



2025:DHC:204-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision : 16.01.2025+ **LPA 38/2025****TIRUPATI NARASHIMA MURARI**

.....Appellant

Through: Mr Hari Shankar Jain, Mr Vishnu
Shankar Jain, Mr Parth Yadav, Ms
Mani Munjal, and Ms Khushboo
Tomar, Advocates.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr Shashank Bajpai, CGSC, Mr
Vedansh Anand, GP, Ms Stuti
Karwal, and Mr Soumyadip
Chakraborty, Advocate for UOI/R1.
Ms Suruchi Suri, SC for ECI/R2.**CORAM:****HON'BLE THE ACTING CHIEF JUSTICE****HON'BLE MR. JUSTICE TUSHAR RAO GEDELA****VIBHU BAKHRU, ACJ. (ORAL)**

1. The appellant has filed the present appeal, *inter alia*, impugning the judgment dated 20.11.2024 (hereafter *the impugned judgment*) passed by the learned Single Judge of this court in W.P.(C) No.9420/2018 captioned *Tirupati Narashima Murari v. Union of India & Others*.

2. The appellant had filed the aforementioned writ petition, *inter alia*, praying that an appropriate order be issued for quashing the registration granted to All India Majlis-e-Ittehadul Musalimeen (hereafter *the AIMIM*) as a political party by the Election Commission of India (hereafter *the ECI*).

3. The appellant had founded his challenge on the ground that the



AIMIM does not fulfil the conditions laid down under Section 29A of the Representation of the People Act, 1951 (hereafter *the RP Act*) as its object is to further the interest of only one religious community. It is contended that AIMIM does not spouse secular values and, therefore, grant of registration was violative of the Section 29A of the RP Act.

4. AIMIM was founded as a political party in the year 1958. It made its electoral debut in 1959 by contesting municipal elections in the city of Hyderabad. Subsequently, AIMIM's candidates also participated in elections to the Legislative Assembly of the erstwhile State of Andhra Pradesh in 1962. In 1984, candidates belonging to AIMIM were elected to the Lok Sabha from the Hyderabad constituency. Thereafter in the year 1989, AIMIM applied for registration with ECI.

5. On 09.08.1989, AIMIM informed ECI that its constitution was amended in conformity with Section 29A of the RP Act, which was introduced by virtue of Representation of the People (Amendment) Act, 1988, with effect from 15.06.1989.

6. On 01.06.1992, ECI accepted AIMIM's request for registration as a political party. AIMIM was recognized as a State Party in the State of Telangana on 19.06.2014.

7. The Aims and Objects of AIMIM as set out in its constitution is reproduced below:

“Aim and Objectives:

The aim and objectives of the Majlis will be as follows:

The All India Majlis Ittehadul Muslimeen shall work for social justice and economic upliftment of the backward sections of the society and the Muslims who



are backward both economically and in the field of education, with this end in view, it seeks to:

- i) Strive for unity among the Muslims and safeguarding their rights and interests as guaranteed under the constitution of India.
- ii) Promote education both technical and non-technical.
- iii) Promote Islamic education (Deeni Taleem) among Muslims, the reading of Quran and its understanding.
- iv) Create a general awakening among the Muslims to abide by the Shariat Laws.
- v) Resist all forms of discriminations in the recruitment to Government jobs and in Industrial and Educational Institutions.
- vi) Remove unemployment by securing employment in Government and Industrial establishments for Muslims and other backward sections of the society in proportion to their population and to establish self employment schemes.
- vii) Introduce an organised system of Zakath collection to help the poor and deserving members of the community.
- viii) Promote harmonious and fraternal relations between Muslims and other communities to make them good citizens of India.
- ix) Help the victims of communal violence through rehabilitation programmes.
- x) Take part in the elections to Parliament, State Legislative Assemblies Municipal Bodies and Panchayats and to set up candidates irrespective of caste and creed to further the aims and objectives of the Majlis.
- xi) Strive to see that the Muslims ignore differences and factions, stick to their respective principles and cooperate in the maintenance of public peace, and morality subject to the religious, economic, social and other common problems.”



