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W.M.P.No.2933 of 2025 in W.P.No.258 of 2025,
W.M.P.No.2872 of 2025 in W.P.No.265 of 2025,
W.M.P.No.4877 of 2025 in W.P.No.252 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 07.02.2025	Delivered on 12.02.2025
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CORAM:

THE HONOURABLE MR. JUSTICE **R.SUBRAMANIAN**
AND
THE HONOURABLE MR. JUSTICE **G.ARUL MURUGAN**

W.M.P.No.2933 of 2025 in W.P.No.258 of 2025,
W.M.P.No.2872 of 2025 in W.P.No.265 of 2025,
W.M.P.No.4877 of 2025 in W.P.No.252 of 2025
along with
W.M.P.No.294 of 2025 in W.P.No.258 of 2025,
W.M.P.No.304 of 2025 in W.P.No.265 of 2025
and
W.M.P.No.289 of 2025 in W.P.No.252 of 2025

W.M.P.No.2933 of 2025

VA.Pugazhendi

...Petitioner

Vs.

1.All India Anna Dravida Munnetra Kazhagam,
Represented by its General Secretary,
Thiru Edappadi K.Palanisamy,
Having Office at No.226, Avvai Shanmugam Salai,
Royapettah, Chennai - 600 014.

2.The Election Commission of India,
Nirvachan Sadan,
Ashoka Road, New Delhi - 110 001.



W.M.P.No.2933 of 2025 in W.P.No.258 of 2025
W.M.P.No.2872 of 2025 in W.P.No.265 of 2025,
W.M.P.No.4877 of 2025 in W.P.No.252 of 2025

3.The Secretary,
Secretariat of the Election Commission of India,
Nirvachan Sadan,
Ashoka Road, New Delhi - 110 001.

...Respondents

Prayer: Writ Miscellaneous Petition filed under Article 226 of the Constitution of India, praying to vacate the interim stay granted in W.M.P.No.294 of 2025 in W.P.No.258 of 2025 dated 09.01.2025.

For Petitioner : Mr.R.Thirumoorthy

For Respondents : Mr.Vijay Narayan, Senior Counsel for R1
Mr.Niranjan Rajagopalan for R2 & R3

W.M.P.No.2872 of 2025

M.G.Ramachandiran

...Petitioner

Vs.

1.All India Anna Dravida Munnetra Kazhagam,
Represented by its General Secretary,
Thiru Edappadi K.Palanisamy,
Having Office at No.226, Avvai Shanmugam Salai,
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2.The Election Commission of India,
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3.The Secretary,
Secretariat of the Election Commission of India,
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W.M.P.No.2872 of 2025 in W.P.No.265 of 2025,
W.M.P.No.4877 of 2025 in W.P.No.252 of 2025*

Prayer: Writ Miscellaneous Petition filed under Article 226 of the Constitution of India, praying to vacate the interim stay granted vide Order dated 09.01.2025.

For Petitioner : Mr.P.B.Suresh, Senior Counsel
for Mr.Prasanna S.

For Respondents : Mr.Vijay Narayan, Senior Counsel for R1
Mr.Niranjan Rajagopalan for R2 & R3

W.M.P.No.4877 of 2025

R.Ravindhranath

...Petitioner

Vs.

1.All India Anna Dravida Munnetra Kazhagam,
Represented by its General Secretary,
Thiru Edappadi K.Palanisamy,
Having Office at No.226, Avvai Shanmugam Salai,
Royapettah, Chennai - 600 014.

2.The Election Commission of India,
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Ashoka Road, New Delhi - 110 001.

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Secretariat of the Election Commission of India,
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W.M.P.No.2872 of 2025 in W.P.No.265 of 2025,
W.M.P.No.4877 of 2025 in W.P.No.252 of 2025*

Prayer: Writ Miscellaneous Petition filed under Article 226 of the Constitution of India, praying to vacate the interim stay granted in W.M.P.No.289 of 2025 in W.P.No.252 of 2025 dated 09.01.2025.

For Petitioner : Mr.Jayath Bushan, Senior Counsel for
Mr.Prakash Kumar. G.

For Respondents : Mr.Vijay Narayan, Senior Counsel for
Mr.K.Gowtham Kumar for R1
Mr.Niranjan Rajagopalan for R2 & R3

W.M.P.No.294 of 2025

1.All India Anna Dravida Munnetra Kazhagam,
Represented by its General Secretary,
Thiru Edappadi K.Palanisamy,
Having Office at No.226, Avvai Shanmugam Salai,
Royapettah, Chennai - 600 014.

...Petitioner

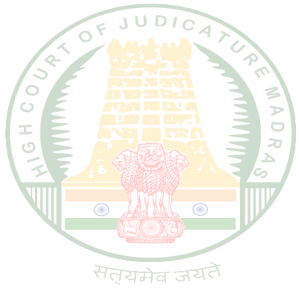
Vs.

1.The Election Commission of India,
Nirvachan Sadan,
Ashoka Road, New Delhi - 110 001.

2.The Secretary,
Secretariat of the Election Commission of India,
Nirvachan Sadan,
Ashoka Road, New Delhi - 110 001.

3.VA.Pugazhendi

...Respondents



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W.M.P.No.4877 of 2025 in W.P.No.252 of 2025*

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Prayer: Writ Miscellaneous Petition filed under Article 226 of the Constitution of India, praying to pass an order of stay of all further proceedings in pursuance of the letter No.56/23/2024/PPS-II/Vol-II dated 24.12.2024, pending disposal of this writ petition.

For Petitioner : Mr.Vijay Narayan, Senior Counsel
for Mr.K.Gowtham Kumar

For Respondents : Mr.Niranjan Rajagopalan for R1 & R2
Mr.R.Thirumoorthy for R3

W.M.P.No.304 of 2025

1.All India Anna Dravida Munnetra Kazhagam,
Represented by its General Secretary,
Thiru Edappadi K.Palanisamy,
Having Office at No.226, Avvai Shanmugam Salai,
Royapettah, Chennai - 600 014.

...Petitioner

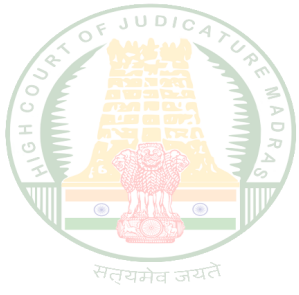
Vs.

1.The Election Commission of India,
Nirvachan Sadan,
Ashoka Road, New Delhi - 110 001.

