

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

WRIT PETITION (CIVIL) NO(s). 532 OF 2008

DESIYA MURPOKKU DRAVIDA KAZHAGAM & ANR.

Petitioner(s)

VERSUS

ELECTION COMMISSION OF INDIA

Respondent(s)

(With appln(s) for directions, amendment of prayer portion and office report)

WITH

W.P.(C) NO.132/2009

(With appln. for directions)

SLP(C) No.7379-7380/2009

Date: 27/03/2009 These Petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE P. SATHASIVAM

For Petitioner(s) Mr. K.K. Venugopal, Sr. Adv.

Ms. Rukhsana Choudhury, Adv.

Mr. Col. Edwin Jesudoss, Adv.

Ms. Indira Unninayar, Adv.

Mr. Ankur Talwar, Adv.

WP(C) 132/09

Mr. Soli J. Sorabjee, Sr. Adv.

Mr. Rajiv Dutta, Sr. Adv.

M/s. M.F. Humayunisa, Kumar Dushyant Singh,

R. Nedumaran, Advs.

SLP(C) 7379-80/09

Mr. Ashok Desai, Sr. Adv.

M/s. S.K. Mendiratta, Suvrajyoti Gupta,

Meenakshi Arora, Advs.

For Respondent(s)

Ms. Meenakshi Arora, Adv.

Mr. Suvra Jyoti Gupta, Adv.

Ms. Poli Kataki, Adv.

Mr. Mohit D. Ram, Adv.

SLP(C) 7379-80/09

Mr. P.P. Rao, Sr. Adv.

M/s. S.U.K. Sagar, Bina Madhavan,

Shwetank Sailakwal, Advs.

For M/s. Lawyer's Knit & Co., Advs.

-2-

UPON hearing counsel the Court made the following
ORDER

W.P.(C) No.532/2008, W.P.No(C) No.132/2009 and SLP(C)
Nos.7379-80/2009

W.P.(C) No.532/2008 is filed by a registered unrecognized

political party mainly situated in Tamil Nadu and W.P.No(C) No.132/2009 is filed by another registered unrecognized political party situated mainly in Andhra Pradesh whereas special leave petitions are filed against the order passed by the division bench of the High Court of Andhra Pradesh. In all these matters the petitioners in writ petitions and respondents in the special leave petitions made an interim prayer. In the State of Andhra Pradesh and the State of Tamil Nadu General Elections have already been notified and in the State of Andhra Pradesh there are elections for Lok Sabha as well as assembly constituencies and in the State of Tamil Nadu there are General Elections only for Lok Sabha. By the impugned order, it has been directed that all registered unrecognized parties shall be allotted a free symbols for the ensuing elections.

The "Political Party" has been defined in the Election Symbols (Reservation and Allotment) Order, 1968, para 2 (h) as an association or body of individual citizens with the Commission as a political party under Section 29A of the Representation of the People Act, 1951. There are national parties, state parties and registered unrecognized parties and the symbols are allotted under the Election Symbols (Reservation

-3-

and Allotment) Order, 1968. The national parties as well as state parties have their own common symbols, whereas the registered unrecognized parties are given free symbols. Choice of symbols by other candidates and allotment are governed as per para 12 of the Election Symbols (Reservation and Allotment) Order, 1968.

The three political parties who have appeared before us through their senior counsel are Desiya Murpokku Dravida Kazhagam (DMDK) party, Praja Rajyam Party and Lok Satta Party and they contended that they would fill candidates in all the 292 assembly constituencies and 42 constituencies of Lok Sabha seats in Andhra Pradesh and 39 constituencies for Lok Sabha seats in Tamil Nadu and one Lok Sabha seat in Pondicherry. It is brought to our notice that these three political parties be given a common symbol each. While DMDK preferred the symbol of 'Nagara' which is at Sl.no.41 in the list of free symbols, whereas Praja Rajyam Party preferred the symbol of 'Railway Engine' which is at Sl.no.43 in the list of free symbols and the Lok Satta Party preferred the symbol of 'Whistle' which is at Sl.no.59 in the list of

free symbols.

The order passed by the High Court of Andhra Pradesh dated 25.3.2009 is stayed to the extent that the Election Commission has been directed to give a common symbol to all the candidates to be filled up by all registered unrecognized parties. Further the Election Commission may give a common symbol, as indicated earlier, to DMDK, Praja Rajyam Party and Lok Satta Party subject to the general conditions given in paragraph 12 of the Order, 1968, especially -

-4-

"12(b) if, of those several candidates, no one is set up by any recognized political party and all are independent candidates, but one of the independent candidates is, or was, immediately before such election a sitting member of the House of the People, or, as the case may be, of the Legislative Assembly, and was allotted that free symbol at the previous election when he was chosen as such member, the Returning Officer shall allot that free symbol to that candidate, and to no one else."

The candidates to be filled up by these political parties shall submit prescribed form duly authorised by a particular party. It is made clear that these three political parties are not entitled to get any preferential treatment in respect of this symbol and no equity will be given in future when allotment of regular symbol arise for consideration before the Election Commission. This is only an interim arrangement.

This order is confined to only these three parties.

W.P.(C) No.532/2008

Rule nisi

W.P.No(C) No.132/2009

Issue notice.

SLP(C)Nos.7379-80/2009

Taken on board.

Issue notice.

(R.K. Dhawan)
Court Master

(Veera Verma)
Court Master