Shri Yengkhom Surchandra Singh vs The Hon'Ble Speaker on 2 June, 2021

IN THE HIGH COURT OF MANIPUR

AT IMPHAL

WP(C) No. 316 of 2020

Shri Yengkhom Surchandra Singh, aged about 68 years old, S/O (L) Y.
Yaima Singh, a resident of Kakching Turel Wangma, P.O. & P.S.
Kakching, Kakching District, Manipur-795103.

....Petitioner.

-Versus -

1. The Hon'ble Speaker, Manipur Legislative Assembly, Acting as
Presiding Officer of the Tribunal Constituted under Tenth Schedule to
the Constitution of India, Assembly Complex, P.O. & P.S. Imphal,
Imphal West District, Manipur-795001.
2. The Secretary, Manipur Legislative Assembly, Assembly Complex,
P.O. & P.S. Imphal, Imphal West District, Manipur-795001.
3. D.D. Thaisii, aged about 58 years old, S/O (L) H. Dio of PurulAtongba,
P.O. Maram& P.S. Tadubi, Senapati District, MLA, Karong Assembly
Constituency, Manipur-795015.

.....Respondents.

B E F O R E HON'BLE MR. JUSTICE LANUSUNGKUM JAMIR HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH For the Petitioner : Mr. HS. Paonam, Sr. Adv.& Mr. S.

Gunabanta Meitei, Adv.

For the respondents : Mr. P.S. Narasimha, Sr. Adv, Mr. Lenin Hijam, Addl. AG, Manipur.,Mr. N.

Ibotombi, Sr. Adv., Mr. A. Romel, Adv.

Date of Hearing : 02.09.2020,04.09.2020,08.09.2020, 15.09.2020,02.11.2020,05.11.2020, 24.11.202,27.11.2020,04.12.2020, 10.12.2020& 14.12.2020.

Date of Order : 02.06.2021

WP(C) No. 316 of 2020

JUDGMENT AND ORDER

(CAV)

(A. Bimol Singh, J)

[1] Heard Mr. HS. Paonam, learned Senior Advocate assisted by Mr. S. Gunabanta Meitei, Advocate, appearing for the petitioner, Mr. P.S. Narasimha, Senior Advocate assisted by Mr. Lenin Hijam, learned Addl. Advocate General, Manipur for respondents No. 1 & 2, Mr. N. Ibotombi, learned Senior Advocate assisted by Mr. A. Romel, Advocate appearing for respondent No. 3.

[2] The present writ petitionhad been filed challenging the order dated 18.06.2020 passed by the Speaker, Manipur Legislative Assembly, in Disqualification Case No. 14 of 2019, disqualifying 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 w.e.f. 18.06.2020 till the expiry of the term of the 11th Legislative Assembly of Manipur as well as the bulletin part-II No. 44 dated 18.06.2020 issued by the Secretary, Manipur Legislative Assembly, notifying the vacancy of the 37-Kakching

Assembly Constituency consequent upon the disqualification of the writ petitioner from the membership of Manipur Legislative Assembly w.e.f. 18.06.2020. [3] The brief facts leading to the filing of the present writ petition are that on 04.03.2017 and 08.03.2017, the Manipur Legislative Assembly Election was held in which the writ petitioner contested the said election as a candidate sponsored by the Indian National Congress (INC) on the election WP(C) No. 316 of 2020 Page 2 symbol of the Indian National Congress (INC). The result of the said election was declared on 11.03.2016 and the writ petitioner was declared as an elected member of the 11th Manipur Legislative Assembly as a Legislator of the Indian National Congress (INC). The result of the said election was notified in the Manipur Gazette Extra Ordinary on 14.03.2017 and the name of the writ petitioner appeared at Sl. No. 37-Kakching Assembly Constituency in the list of elected member with party affiliation marked as Indian National Congress (INC). Thereafter, on 19.03.2017, the petitioner was sworn in as a member of the 11th Manipur Legislative Assembly by the Pro-Tem Speaker as an elected member from the Indian National Congress (INC).

[4] Subsequently, Disqualification Case No. 14 of 2019 was filed againstthe writ petitioner before the Speaker, Manipur Legislative Assembly, Manipur, praying for initiating disqualification proceedings against the writ petitioner and to pass an appropriate order declaring that the writ petitioner stands disqualified under Article 191 (2) of the Constitution of India and Para 2 (1) (a) of the Tenth Schedule to the Constitution of India and further to declare the seat of 37-Kakching Assembly Constituency as vacant.

[5] The grounds taken in the aforesaid disqualification case are that on 28.04.2017, the writ petitioner along with 3(three) other MLAs of the Indian National Congress (INC), viz., Shri S. Bira, Shri O. Lukhoi and Shri Ngamthang Haokip, voluntarily gave up their membership of the Indian WP(C) No. 316 of 2020 Page 3 National Congress (INC) and gave his support to the ruling party i.e., Bharatiya Janata Party (BJP) for the purpose of strengthening the coalition Government led by the BJP. It is also alleged that the writ petitioner along with the aforesaid 3(three) MLAs of INC were facilitated by performing a reception ceremony hosted on 28.04.2017 by the Hon'ble Chief Minister of Manipur, Shri N. Biren Singh and that the said reception ceremony was covered and published in many Local/National Newspapers and Electronic medias. It is further alleged that the writ petitioner participated in various political works and programs hosted by the BJP by wearing the apparel meant for the BJP and such programs in which the writ petitioner participated were reported in the public domain in various Local/National Newspapers and electronic medias and that in view of such acts of the writ petitioner, it is beyond any doubt that the writ petitioner had voluntarily gave up his membership of the I.N.C and committed a Constitutional act of defection under Para 2(1) (a) of the Tenth Schedule of the Constitution and as such the writ petitioner is liable to be disqualified from being a member of the 11th Manipur Legislative Assembly.

[6] The petitioner in disqualification case No. 14 of 2019 filed an additional affidavit dated 07.02.2020 contending, inter-alia,that the writ petitioner had enrolled himself as a primary and active member of the BJP, Manipur Pradesh and in the membership application form, it has been stated that he is a member of the BJP since 2017 and his membership number is 6061. It has also been alleged that the writ petitioner is one of WP(C) No. 316 of 2020 Page 4 the signatory in the letter addressed to the Chief Minister of Manipur, demanding for a major/total reshuffle of Ministers before 15.01.2020 to ensure the return of all the

seating MLAs. In the said additional affidavit many documents marked as Annexure A/4 to A/9 were annexed in support of the contentions made in the said additional affidavit as well as in the disqualification petition and leave was also sought for allowing to rely on the documents filed in connection with the other disqualification cases. [7] It will be pertinent to mention here that all-together 15(fifteen) disqualification cases, viz., disqualification Case No. 1 to 15 of 2019 were filed against 7(Seven) MLAs including the present writ petitioner. The writ petitioner along with other 6(six) MLAs, who are the respondents in the said disqualification cases, filed 15(fifteen) miscellaneous applications raising preliminary objections to the maintainability of the aforesaid 15(fifteen) disqualification petitions. The said 15 (fifteen) miscellaneous applications were clubbed together and the Speaker of the Manipur Legislative Assembly considered and dismissed the said 15(fifteen) miscellaneous applications by a common order dated 06.06.2020 passed in disqualification cases No. 1 to 15 of 2019.

[8] After the dismissal of the aforesaid miscellaneous applications, the writ petitioner filed a written-statement only on 12.06.2020.

On receiving the written-statement filed by the present writ petitioner, the petitioner in disqualification case also filed a reply to the said written-statement, contending, inter-alia, that the news of defection of the WP(C) No. 316 of 2020 Page 5 4(four) Congress MLAs including the writ petitioner was widely published in various newspaper across India and in support thereof, xerox copy of various newspapers running to 27 pages were enclosed as Annexure No. 1 in the said reply affidavit.

[9] By an order dated 06.06.2020 passed by the Speaker, the disqualification case filed against the writ petitioner were fixed on 17.06.2020 for further proceedings. However, on the direction of the Speaker, the said disqualification casewas re-scheduled on 22.06.2020 on the ground that the Speaker was indisposed. Subsequently, on 17.06.2020, the said disqualification casewas again re-scheduled on 18.06.2020 as directed by the Speaker for early disposal of the case in view of the urgency of the matter and also in view of the improvement of the Speaker's health conditions. Thereafter, on 18.06.2020, the said disqualification case filed against the writ petitioner was proceeded ex- parte and the same was disposed of by an order dated 18.06.2020 passed in the aforesaid disqualification case thereby holding that the writ petitioner had incurred disqualification 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 and further holding that the writ petitioner ceased to be a members of the Manipur Legislative Assembly w.e.f. 18.06.2020 till the expiry of the term of 11th Legislative Assembly of Manipur.

WP(C) No. 316 of 2020 Page 6 Pursuant to the order dated 18.06.2020 passed by the Speaker in the disqualification case, the Secretary of the Manipur Legislative Assembly issued bulletin Part-II bearing No. 44 dated 18.06.2020 published in the Manipur Gazette Extra Ordinary notifying that the writ petitioner has been disqualified from the membership of the Manipur Legislative Assembly on 18.06.2020 and that consequent upon his disqualification, 37-Kakching Assembly Constituency is lying vacant. Having been aggrieved, the writ petitioner filed the present writ petition assailing the order dated

18.06.2020 passed by the Speaker, Manipur Legislative Assembly in disqualification case No. 14 of 2019 as well as the aforesaid bulletin No. 44 dated 18.06.2020.

[10] Mr. HS. Paonam, learned Senior Advocate, assisted by Mr. S. Gunabanta Meitei, Advocate, appearing for the writ petitioner submitted that the impugned order passed by the Speaker disqualifying the writ petitioner is being challenged on the following grounds:

(i) that the Hon'ble Speaker passed the impugned order dated 18.06.2020 in gross violation of the Principle of Natural Justice;

(ii) that the conduct of the Speaker in passing the impugned order dated 18.06.2020 has demonstrated malafide;

(iii) that the Speaker has been motivated by perversity while passing the impugned order and;

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(iv) that the Hon'ble Speaker has violated the Constitutional mandate.