2.The Secretary,
Secretariat of the Election Commission of India,
Nirvachan Sadan,
Ashoka Road, New Delhi - 110 001.

3.M.G.Ramachandiran

...Respondents



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W.M.P.No.2872 of 2025 in W.P.No.265 of 2025,
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Prayer: Writ Miscellaneous Petition filed under Article 226 of the Constitution of India, praying to pass an order of stay of all further proceedings in pursuance of the letter No.56/23/2024/PPS-II/Vol-II dated 24.12.2024, pending disposal of this writ petition.

For Petitioner : Mr.Vijay Narayan, Senior Counsel
for Mr.K.Gowtham Kumar

For Respondent : Mr.Niranjan Rajagopalan for R1 & R2
Mr.P.B.Suresh, Senior Counsel
for Mr.Prasanna S. for R3

W.M.P.No.289 of 2025

1.All India Anna Dravida Munnetra Kazhagam,
Represented by its General Secretary,
Thiru Edappadi K.Palanisamy,
Having Office at No.226, Avvai Shanmugam Salai,
Royapettah, Chennai - 600 014.

...Petitioner

Vs.

1.The Election Commission of India,
Nirvachan Sadan,
Ashoka Road, New Delhi - 110 001.

2.The Secretary,

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W.M.P.No.2933 of 2025 in W.P.No.258 of 2025
W.M.P.No.2872 of 2025 in W.P.No.265 of 2025,
W.M.P.No.4877 of 2025 in W.P.No.252 of 2025

Secretariat of the Election Commission of India,
Nirvachan Sadan,
Ashoka Road, New Delhi - 110 001.

3.P.Ravindhranath

...Respondents

Prayer: Writ Miscellaneous Petition filed under Article 226 of the Constitution of India, praying to pass an order of stay of all further proceedings in pursuance of the letter No.56/23/2024/PPS-II/Vol-II dated 24.12.2024, pending disposal of this writ petition.

For Petitioner : Mr.C.Ariyama Sundaram, Senior Advocate
for Mr.K.Gowtham Kumar

For Respondents : Mr.Niranjan Rajagopalan for R1 & R2
Mr.Jayanth Bhushan, Senior Counsel
for G.Prakash Kumar for R3

COMMON ORDER

*(Order of the Court was made by **R.SUBRAMANIAN, J.**)*

W.M.P.Nos.2872 of 2025, 2933 of 2025 and 4877 of 2025 have been filed under clause (3) of Article 226 of the Constitution of India seeking to vacate the interim orders granted by this court on 09.01.2025.



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2. The Writ Petitions in W.P.Nos.252, 258 and 269 of 2025 have been

filed seeking a Writ of Certiorarified Mandamus to quash the letters dated 24.12.2024 issued by the Secretary to the Election Commission of India while W.P.Nos.262, 265, 264 of 2025 have been filed seeking a Writ of Prohibition restraining the Election Commission of India from proceeding with or adjudicating the proceedings in furtherance to the letter dated 24.12.2024.

The sum and substance of the grievance of the petitioner, which is a registered political party is as follows:-

3. The petitioner is a political party recognized as such and registered with the Election Commission of India under Section 29A of the Representation of People Act, 1951. Certain disputes arose with reference to the validity of the General Council meeting of the said political party that was held on 11.07.2022, wherein certain amendments to the Constitution of the party were carried out. The validity of the meeting dated 11.07.2022 as well as the validity of the resolutions passed thereat including the ones amending the constitution of the party and the election of the deponent



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Mr.Edappadi K.Palanisamy as the General Secretary of the party are subject

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matter of various civil proceedings before this Court and the City Civil Court, Chennai. There are also certain interim orders of injunction which have been challenged upto the Hon'ble Supreme Court. As the result of those interlocutory proceedings in the civil suit Mr.Edappadi K.Palanisamy continues to function as the General Secretary of the Party.

4. While things stood thus some of the Members as well as the non-members of the party had made several representations to the Election Commission touching upon the validity of the General Council meeting dated 11.07.2022, the validity of the resolutions passed therein and other matters. One such petitioner filed a Writ Petition in W.P.No.5300 of 2024 seeking a Writ of Mandamus directing the Election Commission to dispose of his representation dated 12.02.2024 in accordance with law. The said Writ Petition came up for hearing before the Division Bench of this Court, to which one of us (Hon'ble Mr.Justice R.Subramanian) was a party and this Court had passed the following order:-

“The petitioner seeks a mandamus directing the Election Commission of India to consider his



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representation dated 12.02.2024 and dispose of it in accordance with law.

2. Mr.Niranjan Rajagopalan, learned counsel appearing for the 1st respondent/ Election Commission of Inda would submit that the Election Commission has issued notice to the parties and their responses has also been received and the Commission will take a decision within a period of four weeks from today. The Commission will hear all the parties before it reaches a decision.

*3. This Writ Petition is **disposed of**, with the above directions. No costs.”*

5. An application was filed by one of the parties seeking extension of time to dispose of the representation as directed by this Court. The Division Bench had clarified by order dated 20.02.2024 that the Court has not fixed any time, but, it had only recorded the statement of the learned counsel for the Election Commission that the Election Commission will dispose of the petitions within a period of four weeks and therefore there is no question of extension of time.

6. Thereafter, the Election Commission initiated proceedings for

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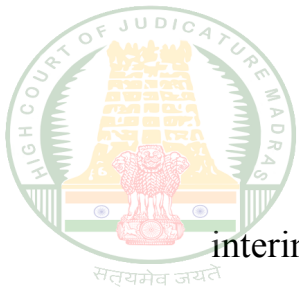


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disposal of various petitions filed by the 3rd respondent in each of these Writ Petitions. Notices were issued to the parties calling them for a personal hearing on 23.12.2024 and thereafter letters were issued to the parties on 24.12.2024 requiring them to exchange their submissions and necessary papers. It is at this stage the petitioner in all these Writ Petitions have come up before this Court seeking the reliefs stated supra.

7. Finding that the action of the Election Commission *prima facie* militates against its stand taken before the Delhi High Court as well the judgments of the two Division Benches of this Court this court had by order dated 09.01.2025 granted stay of all further proceedings before the Election Commission in respect of the complaints filed by the respondents in each of the Writ Petitions. It is stated at the Bar that this order dated 09.01.2025 was challenged by some of the parties before the Hon'ble Supreme Court and the Hon'ble Supreme Court had disposed of the Special Leave Petitions with a liberty to the parties to move this Court under Clause (3) of Article 226 of the Constitution of India.