8. The appellant also referred to Section 123 of the RP Act and contended that the objects of AIMIM, falls within the ambit of corrupt practices under Section 123 of the RP Act.

9. It is relevant to set out the relevant extracts the provisions of Sections 29A and 123 of the RP Act, on the basis of which, the appellant's prayer for de-registration of AIMIM as a political party, is founded. The same are set out below:-

“29A. Registration with the Election Commission of associations and bodies as political parties.--(1) Any association or body of individual citizens of India calling itself a political party and intending to avail itself of the provisions of this Part shall make an application to the Election Commission for its registration as a political party for the purposes of this Act.

(5) The application under sub-section (1) shall be accompanied by a copy of the memorandum or rules and regulations of the association or body, by whatever name called, and such memorandum or rules and regulations shall contain a specific provision that the association or body shall bear true faith and allegiance to the Constitution of India as by law established, and to the principles of socialism, secularism and democracy, and would uphold the sovereignty, unity and integrity of India.

(6) The Commission may call for such other particulars as it may deem fit from the association or body.

(7) After considering all the particulars as aforesaid in its possession and any other necessary and relevant factors and after giving the representatives of the association or body reasonable opportunity of being heard, the Commission shall decide either to register the association or body as a political party for the



purposes of this Part, or not so to register it; and the Commission shall communicate its decision to the association or body:

Provided that no association or body shall be registered as a political party under this sub-section unless the memorandum or rules and regulations of such association or body conform to the provisions of sub-section (5).

(8) The decision of the Commission shall be final.

(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.

123. Corrupt practices.

The following shall be deemed to be corrupt practices for the purposes of this Act :—

(3) The appeal by a candidate or his agent or by any other person with the consent of a candidate or his election agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community or language or the use of, or appeal to religious symbols or the use of, or appeal to, national symbols, such as the national flag or the national emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate:

Provided that no symbol allotted under this Act to a candidate shall be deemed to be a religious symbol or a national symbol for the purposes of this clause.

(3A) The promotion of, or attempt to promote, feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community, or language, by a candidate or his agent or any other person with the consent of a candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.”



10. It is not disputed that AIMIM had amended its constitution to expressly include the following clause: -

“Whereas, it is deemed expedient to amend the Constitution and to redefine the aims and objectives of the All India Majlise Ittehadul Muslimeen, in view of the expanding trend in its activities, therefore the following constitutions is adopted.

The All India Majlis Ittehadul Muslimeen bears true faith and allegiance to the Constitution of India as by law established and to the principles of Socialism, Secularism and Democracy and will uphold the sovereignty, unity and integrity of India.”

[emphasis added]

11. Thus, it is apparent from the above that AIMIM had amended its constitution to conform to the provisions of Section 29A(5) of the RP Act. In view of the above, the principal contention on which the appellant’s challenge is founded does not survive.

12. We find no infirmity with the conclusion of the learned Single Judge that the requirements of Section 29A(5) of the Act are fully satisfied. Therefore, there is no ground to de-register AIMIM as a political party on the ground that its constitution does not conform to Section 29A(5) of the RP Act.

13. The learned Single Judge also examined the power of ECI to de-register a political party and referred to the decision of the Supreme Court in *Indian National Congress (I) v. Institute of Social Welfare & Others: (2002) 5 SCC 685* and noted that the registration of a political party cannot be cancelled except on a limited grounds as referred to by the Supreme



Court in the said decision.

14. We consider it apposite to set out the following passages from the decision of the Supreme Court in *Indian National Congress (I) v. Institute of Social Welfare & Others* (*supra*), which in our view, was rightly considered as dispositive of the appellant's challenge.

