned Senior counsel forcefully submitted that having personal knowledge about the conduct of the petitioners and their resignation from the primary membership of the BJP and joining the Indian National Congress which took place on 17.06.2020 through the electronic media, broadcasting on the same day the announcement made by the petitioners about their resignation in the press conference held on 17.06.2020, the Speaker can reasonably draw an inference to his satisfaction that the

petitioners have genuinely and voluntarily tendered their resignation from being a member of the Manipur Legislative Assembly and as such, acceptance of their resignation by the Speaker is in accordance with law and there is nothing illegal about it.

[20] The learned Senior counsel lastly submitted that even after having knowledge about the acceptance of their resignation on 18.06.2020, the petitioners did not took up any immediate steps to bring to the notice of the Speaker that their resignation was involuntary. Only after about 1(one) months from the date of acceptance of their resignation, the petitioners submitted representations to the Speaker claiming that their resignation was involuntary and that they have been compelled to tender their resignation due to the pressure exerted upon them by their workers only as an after thought. The learned Senior counsel accordingly submitted that such claim made by the petitioners as an after thought should not be entertained and deserves to be rejected outright.

[21] After hearing the learned counsel appearing for the parties and after perusal of the record of the present cases, we can ascertain the following undisputed/admitted facts:-

- (i) On 17.06.2020, all the 3(three) writ petitioners resigned from the primary membership of the Bharatiya Janata Party (BJP) and join the Indian National Congress. Thereafter, on the same day, the 3(three) writ petitioners tendered their resignation from being a member of the Manipur Legislative Assembly w.e.f. 17.06.2020 by

submitting letters written by their own hand to the Speaker, Manipur Legislative Assembly;

(ii) The said resignation letters were delivered through a third party;

(iii) After submitting their resignation letters, the 3(three) petitioners jointly announced their resignation in the press conference held on 17.06.2020 in the presence of some Congress leaders;

(iv) The announcement made by the 3(three) petitioners in the said press conference was broadcast in the public domain by some local T.V. Channels on the same day, i.e., on 17.06.2020;

(v) The Speaker accepted the resignation tendered by the writ petitioners on the same day without holding any enquiry;

(vi) On 18.06.2020, the acceptance of the resignation tendered by the petitioners were notified by issuing 3(three) Bulletins all dated 18.06.2020 and the said Bulletins were published in the Official Gazette on 18.06.2020;

(vii) All the 3(three) writ petitioners were expelled from BJP for a period of 6(six) years for their anti-party activities; and

(viii) No information was brought to the notice of the Speaker by any of the petitioners that the resignation tendered by them were not genuine and voluntary before the Speaker accepted their resignation. Only after about 1(one) month from the date of

acceptance of their resignation by the Speaker, the petitioners submitted representations to the Speaker claiming that their resignation were not voluntary.

[22] All the learned counsel appearing for the parties in the present cases placed reliance in the judgment rendered by the Hon'ble Apex Court in the case of "**Shrimanth Balasaheb Patil Vs. Speaker, Karnataka, Legislative Assembly**" reported in (2020) 2 SCC 595 (Supra). In the said case of **Shrimanth Balasaheb Patil**, the Hon'ble Apex Court, while deciding the issue framed by the Apex Court at Para 56.2.(ii), i.e., "Whether the order of the Speaker rejecting the resignation and disqualifying the petitioners is in accordance with the Constitution?", examined and elaborately explained the provisions of Article 190(3)(b) as amended and laid down certain principles relating to the provisions of Article 190(3)(b) and the role of the Speaker in accepting or rejecting the resignation tendered by a member of the Legislature of a State. The judgment in the case of **Shrimanth Balasaheb Patil** (Supra) was again referred to and followed by the Hon'ble Apex Court in a subsequent judgment passed in the case of "**Shivraj Singh Chouhan Vs. Speaker, Madhya Pradesh Legislative Assembly**" reported in (2020) SCC Online SC 363 (Supra). In the said case, the Hon'ble Apex Court sum up and explained the principle laid down in the case of **Shrimanth Balasaheb Patil** at para 24, which are as under:-