8. Pursuant to the liberty, the parties have sought for vacation of
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interim orders in W.M.P.Nos.2872, 2933 and 4877 of 2025 *inter alia*

contending that the Writ Petitions are pre-mature and a Writ of Prohibition restraining the Constitutional Authority viz., the Election Commission of India from enquiring into the complaints made before it will not lie. It is also contended that this Court being a Constitutional Court will not examine the representations on merits to reach one or other conclusion on the scope of the complaints and the authority of the Election Commission of India to enquire into the complaints.

9. We have heard Mr.Jayant Bhushan, learned Senior Counsel instructed by Mr.G.Prakash Kumar, learned counsel for the petitioner in W.M.P.No.4877 of 2025, Mr.P.B.Suresh, learned Senior Counsel assisted by Mr.S.Prasanna, learned counsel appearing for the petitioner in W.M.P.No.2872 of 2025 and Mr.Thirumoorthy, learned counsel appearing for the petitioner in W.M.P.No.2933 of 2025.

10. Mr.Jayant Bhushan, learned Senior Counsel appearing for the petitioner in the vacate stay petition would contend that the Writ Petitions, particularly the Writ Petitions seeking a Writ of Prohibition are pre-mature.

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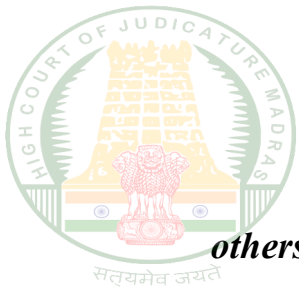


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He would point out Para 15 of the Election Symbols (Reservation and Allotment) Order, 1968 to contend that whenever it is brought to the notice of the Election Commission that there is a split in the political party and rival sections or groups of the political party claim themselves to be that political party, the Election Commission upon satisfaction of the existence of such dispute can enquire into the issue and decide that one such rival sections or groups or none of such rival sections or groups is that recognized political party. According to Mr.Jayant Bhushan, learned Senior Counsel Para 15 invests jurisdiction to enquire into the issue as to whether A group or B group is the real political party or that neither A group nor the B group is the real political party.

11. The learned Senior Counsel would also draw our attention to the counter affidavit filed by the Election Commission, particularly paragraph No.17 to contend that it has not assumed jurisdiction on the strength of the orders of this Court or the orders of the Delhi High Court.

12. He would also place considerable reliance upon the judgment of the Hon'ble Supreme Court in ***Kunda S.Kadam Vs. Dr.K.K.Soman and*** 13/51



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others reported in **(1980) 2 SCC 355**, wherein, the Hon'ble Supreme Court

had held that unless statutory Authority invested with certain power had taken a final decision, the action of such Authority cannot be put in issue in proceedings under Article 226 of the Constitution of India. The learned Senior Counsel would draw our attention to paragraph Nos.2 and 3 of the said judgment which reads as follows:-

2. The appellant was employed in various capacities in the Municipal Corporation of Greater Bombay, including as Ward Officer and also as Enquiry Officer. The qualifications required for the post of Deputy Municipal Commissioner in cases where they are directly recruited through the Public Service Commission are: (a) administrative experience in a large organisation of not less than ten years and (b) out of this period of ten years at least five years being in a responsible capacity. In the present case the Municipal Corporation instead of choosing the promotion source for appointment decided to request the Public Service Commission to recruit on application from the open market. This enabled even the in-service employees to apply and so the appellant, who was already an employee in the Bombay Municipal Corporation, applied



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for the post. Eventually, she was recommended by the Public Service Commission to the Municipal Corporation for appointment. While her name was under consideration by the Municipal Corporation, which was the appointing authority, a writ petition was filed by Respondents 1 and 2 challenging the recommendation itself on the score that the present appellant did not fulfil the required statutory qualifications. The power of appointment belongs to the Municipal Corporation. After the Corporation takes the decision to appoint a particular candidate, the confirmation of the government is required and on such confirmation being given a regular appointment is made. These exercises have not been gone through at all. All that happened is that the Public Service Commission had recommended the name of the appellant and even before a decision was taken by the Corporation a writ petition was filed. The writ petition was dismissed in limine by a learned Single Judge, but on appeal, a Division Bench of the High Court reversed that decision and allowed the appeal. The Division Bench took the view that the appellant did not possess one of the qualifications, namely, 10 years' administrative experience and, therefore, quashed the recommendation itself.



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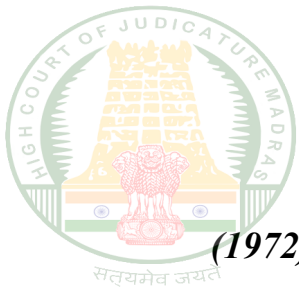


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3. We consider that the time has not arrived for the court to adjudicate upon the merits and that the writ petition on itself was premature. The normal procedure should have been for the recommendation of the Public Service Commission to be considered by the Corporation. It was open to the Municipal Corporation to accept the recommendation or not to accept the recommendation. The learned Attorney-General, appearing for the Corporation, says that it was open to the Corporation to ask for other names and make its own choice. We are not called upon to state what the powers of the Corporation in such a situation are. It was also open to the State Government even if the Corporation had made an appointment to confirm or not to confirm it, depending on its own view of the matter. We mention all this only to emphasise that it was too early for a writ petition to be entertained and decided on the merits.

to buttress his contention that unless the Election Commission takes a decision neither the Writ of Prohibition nor the Writ of Certiorari would lie.

13. The learned Senior Counsel would also invite our attention to the judgment of the Hon'ble Supreme Court in ***Shri Sadiq Ali and another Vs. The Election Commission of India, New Delhi and others*** reported in 16/51



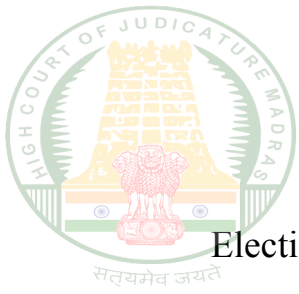
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(1972) 4 SCC 664, wherein, the Hon'ble Supreme Court had considered the

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power of Election Commission vis-a-vis Para 15 of the Election Symbols (Reservation and Allotment) Order, 1968. Specific reference is made by the learned Senior Counsel to paragraph No.35 of the said judgment to contend that the power under Para 15 of the Election Symbols (Reservation and Allotment) Order, 1968 is vested in the Election Commission to decide as to which group is the real political party. He would also point out that the Hon'ble Supreme Court had specifically observed that Commission in resolving this dispute does not decide which group represents the party, but, the decision is as to which group is that party.