[11] In connection with the first ground raised on behalf of the writ petitioner regarding violation of Principle of Natural Justice by the Speaker while passing the impugned disqualification order, it is submitted by the learned senior counsel appearing for the writ petitioner that after disposal of the miscellaneous application raising preliminary objections about the maintainability of the disqualification petitions, the disqualification case filed against the writ petitioner were fixed on 17.06.2020 for further proceedings by an order dated 06.06.2020 passed by the Speaker. Subsequently, on the direction of the Speaker, the said disqualification casewas again rescheduled on 22.06.2020 on the ground that the Speaker was indisposed. However, quite suddenly and in a hot haste manner and in the wake of the Rajya Sabha Election which was scheduled on 19.06.2020, the Speaker secretly prepone the hearing of the disqualification cases from 22.06.2020 to 18.06.2020 at midnight hours. The learned senior counsel further submitted that a notice dated 17.06.2020 and cause-list dated 18.06.2020 were secretly published at the midnight hours, however, the aforesaid notice dated 17.06.2020 and cause-list dated 18.06.2020 were never served either to the writ petitioner or to the counsel of the writ petitioner.

[12] The learned senior counsel submitted that generally, before taking up the proceedings of the disqualification cases by the Speaker's Tribunal, WP(C) No. 316 of 2020 Page 8 notice and cause-list in connection with the disqualification cases were published and served to the counsel appearing for the parties via Special Messengers of the Manipur Legislative Assembly, Secretariat and that during the COVID-19 Pandemic also notice and cause-list were published and served to the counsel of the parties giving opportunity to all concerned in compliance with the Principle of Natural Justice. However, at the time of final hearing of the said disqualification case and passing of the impugned disqualification order, the notice dated 17.06.2020 preponing the date of hearing of the disqualification cases from 22.06.2020 to 18.06.2020 and the cause-list dated 18.06.2020 were secretly published/issued at midnight of 17.06.2020 and copy of the said notice and cause-list were never served to the writ petitioner or his counsel.

[13] Countering the submission advanced on behalf of the respondents No. 1 & 2 that notice and cause-list of the present disqualification casewas served to the counsel of the writ

petitioner through their Whatsapp, it is vehemently submitted by the learned senior counsel that notice for other proceedings taken up during COVID-19 Pandemic was duly served via Special Messengers of the Manipur Legislative Assembly, Secretariat and thus it is very clear that notice for preponing of the disqualification cases has not been served either to the parties or their counsel deliberately to take adverse action against the writ petitioner thereby, chance of fair trial and justice has been conveniently overlook by the Speaker for the purpose of his personal political ends.

WP(C) No. 316 of 2020 Page 9 [14] In support of his contentions, Mr. HS. Paonam, learned senior Advocate, cited the following judgment:-

(i) "A.K. Kraipak and Others Vs. Union of India and Others" reported in (1969) 2 SCC 262 wherein the Hon'ble Supreme Court held in Para 20 as under:-

"20. The aim of the rules of natural justice is to secure justice or to put it negatively to prevent miscarriage of justice. These rules can operate only in areas not covered by any law validly made. In other words they do not supplant the law of the land but supplement it. The concept of natural justice has undergone a great deal of change in recent years. In the past it was thought that it included just two rules namely : (1) no one shall be a judge in his own case (Nemo debetesse judex prepria causa) and (2) no decision shall be given against a party without affording him a reasonable hearing (audi alteram partem). Very soon thereafter a third rule was envisaged and that is that quasi-judicial enquiries must be held in good faith, without bias and not arbitrarily or unreasonably. But in the course of years many more subsidiary rules came to be added to the rules of natural justice. Till very recently it was the opinion of the courts that unless the authority concerned was required by the law under which it functioned to act judicially there was no room for the application of the rules of natural justice. The validity of that limitation is now questioned. If the purpose of the rules of natural justice is to prevent miscarriage of justice one fails to see why those rules should be made inapplicable to administrative enquiries. Often times it is not easy to draw the line that demarcates administrative enquiries from quasi- judicial enquiries. Enquiries which were considered administrative at one time are now being considered as quasi-judicial in character. Arriving at a just decision is the aim of both quasi-judicial enquiries as well as administrative enquiries. An unjust decision in an administrative enquiry may have more far reaching effect than a decision in a quasi-

judicial enquiry. As observed by this Court in Suresh Koshy George V. The University of Kerala and Others the rules of natural justice are not embodied rules. What particular rule of natural justice should apply to a given case must depend to a great extend on the facts and circumstances of that case, the WP(C) No. 316 of 2020 Page 10 framework of the law under which the enquiry is held and the constitution of the Tribunal or body of persons appointed for that purpose. Whenever a complaint is made before a court that some principle of natural justice had been contravened the court has to decide whether the observance of that rule was necessary for a just decision on the facts of that case.

(ii) "BalchandraL.Jarkiholi&Others. Vs. B.S.

Yeddiyurappa and Others" reported in (2011) 7 SCC 1 wherein the Hon'ble Supreme Court at Para 146-148 & 154-157 held as under:-

"146. Incidentally, a further incidence of partisan behaviour on the part of the Speaker will be evident from the fact that not only were the appellants not given an adequate opportunity to deal with the contents of the affidavits affirmed by Shri K.S. Eswarappa, Shri M.P. Renukacharya and Shri Narasimha Nayak, but the time given to submit reply to the show-cause notice on 10-10-2010, was preponed from 5.00 p.m. to 3.00 p.m., making it even more difficult for the appellants to respond to the show-cause notices in a meaningful manner. The explanation given by the Speaker that the appellants had filed detailed replies to the show- cause notices does not stand up to the test of fairness when one takes into consideration the fact that various allegations had been made in the three affidavits filed by Shri K.S. Eswarappa, Shri M.P. Renukacharya and Shri Narasimha Nayak, which could only be answered by the appellants themselves and not by their learned advocates.

"147. The procedure adopted by the Speaker seems to indicate 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 other independent 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 a detailed order in which various judgments, both of Indian courts and foreign courts, and principles of law from various authorities were referred to, on the same say, holding that the appellants had voluntarily given up their membership of the Bharatiya Janata Party by their acts and conduct which attracted the provisions of Para 2(1)(a) of the Tenth Schedule to the Constitution, whereunder they stood disqualified. The vote of confidence took place on WP(C) No. 316 of 2020 Page 11 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."

"148. Unless it was to ensure that the trust vote did not go against the Chief Minister, there was no conceivable reason for the Speaker to have taken up the disqualification application in such a great hurry. Although, in Dr.Mahachandra Prasad Singh case and in Ravi S. Naik case, this Court had held that the Disqualification Rules were only directory and not mandatory and that violation thereof amounted to only procedural irregularities and not violation of a constitutional mandate, it was also observed in Ravi S. Naik case that such an irregularity should not be such so as to prejudice any authority who is affected adversely by such breach. In the instant case, it was a matter of survival as far as the appellants were concerned. In such circumstances, they deserved a better opportunity of meeting the allegations made against them, particularly when except for the newspaper cuttings said to have been filed by Shri Yeddyurappa along with the disqualification application, there was no other evidence at all available against the appellants.

"154. Having considered all the different aspects of the matter and having examined the various questions which have been raised, we are constrained to hold that the proceedings conducted by the Speaker on the disqualification application filed by Shri B.S. Yeddyurappa do not meet the twin tests of natural justice and fair play. The Speaker, in our view, proceeded in the matter as if he was required to meet the deadline set by the Governor, irrespective of whether, in the process, he was ignoring the constitutional norms set out in the Tenth Schedule to the Constitution and the Disqualification Rules, 1986, and in contravention of the basic principles that go hand in hand with the concept of a fair hearing."

"155. As we have earlier indicated, even if the Disqualification Rules were only directory in nature, even then sufficient opportunity should have been given to the appellants to meet the allegations levelled against them. The fact that the show-cause notices were issued

within the time fixed by the Governor for holding the trust vote, may explain service of the show-case notices by affixation at the official residence of the appellant, though without the documents WP(C) No. 316 of 2020 Page 12 submitted by Shri Yeddyurappa along with his application, but it is hard to explain as to how the affidavits, affirmed by Shri K.S. Eswarappa, Shri M.P. Renukacharya and Shri Narasimha Nayak, were served on the learned advocates appearing for the appellants only on the date of hearing and that too just before the hearing was to commence. Extraneous considerations are writ large on the face of the order of the Speaker and the same has to be set aside.

"156. Incidentally, in Para 5 of the Tenth Schedule, which was introduced into the constitution by the Fifty-second Amendment act, 1985, to deal with the immorality of defection and floor-crossing during the tenure of a legislator, it has been indicated that notwithstanding anything contained in the said Schedule, a person who has been elected to the office of the Speaker or the Deputy Speaker of the House of the People or the Deputy Chairman of the Council of States or the Chairman or the Deputy Chairman of the Legislative Council of the State or the Speaker or the Deputy Speaker of the Legislative Assembly of a State, shall not be disqualified under the Schedule if he by reason of his election to such office, voluntarily gives up the membership of the political party to which he belonged immediately before such election, and does not, so long as he continues to hold such office thereafter, rejoin that political party or become a member of another political party. The object behind the said Para is to ensure that the Speaker, while holding office, acts absolutely impartially, without any leaning towards any party, including the party from which he was elected to the House."

"157. The appeals are, therefore, allowed. The order of the Speaker dated 10-10-2010, disqualifying the appellants from the membership of the House under Para 2(1)(a) of the Tenth Schedule to the Constitution is set aside along with the majority judgment delivered in Writ Petitions (Civil) Nos. 32660-70 of 2010, and the portions of the judgment delivered by N. Kumar, J. concurring with the views expresed by the Hon‟ble the Chief Justice, upholding the decision of the Speaker on Disqualification Application No. 1 of 2010 filed by Shri B.S. Yeddyurappa. Consequently, the disqualification application filed by Shri B.S. Yeddyurappa is dismissed.