“24. *The role of the Speaker in accepting resignations and determining disqualifications was the subject of a three judge Bench decision of this Court in Shrimanth Balasaheb Patil V. Karnataka Legislative Assembly. While elaborating on the provisions of Article 190(3)(b) as amended, the judgment lays down the following principles:*

- (i) A Member of the legislature is vested with the sole prerogative to determine whether or not to continue in office;*
- (ii) A Member who seeks to resign cannot be compelled to continue in office;*
- (iii) A resignation is required to be accepted by the Speaker or the Chairman, as the case may be;*
- (iv) The seat occupied by the Member falls vacant only upon acceptance of the resignation;*
- (v) The role of the Speaker is to determine whether a resignation is “voluntary or genuine”;*
- (vi) The satisfaction of the Speaker should be based on the information received or otherwise and upon making such enquiry as is considered to be fit;*
- (vii) Though, the term “genuine” has not been defined, what is meant is the authenticity of the letter of resignation; and*
- (viii) Though, the expression “voluntary” has not been defined, it would mean that a resignation should not be a result of threat of force or coercion.*

Justice NV Ramana speaking for the three-judge bench of this Court elaborated on the role which has been entrusted to the Speaker, stating:

“79. *Third, the Speaker can reject the resignation, if the Speaker is satisfied that the resignation was “not voluntary or genuine”. Herein, our attention is drawn to the Chapter 22, Rule 202(2) of the Rules of Procedure and Conduct of Business in Karnataka Legislative Assembly [...] Reading the rule in consonance with Article 190(3)(b) of the Constitution and its proviso, it is clear that the Speaker’s satisfaction should be based on the information received and after making such inquiry as he thinks fit. The aforesaid aspects do not require a roving inquiry and with the experience of a Speaker, who is the head of the House, he is expected to conduct such inquiry as is necessary and pass an order. If a Member appears before him and gives a letter in writing, an inquiry may be a limited inquiry. But if he receives information that a Member tendered his resignation under coercion, he may choose to commence a formal inquiry to ascertain if the resignation was voluntary and genuine.”*

The three judge Bench of this Court finally held:

“83. In view of our above discussion we hold that the Speaker can reject a resignation only if the inquiry demonstrates that it is not “voluntary” or “genuine”. The inquiry should be limited to ascertaining if the Member intends to relinquish his membership out of his free will. Once it is demonstrated that a Member is willing to resign out of his free will, the Speaker has no option but to accept the resignation. It is constitutionally impermissible for the Speaker to take into account any other extraneous factors while considering the resignation. The satisfaction of the Speaker is subject to judicial review.”

It is in the above context that the inquiry by the Speaker or Chairman (as the case may be) has to be understood. The Court cannot fetter the discretion of the Speaker to conduct an inquiry into whether a resignation is “voluntary” or “genuine”. However, neither can the Speaker exceed the terms of the mandate and conduct an overbroad inquiry into the underlying motives of the Member. It is sufficient that the Speaker is satisfied that the Member’s resignation is “voluntary” and “genuine”.

[23] In our humble opinion except for the principles laid down by the Hon’ble Apex Court as quoted hereinabove, the Hon’ble Apex Court did not specifically laid down any principle in the aforesaid 2(two) cases that resignation tendered by a member of a Legislature shall be accepted by the Speaker only after holding an enquiry and after verifying the genuineness and voluntariliness of the resignation and that the acceptance of such resignation without holding an enquiry is fatal.

[24] Only under Rule 315(3) of the “Procedure & Conduct Rules”, it is provided that if the Speaker receives the letter of resignation either by post or through someone else, the Speaker may make such an enquiry as he thinks fit to satisfy himself that the resignation is voluntary and genuine.

It is on this specific provisions of the Rules that the counsel for the petitioners have heavily relied on and emphasis that since it is an admitted fact that the Speaker accepted the resignation tendered by the petitioners without holding any enquiry, the action of the Speaker in accepting the said resignation is ultra-vires the provisions of Rule 315(3) of the “Procedure & Conduct Rules” and such action of the Speaker is illegal and deserves to be quashed and set aside.