14. Therefore, according to the learned Senior Counsel *de hors* the issues covered in the suit and the orders passed by the other judicial forums viz., the civil Courts, the Election Commission can decide the issue as to which of the two groups is the real political party. He would submit that the civil suits that are pending and the interlocutory orders granted therein relate only to the validity of the meeting dated 11.07.2022 and the resolution passed thereat. The issue that is covered by Para 15 of the



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Election Symbols (Reservation and Allotment) Order, 1968 was not and is not subject matter of interlocutory applications and the civil suits themselves. Therefore, those interim orders passed will not bar or prohibit the Election Commission from going into the issue that arises in terms of Para 15 of the Election Symbols (Reservation and Allotment) Order, 1968.

15. The learned Senior Counsel would also draw our attention to the judgment of the Hon'ble Supreme Court in ***Subhash Desai Vs. Principal Secretary, Governor of Maharashtra and others*** reported in (2024) 2 SCC 719 to contend that the decision under Para 15 of the Election Symbols (Reservation and Allotment) Order, 1968 is not restricted to the majority in the Parliament or the state legislature and it will be open to the Election Commission to adopt any other test also to find out as to which of the groups is the actual political party. The Hon'ble Supreme Court in ***Subhash Desai*** after referring to the judgment in ***Sadiq Ali (supra)*** had observed as follows:-

146. Para 15 stipulates that the ECI must take into account all the available facts and circumstances of the case and hear representatives of the rival groups and



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other persons who wish to be heard. However, neither Para 15 nor the other provisions of the Symbols Order specify the test which is to be applied by the ECI in arriving at its decision as to who the political party is. Similarly, no test is excluded from application by the ECI. This means that the ECI is free to fashion a test which is suited to the facts and complexities of the specific case before it.

147.InSadiq Ali[Sadiq Ali-v.-Election Commission of India, (1972) 4 SCC 664], this Court had occasion to consider a few of the different tests that were capable of being applied in proceedings under Para 15. In that case, two rival groups, Congress O and Congress J, emerged from the INC. While adjudicating their competing claims under Para 15, the ECI considered the following tests:

147.1.A test analysing the provisions of the Constitution of the party;

147.2.A test assessing which of the two rival groups adhered to the aims and objects of the party as incorporated in its constitution; and

147.3.A test evaluating which of the two rival groups enjoyed a majority in the legislature (i.e. the Houses of Parliament as well as the Legislative



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*Assemblies of States) and in the organisational wing of
the party.*

16. Appearing for the petitioner in W.M.P.No.2872 of 2025 Mr.P.B.Suresh, learned Senior Counsel would submit that the letter impugned in the three Writ Petitions seeking a Certiorarified Mandamus does not decide the rights of the parties. It is only a notice inviting the parties to complete their pleadings and make supplemental representations and also to facilitate exchange of papers between the parties. Therefore, according to the learned Senior Counsel unless the rights are decided the Writ of Certiorari cannot be sought for.

17. On the Writ Petitions for Prohibition that has been sought for, the learned Senior Counsel would submit that prohibition cannot be issued when parties had submitted to jurisdiction. Alternatively the learned Senior Counsel would contend that unless there is inherent lack of jurisdiction, a Writ of Prohibition will not lie.

18. Drawing our attention to the reply made, by the petitioner in these



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Writ Petitions, before the Election Commission, wherein it is alleged that

the Election Commission has got a limited jurisdiction with regard to internal affairs of a political party, the learned Senior Counsel would submit that once limited jurisdiction is conceded the Writ of Prohibition will not lie, as there is no inherent lack of jurisdiction. In other words, it is the contention of the learned Senior Counsel that this Court as a constitutional Court will not go into the merits or substance of the representations that are made before the Election Commission and decide as to whether the case for interference by the Election Commission in Para 15 of the Election Symbols (Reservation and Allotment) Order, 1968 has been made out or not at this stage, as the said jurisdiction is vested in the Election Commission.

19. Probably, if the Election Commission is to exercise jurisdiction, purportedly under Para 15 of the Election Symbols (Reservation and Allotment) Order, 1968, the correctness of such exercise can be gone into by this Court and while doing so, this Court can examine as to whether the complaint that was considered by the Election Commission under Para 15 was in fact a petition under Para 15 and also examine as to whether there is



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material to bring the issue within Para 15 of the Election Symbols (Reservation and Allotment) Order, 1968. Till such time such exercise is conducted by the Election Commission, this Court will not prohibit the Election Commission from going into the issue.

20. On the prayer for issuance of Writ of Certiorari, the learned Senior Counsel would contend that nothing has been decided and the only action that has been taken by the Election Commission is to issue notices to the parties for hearing them and therefore this Court cannot assume that the Election Commission has made a decision on the merits of the issue.

21. The learned Senior Counsel would also rely upon the judgment of the Hon'ble Supreme Court in **Subash Desai** referred to *supra*. He would draw our attention to para 144 of the said decision on the scope of the dispute under para 15. Para No.144 reads as follows:-

“144. The essence of the decision of thee ECI cannot be understood as solely a determination as to who is entitled to the symbol for the purposes of election. While that is the outcome of the decision under Para 15, the substance of the decision is the



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determination as to which of the groups is the lifeblood of the recognised political party. In order to reach a determination as to which group is entitled to the symbol, it becomes necessary for the ECI to adjudicate which group is that political party itself. In other words, the ECI determines who the “real” political party is and the symbol is allotted as a consequence of this decision.”

22. Reliance is also placed by the learned Senior Counsel on the judgment in ***U.P. State Road Transport Corporation and another Vs. Mohammed Ismail and others*** reported in **1991 (3) SCC 239** to contend that this Court in exercise of its jurisdiction under Article 226 of the Constitution of India cannot command a statutory Authority to exercise discretion in a particular manner and in favour of a particular person. Any such exercise would be beyond the jurisdiction of this Court.

23. Mr.Thirumoorthy, learned counsel appearing for the petitioner in W.P.No.2933 of 2025 apart from adopting the arguments of the learned Senior Counsel appearing for the other petitioners would submit that the



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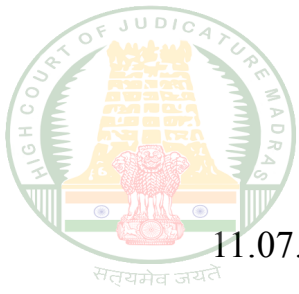
writ petitioner/ 1st respondent in all these miscellaneous petitions for

vacation of interim orders is guilty of suppression of facts and therefore this

Court ought not to have granted interim orders in its favour.