“17. After Section 29-A of the Act came into force, paragraph 3 of the Symbols Order stood amended inasmuch as the definition of a political party in paragraphs 2(1) and (4) of the Symbols Order was also amended. Earlier, under paragraph 3 of the Symbols Order, a political party was defined as a registered party. After Section 29-A was inserted in the Act, the definition of a political party in the Symbols Order was amended to the effect that a political party means a party registered with the Election Commission under Section 29-A of the Act. Consequently, paragraph 3 of the Symbols Order was also amended to the extent it prescribed additional information which a political party was required to furnish to the Election Commission along with an application for registration. Now such additional information the Election Commission is authorised to call for under sub-section (6) of Section 29-A of the Act. A perusal of unamended paragraph 3 of the Symbols Order shows that it did not provide for deregistration of a political party registered under the Symbols Order. Nor any such provision was made after the Symbols Order was amended after Section 29-A was inserted in the Act. Further, neither the provisions of Section 29-A of the Act nor the rules framed thereunder, provide for deregistration or cancellation of registration of a political party. We are, therefore, of the view that neither under the Symbols Order nor under Section 29-A of the Act, the Election Commission has been conferred with any express power to deregister a political party registered under Section 29-A of the Act on the ground that it has either violated the provisions



of the Constitution or any provision of undertaking given before the Election Commission at the time of its registration.

32. This matter may be examined from another angle. If the directions of the High Court for considering the complaint of the respondent that some of the appellant political parties are not functioning in conformity with the provisions of Section 29-A is to be implemented, the result will be that a detailed enquiry has to be conducted where evidence may have to be adduced to substantiate or deny the allegations against the parties. Thus, a lis would arise. Then there would be two contending parties opposed to each other and the Commission has to decide the matter of deregistration of a political party. In such a situation the proceedings before the Commission would partake the character of quasi-judicial proceeding. Deregistration of a political party is a serious matter as it involves divesting of the party of the statutory status of a registered political party. We are, therefore, of the view that unless there is express power of review conferred upon the Election Commission, the Commission has no power to entertain or enquire into the complaint for deregistering a political party for having violated the constitutional provisions.

33. However, there are three exceptions where the Commission can review its order registering a political party. One is where a political party obtained its registration by playing fraud on the Commission, secondly, it arises out of sub-section (9) of Section 29-A of the Act and thirdly, any like ground where no enquiry is called for on the part of the Election Commission, for example, where the political party concerned is declared unlawful by the Central Government under the provision of the Unlawful Activities (Prevention) Act, 1967 or any other similar law.

35. The second exception is where a political party changes its nomenclature of association, rules and



regulations abrogating the provisions therein conforming to the provisions of Section 29-A(5) or intimating the Commission that it has ceased to have faith and allegiance to the Constitution of India or to the principles of socialism, secularism and democracy, or it would not uphold the sovereignty, unity and integrity of India so as to comply with the provisions of Section 29-A(5). In such cases, the very substratum on which the party obtained registration is knocked off and the Commission in its ancillary power can undo the registration of a political party. Similar case is in respect of any like ground where no enquiry is called for on the part of the Commission. In this category of cases, the case would be where a registered political party is declared unlawful by the Central Government under the provisions of the Unlawful Activities (Prevention) Act, 1967 or any other similar law. In such cases, power of the Commission to cancel the registration of a political party is sustainable on the settled legal principle that when a statutory authority is conferred with a power, all incidental and ancillary powers to effectuate such power are within the conferment of the power, although not expressly conferred. But such an ancillary and incidental power of the Commission is not an implied power of revocation. The ancillary and incidental power of the Commission cannot be extended to a case where a registered political party admits that it has faith in the Constitution and principles of socialism, secularism and democracy, but some people repudiate such admission and call for an enquiry by the Election Commission, reason being, an incidental and ancillary power of a statutory authority is not the substitute of an express power of review.