[25] In our considered view, the main issue to be decided by us in the present 3(three) writ petitions is whether in exercise of power for judicial review, can this Court interfere with the decision of the Speaker accepting the resignation tendered by the petitioners only on the ground that no enquiry had been held before accepting such resignation and without considering whether the resignation were voluntary or genuine?. Our answer is in the negative.

[26] The Thirty-third amendment made in Article 190(3)(b) of the Constitution brings in a constitutional mandate requiring the Speaker to accept a resignation tendered by a member of the Legislature of a State, if the member resigns his seat by writing under his hand addressed to the Speaker. The Speaker can refuse to accept such resignation only if he is satisfied after making such enquiry as he thinks fit, that such resignation is not voluntary or genuine. The enquiry under Rule 315(3) of the “Procedure & Conduct Rules” read with Article 190 (3) (b) of the Constitution is only for the purpose of ascertaining or verifying whether the resignation tendered

by a member of the Legislature of a State is voluntary or genuine. However, the nature of enquiry to be held is left exclusively to the discretion of the Speaker.

[27] We are also of the considered view that the decision of the Speaker either accepting or not accepting the resignation tendered by a member of the Legislature of a State can be interfered with by this Court, in exercise of its power of judicial review, only when there is adequate material to arrive satisfactorily to a conclusion that the resignation was not voluntary or genuine.

[28] In the present cases, as the petitioners have admitted that they themselves wrote the resignation letter addressed to the Speaker and submitted the same through a third party, we can safely conclude that the resignation tendered by the petitioners are genuine and there is nothing available on record to cast a doubt as to the genuineness of the resignation letters submitted by the petitioners. That leave us with only the task of deciding whether the resignation tendered by the petitioners are voluntary or not.

[29] The stand taken by the petitioners is that they were sidelined and neglected by the BJP led Government and they could not carry out any developmental works and welfare activities in their assembly constituencies and that the present ministry gave more importance to some other aspiring candidates who belong to other party in taking up such developmental works and welfare activities and as such, there were a lot of

discontentment among the party workers and supporters of the petitioners. Due to such discontentment, some influential party workers and supporters of the petitioners pressurised the petitioners to resign from the BJP. Consequent upon such pressurisation made by their workers and supporters and having no alternative, the petitioners were compelled to submit their resignation to subside the emotion/anxiety of their supporters and workers and with a mind of withdrawing the resignation letters at a later date. Except for these bald statements made by the petitioners in their writ petitions, no other material has been brought on record to substantiate their claim that their resignation were not voluntary.

[30] On examination of the statements made by the petitioners and after due consideration, we can ascertain that the only reason given by the petitioners for tendering their resignation is due to the pressure given by their political workers and supporters.

Since the petitioners have tendered their resignation due to the pressure exerted by their political workers and supporters, we have no hesitation to hold that the resignation tendered by the petitioners are voluntary and we cannot also enquired into the motive of the petitioners for tendering their resignation. Our conclusion is supported by the findings made by the Hon'ble Apex Court in the case of "**Shrimanth Balasaheb Patil**" (supra), wherein the Hon'ble Apex Court at Para 82 held that the language of Article 190(3)(b) of the Constitution does not permit the Speaker to enquire into the motive of the resignation and that when a

member tendered resignation on political pressure, he is still voluntarily doing so and that once the member tenders his resignation it would be voluntary and if the writing can be attributed to him it would be genuine.

[31] We cannot also be unmindful of the undisputed facts of the present cases and the conduct of the petitioners just before and after submission of their resignation letters to the Speaker.