24. Contending contra Mr.Ariyama Sundaram, learned senior counsel appearing for the petitioner in the Writ Petitioners/ 1st respondent in the vacate stay petitions would contend that all these complainants have been expelled from the party on various dates and their expulsion is not under challenge. He would also point out that pursuant to the meeting dated 11.07.2022, the Constitution of the party was amended and the amended Rules and regulations have been taken on record by the Election Commission under sub-Section A of Section 29 of the Representation of People Act, 1951 and therefore the question as to which group represents the real political party does not at all arise.

25. Mr.Ariyama Sundaram, learned Senior Counsel would vehemently argue that in the light of the interim orders granted in the civil proceedings the Election Commission cannot go into the validity or otherwise of the resolutions passed at the General Council meeting held on 24/51



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11.07.2022. Drawing our attention to the letter dated 09.12.2024

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Mr.Ariyama Sundaram, learned Senior Counsel would contend that there is an attempt by the Election Commission to enquire into the validity of the resolution passed at the General Council Meeting dated 11.07.2022 which are subject matter of the civil disputes. Laying considerable stress on the opening sentence of the letter dated 09.12.2024 which reads as follows:-

“Whereas, the Commission received a representation from Shri. S. Surya Moorthi dated 12.02.2024 which includes inter-alia issues related to passing of resolutions against the party rules in the General Council meetings, amendment of the Party constitution and creation of new posts in violation of the rules of the Party.”

Mr.Ariyama Sundaram, learned Senior Counsel would contend that the present exercise, though purportedly under Para 15 of the Election Symbols (Reservation and Allotment) Order, 1968, is actually one which seeks to examine the internal affairs of the party which have been held to be outside the ambit of the powers of Election Commission.

26. In support of his submissions the learned Senior Counsel would



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rely upon the judgment of the Division Bench of this Court in

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J.Jayachandran Vs. The Election Commissioner of India, dated

14.12.2021, wherein, it has been held that the Election Commission has no

power to monitor or pronounce upon the internal affairs of the political

party. A Division Bench of this Court in para 11 of the decision in

J.Jayachandran supra has held as follows:-

11. As per Article 324 of the Constitution of India the superintendence, direction and control of elections is vested in the Election Commission. It is not for internal election of a political party. Section 29A of the Act of 1951 pertains to registration with the Election Commission of associations and bodies as political parties. However, there is nothing in Section 29A that requires an enquiry to be conducted into the fairness and validity of the internal elections held for the posts in a political party. The objection raised by the petitioner that the elections to the posts of Coordinator and Joint Coordinator of the second respondent political party were held without adopting democratic procedure cannot be countenanced, as the Election Commission is not empowered to go into the internal elections of a political party. All that Section 29A(9) of



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the Act of 1951 contemplates is that after an association or body has been registered as a political party, any change in its name, head office, office-bearers, address, etc., shall be communicated to the Election Commission of India without any delay. Such power does not confer any corresponding duty on the Election Commission of India to enter into the internal elections of a political party. In view of the above, we find the impleadment of the Election Commission of India is for the sake of it.

27. The same view was also expressed by another Division Bench of this Court in ***B. Ramkumar Adityan Vs. Election Commission of India*** dated **29.06.2021** .

28. The learned Senior Counsel would also rely upon the judgment of the Hon'ble Supreme Court in ***Shri Sadiq Ali and another supra***, to contend that the jurisdiction of the Commission under Para 15 is restricted to deciding as to which of the rival groups which claim to be the political party is the real political party, it does not extend beyond that. The Election Commission cannot decide as to who should represent the political party in

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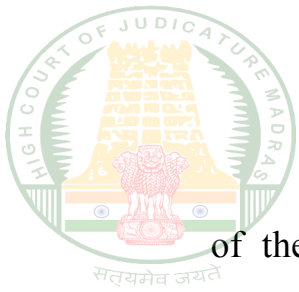
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exercise of its jurisdiction under Para 15. Therefore, according to Mr.Ariyama Sundaram, learned Senior Counsel, in the guise of exercising power under Para 15 of the Election Symbols (Reservation and Allotment) Order, 1968, the Election Commission is trying to venture upon to decide certain internal disputes in the party, which are subject matter of civil proceedings.

29. Mr.Ariyama Sundaram, learned Senior Counsel would also draw our attention to the allegations in each one of the complaints made by the 3rd respondent in each of the writ petitions and impress upon us that none of these complaints claim that there is a split in the party or that there are two groups in the party and seek a decision of the Commission as to which one of the two groups is the real political party.

30. Mr.Ariyama Sundaram would submit that unless it is shown that the complaints come within the parameters of Para 15 of the Election Symbols (Reservation and Allotment) Order, 1968, the Election Commission cannot exercise power under Para 15. Based on the allegations contained in the complaints Mr.Ariyama Sundaram would submit that none

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of the complaints satisfy the requirement of para 15 and therefore the Election Commission cannot exercise jurisdiction.

31. On the contention that the Writ Petitions are pre-mature, Mr.Ariyama Sundaram, would submit that once the jurisdiction is questioned and it is found that the Election Commission has no jurisdiction to decide the issue then a Writ of Prohibition would lie and the Writ Court will be perfectly in order in preventing a Tribunal which has no jurisdiction to enquire into the matter. In support of his submission the learned Senior Counsel would draw our attention to the judgment of the Hon'ble Supreme Counsel in ***Whirlpool Corporation Vs. Registrar of Trade Marks, Mumbai and others*** reported in ***(1991) 8 SCC 1***, wherein, the Hon'ble Supreme Counsel had in para 20 observed as follows:-

20. Much water has since flown under the bridge, but there has been no corrosive effect on these decisions which, though old, continue to hold the field with the result that law as to the jurisdiction of the High Court in entertaining a writ petition under Article 226 of the Constitution, in spite of the alternative statutory remedies, is not affected, specially in a case where the



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authority against whom the writ is filed is shown to have had no jurisdiction or had purported to usurp jurisdiction without any legal foundation.

32. According to Mr.Ariyama Sundaram, the letter dated 24.12.2024, which is impugned in the three Writ Petitions is a final decision of the Election Commission on the jurisdiction. The learned Senior Counsel would contend that when the Election Commission decides to hear the parties and requires them to furnish their submission and supplements if any to the other party, it would clearly mean that the Election Commission had decided to invoke its jurisdiction under Para 15 of the Election Symbols (Reservation and Allotment) Order, 1968 and therefore the Writ Petitions cannot be termed as pre-mature.