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(iii) "Daffoddils Pharmaceuticals Ltd. and Anr. Vs. State of U.P. and Another" reported in (2019) SCC Online SC 1607 wherein the Apex Court at Para 17 held as under:-

"17. In the present case, even if one assumes that Surrender Chaudhary, the accused in the pending criminal case was involved and had sought to indulge in objectionable activities, that ipso facto could not have resulted in unilateral action of the kind which the State resorted to-against Daffodils, which was never granted any opportunity of hearing or a chance to represent against the impugned order. If there is one constant lodestar that lights the judicial horizon in this country, it is this: that no one can be inflicted with an adverse order, without being afforded a minimum opportunity of hearing, and prior intimation of such a move. This principle is too well entrenched in the legal ethos of this country to be ignored, as the state did, in this case."

[15] Relying on the aforesaid judgments rendered by the Hon'ble Supreme Court, it has been submitted by the learned senior counsel appearing for the writ petitioner that non-serving of the notice for preponing the hearing of the disqualification cases from 22.06.2020 to 18.06.2020 with failure to provide reasons for such preponing as well as

hearing of the disqualification cases in a hot haste manner is violative of the Principle of Natural Justice and accordingly, the impugned disqualification orders is liable to be quashed and set aside.

[16] In connection with the second grounds of malafide in the conduct of the Speaker while passing the impugned disqualification order, it has been submitted by Mr. HS. Paonam, learned senior Advocate that malafide conduct would mean an action with an intention to deceive a person and that the conduct of the Speaker in passing the impugned order WP(C) No. 316 of 2020 Page 14 disqualifying the writ petitioner is smacked with an element of malafide for the reason that -

(a) Xerox copy of the Poknapham dailies dated 29-4-2017 has been relied for disqualifying the writ petitioner. The original of the said paper is stated to be filed in the disqualification cases of one O. Lukhoi Singh. However, O. Lukhoi Singh has not been disqualified for want of authenticity of the newspaper so also in the case Shri Ngamthang Haokip, the same newspaper clip is considered as unauthenticated document and Shri Ngamthang Haokip was also not disqualified;

(b) The Hon'ble Speaker despite the order dated 18-6-

2020 passed in W.P. (C) No. 298 of 2020 for keeping in abeyance the Judgment with an intention to deceive has passed Judgment disqualifying the writ petitioner;

(c) the hot haste manner in which the disqualification proceedings were taken up in the following manner-

(i) the notice for preponing the disqualification cases was secretly published in the midnight of 17.06.2020 for taking up the matter on 18.06.2020;

(ii) the notice was not served to the writ petitioner as well as his counsel;

(iii) no reason for preponing the disqualification cases have been given;

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(iv) the matter was taken up without the counsel for the parties and order was reserved without oral hearing of the parties.

(v) the order disqualifying the writ petitioner was announced on the same day of final hearing of the disqualification cases, just a day before the Rajya Sabha Election, even without notifying about the delivery of the said order as was done in all its earlier proceedings.

(d) The Speaker in collusion with the state machinery withdraw escort/security of the writ petitioner before the order of disqualification was served to the writ petitioner indicating the height of malafide conduct of the Speaker despite the interim order dated 18.06.2020 passed by this Court in WP(C) No. 289 of 2020 for keeping in abeyance the announcement of the judgment in the disqualification cases.The Speaker, with an intention to defeat the said interim order, passed the impugned order disqualifying the writ petitioner.

[17] In support of his contentions, the learned senior counsel appearing for the writ petitioner relied on the following judgment of the Hon'ble Supreme Court rendered in the following cases:-

(i) "BahadursinhLakhubhaiGohilVs. Jagdishbhai M.

Kamalia and Others" reported in (2004) 2 SCC 65wherein the Hon'ble Supreme Court at Para 25 held as under:-

"25. In S.P. Kapoor (Dr) v. State of H.P. this Court held that when a thing is done in apost-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) "Balchandra L. Jarkiholi& Others. Vs. B.S.

Yeddiyurappa and Others" reported in (2011) 7 SCC 1 Para 146-148 & 154-157 (Supra).

(iii) "D. Sudhakar (2) and Others. Vs. D.N. Jeevaraju and Others" reported in (2012) 2 SCC 708 wherein the Hon'ble Supreme Court in "Para 66 to 78 held as under:

"66. There is no denying the fact that the show-cause notices issued to the appellants were not in conformity with the provisions of Rules 6 and 7 of the Karnataka Legislative Assembly (Disqualification of Members on Ground of Defection) Rules, 1986, inasmuch as, the appellants were not given 7 days‟ time to reply to the show-cause notices as contemplated under Rule 7(3) of the aforesaid Rules. Without replying to the said objection raised, the Speaker avoided the issue by stating that it was sufficient for attracting the provisions of Para 2(2) of the Tenth Schedule to the Constitution that the appellants herein had admitted that they had withdrawn support to the Government led by Shri B.S.

Yeddyurapa. The Speaker further recorded that the appellants had been represented by the counsel who had justified the withdrawal of support to the Government led by Shri Yeddyurappa. Without giving further details, the Speaker observed that the Disqualification Rules had been held by this WP(C) No. 316 of 2020 Page 17 Court to be directory and not mandatory, as they were to be followed for the sake of convenience. The provisions of Rule 7(3) of the Disqualification Rules were held by the High Court to be directory in nature and that deviation from the said Rules could not and did not vitiate that procedure contemplated under the Rules, unless the violation of the procedure is shown to have resulted in prejudice to the appellants.

"67. The Speaker wrongly relied upon the affidavit filed by Shri K.S. Eswarappa, State President of BJP, although there was nothing on record to support the allegations which had been made therein. In fact, the said affidavit had not been served on the appellants. Since Shri K.S. Eswarappa was not a party to the proceedings, the Speaker should have caused service of copies of the same on the appellants to meet the allegations made therein. Coupled with the fact that the Speaker had violated the provisions of Rule 7(3) of the

Disqualification Rules in giving the appellants less than 7 days‟ time to reply to the show-cause notices issued to them, failure of the Speaker to cause service of copies of the affidavit affirmed by Shri K.S. Eswarappa amounted to denial of natural justice to the appellants, besides revealing a partisan attitude in the Speaker‟s approach in disposing of the disqualification application filed by Shri B.S. Yeddyurappa. If the Speaker had wanted to rely on the statements made in the aforesaid affidavit, he should have given the appellants an opportunity of questioning the deponent as to the truth of the statements made in his affidavit. This conduct on the part of the Speaker also indicates the hot haste with which the Speaker disposed of the disqualification application, raising doubts as to the bona fides of the action taken by him.

"68. The explanation given by the Speaker as to why the notices to show cause had been issued to the appellants under Rule 7 of the Disqualification Rules, giving the appellants only 3 days‟ time to respond to the same, is not very convincing. There was no compulsion on the Speaker to decide the disqualification applications in such a great hurry, within the time specified by the Governor for the holding of a vote of confidence in the Government headed by Shri B.S. Yeddyurappa. It would appear that such a course of action was adopted by the Speaker on 10-10-2010, since the vote of confidence on the floor of the House was to be held on 12-10- 2010.

WP(C) No. 316 of 2020 Page 18 "69. We have no hesitation to hold that the Speaker‟s order was in violation of Rules 6 and 7 of the Disqualification Rules and the rules of natural justice and that such violation resulted in prejudice to the appellants. Therefore, we hold that even if Rules 6 and 7 are only directory and not mandatory, the violation of Rules 6 and 7 resulting in violation of the rules of natural justice has vitiated the order of the Speaker and it is liable to be set aside.

"70. We are next faced with the question as the manner in which the disqualification applications were proceeded with and disposed of by the Speaker.

"71. On 6-10-2010, on receipt of identical letters from the appellants withdrawing support to the BJP Government led by Shri B.S. Yeddyurappa, the Governor on the very same day wrote a letter to the Chief Minister informing him of the developments regarding the withdrawal of support of the 5 Independent MLAs and 13 BJP MLAs and requesting him to prove his majority on the floor of the House on or before 12- 10-2010 by 5.00 p.m. The Speaker was also requested to take steps accordingly. On the very same day, Shri B.S. Yeddyurappa, as the leader of the BJP in the Legislative Assembly, filed an application before the Speaker under Rules 6 of the Disqualification Rules, 1986, for a declaration that all the 13 MLAs elected on BJP tickets along with two other Independent MLAs, had incurred disqualification under the Tenth Schedule to the Constitution.

"72. Immediately thereafter, on 7-10-2010, the Speaker issued show-cause notices to the MLAs concerned informing them of the disqualification application filed by Shri B.S. Yeddyurappa and also informing them that by withdrawing support to the Government led by Shri B.S. Yeddturappa they were disqualified from continuing as Members of the House in view of Para 2(1)(a) of the Tenth Schedule to the Constitution. On 7-10-2010 itself, petitions were filed against the appellants by the respondents and the Speaker on 8-10-2010 issued show-cause notices to the appellants. The appellants and the BJP MLAs to whom

show- cause notices were issued were given time till 5.00 p.m. on 10-10-2010 to submit their objection, if any, to the said application.

WP(C) No. 316 of 2020 Page 19 "73. Apart from the fact that the appellants were not given 7 days‟ time to file their reply to the show-cause notices, the High Court did not give serious consideration to the fact that even service of the show-cause notices on the appellants and the 13 MLAs belonging to the Bharatiya Janata Party had not been properly effected. Furthermore, the MLAs who were sought to be disqualified were also not served with copies of the affidavit filed by Shri K.S. Eswarappa, although the Speaker relied heavily on the contents thereof in arriving at the conclusion that they stood disqualified under Paras 2(1)(a)/2(2) of the Tenth Schedule to the Constitution. The MLAs were not supplied with copies of the affidavits filed by Shri. M.P. Renukacharya and Shri Narasimha Nayak, whereby they had retracted the statements which they had made in their letters submitted to the Governors on 6-10- 2010.

