

WP (PIL) No. 04/2016
Pahalman Subba & Ors. vs. State of Sikkim & Ors.

BEFORE
MR. JUSTICE SATISH K. AGNIHOTRI, CJ. &
MRS. JUSTICE MEENAKSHI MADAN RAI, J.

06. 10.03.17 Present: Mr. Sabyasachi Chatterjee, Mr. O.P. Bhandari and Mr. Sourav Mondal, Advocates for the Petitioners.

Mr. Karma Thinlay, Sr. Govt. Advocate with Mr. Santosh Kr. Chettri and Ms. Pollin Rai, Asstt Govt. Advocates for Respondents No. 1, 2, 3 and 4.

Mr. D.K. Siwakoti, Advocate for Respondent No. 5.

Mr. Jagan D. Thapa, Advocate for Respondent No. 6.

Mr. Jorgay Namka, Ms. Pema Bhutia, Ms. Panila Theengh and Ms. Tashi D. Sherpa, Advocates for Respondents No. 7, 8, 9 and 10.

Mr. D.R. Thapa, Sr. Advocate with Mr. Jagan D. Thapa, Advocate for Respondents No. 11 to 17.

Mr. N. Rai, Sr. Advocate with Ms. Tamanna Chhetri, Ms. Malati Sharma and Ms. Bindu Gurung, Advocates for Respondents No. 18 and 19.

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Rule.

IA No. 02 of 2016 is an application preferred by respondents No. 18 and 19 questioning the maintainability of the writ petition, Mr. N. Rai, learned Senior Counsel submits that in view of Article 192 of the Constitution of India the respondents cannot be declared as disqualified without referring for the decision of the Governor. Secondly, the question so raised seeks for a disqualification of the respondents as MLA which may not be the subject of adjudication under the jurisdiction of Article 226 of the Constitution of India. Thirdly, it is submitted that the question of law framed are not in

consonance with the prayer made by the petitioners. The question raised by learned Senior Counsel touches the merit and as such we are inclined to consider the said questions at the time of final hearing of the writ petition.

IA stands disposed of.

IA No. 03/2016

Learned counsel appearing for the respondents seek for and is granted four weeks' time to file counter affidavit to the amended writ petition. Two weeks' thereafter, to file rejoinder if any.

List on 17.05.2017 for final hearing subject to filing of proper paper book by the petitioners.

Sd/-
Judge
10.03.2017

Sd/-
Chief Justice
10.03.2017

ds/jk **Index : Yes / No**
 Internet : Yes / No