33. It is also contended by Mr.Ariyama Sundaram that while examining the applications under clause 3 of Article 226 we will have to necessarily apply the tests evolved under Order 39 of the Code of Civil Procedure viz., the *prima facie* case, balance of convenience and prevention of legal injury. According to the learned Senior Counsel, if the interim



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orders are vacated and the Election Commission is permitted to proceed

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with the enquiry then the Writ Petitions would become infructuous.

Therefore, according to him, there is a very strong *prima facie* case in his favour and hence the interim orders should not be disturbed.

34. Mr.Vijay Narayanan, learned Senior Counsel appearing in some of the writ petitions would submit that in the light of the pronouncement of two Division Benches of this Court in ***Jayachandran Vs. The Election Commissioner of India supra*** and ***B. Ramkumar Adityan Vs. Election Commission of India supra*** the Election Commission does not have the power to enquire into the internal affairs of the political party.

35. He would also invite our attention to the proceedings before the civil Court to contend that the validity of the meeting dated 11.07.2022 and the resolutions passed thereon are subject matter of civil suits and interim orders granted by this Court have been confirmed upto the Hon'ble Supreme Court. Therefore, the Election Commission cannot usurp jurisdiction of the civil Court and attempt to over reach the orders of the civil Court in the guise of exercising power under Para 15 of the Election Symbols

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(Reservation and Allotment) Order, 1968.

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36. He would also point out that at para 15 of the counter affidavit of the Election Commission it has been clearly stated that the enquiry will be restricted only to representations received after 20.04.2023 and before 04.12.2024. He would also submit that the Election Commission has made it very clear in its counter affidavit that the orders of the civil Court are binding on the Election Commission and the Election Commission will act in accordance with those orders. Therefore, according to the learned Senior Counsel once it is conceded that the Election Commission will not over reach the orders of the Hon'ble Supreme Court made in the civil proceedings, there is nothing further that remains to be enquired into as all the complaints relate only to the subject matter of the civil proceedings.

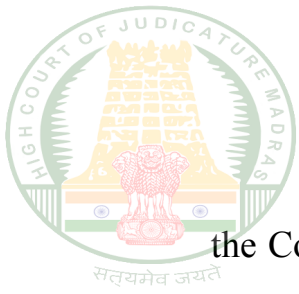
37. Mr.Niranjan Rajagopalan, learned counsel appearing for the Election Commission would submit that it has not assumed jurisdiction on the basis of the order made in WP No.5300 of 2024 dated 04.12.2024. According to the learned counsel, when certain complaints were received from various persons relating to the affairs of the petitioner in the Writ
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Petitions and a Mandamus was sought for by two different individual complainants, one before the Delhi High Court and other before this Court, the Election Commission has made its stand very clear to the effect that it will not enter into the internal affairs of a political party.

38. The learned counsel would also draw our attention to the counter affidavit of the Election Commission filed before the Delhi High Court and this Court which themselves make it clear that the Election Commission will not launch upon an enquiry into the internal affairs of the party. He would point out that the Election Commission has made it clear that it will be bound by the orders of the Civil Court. Reliance is also placed by the learned counsel for the Election Commission on the judgment of the Hon'ble Supreme Court in *Mohinder Singh Gill and another v. The Chief Election Commissioner, New Delhi and others*, reported in *AIR 1978 SCC 851*, wherein the Hon'ble Supreme Court has observed that the Election Commission, being a creature of Article 324 of the Constitution of India, has by necessary implication, wide power and therefore, when the statute viz. the Representation of the People Act 1951, is silent, it is always open to



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the Commission to invoke the powers under Article 324 of the Constitution of India.

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39. When queried about the contents of the letter dated 09.12.2024 which lets out an impression that the Election Commission is contemplating an enquiry into the internal affairs of the political party, Mr.Niranjan Rajagopal, would, on instructions, submit that the Election Commission is yet to decide as to whether the complaints fall within the parameters of Para 15 of the Election Symbols (Reservation and Allotment) Order, 1968 and without reaching that decision, the Commission will not proceed further to decide any issue on the basis of the complaints.

40. The learned counsel would also refer to the earlier proceedings by the Election Commission wherein it has very clearly pointed out that it will not interfere with the internal affairs of a political party. Reference is made to one such order dated 31.10.2018, wherein, the Election Commission has very categorically stated that it is not the mandate of the Election Commission to conduct internal elections of a political party and the

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Commission will also not decide dispute about property, in view of the

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judgment in *Shri Sadiq Ali and Another vs. The Election Commission of India, New Delhi and others*, reported in (1972) 4 SCC 664, referred to *supra*.

41. Mr.Niranjan Rajagopalan would also draw our attention to the counter affidavit filed by the Election Commission in these Writ Petitions and submit that wherever issues are covered by the orders of Civil Court, the orders of the Civil Courts would be binding on the Commission and the Commission would abide by those orders. Therefore, according to the learned counsel, the Commission has the power to decide, as to whether a dispute falls within Para 15 of the Election Symbols (Reservation and Allotment) Order, 1968 and if the decision goes against any of the parties, it is open to them to seek a judicial review. He would also adopt the submissions of the learned counsel for the vacate stay petitioners that this Court will not examine as to whether the substance of the complaints make out a case under Para 15 of the Election Symbols (Reservation and Allotment) Order, 1968. We have heard the other learned counsel for the



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parties also and they in fact adopted the submissions of the learned Senior Counsel for the vacate stay petitioners.

42. From the above contentions of the learned counsel on either side, the questions that emerge are

(1) Whether this Court would go into the contents of the complaints made to the Election Commission and decide as to whether they fall within the ambit of Para 15 of the Election Symbols (Reservation and Allotment) Order, 1968;

(2) Whether a writ of prohibition would lie unless it is shown that the Election Commission lacks inherent jurisdiction to decide the complaints; and

(3) In the light of the stand of the Election Commission that it will abide by the decisions made in the Interlocutory Applications in the suits whether it could be said that it is an attempt by the Election



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Commission to launch upon an enquiry would amount to over reaching the orders of the Civil Courts.

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43. No doubt a perusal of the proceedings of the Election Commission between 04.12.2024 and 24.12.2024 would appear that the Election Commission has taken the Mandamus issued by us in WP No.5300 of 2024 as an authorisation to launch upon an enquiry into the internal affairs of the petitioner in the Writ Petitions viz. the All India Anna Dravida Munnetra Kazhagam, a registered political party. It also appears that an attempt is being made to over reach the orders of the Civil Court particularly in view of the language of the letter dated 09.12.2024 which has been extracted *supra*. We are sure that it is this indication which impelled the petitioner to approach this Court seeking writs of prohibition and certiorari.