41. To sum up, what we have held in the foregoing paragraph is as under:

1. That there being no express provision in the Act or in the Symbols Order to cancel the registration of a political party, and as such no proceeding for deregistration can be taken by



the Election Commission against a political party for having violated the terms of Section 29-A(5) of the Act on the complaint of the respondent.

2. The Election Commission while exercising its power to register a political party under Section 29-A of the Act, acts quasi-judicially and decision rendered by it is a quasi-judicial order and once a political party is registered, no power of review having been conferred on the Election Commission, it has no power to review the order registering a political party for having violated the provisions of the Constitution or for having committed breach of undertaking given to the Election Commission at the time of registration.

3. However, there are exceptions to the principle stated in paragraph 2 above where the Election Commission is not deprived of its power to cancel the registration. The exceptions are these:

(a) where a political party has obtained registration by practising fraud or forgery;

(b) where a registered political party amends its nomenclature of association, rules and regulations abrogating therein conforming to the provisions of Section 29-A(5) of the Act or intimating the Election Commission that it has ceased to have faith and allegiance to the Constitution of India or to the principles of socialism, secularism and democracy or it would not uphold the sovereignty, unity and integrity of India so as to comply with the provisions of Section 29-A(5) of the Act; and

(c) any like ground where no enquiry is called for on the part of the Commission.

4. The provisions of Section 21 of the General Clauses Act cannot be extended to the quasi-



judicial authority. Since the Election Commission while exercising its power under Section 29-A of the Act acts quasi-judicially, the provisions of Section 21 of the General Clauses Act have no application.”

15. The Supreme Court has authoritatively held there are only three grounds on which the registration of a political party could be cancelled. The same being:

- a) obtaining registration by fraud;
- b) where a political party changes its nomenclature of association, rules and regulations abrogating the provisions which conform to Section 29A(5) of the Act or intimates to the ECI that it is ceased to have faith and allegiance to the Constitution of India or the principles of socialism, secularism and democracy or that it would not uphold the sovereignty, unity and integrity of India; and
- c) any such similar grounds where no enquiry is called for on the part of the ECI.

16. Clearly, the appellant’s challenge does not fall in any of the three exceptions as explained by the Supreme Court in its decision.

17. We also consider to note the following passage of the decision in *Indian National Congress v. Institute of Social Welfare & Others* (*supra*) whereby the Supreme Court had explained the reasons for not empowering ECI to deregister a political party for noncompliance with the conditions for grant of such registration:

“40. It may be noted that Parliament deliberately omitted to vest the Election Commission of India with the power to deregister a political party for non-compliance with the conditions for the grant of such



registration. This may be for the reason that under the Constitution the Election Commission of India is required to function independently and ensure free and fair elections. An enquiry into non-compliance with the conditions for the grant of registration might involve the Commission in matters of a political nature and could mean monitoring by the Commission of the political activities, programmes and ideologies of political parties. This position gets strengthened by the fact that on 30-6-1994 the Representation of the People (Second Amendment) Bill, 1994 was introduced in the Lok Sabha proposing to introduce Section 29-B whereunder a complaint could be made to the High Court within whose jurisdiction the main office of a political party is situated for cancelling the registration of the party on the ground that it bears a religious name or that its memorandum or rules and regulations are no longer conforming the provisions of Section 29-A(5) or that the activities are not in accordance with the said memorandum or rules and regulations. However, this Bill lapsed on the dissolution of the Lok Sabha in 1996 (see p. 507 of How India Votes: Election Laws, Practice and Procedure by V.S. Rama Devi and S.K. Mendiratta)."

18. The learned Single Judge had accordingly held that ECI does not have the powers to deregister AIMIM on the grounds as set out by the appellant in the said petition. We concur with the said view.

19. In view of the above, the appeal is unmerited. It is, accordingly, dismissed.

VIBHU BAKHRU, ACJ

TUSHAR RAO GEDELA, J

JANUARY 16, 2025

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