It is an admitted and undisputed fact that on 17.06.2020, all the 3(three) writ petitioners resigns from the primary membership of the BJP and join the Indian National Congress. Thereafter on the same day, all the 3(three) petitioners wrote their resignation letters by their own hand addressed to the Speaker conveying their decision to resign from being a member of the legislative assembly w.e.f. 17.06.2020 and submit the same to the Speaker through a third party. After submitting their resignation letters to the Speaker and on the same day, all the petitioners jointly announced their resignation before a press conference in the presence of some Congress leaders. The announcement made by the petitioners before the press conference was broadcast in the public domain on the same day itself by some local T.V. Channels. On the next day, i.e., on 18.06.2020, all the petitioners were expelled from the BJP for a period of 6(six) years for their anti-party activities. None of the petitioners made any effort to promptly informed the Speaker or bring to his notice in time that the resignation tendered by them was not voluntary. If the resignation tendered by the petitioners were not really voluntary as claimed by them,

the petitioners have every means or resources to inform or bring to the knowledge of the Speaker promptly and in time that their resignation were not voluntary. We are of the view that any reasonable and prudent man will find it hard to believe that the petitioners, who are elected member of the Legislature and belonging to the political party running the Government, were so helpless and without any means to inform the Speaker promptly and in time that their resignation were not voluntary, if their resignation were really not voluntary.

[32] In view of the above, we do not find any material to conclude that the resignation tendered by the petitioners were not voluntary. Conversely, after taking into consideration the facts and circumstances of the present cases, we have no hesitation to hold that the resignation tendered by the petitioners are genuine and voluntary.

[33] With regard to the ground of mala-fide, none issuance of a specific order of acceptance of the resignation and none communication of the same to the petitioners as raised by the counsel for the petitioners, it is to be pointed out that in the affidavit-in-opposition filed by the Speaker, it has been rightly pointed out that as no time limit for acceptance of such resignation is provided either under the Constitution or under the "Procedure & Conduct Rules", the Speaker can accept such resignation promptly if the Speaker is satisfied from his knowledge or otherwise that the resignation is genuine and voluntary.

It has also been pointed out by the Speaker that he accepted the resignation tendered by the petitioners by endorsing “accepted” on the resignation letter itself and that conventionally, no specific order of acceptance is passed or issued. It has also been pointed out by the Speaker that neither the Constitution of India nor the “Procedure & Conduct Rules” provides for passing or issuing any specific order of acceptance and for communicating the same.

[34] In our considered view, if the resignation is genuine and voluntary, there is nothing wrong in accepting such resignation by the Speaker promptly as no time limit is given under the Constitution or under the “Procedure & Conduct Rules” for accepting the resignation tendered by a member of Legislative Assembly of a State. Accordingly, there is no merit in the allegation made by the petitioner that their resignation have been accepted by the Speaker in a hot-haste manner and that the action of the Speaker amounts to mala-fide exercise of power.

We cannot also agree with the submission advanced on behalf of the petitioners that no specific order of acceptance was passed or issued by the Speaker and communicate the same to the petitioners. The counsel for the petitioners did not point out any provisions either under the Constitution or under the “Procedure & Conduct Rules” mandating the requirement of issuing a separate order of acceptance and communicating the same. In the present cases, as soon as the Speaker accepted the resignation tendered by the petitioners, the Secretary of the Manipur

Legislative Assembly notified such acceptance by issuing the impugned Bulletins dated 18.06.2020 and published the same in the Official Gazette as provided under Rule 315(6) of the "Procedure & Conduct Rules". As the acceptance of the resignation was published by issuing the impugned Bulletins and as the Bulletins was notified in the public domain by publishing in the Official Gazette, the petitioners cannot alleged that no specific acceptance order was issued and communicated to them. The authorities cited by the learned counsel appearing for the petitioners in support of the grounds of mala-fide and none communication of the acceptance order are not applicable in the present cases as the facts and circumstances of those cases before the Hon'ble Apex Court and the facts and circumstances of the present cases are totally different.

[35] In view of the ongoing discussions and finding, we do not find any ground or reason for interfering with the impugned Bulletins in exercise of the power of judicial review under Article 226 of the Constitution of India. The writ petitions, therefore, fails and are accordingly dismissed.

The parties are to bear their own costs.

JUDGE

JUDGE

FR/NFR

Lhaineichong