43.1. The basis of both the Writ Petitions viz. a Writ of Prohibition as
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well as the Certiorari is that the Election Commission lacks inherent

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jurisdiction to launch upon the enquiry. It has to be accepted for the present that Section 29A covers the issue relating to registration of a political party and its subsequent conduct. While Sub Sections 1 to 8 of Section 29A of the Representation of the People Act 1951, deal with registration of political parties and the decision has to be taken by the Election Commission on such registration, Sub Section 9 deals with changes in the political party which is already registered.

43.2. Sub Section 9 of Section 29(A) of the Representation of the People Act, reads as follows:

(9) After an association or body has been registered as a political party as aforesaid, any change in its name, head office, office-bearers, address or in any other material matters shall be communicated to the Commission without delay.

It has been held by various decisions of this Court and the Hon'ble Supreme Court that the function of the Election Commission under Sub Section 9 is

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only a Ministerial Act and upon communication of any such change in the name, head office, office-bearers, address or in any other material matters shall be communicated to the Commission and the Commission will record the same.

43.3. In the cases on hand, the Commission had, in fact, recorded the changes effected pursuant to the General Council Meeting held on 11.07.2022 and the same has been communicated to the petitioner on 20.04.2023. It is not in dispute that there are certain civil proceedings pending with regard to the validity of the meeting dated 11.07.2022 and the resolutions passed thereon and there are interim orders in force. Needless to point out that the Election Commission is bound by the interim orders passed by the Civil Court. Certain complaints have also been made to the Election Commission and the Delhi High Court had issued a Mandamus directing the Election Commission to consider the representations made by the third respondent in WP No.258 of 2025.

43.4. While it is the contention of the petitioner in the writ petitions



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that all these representations relate to the validity of the General Council Meeting dated 11.07.2022 and the validity of the resolution passed thereat which are already subject matter of the proceedings before the Civil Courts, as per the stand of the Election Commission itself which is reflected in the counter affidavit filed by the Election Commission before the Delhi High Court in WP (C) No.5796 of 2023, wherein, it has clearly spelt out that it does not regulate or monitor inter party functions or organizational elections of a political party as the same is envisaged neither under the Constitution of India nor under any other law. Therefore, the Election Commission of India cannot enquire into or regulate the affairs of a political party.

43.5. At the same time, Para 15 of the Election Symbols (Reservation and Allotment) Order, 1968 enable the Election Commission to go into the question as to which of the rival groups is the real political party wherever there is a dispute between two rival groups claiming that they are the original political party, it will be open to the Commission in exercise of powers under Para 15 of the Election Symbols (Reservation and Allotment) Order, 1968 to decide that neither of the two groups is the original political



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party.

43.6. The modalities or the tests to be applied in reaching the said decisions have been clearly spelt out by the Hon'ble Supreme Court in ***Shri Sadiq Ali and another v. The Election Commission of India, New Delhi and others***, reported in **(1972) 4 SCC 664**, referred to *supra*. Therefore, in order to exercise the power under Para 15 of the Election Symbols (Reservation and Allotment) Order, 1968 which reads as follows:

“15. Power of Commission in relation to splinter groups or rival sections of a recognised political party – When the Commission is satisfied on information in its possession that there are rival sections or groups of a recognised political party each of whom claims to be that party, the Commission may, after taking into account all the available facts and circumstances of the case and hearing such representatives of the sections or groups and other persons as desire to be heard, decide that one such



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rival section or group or none of such rival sections

or groups is that recognised political party and the

decision of the Commission shall be binding on all

such rival sections or groups.”

the Commission should first be satisfied on information in its possession that there are rival sections or groups of a recognized political party each of whom claims to be that party. Until such satisfaction is arrived at by the Commission, further enquiry cannot be made. Para 15 of the Election Symbols (Reservation and Allotment) Order, 1968 is actually in two parts.

43.7. The first part requires the Commission to be satisfied that there are rival groups or sections of a political party and each of them claim themselves to be the actual political party. The second part viz. the hearing of such representatives of the Sections or groups will kick in only after the satisfaction is reached. Therefore, the Election Commission in order to exercise powers under Para 15 of the Election Symbols (Reservation and Allotment) Order, 1968 will have to first satisfy itself that the essential ingredient viz. two rival groups claiming themselves to be the political



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party, does exist. Unless such satisfaction is reached, the next step viz. to examine the material and to hear parties will not arise. We are not for a moment suggesting that the Commission should not hear the parties for the purposes of satisfying itself that there are two groups claiming that they are the actual political parties.

43.8. There can be a preliminary hearing for the said purpose also. But the conclusion on the satisfaction must precede further hearing on merits. No doubt Mr.Jayant Bhusan, learned Senior Counsel appearing for the vacate stay petitioner would rely upon the judgment in ***U.P.State Road Transport Corporation and another v. Mohd. Ismail and others***, reported in ***(1991) 3 SCC 239***, to contend that the Constitutional Court cannot issue a direction to the Authority to decide in a particular manner or to exercise its discretion in a particular manner. By directing the Election Commission to comply with the terms of Para 15 of the Election Symbols (Reservation and Allotment) Order, 1968 we do not think we will be directing the Election Commission to decide the issue in a particular manner. We therefore find

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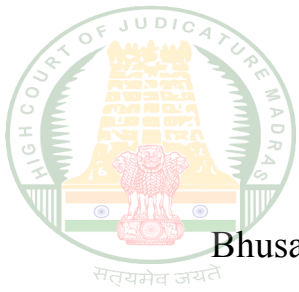


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some substance in the contentions of Mr.P.B.Suresh, learned Senior Counsel, where he submits that unless the satisfaction is reached, the further exercise cannot be undertaken.

43.9. Mr.Niranjan Rajagopalan, learned counsel appearing for the Election Commission has made it very clear that the Commission has not taken any decision on the satisfaction required under Para 15 of the Election Symbols (Reservation and Allotment) Order, 1968 or on the jurisdiction of the Commission. We therefore find that we as a Constitutional Board cannot examine each and every complaint and conclude as to whether the requirements of Para 15 are satisfied. Under Para 15 it is for the Election Commission to reach that satisfaction and we cannot substitute our opinion for the opinion of the statutory or the Constitutional Authority viz. the Election Commission and conclude that the entire exercise would be beyond the jurisdiction under Para 15 of the Election Symbols (Reservation and Allotment) Order, 1968.