"74. What is even more glaring is the fact that the Speaker not only relied upon the contents of the said affidavits, but also dismissed the disqualification application against them on the basis of such retraction, after having held in the case of 13 MLAs belonging to the Bharatiya Janata Party that they had violated the provisions of Para 2(1)(a) of the Tenth Schedule to the Constitution immediately upon their intention to withdraw their support to the Government led by Shri B.S. Yeddyurappa was communicated to the Governor.

"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 judgment, both of Indian courts and foreign courts, and principle 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 WP(C) No. 316 of 2020 Page 20 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."

(iv) "Taranjeet Singh Mohon Singh Sawhney and Others Vs. District Deputy Registrar, Cooperative Societies and Others" reported in (2013) 10 SCC 402wherein the Hon'ble Supreme Court in "Para 12 & 15" held as under:

"12. Shri Mukul Rohatgi, learned Senior Counsel for the appellants argued that the order passed by Respondent 1 is liable to be declared as nullity because he arbitrarily preponed the date of hearing and decided the application of Respondent No. 3 without bothering to find out whether the notice issued to the parties about the charged date had been delivered/served. Shri Rohatgi referred to the English translation of the order-sheets recorded by Respondent 1, xerox copies of communications dated 15-2-2013 sent by the senior Superintendent of Post Offices, Mumbai City (North) to Ms. Pritha Dave, counsel for Respondent 3 and the counter filed on behalf of Respondent 1 before the High Court to show that the notice issued in terms of the direction given by Respondent 1 on 16-5-2012 was not served upon the appellants. The learned Senior Counsel then argued that due to non-service of notice, the appellants could not appear on 21-5-2012 and on that account their cause has been seriously WP(C) No. 316 of 2020 Page 21 prejudiced. Shri Rohatgi then submitted that the absence of the counsel/representatives of all the parties except Respondent 3 on 21-5-2012 should have alerted Respondent 1 that there was something wrong with the service of notice and prompted him to make an enquiry to ascertain whether the notice had been served on all the parties, but the officer concerned deliberately did not take any action in this regard and proceeded to close the matter for orders. Shri Rohatgi argued that the explanation given by Respondent 1 for preponing the date of hearing i.e. fixation of excess number of cases on the particular date i.e. 19-6-2012 should not be accepted because even on 15-5-2012, the officer concerned must have been aware of the fact that he had already fixed large number of cases on 19-6-2012.

"15. By producing xerox copies of the receipt of speed post and two communications dated 15-2-2013 sent by the Senior Superintendent of Post Offices, Mumbai City (North) to Ms Pritha Dave, Respondent 3 has made an attempt to show that the appellants had been informed about the changed date of hearing, but we have not felt convinced. In the first place, the justification offered for preponement of the date of hearing is too weak to be accepted. It is neither the pleaded case of Respondent 1 and 3 nor has it been argued before us that the application filed by Respondent 3 was the only one dealt with by the officer concerned. Rather, the assertion contained in the counter filed by Respondent 1 before the High Court shows that a large number of similar cases were handled by the officer. Therefore, it can be presumed that he was aware of the imperative to decide the application within six months. Notwithstanding this, Respondent 1 fixed a large number of cases on 19-6-2012. Why he did so has not been explained. Why he singled out the application of Respondent 3 for preponing the date of hearing has also not been explained. Therefore, it is reasonable to infer that the action of Respondent 1 to prepone the date of hearing of the application was founded on extraneous reasons and was totally unwarranted and unjustified."

[18] In connection with the third ground regarding the Speaker being motivated by perversity while passing the impugned disqualification order, it has been submitted by the learned senior counsel appearing for the WP(C) No. 316 of 2020 Page 22 petitioner that perversity is the act of deliberate behaviour of unacceptable and unreasonable action. It has been also submitted that the Speaker with a sense of complete lawlessness having a height of surprise have taken a contradictory, different and partisan stand while taking up the

disqualification cases on 18.06.2020 and he had disqualified 3(three) MLAs including the present writ petitioner while rejecting the disqualification cases filed against 4(four) other MLAs, even though all the 7(seven) MLAs were facing disqualification cases on the same issue, same facts and similar pleadings. It is vehemently submitted by the learned senior counsel that it is impermissible to pass two different sets of order on the same facts, issues and pleadings and hence, such act on the part of the Speaker is unreasonable and unfair and thus the same is hit by element of perversity. Mr. HS. Paonam, learned senior Advocate further submitted that the benefit of rejection of disqualification cases in the case of the other 4(four) MLAs must also be extended to the present writ petitioner to uphold the doctrine of beneficial judgment/construction of law and for avoiding any perversity or inconsistency.

[19] In connection with the last ground raised by the writ petitioner regarding violation of Constitutional mandates, it has also been submitted by the learned senior counsel appearing for the writ petitioner that while passing the impugned order dated 18.06.2020 disqualifying the writ petitioner, the Speaker has violated the Constitutional mandate for the following reasons:-

(i) order dated 18.06.2020 passed by this Court in WP(C)

No. 298 of 2020 for keeping in abeyance the announcement of the order reserved in the disqualification cases had been conveniently ignored by the Speaker, which is a violation of the Constitutional mandate;

(ii) the stand of the Speaker made before this Court and as recorded in the order dated 15.06.2020 passed in WP(C) 220 of 2020 about his inability to provide a specific time for disposal of the disqualification cases on the ground that evidence may be required to be adduced, had been ignored by the Speaker, which is violation of the Constitutional mandates.

(iii) by depriving the chance of participating in the hearing and also by relying on the original newspaper and DVD which was never filed in connection with the disqualification cases, the Speaker passed the impugned order dated 18.06.2020 disqualifying the writ petitioner for meeting personal political ends, which is nothing but a deliberate attempt to violate the Constitutional mandates and fairness. The learned senior counsel further submitted that the manner in which a DVD can be relied on as a piece of evidence has been laid down by the Hon'ble Supreme Court in the case of "Anvar P.V. Vs. P.K. Basheer and Others"reported in (2014) 10 SCC 473 "Para 7, 14 & 15".

WP(C) No. 316 of 2020 Page 24 "7. Electronic record produced for the inspection of the court is documentary evidence under Section 3 of the evidence Act, 1872 (hereinafter referred to as "the Evidence Act"). The Evidence Act underwent a major amendment by Act 21 of 2000 [the Information Technology Act, 2000 (hereinafter referred to as "the IT

Act")]. Corresponding amendments were also introduced in the Penal code (45 of 1860), the Bankers Books Evidence Act, 1891, etc. "14. Any documentary evidence by way of an electronic record under the Evidence Act, in view of Section 59 and 65-A, can be proved only in accordance with the procedure prescribed under Section 65-B. Section 65-B deals with the admissibility of the electronic record. The purpose of these provisions is to sanctify secondary evidence in electronic form, generated by a computer. It may be noted that the section starts with a non obstante clause. Thus, notwithstanding anything contained in the Evidence Act, any information contained in an electronic record which is printed on a paper, stored, recorded or copied in optical or magnetic media produced by a computer shall be deemed to be a document only if the conditions mentioned under sub-section (2) are satisfied, without further proof or production of the original. The very admissibility of such a document i.e. electronic record which is called as computer output, depends on the satisfaction of the four conditions under Section 65- B(2). Following are the specified conditions under Section 65- B(2) of the Evidence Act:

(i) the electronic record containing the information should have been produced by the computer during the period over which the same was regularly used to store or process information for the purpose of any activity regularly carried on over that period by the person having lawful control over the use of that computer;

(ii) The information of the kind contained in electronic record or of the kind from which the information is derived was regularly fed into the computer in the ordinary course of the said activity;

(iii) During the material part of the said period, the computer was operating properly and that even if it was not operating properly for some time, the break or WP(C) No. 316 of 2020 Page 25 breaks had not affected either the record or the accuracy of its contents; and

(iv) The information contained in the record should be a reproduction or derivation from the information fed into the computer in the ordinary course of the said activity.

"15. Under Section 65-B(4) of the Evidence Act, if it is desired to give a statement in any proceedings pertaining to an electronic record, it is permissible provided the following conditions are satisfied:

(a) There must be a certificate which identifies the electronic record containing the statement;

(b) The certificate must describe the manner in which the electronic record was produced;

(c) The certificate must furnish the particulars of the device involved in the production of that record;

(d) The certificate must deal with the applicable conditions mentioned under Section 65-B(2) of the Evidence Act; and

(e) The certificate must be signed by a person occupying a responsible official position in relation to the operation of the relevant device".

(iv) Mr. HS. Paonam, learned senior counsel also submitted that in the case of "Quamarum Islam Vs. SK Kanta and Others" reported in 1994 Supple (3) SCC 5 (Para 48 & 49), "Laxmiraj Shetty Vs. State of Tamil Nadu" reported in (1988) 3 SCC 319 (Para 25 and 26) and "All India Anna DravidaMuneetraKazhagam Vs. L.K. Tripathi" reported in (2009) 5

SCC 417 (Para 73 to 75), the Hon'ble Supreme Court has categorically laid down the law for relying on newspaper WP(C) No. 316 of 2020 Page 26 reports wherein the same is held to be required to be proved in terms of Evidence Act.

In the present case, the Speaker has passed the impugned order disqualifying the writ petitioner by relying on the newspaper reports in complete violation of the law laid down by the Hon'ble Supreme Court in the aforesaid cases. Such act of the Speaker amounts to violation of the Constitutional mandates.

