

ITEM NO.55

COURT NO.1

SECTION X

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition (C) No(s).872/2019

PRATAP GOUDA PATIL & ORS.

Petitioner(s)

VERSUS

THE STATE OF KARNATAKA & ORS.

Respondent(s)

(With appln.(s) for stay and exemption from filing O.T.)

Date : 12-07-2019 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE DEEPAK GUPTA
HON'BLE MR. JUSTICE ANIRUDDHA BOSE

For Petitioner(s) Mr. Mukul Rohtagi, Sr. Adv.
 Mr. Shubhranshu Padhi, AOR
 Ms. Kush Chaturvedi, Adv.
 Mr. Sandeep Patil, Adv.
 Mr. Ashish Yadav, Adv.
 Ms. Priyashree Sharma, Adv.
 Mr. Somay Kapoor, Adv.
 Mr. Gaurav Adusumalli, Adv.

For Respondent(s) Dr. Abhishek Manu Singhvi, Sr. Adv.
No.2 Mr. Devadatt Kamat, Sr. Adv.
 Mr. Javedur Rahman, Adv.
 Mr. Aditya Bhat, Adv.
 Mr. Rajesh Inamdar, Adv.
 Ms. Sneha Ravi Iyer, AOR

No.3 Dr. Rajeev Dhavan, Sr. Adv.
 Mr. Sunil Fernandes, AOR
 Ms. Nupur Kumar, Adv.
 Mr. Zeeshan Diwan, adv.
 Ms. Siddhi Padia, Adv.

Intervenor(s) Mr. Salman Khurshid, Sr. Adv.
 Mr. Abraham C. Mathews, Adv.
 Mr. Vikram Aditya Singh, Adv.
 Mr. Nishe Rajen Shonker, AOR

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

We have heard Shri Mukul Rohtagi, learned Senior Counsel appearing for the petitioner, Dr. Abhishek Manu Singhvi, learned Senior Counsel appearing for the Hon'ble Speaker and Dr. Rajeev Dhawan, learned Senior Counsel appearing for the Hon'ble Chief Minister.

Apart from the question of maintainability of the writ petition filed under Article 32 of the Constitution of India, questions of substantial importance involving the provisions of Articles 164, 190, 361B and the provisions of the Tenth Schedule of the Constitution of India arise for consideration in this case. An incidental question that would arise is the kind and extent of the directions that should be issued by a constitutional Court to another constitutional functionary, which in the present case happens to be the Hon'ble Speaker of the Assembly. That apart, on the pleadings and arguments made, the question as to whether in a situation where resignations by MLAs as well as disqualification proceedings are pending against the same MLAs, the Speaker is obligated under the Constitution to decide the disqualification issue in the first instance.

Shri Rohtagi, in reply to the application for recall has drawn the attention of the Court that the Hon'ble Speaker of the Assembly did not feel inhibited by any constitutional provision to decide the pending resignation request by another MLA against whom a disqualification was pending. That apart, Shri Rohtagi has submitted that the disqualification of the eight MLAs (namely Shri Pratap Gouda Patil, Shri B.C. Patil, Shri Shivaram Hebbar, Shri S.T. Somashekhar, Shri Byrathi Basavaraj, Shri Anand Singh, Shri R. Roshan Baig and Shri Muniratna) filed on 10th July, 2019 has been returned by the Hon'ble Speaker, which fact is yet to be laid before the Court by means of a proper affidavit.

Having regard to the weighty issues that have arisen and the incomplete state of facts, as indicated above, we are of the view that the matter should be considered by the Court further on 16th July, 2019.

In the meantime, the status quo as on today, with regard to the ten petitioners, be maintained, namely, that neither the issue of resignation nor the issue of disqualification will be decided by the Hon'ble Speaker.

This order has been passed by this Court only to enable the Court to decide the larger constitutional questions arising as indicated above.

List on Tuesday, 16th July, 2019.

(Anand Prakash)
Branch Officer

(Sarita Purohit)
AR-cum-PS