

NATIONAL

Jayalalithaa cannot contest polls for 10 years

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Cannot contest 2016 Assembly elections

The AIADMK chief, Ms. Jayalalithaa, who stands disqualified as an MLA forthwith because of her conviction and four-year sentence of imprisonment in the Rs. 66.65 crore disproportionate assets case, cannot contest elections for 10 years including 2016 Assembly polls, unless her conviction is also stayed besides stay of sentence.

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year declaring unconstitutional the protection of three months given to M.L.A.s in office to prefer an appeal and get a stay in the higher court and continue in office.

As per Section 8 of the Representation of the People Act, 1951, a person who is convicted and sentenced to jail even for a day under any provision of the Prevention of Corruption Act stands disqualified to contest any election for a period of six years from the date of such conviction and sentence of imprisonment. This would mean that as of now she cannot contest polls for 10 years.

Though Ms. Jayalalithaa was initially convicted and sentenced to undergo three years imprisonment in the TANSI case (relating to purchase of government property), she was later acquitted by the higher courts. But during pendency of appeal, the High Court refused to stay the conviction. She was initially convicted in the case relating to relaxation of rules to benefit the Pleasant Stay Hotel at Kodaikanal but was acquitted by the higher courts; purchase of coal by the Tamil Nadu Electricity Board (TNEB) and purchase of colour television sets for community viewing in villages. In the “Meena Advertisers”, “granite quarrying lease” and “Immunity Scheme” cases, no charge sheet was filed. She is also facing the income tax case in a Chennai court and case of receipt of three lakhs US dollars as gift is pending in the Supreme Court.

The DA case is one of the longest and hardest fought legal battles. Since the case was filed in 1996, Ms. Jayalalithaa and other accused had filed over 1,000 applications/petitions and appeals in various courts resulting in inordinate delay in the disposal of the case.

Ms. Jayalalithaa would be unable to contest in the 2016 Assembly elections in the State unless her sentence and conviction are stayed. However since this is a Prevention of Corruption Act case, the possibility of the higher courts staying her conviction is remote considering the law laid down by the Supreme Court in the case of ‘K.C. Sareen vs CBI’.

In August 2001, a Bench headed by Justice K.T. Thomas had made it clear that “when conviction is on a corruption charge against a public servant, the appellate court or the revisional court should not suspend the order of conviction during the pendency of the appeal even if the sentence of imprisonment is suspended.”

The apex court had said “It would be a sublime public policy that the convicted public servant is kept under disability of the conviction in spite of keeping the sentence of imprisonment in abeyance till the disposal of the appeal or revision. Though the power to suspend an order of conviction, apart from the order of sentence, is not alien to Section 389(1) of the Cr. P.C., its exercise should be limited to very exceptional cases. Merely because the convicted person files an appeal in challenge of the conviction the court should not suspend the operation of the order of conviction.” As a result she would not be in a position to contest elections in the near future.

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