Learned senior counsel lastly submitted that in view of the 4(four) grounds submitted hereinabove, the impugned order dated 18.06.2020 as well as the impugned bulletin part-II No. 42 dated 18.06.2020 is liable to be quashed and set aside for the ends of justice. [20] At the outset, Mr. P.S. Narasimha, learned Senior counsel, assisted by Mr. Lenin Hijam, learned Addl. AG, Manipur, appearing for respondents No. 1 & 2 draw the attention of this Court to the following provisions of the Constitution of India:-

"Article 191-Disqualifications for membership:-

"(1) .....

"(2)A person shall be disqualified for being a member of the Legislative Assembly or Legislative Council of a State if he is so disqualified under the Tenth Schedule."

"TENTH SCHEDULE"

" 1. Interpretation.- .....

"2. Disqualification on ground of defection.-(1) Subject to the provisions of Paragraphs 4 and 5, a WP(C) No. 316 of 2020 Page 27 member of a House belonging to any political party shall be disqualified for being a member of the House-

"(a) if he has voluntarily given up his membership of such political party; or "(b) if he votes or abstains from voting in such House contrary to any direction issued by the political party to which he belongs or by any person or authority authorised by it in this behalf, without obtaining, in either case, the prior permission of such political party, person or authority and such voting or abstention has not been condoned by such political party, person or authority within fifteen days from the date of such voting or abstention.

"(2) An elected member of a House who has been elected as such otherwise than as a candidate set up by any political party shall be disqualified for being a member of the House if he joins any political party after such election."

"6. Decision on questions as to disqualification on ground of defection.-

"(1) If any question arises as to whether a member of a House has become subject to disqualification under this Schedule, the question shall be referred for the decision of the Chairman or, as the case may be, the Speaker of such House and his decision shall be final;

Provided that where the question which has arisen is as to whether the Chairman or the Speaker of a House has become subject to such disqualification, the question shall be referred for the decision of such member of the House as the House may elect in this behalf and his decision shall be final.

"(2) All proceedings under sub-paragraph (1) of this paragraph in relation to any question as to disqualification of a member of a House under this Schedule shall be deemed to be

proceedings in Parliament within the meaning of article 122 or, as the case may be, proceedings in the Legislature of a State within the meaning of article 212."

"Article 212. Courts not to inquire into proceedings of the Legislature.-

WP(C) No. 316 of 2020 Page 28 "(1) The validity of any proceedings in the Legislature of a State shall not be called in question on the ground of any alleged irregularity of procedure;

"(2) No officer or member of the Legislature of a State in whom powers are vested by or under this Constitution for regulating procedure or the conduct of business, or for maintaining order, in the Legislature shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers".

[21] Mr. P.S. Narasimha, learned Senior counsel contended that the Constitutional provisions under Para. 6(2) of the Tenth Schedule read with Article 212(1) of the Constitution of India mandated that the validity of any proceedings in the Legislature of a State shall not be called in question on the ground of any alleged irregularity of procedure.

By relying on the Judgments of the Hon'ble Supreme Court and Punjab and Haryana High Court reported in AIR 1960 SC 1186 and 1997 SCC Online P & H 787 respectively, it has been submitted by the learned Senior counsel for the respondents No. 1 & 2 that the validity of the proceedings inside the Legislature of a State cannot be called in question on the allegation that the procedure laid down by the law had not been strictly followed. It has further been averred by the learned Senior counsel that procedural laws like Code of Civil Procedure and the Evidence Act are not applicable to the proceedings before the Speaker as the Speaker is not acting as a Court and that the proceedings before the Speaker cannot be described as judicial proceedings though the power to decide the disputed disqualification is pre-eminently of a judicial complexion. It is, therefore, WP(C) No. 316 of 2020 Page 29 submitted by the learned Senior counsel that in the absence of rules framed under Para. 8 of the Tenth Schedule, it is open to the Speaker to adopt such procedure as he deems fit, proper, expedient and just in the circumstance of any particular case.

[22] It has been submitted that in the present case, the writ petitioner was elected as a member of the 11th Manipur Legislative Assembly in the election held in the month of March, 2017 as a candidate set up by the Indian National Congress (INC). Subsequently, the disqualification case was filed against the present writ petitioner contending, inter-alia, that on 28.04.2017, the present writ petitioner along with three other MLAs of the Indian National Congress voluntarily gave up their membership from the political party of Indian National Congress(INC) and join in the ruling party of Bharatiya Janata Party (BJP) for the purpose of strengthening the coalition government led by the BJP and that the writ petitioner along with the other three MLAs of the INC were facilitated by performing a reception ceremony hosted by the Hon'ble Chief Minister of Manipur, Shri N. Biren Singh. The said reception ceremony was covered by many printed and electronic media and the event was published/reported in the public domain in many newspapers and electronic medias. In the said reports published in many newspapers and electronic medias, it was elaborately mentioned that the present writ petitioner and three other MLAs of the INC voluntarily gave up the membership of their original political party and joinedthe BJP and the photographs and videos of the said reception WP(C) No. 316 of 2020 Page 30 ceremony were also published. Such newspapers and media reports published in the public domain

clearly show the present writ petitioner wearing the apparel meant for BJP and being facilitated by the BJP leaders.

[23] The learned senior counsel appearing for the respondents No. 1 and 2 further submitted that the writ petitioner also participated in many political works and programs organised by the BJP as a member of the BJP along with other members of the BJP in his local areas by identifying himself as a member of the BJP. Photographs of such events have been filed in the disqualification cases. It is accordingly submitted by the learned senior counsel that such action and intention of the present writ petitioner clearly shows that he himself had voluntarily gave up the membership of the original political party of the INC and join to the political party of BJP and accordingly, it is beyond any doubt that the writ petitioner had committed a Constitutional act of defection under Para 2(1)(a) of the Tenth Schedule to the Constitution of India and as such, the writ petitioner is liable to be disqualified for being a member of the 11thManipur Legislative Assembly. [24] It is also submitted by the learned senior counsel appearing for the respondents No. 1 and 2 that in the written statement filed by the writ petitioner in connection with the aforesaid three disqualification cases as well as in the pleadings of the present writ petition, the writ petitioner never specifically deny the allegation that he along with three other INC MLAs were facilitated by performing a reception ceremony on 28.04.2017 for the WP(C) No. 316 of 2020 Page 31 act of their voluntarily giving up their membership of the INC and joining the BJP and also the factum of publication of such events in many printed and electronic media. The writ petitioner had merely made a general denial by stating that newspaper reports cannot be relied as it is not trustworthy and that the newspaper and media report cannot be the basis to initiate disqualification proceedings against him. It has been, accordingly, submitted that in the absence of any specific denial to the allegations made against the writ petitioner in the disqualification petitions, the Speaker was absolutely right in disqualifying the present writ petitioner as there were adequate materials before the Speaker to infer that the writ petitioner had voluntarily given up his membership of the INC.

[25] The learned senior counsel appearing for the respondents No. 1 and 2 relied on the judgment rendered by the Hon'ble Supreme Court in the following cases:-

(1) "Ravi S. Naik Vs. Union of India and Others" reported in 1994 Supp. (2) SCC 641 (Para 24 & 25):-

"24. It is no doubt true that under Rule 7(30)(b) of the Disqualification Rules, it has been provided that the members concerned can forward their comments in writing on the petitions within seven days of the receipt of the copies of the petition and the annexures thereto and in the instant case the appellants were given only two days‟ time for submitting their replies. The appellants, however, did submit their replies to the petitions within the said period and the said replies were quite detailed. Having regard to the fact that there was no denial by the appellants of the allegation in paragraph 11 of the petitions about their having met the Governor on December 10, 1990 in the company of Dr. Barbosa and Dr. Wilfred D‟Souza and other Congress (I) MLAs and the only WP(C) No. 316 of 2020 Page 32 dispute was whether from the said conduct of the appellants an inference could be drawn that the appellants had voluntarily given up their leadership (six membership) of the MGP, it cannot be said that the insufficient time given for submitting the reply has resulted in

denial of adequate opportunity to the appellants to controvert the allegations contained in the petitions seeking disqualification of the appellants.

"25. As regards the reference to the newspapers in the impugned order passed by the Speaker it appears that the Speaker, in his order, has only referred to the photographs as printed in the newspapers showing the appellants with Congress (I) MLAs and Dr. Barbosa, etc. when they had met the Governor with Dr. Wilfred D"Souza who had taken them to show that he had the support of 20 MLAs. The High Court has rightly pointed out that the Speaker, in referring to the photographs was drawing an inference about a fact which had not been denied by the appellants themselves, viz., that they had met Governor along with Dr. Wilfred D"Souza and Dr. Barbosa on December 10, 1990 in the company of Congress (I) MLAs, etc. The talk between the Speaker and the Governor also refers to the same fact. In view of the absence of a denial by the appellants of the averment that they had met the Governor on December 10, 1990 accompanied by Dr. Barbosa and Dr. Wilfred D"Souza and Congress MLAs the controversy was confined to the question whether from the said conduct of the appellants an inference could be drawn that they had voluntarily given up the membership of the MGP. The reference to the newspaper reports and to the talk which Speaker had with the Governor, in the impugned order of disqualification does not, in these circumstances, introduce an infirmity which would vitiate the said order as being passed in violation of the principles of natural justice.

(2) "Jagjit Singh Vs. State of Haryana and Others" reported in (2006) 11 SCC 1 (Para 14) :-

"14. At the outset, we may mention that while considering the plea of violation of principles of natural justice, it is necessary to bear in mind that the proceedings under the Tenth Schedule are not comparable to either a trial in a court of law or departmental proceedings for disciplinary action against an employee. But the proceedings here are against an WP(C) No. 316 of 2020 Page 33 elected representative of the people and the judge holds the independent high office of a Speaker. The scope of judicial review in respect of proceedings before such Tribunal is limited. We may hasten to add that howsoever limited may be the field of judicial review, the principles of natural justice have to be complied with and in their absence, the orders would stand vitiated. The yardstick to judge the grievance that reasonable opportunity has not been afforded would, however, be different. Further, if the view taken by the Tribunal is a reasonable one, the Court would decline to strike down an order on the ground that another view is more reasonable. The Tribunal can draw an inference from the conduct of a Member, of course, depending upon the facts of the case and totality of the circumstances."

