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W.P(C)No. 86 OF 2004
TEM No.306

Court No. 2

SECTION PIL
A/N MATTER

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(Civil) No.86/2004

RAMDAS ATHAWALE

Petitioner (s)

VERSUS

UNION OF INDIA & ORS.

Respondent (s)

(With Office Report)

Date : 28/02/2005 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.B. SINHA
HON'BLE MR. JUSTICE S.H. KAPADIA

For Petitioner (s)

Mr. H.K. Puri,Adv.

For Respondent (s)Mr. G.E. Vahanvati, SG.

Mr. R. Mohan, ASG.

Mr. Devadatt, Adv.

Mr. Gaurav Agarwal, Adv.

Mr. P. Parmeswaran,Adv.

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

By an order dated 20th January, 2005 a Bench presided over by the Hon'ble the Chief Justice opined :

"Prima facie we are of the opinion that this petition is rendered infructuous in view of the Lok Sabha having been dissolved. Thus the present petition is of academic interest only inasmuch as the petitioner cannot be allowed any relief. The learned counsel for the petitioner insists on arguing the matter on merits and submits that either the matter should be heard by a Constitution Bench or the order dated 13.9.2004 should be recalled.

List before the Bench which passed the order dated 13.9.2004."

It appears to us that unfortunately the order of this Court dated 8.3.2004; was not brought to their Lordships' notice. A bare perusal of the aforesaid order leaves no manner of doubt on the Bench while issuing notice was aware of the position that election dates having been announced the question has to be considered having regard to its importance as regards its prospective bearing on the issue of the dissolution of Parliament. Furthermore after hearing the learned counsel for the parties at some length, this Bench while issuing Rule, found that this matter involves a substantial question of law as to the interpretation of Articles 85 and 87 of the Constitution of India and in that view of the matter, directed the matter to be placed before a Constitution Bench for hearing in terms of Article 145(3) of the Constitution. Keeping in view the fact that only prospective bearing of the question is required to be taken into consideration, we are of the opinion that no case has been made out for recalling of the order dated 13.9.2004. The said order is, therefore, reiterated. Let the matter be now placed for hearing before a Constitution Bench.

(PAWAN KUMAR)
COURT MASTER

(PREM PRAKASH)
COURT MASTER

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