43.10. As rightly contended by the learned Senior Counsel Mr.Jayant



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Bhusan, and Mr.P.B.Suresh, a Writ of prohibition will lie only in cases of

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inherent lack of jurisdiction and not in cases where the jurisdiction would depend upon establishment of certain facts. We are of course alive to the perils of permitting a statutory or a quasi-judicial authority to rule upon its own jurisdiction as has been pointed out by the Full Bench of this Court in ***Periathambi Goundan v. The District Revenue Officer, Coimbatore and others***, reported in ***1993 Mad LW 169***, wherein the Full Bench has pointed out that a jurisdictional issue cannot be said to be within the exclusive jurisdiction of the authorities functioning under the Act, because to hold so will enable the statutory authorities to assume jurisdiction by erroneously deciding the jurisdictional issue. At the same time, when it comes to exercise of jurisdiction under Article 226 of the Constitution of India, as pointed out in ***Whirlpool Corporation v. Registrar of Trade Marks, Mumbai and Others***, reported in ***(1998) 8 SCC 1***, the Constitutional Court will not interfere at a very preliminary stage where the Authority vested with powers under a statute or rules could decide as to whether it has got jurisdiction or not.



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43.11. We therefore conclude that we cannot, sitting under Article 226, go into the the nature of the allegations made in the complaints that are subject matter before the Election Commission and conclude as to whether they would provide the jurisdiction or satisfaction to the Commission that a dispute under Para 15 of the Election Symbols (Reservation and Allotment) Order, 1968 does exist.

Point No.2:

44. From the foregoing discussions made on the first point, we have concluded that the Election Commission does not lack inherent jurisdiction. Its jurisdiction would depend upon the existence or otherwise of foundational facts which would lead to its satisfying itself that there are two groups of a political party which claim themselves to be the real political party and that satisfaction has to be reached by the Commission itself. Once such satisfaction is reached, the jurisdiction of the Commission to conduct an enquiry under Para 15 of the Election Symbols (Reservation and Allotment) Order, 1968 cannot be said to be without jurisdiction. We therefore find that the Commission does not lack inherent jurisdiction or

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*W.M.P.No.2933 of 2025 in W.P.No.258 of 2025,
W.M.P.No.2872 of 2025 in W.P.No.265 of 2025,
W.M.P.No.4877 of 2025 in W.P.No.252 of 2025*

there is no total absence of jurisdiction.

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Point No.3:

45. On the contention that the attempted enquiry would amount to over reaching the orders of the Civil Court, the counter affidavit of the Election Commission makes it clear that orders passed in the Civil proceedings will be binding on it and it will abide by the same. The learned counsel appearing for the Election Commission would also affirm the said statement before us. Therefore, the apprehensions of the petitioner in the writ petitions that there will be an attempt to overreach the orders of the Civil Court are not justified. We, however, make it clear that the enquiry to be conducted would have to be within the four walls of Para 15 of the Election Symbols (Reservation and Allotment) Order, 1968 and it cannot take in its sweep any other matter which is the subject matter of the Civil proceedings.

46. In the light of the conclusions reached supra, the orders of stay granted will stand vacated of course with a caveat that the enquiry that is to

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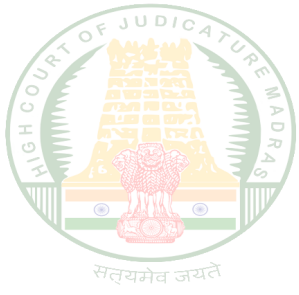
*W.M.P.No.2933 of 2025 in W.P.No.258 of 2025
W.M.P.No.2872 of 2025 in W.P.No.265 of 2025,
W.M.P.No.4877 of 2025 in W.P.No.252 of 2025*

be conducted would be within the four corners of Para 15 of the Election

Symbols (Reservation and Allotment) Order, 1968 and from the complaints that are subject matter before them, the Election Commission will first satisfy itself that there exists a dispute in terms of Para 15 and only after such satisfaction will it assume jurisdiction and the hearing of the parties at the initial stage will only be for the purposes of satisfying itself regarding the existence of a dispute which could be decided in terms of Para 15 of the Election Symbols (Reservation and Allotment) Order, 1968. Once it rules on the jurisdiction thereafter the Election Commission will proceed further depending on the conclusion on the jurisdiction.

47. In fine, WMP Nos.2872, 2933 and 4877 of 2025 will stand allowed and the stay petitions WMP Nos.305, 294 and 289 of 2025 will stand dismissed. In view of the orders passed above, the stay petitions in WMP Nos.301, 304 and 308 of 2025 will also stand dismissed. Parties will bear their own costs.

(R.SUBRAMANIAN, J.) (G.ARUL MURUGAN, J.)
12.02.2025



*W.M.P.No.2933 of 2025 in W.P.No.258 of 2025,
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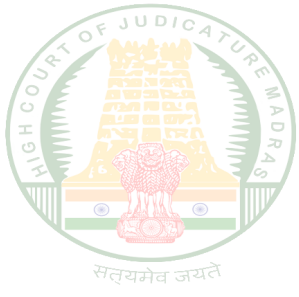
Index : Yes
Internet : Yes
Neutral Citation : Yes
Speaking order



*W.M.P.No.2933 of 2025 in W.P.No.258 of 2025,
W.M.P.No.2872 of 2025 in W.P.No.265 of 2025,
W.M.P.No.4877 of 2025 in W.P.No.252 of 2025*

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- 1.The Election Commission of India,
Nirvachan Sadan,
Ashoka Road, New Delhi - 110 001.
- 2.The Secretary,
Secretariat of the Election Commission of India,
Nirvachan Sadan,
Ashoka Road, New Delhi - 110 001.



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*W.M.P.No.2933 of 2025 in W.P.No.258 of 2025,
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W.M.P.No.4877 of 2025 in W.P.No.252 of 2025*

R.SUBRAMANIAN, J.
and
C.KUMARAPPAN, J.

dsa/jv

W.M.P.No.2933 of 2025 in W.P.No.258 of 2025,
W.M.P.No.2872 of 2025 in W.P.No.265 of 2025,
W.M.P.No.4877 of 2025 in W.P.No.252 of 2025
along with
W.M.P.No.294 of 2025 in W.P.No.258 of 2025,
W.M.P.No.304 of 2025 in W.P.No.265 of 2025
and
W.M.P.No.289 of 2025 in W.P.No.252 of 2025,

12.02.2025