[26] In connection with the first ground raised on behalf of the writ petitioner regarding violation of Principle of Natural Justice, it is submitted by the learned senior counsel appearing for the respondents No. 1 and 2 that instead of filing written statement to the disqualification petitions, miscellaneous applications were filed in all the pending disqualification cases raising preliminary issues about the maintainability of the disqualification cases. After hearing the parties in the said disqualification cases, all the miscellaneous cases raising preliminary issues about the maintainability of the disqualification cases were rejected by the Speaker by a common order dated 06.06.2020. Only after disposal of the said miscellaneous cases, the present writ petitioner filed a written statement only on 12.06.2020. The disqualification cases which were earlier fixed on

17.06.2020 was postponed to 22.06.2020 as the Speaker was unwell. However, due to the improvement of the health condition of the Speaker, thedate for hearing of the disqualification cases were preponed to WP(C) No. 316 of 2020 Page 34 18.06.2020 from 22.06.2020 by issuing a notice dated 17.06.2020. It has been submitted that the preponement of the hearing of the disqualification case was done due to the improvement of the health condition of the Speaker and the Speaker's desire to dispose of the pending disqualification cases expeditiously in view of the direction given by the Hon'ble Supreme Court under the judgment dated 21.01.2020 passed in Civil Appeal No. 547 of 2020 directing the Speaker to dispose of the pending cases within 4(four) weeks.

[27] It is also contended by the learned senior counsel for the respondents No. 1 and 2 that the notice dated 17.06.2020 for preponing the hearing of the disqualification case was served to one of the counsel, viz., Mr. S. Gunabanta Meitei, learned counsel representing all the 7 (seven) MLAs including the present writ petitioner against whom disqualification petitions were pending, through his Whatsapp number in view of the urgency of the case and also in view of the fact that service of notice through Whatsapp is a permissible mode of service before the Supreme Court and various High Court in view of the COVID-19 Pandemic related restrictions.

[28] It is also contended that receiving of the said notice dated 17.06.2020 by Mr. S. Gunabanta Meitei, the counsel of the writ petitioner, through his Whatsapp number is on record. Moreover, the factum of receiving such notice by Mr. S. Gunabanta Meiteion 17.06.2020 is clearly revealed from the fact that the said notice dated 17.06.2020 was WP(C) No. 316 of 2020 Page 35 challenged by the same counsel who received the said notice by filing WP(C) No. 298 of 2020 before this Court on 18.06.2020 on behalf of one of the MLAs against whom disqualification case was pending. [29] It is further contended that the said WP(C) No. 298 of 2020 was moved as an unlisted item before this Court on 18.06.2020 and this Court passed interim order on the same day restraining the Speaker from pronouncing the order/judgment in the disqualification cases. The operative portion of the said order are as under:-

"1. The instant writ petition is taken up for consideration today on mentioning being allowed by Hon‟ble the chief Justice in view of the urgency involved in the matter. The validity and correctness of the Notice dated 17-06-2020 and the Cause List dated 18-06-2020 (wrongly typed as 17-06- 2020) are under challenge in this writ petition.

"2. It has been submitted by Mr. H.S. Paonam, learned Senior Advocate that the manner in which the Notice dated 17-06-2020 has been issued, is unfair, unreasonable and illegal for the reason that on 06-06-2020, an order was issued by the Speaker Tribunal informing that the petitions for disqualification would be listed on 17-06-2020 but on 16-06- 2020, a notice was issued informing that the said petitions would be taken up on 22-06-2020 for further proceedings on the ground that the Hon‟ble Speaker was indisposed/unwell. It has further been submitted by him that in the late night of 17- 06-2020, i.e. yesterday, a message was received by some of the counsels through their WhatApp that the said petition were rescheduled on 18-06-2020, although copies thereof were not officially received by some of the counsels through their Whatsapp that the said petitions were reschedules on 18-06-2020, were not disclosed in the said notice. In view of the above submissions, it has been prayed that the Notice dated 17-06-2020 and the Cause List dated 18-06-2020 be quashed and set aside. .....

"6. In view of the above, let notice be issued to the respondents returnable on 19-06-2020 i.e., tomorrow and WP(C) No. 316 of 2020 Page 36 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....." [30] It has been submitted on behalf of the respondents No. 1 and 2 that despite receiving the notice dated 17.06.2020 for preponing of the hearing of the disqualification cases from 22.06.2020 to 18.06.2020 and despite having knowledge about the disqualification case being taken up for hearing on 18.06.2020 at 1.00 p.m, the writ petitioner and his counsel choose not to appear before the Speaker. Accordingly, the said disqualification casehad been heard and disposed of by the Speaker in their absence. In view of such facts and circumstances, the contentions advanced on behalf of the writ petitioner that he was not been given any opportunity of being heard and that the impugned order dated 18.06.2020 had been passed in violation of the Principles of Natural Justice is completely false, baseless and not sustainable in the eye of law and accordingly, the same deserves to be rejected.

[31] Mr. N. Ibotombi, learned Senior Advocate, appearing for the respondent No. 3 contended that in the pleadings of the said disqualification case precise and categorical statements had been made about the conduct of the writ petitioner and the events showingthe writ petitioner voluntarily giving up his membership of the Indian National WP(C) No. 316 of 2020 Page 37 Congress (INC) and joining the BJP,supported by reports published in the public domains by various printed and electronic media. The numerous documents including newspapers, photographs, DVDs, etc.,clearly shows the reception program being held by the BJP facilitating the writ petitioner and three others for voluntarily giving up their original political party, i.e., INC and joining the BJP and also other events wherein the writ petitioner participated in the political programs being held by the BJP. However in the written statement filed by the writ petitioner as well as in the pleadings of the present writ petition, the writ petitioner has not specifically denied the fact that he joined the BJP on 28-4-2017 and he has also not denied specifically the existence of the newspapers as well as the authenticity of the news reports contain therein. It has also been averred by the learned Senior counsel that till to-day, the writ petitioner has never denied, condemned or clarified, in public domain or before the Speaker, the news report about his voluntarily giving up his original political party and joining BJP. It has further been submitted by the learned Senior Advocate that in his said written statement, the writ petitioner merely gave a general denial by contending that newspaper report cannot be relied as it is not trustworthy and that disqualification proceedings under Para 2(1)(a) of the Tenth Schedule of the Constitution of India cannot be taken up against him on the basis of the newspaper report clippings.

[32] It has also been submitted that the Speaker took up all the disqualification cases jointly and after taking into consideration all the WP(C) No. 316 of 2020 Page 38 pleadings and materials placed before him, particularly the undisputed fact about the writ petitionerbeing facilitated by the BJP on 28.04.2017 by holding a reception program on his voluntarily giving up the membership of the INC and joining the BJP and the existence of the newspaper reports and DVD containing the ISTV News and video clippings of the said

reception program held by the BJP on 28.04.2017, the Speaker passed the impugned order dated 18.06.2000 disqualifying the petitioner from being a member of the Manipur Legislative Assembly. The learned senior counsel strenuously submitted that there is absolutely no ground for interfering with the said impugned order passed by the Speaker.

[33] Countering the submissions made on behalf of the writ petitioner in connection with the ground of perversity, Mr. N. Ibotombi, learned Senior counsel submitted that separate writ petitions were filed in this High Court challenging the orders passed by the Speaker rejecting the disqualification cases filed against the other MLAs and praying for disqualifying them. However, during the pendency of the said writ petitions, the MLAs against whom disqualification cases were pending resigned from being a member of the Manipur Legislative Assembly and thereafter, by-election in respect of the constituencies vacated by the said MLAs had been held. In view of the above, the said writ petitions were disposed of as infructuous without deciding on the merit of the cases.

The learned Senior counsel appearing for the respondent No. 3 submitted that on the basis of undisputed material facts showing the WP(C) No. 316 of 2020 Page 39 factum of the writ petitioner voluntarily giving up his membership of the INC and joining the BJP, the writ petitioner had been disqualified by the Speaker under Para 2(1)(a) of the Tenth Schedule of the Constitution of India. As the facts and circumstances in respect of the other MLAs, who have not been disqualified by the Speaker, are similarly situated with the case of the present writ petitioner, they are also liable to be disqualified for being a member of the Manipur Legislative Assembly as they have also voluntarily given up their membership of their original political party. Accordingly, the submissions advanced on behalf of the writ petitioner that the benefit of rejection of disqualification cases in the case of other MLAs must also be extended to the present writ petitioner is without any merit and thus deserves an outright rejection.

[34] Mr. N. Ibotombi, learned Senior Advocate placed reliance in the judgments of the Hon'ble Supreme Court rendered in the case of "Ravi S Nayak Vs. Union of India & Others" reported in AIR 1994 SC 1558 (Para 18-20 & 24-29), "G. Vishwanathan Vs. The Speaker Tamil Nadu Legislative Assembly" reported in AIR 1996 SC 1060 (Para 7, 10-13),"Manchandra Prasad Vs. Chairman Bihar Legislative Council" reported in AIR 2005 SC 69 (Para 7, 11, 15, 16 & 19), "Jagjit Singh Vs. State of Haryana & Others" reported in AIR 2007 SC 590 (Para 3, 13, 14, 22-24, 26, 28-29, 34, 35, 37, 38, 42-44, 48-49, 51-52, 80-86), "Rejendra Singh Rana Vs. Swami Prasad Maurya & Others" reported in AIR 2007 SC 1305 (Para 11, 22, 25, 34, 35, 40-42, 44, 45, 48, 49-53),"K. Venkatachalam Vs. A. Swamickan& WP(C) No. 316 of 2020 Page 40 Another"reported in (1999) 4 SCC 526 (Para 4 & 29), "Speaker Orissa Vs. Utkal Parida" reported in AIR 2013 SC 1181 (Para 16), "Konda Murlidhar Rao Vs. Dr. A Chakrapan" reported in AIR 2013 Andra Pradesh 65 (Para 8(6), 9, 13, 14-17, 20, 22, 27-33), order dated 21.03.2013 passed in SLP (C) No. 10377/2013 and "Shailesh Manu Bh Parmar Vs. Election Commission of India" reported in AIR 2018 SC 3918 (Para 23). [35] Before considering the rival submissions advanced by the counsel appearing for the parties, we may refer to some of the judgment rendered by the Hon'ble Supreme Court which may be applicable in the facts and circumstances of the present case.

The introduction of Tenth Schedule by amending Articles 102 and 199 of the Constitution under the Constitution (Fifty-second Amendment) Act 1985, the provisions of the Tenth Schedule and the Constitutional validity of the provisions contain in the Tenth Schedule had been explained elaborately by the Hon'ble Apex Court in the case of "Ravi S. Naik Vs. Union of India and Others" reported in 1994 Supp. (2) SCC 641 and also in the case of "Rajendra Singh Prasad and Others Vs. Swami Prasad Maurya and Others" reported in AIR 2007 SC 1305. The aforesaid judgments were referred to and followed in many other Supreme Court judgments. The relevant portions of the said judgments are reproduced hereunder for easy reference:-

WP(C) No. 316 of 2020 Page 41 In the case of "Ravi S. Naik Vs. Union of India and Others" reported in 1994 Supp. (2) SCC 641 (Supra), the Hon'ble Apex Court held at paragraphs 7 to 9 as under:-

"7. ..... The Tenth Schedule was introduced in the Constitution by the Constitution (Fifty-second Amendment) Act, 1985. As stated in the Statement of Objects and Reasons, the said amendment was introduced to combat the evil of political defections. It has been stated:

"The evil of political defections has been a matter of national concern. If it is not combated, it is likely to undermine the very foundations of our democracy and the principles which sustain it. With this object, an assurance was given in the Address by the President to Parliament that the Government intended to introduce in the current session of Parliament an anti-defection Bill. This Bill is meant for outlawing defection and fulfilling the above assurance."

"8. The provisions of the Tenth Schedule apply to members of either House of Parliament or the State Legislative Assembly or, as the case may be, either House of the Legislature of a State. Paragraph 2 of the Tenth Schedule makes provision for disqualification on the ground of defection. Sub-paragraph (I) deals with a member belonging to a political party. It provides for disqualification in two situations, viz., (i) if he has voluntarily given up his membership of such political party; and (ii) if he votes or abstains from voting in such House contrary to any direction issued by the political party to which he belongs or by any person or authority authorised by it in this behalf, without obtaining, in either case, the prior permission of such political party, person or authority , and such voting or abstention has not been condoned by such political party, person or authority within fifteen days from the date of such voting or abstention.

Paragraph 3 removes the bar of disqualification in case of split in a political party provided the group representing a faction which has arisen as a result of split consists of not less than one-third of the members of such legislature party. Paragraph 4 removes the bar of disqualification on the ground of defection in a case of merger of a political party with another political party. In sub-paragraph (1) of paragraph 6 the WP(C) No. 316 of 2020 Page 42 question as to whether a member of a House has become subject to disqualification under the Schedule is required to be referred for the decision of the Chairman or, as the case may be, the Speaker of such House and his decision shall be final. Under sub-paragraph (2) of paragraph 6, all proceedings under sub-paragraph (1) of paragraph 6 in relation to any question as to disqualification of a member of a House under the Schedule are to be deemed to be proceedings in Parliament within the meaning of Article 122 or, as

the case may be, proceedings in the Legislature of a State within the meaning of Article 212. Paragraph 7 bars the jurisdictions of all courts in respect of any matter connected with the disqualification of a member of a House under the Schedule. Paragraph 8 empowers the Chairman or the Speaker of a House to make rules for giving effect to the provisions of the Schedule and such rules may provide for matters specified in clauses (a) to (d) of sub-paragraph (1).

"9. The constitutional validity of the provisions contained in the Tenth Schedule came up for consideration before a Constitution Bench of this Court in KihotoHollohan v. Zachillhu. The Court was unanimous in holding that Paragraph 7 completely excludes jurisdiction of all courts including the Supreme Court under Article 136 and High courts under Articles 226 and 227 in respect of any matter connected with the disqualification of the member of a House and the Bill introducing the said amendment required ratification by the State Legislatures under the proviso to Article 368(2) of the Constitution and that no such ratification was obtained for the Bill. There was, however, difference of opinion on the effect of such non-ratification of the Bill. The majority view was that paragraph 7 alone attracts the proviso to Article 368 and the rest of the provisions of the Bill do not require such ratification and since paragraph 7 is severable from the rest of the provisions, paragraph 7 only was unconstitutional and that the rest of the provisions of the Tenth Schedule cannot be struck down as unconstitutional on the ground that the Bill had not been ratified by one-half of the State Legislatures before it was presented to the President for his assent. The minority view, however, was that the entire Bill required prior ratification by State Legislatures without which the assent of the President became non est and that the question of severability of paragraph 7 from the rest of the provisions does not arise and further that paragraph 7 was not severable from the rest of the provisions of the Bill. Since the WP(C) No. 316 of 2020 Page 43 validity of the rest of the provisions, excluding paragraph 7, have been upheld by the majority, the provisions of paragraph 6 have been construed in the majority judgment and it has been held: (SCC pp. 711-712, para 111) "That the Tenth Schedule does not, in providing for an additional grant (sic ground) for disqualification and for adjudication of disputed disqualifications, seek to create a non-judiciable constitutional area. The power to resolve such disputes vested in the Speaker or Chairman is a judicial power.

That paragraph 6(1) of the Tenth Schedule to the extent it seeks to impart finality to the decision of the Speakers/Chairmen is valid. But the concept of statutory finality embodied in paragraph 6(1) does not detract from or abrogate judicial review under Articles 136, 226 and 227 of the Constitution insofar as infirmities based on violation of constitutional mandates, mala fides, non-compliance with Rules of Natural Justice and perversity, are concerned.

That the deeming provision in paragraph 6(2) of the Tenth Schedule attracts an immunity analogous to that in Articles 122(1) and 212(1) of the Constitution as understood and explained in Keshav Singh case to protect the validity of proceedings from mere irregularities of procedure. The deeming provision, having regard to the words „be deemed to be proceedings in Parliament" or „proceedings in the Legislature of a State" confines the scope of the fiction accordingly.

The Speakers/Chairmen while exercising powers and discharging functions under the Tenth Schedule act as Tribunal adjudicating rights and obligations under the Tenth Schedule and their decisions in that capacity are amenable to judicial review.

However, having regard to the Constitutional Schedule in the Tenth Schedule, judicial review should not cover any stage prior to the making of a decision by the Speakers/Chairmen. Having regard to the constitutional intendment and the status of the repository of the adjudicatory power, no WP(C) No. 316 of 2020 Page 44 quiatimetactions are permissible, the only exception for any interlocutory interference being cases of interlocutory disqualifications or suspensions which may have grave, immediate and irreversible repercussions and consequence."

In the case of "Rajendra Singh Prasad and Others Vs. Swami Prasad Maurya and Others" reported in AIR 2007 SC 1305, (Supra), the Hon'ble Apex Court held at Paragraphs 22 as under:-

"22. The Constitution (Fifty-Second Amendment) Act, 1985 amended Article 102 and 191 of the Constitution by introducing sub-articles to them and by appending the Tenth Schedule introducing the provisions as to disqualification on the ground of defection. They were introduced to meet the threat posed to democracy by defection. A ground of disqualification from the membership of the Parliament or of the Assembly on the ground of defection was introduced. The constitutional validity of the amendment and the inclusion of the Tenth Schedule was upheld by this court in KihotoHollohan (supra) except as regards paragraph 7 thereof, which was held to require ratification in terms of Article 368(2) of the Constitution. It is not in dispute that paragraph 7 of the Tenth Schedule is not operative in the light of that decision. The constitution Bench held that the right to decide has been conferred on a high dignitary, namely, the Speaker of the Parliament or the Assembly and the conferment of such a power was not anathema to the constitutional scheme. Similarly, the limited protection given to the proceedings before the Speaker in terms of paragraph 6 of the Tenth Schedule to the Constitution was also justified even though the said protection did not preclude a judicial review of the decision of the Speaker. But that judicial review was not a broad one in the light of the finality attached to the decision of the Speaker under paragraph 6(1) of the Tenth Schedule and the judicial review was available on grounds like gross violation of natural justice, perversity, bias and such like defects. It was following this that the Ravi S. Naik (supra) decision was rendered by two of the Judges who themselves constituted the majority in KihotoHollohan (supra) and the observations above-referred to but which were explained subsequently, were made. Suffice it to say that the decision of the Speaker rendered on 6.9.2003 was not immune from WP(C) No. 316 of 2020 Page 45 challenge before the High Court under Articles 226 and 227 of the Constitution of India."

[36] Inthecase of "Ravi S. Naik Vs. Union of India and Others" reported in 1994 Supp. (2) SCC 641 (Supra), the Hon'ble Supreme Court has held at Para 11 of the judgment that the words "voluntarily given up his membership" are not synonymous with "resignation" and have a wider connotation. A person may voluntarily give up his membership of a political party even though he has not tendered his resignation from the membership of that party. Even in the absence of a formal resignation from membership an inference can be drawn from the conduct of a member that he has voluntarily given up his membership of the

political party to which he belongs. The Hon'ble Apex Court further held at Para 25 of the judgment as under:-

"25. As regards the reference to the newspapers in the impugned order passed by the Speaker it appears that the Speaker, in his order, has only referred to the photographs as printed in the newspapers showing the appellants with Congress (I) MLAs and Dr. Barbosa, etc. when they had met the Governor with Dr. Wilfred D‟Souza who had taken them to show that he had the support of 20 MLAs. The High Court has rightly pointed out that the Speaker, in referring to the photographs was drawing an inference about a fact which had not been denied by the appellants themselves, viz., that they had met the Governor along with Dr. Wilfred D‟Souza and Dr. Barbosa on December 10, 1990 in the company of Congress (I) MLAs, etc. The talk between the Speaker and the Governor also refers to the same fact. In view of the absence of a denial by the appellants of the averment that they had met the Governor on December 10, 1990 accompanied by Dr. Barbosa and Dr. Wilfred D‟Souza and Congress MLAs the controversy was confined to the question whether from the said conduct of the appellants an inference could be drawn that they had voluntarily given up the membership of the WP(C) No. 316 of 2020 Page 46 MGP. The reference to the newspaper reports and to the talk which Speaker had with the Governor, in the impugned order of disqualification does not, in these circumstances, introduce an infirmity which would vitiate the said order as being passed in violation of the principles of natural justice."

[37] In the case of"Rajendra Singh Prasad and Others Vs. Swami Prasad Maurya and Others" reported in AIR 2007 SC 1305, (Supra), the Hon'ble Supreme Court after taking into consideration the facts and circumstances of that case held in Para 49 as under:-

"49. Clearly, from the conduct of meeting the Governor accompanied by the General Secretary of the Samajwadi Party, the party in opposition and the submission of letters requesting the Governor to invite the leader of that opposition party to form a Government as against the advise of the Chief Minister belonging to their original party to dissolve the Assembly, an irresistible inference arises that the 13 members have clearly given up their membership of the BSP. No further evidence or enquiry is needed to find that their action comes within paragraph 2(1)(a) of the Tenth Schedule".

[38] In the case of "Jagjit Singh Vs. State of Haryana and Others reported in (2006) 11 SCC 1", it has been held by the Hon'ble Apex Court that the proceedings under the Tenth Schedule are not comparable to either a trial in a Court of law or departmental proceedings for disciplinary action against an employee and that such proceedings are against an elected representative of the people and Judge holds the independent high office of a Speaker and that scope of judicial review in respect of proceedings before such Tribunal is limited. The Hon'ble Apex Court further held in Para 29 of the judgment as under:-

WP(C) No. 316 of 2020 Page 47 "29. It is also essential to bear in mind the objects for enacting the defection law also, namely to curb the menace of defection. Despite defection a Member cannot be permitted to get away with it without facing the consequences of such defection only because of mere technicalities. The substance and spirit of law is the guiding factor to decide whether an elected independent Member has joined or not a political party after his election. It would not be a valid plea for a person who may have otherwise joined

a political party to contend that he has not filled up the requisite membership form necessary to join a political party or has not paid requisite fee for such membership. The completion of such formalities would be inconsequential if facts otherwise show that the independent Member has joined a political party. The facts of the four cases of independent elected Members are required to be examined in the light of these principles".

[39] Keeping in view the law laid down by the Hon'ble Apex Court, we are examining the legality and sustainability of the impugned order dated 18.06.2020 passed by the Speaker as well as the impugned bulletin on the basis of rival contentions made on behalf of the parties. [40] In the present case, specific allegations were made against the writ petitioner in the Disqualification Case that on 28.04.2017 the petitioner along with 3(three) other MLAs of the Indian National Congress (INC) voluntarily gave up their membership of their original political party of Indian National Congress (INC) and joined the ruling party of Bharatiya Janata Party (BJP) for the purpose of strengthening the coalition Government led by the BJP. It was also specifically alleged that a reception ceremony was held by the BJP hosted by the Hon'ble Chief Minister of Manipur, Shri N. Biren Singh, on 28.04.2017 to facilitate the writ petitioner and 3(three) other INC MLAs for their voluntarily giving up membership of WP(C) No. 316 of 2020 Page 48 INC and joining the BJP. The event of the writ petitioner and 3(three) other INC MLAs voluntarily giving up their membership of INC and joining BJP and the reception function held by the BJP to facilitate the writ petitioner and 3(three) other INC MLAs for their joining BJP was covered by many printed and electronic media and the same was published in the public domain. It was also alleged that such newspaper and media reports published in the public domain clearly show the present writ petitioner and 3(three) others INC MLAs wearing the apparel meant for BJP and being facilitated by the BJP leaders. In the Disqualification Cases, it was further alleged that the writ petitioner also participated in many political works and programs organised by the BJP as a member of the BJP along with other members of the BJP in his local areas by identifying himself as a member of the BJP. In support of such allegations, copies of newspapers, photographs and videos were filed along with the Disqualification Cases. [41] In the written statement filed by the writ petitioner in connection with the Disqualification Cases, the writ petitioner never specifically deny the allegations that a reception program was held on 28.04.2017 by the BJP hosted by the Hon'ble Chief Minister of Manipur and facilitate the writ petitioner and 3(three) other INC MLAs for the act of their voluntarily giving up their membership of the INC and joining the BJP.The writ petitioner also did not deny the authenticity of the news reported in many printed and electronic media as well as the existence of the newspapers reporting such news and also the existence of the photographs and videos showing the WP(C) No. 316 of 2020 Page 49 writ petitioner participating in the said reception programs and other events organised by the BJP. The writ petitioner merely made a general denial by stating that newspaper and media reports cannot be relied as it is not trustworthy and that the disqualification proceedings under Para 2(1)(a) of the Tenth Schedule of the Constitution of India cannot be taken against him on the basis of the newspaper report/clippings.

[42] 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.

WP(C) No. 316 of 2020 Page 50 [43] 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 casesespecially 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.

[44] On examination of the records of the Disqualification cases which were placed before us, we found that the Disqualification Case was filed on 08.11.2018 and notice was issued on 10.07.2019. The present writ petitioner entered appearance through his counsel on 24.07.2019 by filing Vakalatnama. 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.

WP(C) No. 316 of 2020 Page 51 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.

[45] 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.

WP(C) No. 316 of 2020 Page 52 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. [46] Considering the above facts, we are satisfied that ample opportunities have been given to the writ petitioner for defending himself in the disqualification cases filed against him and we cannot agree with the submissions advanced on his behalf that the impugned order had been passed in violation of the Principles of Natural Justice. [47] In view of our findings given hereinabove about the availability of undisputed and abundant materials before the Speaker to draw an inference that the writ petitioner had voluntarily given up his membership of the INC and joined BJP, and also about giving ample opportunity to the writ petitioner for defending himself in the disqualification cases including giving of notice about the hearing of the disqualification cases on 18.06.2020, we are of the considered view that there is no valid ground to substantiate the allegations of malafide, as raised by the counsel for the petitioner, in the conduct of the Speaker while passing the impugned disqualification order. We are also of the considered view that the decisions of the Hon'ble Apex Court cited by the learned Senior counsel for the writ petitioner in support of his contentions has no application to the facts and circumstances of the present case.

WP(C) No. 316 of 2020 Page 53 [48] We cannot also agree with the grounds of perversity raised by the learned Senior counsel for the writ petitioner for the simple reason that the Speaker passed the impugned disqualification order after taking into consideration all the pleadings, newspaper reports, the photographs and DVDs filed in connection with the disqualification cases. While passing the said impugned disqualification order, the Speaker 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. The writ petitioner failed to deny the existence and the authenticity of the said newspapers and there was also no denial of the reports made therein. Accordingly, an inference was rightly drawn by the Speaker that the writ petitioner had voluntarily given up his membership of the Indian National Congress Party and we are also of the opinion that the action of the Speaker in drawing such inference on the basis of the conduct of the writ petitioner cannot be found fault with in the light of the law laid down by the Hon'ble Supreme Court referred to hereinabove. In the facts and circumstances of the present case, it appears to us that the conduct of the writ petitioner has very much established that he has voluntarily given up his membership of the Indian National Congress Party and we accordingly, declined to interfere with the impugned disqualification order on the ground of perversity. [49] With regard to the contentions of violation of constitutional mandate while passing the impugned disqualification order, it is to be pointed out WP(C) No. 316 of 2020 Page 54 that in compliance with the interim order dated 18.06.2020 passed by this Court in W.P.(C) No. 298 of 2020, the Speaker did not announce the order in the disqualification case in respect of the petitioner who filed the said writ petition. Accordingly, it is not correct to contend that the Speaker ignored the Interim order dated 18.06.2020 passed by this Court in W.P.(C) No. 298 of 2020 and announced the order in the disqualification cases.In view of the above, there is no case of violation of constitutional mandate while passing the impugned disqualification order.

[50] In the absence of denial by the writ petitioner of the existence and authenticity of the newspapers and as there is also no denial of the reports made in the newspapers about the factum of the writ petitioner participating in the reception ceremony organised by the BJP and being facilitated by the BJP leaders on his voluntarily giving up the membership of the Indian National Congress Party and joining the BJP, the question of admissibility of the reports contain in the newspapers as a piece of evidence has virtually lost its relevance. Accordingly, we are also of the considered view that the judgment of the Hon'ble Apex Court cited by the learned Senior counsel for the petitioner has also no application in the facts and circumstances of the present case.

[51] In the totality of the facts and circumstances of the present case, we are of the opinion that the Speaker has rightly passed the impugned order taking into consideration the conduct of the writ petitioner about which there was no denial by the writ petitioner.

WP(C) No. 316 of 2020 Page 55 [52] In view of the ongoing discussion and findings, we are of the opinion that the orders of the Speaker are in accordance with the provisions of Tenth Schedule of the Constitution of India and do not called for any interference by this Court in exercise of the power of judicial review under Article 226 of the Constitution of India.

The writ petition, therefore, fails and is accordingly dismissed. There will be no order as to costs.

JUDGE JUDGE

FR/NFR

Lhaineichong