



झारखण्ड विधान-सभा

संविधान के 10वीं अनुसूची के अन्तर्गत माननीय अध्यक्ष
झारखण्ड विधान-सभा का निर्णय

दिनांक 08 जून, 2006

झारखण्ड विधान-सभा सचिवालय,
राँची ।



सत्यमेव जयते

झारखण्ड विधान-सभा

भारत के संविधान की 10 वीं अनुसूची के तहत माननीय
अध्यक्ष झारखण्ड विधान सभा का न्याय निर्णय ।

श्री कमलाकांत प्रसाद सिन्हा, पूर्व स०वि०स०
एवं

श्री मोहरिल मुरमू, पूर्व स०वि०स०.....वादी

बनाम्

श्री स्टीफन मराण्डी, स०वि०स०.....प्रतिवादी

झारखण्ड विधान-सभा सचिवालय राँची

शारङ्गड विधान-सभा न्याय न्यायालय

पत्र संख्या- कार्यांक- 1/06 1649 वि०स० ।

प्रेम्क,

श्री सीताराम सहनी,
सचिव,
शारङ्गड विधान-सभा, राँची ।

सेवा में,

श्री स्टीफन मराण्डी,
स०वि०स०,

25/6/06

विषय:- संविधान की दसवीं अनुसूची एवं अनुच्छेद 101 §2 तथा 191 §2 के तहत दल परिवर्तन के आधार पर विधान-सभा की सदस्यता से निरर्हता संबंधी याचिका पर न्याय निर्णय (Judgement) ।

प्रकाश: आपका पत्रांक- 566 शार०/06 वि०- 08/06/06 ।

महोदय,

उपर्युक्त विषयक प्राथमिक पत्र के क्रम में निर्देशानुसार मुझे सूचित करना है कि सर्वश्री कमलाकांत प्रताप सिन्हा, पूर्व स०वि०स० तथा मोहरिल मुरमू पूर्व स० वि०स० सह भाजपा प्रत्यागी दुमका दुमका विधान-सभा क्षेत्र द्वारा संविधान की दसवीं अनुसूची एवं अनुच्छेद 101 §2 तथा 191 §2 के तहत दल परिवर्तन के आधार पर विधान-सभा की आपकी सदस्यता से निरर्हता संबंधी याचिका पर दिनांक 27.01.06 को हुई सुनवाई के उपरांत दिनांक 08.06.06 को माननीय अध्यक्ष महोदय द्वारा, न्याय निर्णय दिया गया है, जिसकी सत्यापित प्रतिलिपि आपके प्रयोजनार्थ उपलब्ध कराई जा रही है ।

कृपया प्रति की सुचना दी जाए ।

विशवात्माजन

o/c सचिव, शारङ्गड विधान-सभा, राँची ।
25/6/06

आरक्षक विधान कक्षा अधिवक्ता, आरक्षक विधान-कक्षा

अभियुक्ता

राष्ट्रीय, निर्वाचन - 22 सितंबर, 2006

संख्या-रा.वि.-21/06 16,99,कि.मी। रेलवे द्वारा अधिसूचना संख्या 191/2006 के तहत
संख्या-रा.वि.-21/06 16,99,कि.मी। रेलवे द्वारा अधिसूचना संख्या 191/2006 के तहत
की स्वीकृत कार्यों, अधिसूचना, के विषय में परिवर्तन के आधार पर विधान-कक्षा
की आवश्यकता के निर्वाह हेतु की आवश्यकता प्रमाण पत्र, पूर्व अधिसूचना संख्या
की प्रमाण पूर्व, पूर्व अधिसूचना द्वारा कार्य अधिसूचना संख्या 191/2006 के तहत
आरक्षक विधान-कक्षा द्वारा निर्वाचन-2 सितंबर, 2006 को निर्वाचन क्षेत्र [संख्या] को
प्रमाणित किया जाता है।

निर्वाचक विधान-कक्षा,
राष्ट्रीय,
आरक्षक विधान-कक्षा, रा.वि.

संख्या-रा.वि.-21/06 16,99,कि.मी। रेलवे, निर्वाचन-2 सितंबर, 2006 को।

प्रमाणित स्वीकृत कार्यों, अधिसूचना/व्यवस्थापक प्रमाण पत्र, पूर्व अधिसूचना
संख्या-रा.वि.-21/06 16,99,कि.मी। रेलवे द्वारा अधिसूचना संख्या 191/2006 के तहत
आरक्षक विधान-कक्षा द्वारा निर्वाचन-2 सितंबर, 2006 को निर्वाचन क्षेत्र [संख्या]
को प्रमाणित किया जाता है।

निर्वाचक विधान-कक्षा,
राष्ट्रीय,
आरक्षक विधान-कक्षा, रा.वि.

संख्या-रा.वि.-21/06 16,99,कि.मी। रेलवे, रा.वि., निर्वाचन-2 सितंबर, 2006 को।

प्रमाणित स्वीकृत कार्यों, अधिसूचना/व्यवस्थापक प्रमाण पत्र, पूर्व अधिसूचना
संख्या-रा.वि.-21/06 16,99,कि.मी। रेलवे द्वारा अधिसूचना संख्या 191/2006 के तहत
आरक्षक विधान-कक्षा द्वारा निर्वाचन-2 सितंबर, 2006 को निर्वाचन क्षेत्र [संख्या]
को प्रमाणित किया जाता है।

निर्वाचक विधान-कक्षा,
राष्ट्रीय,
आरक्षक विधान-कक्षा, रा.वि.

संख्या-रा.वि.-21/06 16,99,कि.मी। रेलवे, रा.वि., निर्वाचन-2 सितंबर, 06 को।

प्रमाणित स्वीकृत कार्यों, अधिसूचना/व्यवस्थापक प्रमाण पत्र, पूर्व अधिसूचना
संख्या-रा.वि.-21/06 16,99,कि.मी। रेलवे द्वारा अधिसूचना संख्या 191/2006 के तहत
आरक्षक विधान-कक्षा द्वारा निर्वाचन-2 सितंबर, 2006 को निर्वाचन क्षेत्र [संख्या]
को प्रमाणित किया जाता है।

निर्वाचक विधान-कक्षा,
राष्ट्रीय,
आरक्षक विधान-कक्षा, रा.वि.

JUDGMENT

A petition was filed in the court of the Speaker, Jharkhand Assembly, by an ex-MLA Mr Kamla Kant Sinha to disqualify Mr Stephen Marandi, an independent MLA elected from 10 (ST) Dumka constituency of Jharkhand Assembly. Another petition, filed on 20.05.2005 by Mr. Mohril Murmu, a BJP candidate from 10 (ST) Dumka constituency, has also demanded disqualification of Mr Stephen Marandi under Xth Schedule adding therein that after Mr Marandi's disqualification he, being the closest rival, should be declared elected. The reasons cited by both the petitioners for disqualifying Mr Marandi are exactly the same. Both have mentioned that the case of Mr Marandi is identical to that of Mr Mahachandra Singh, a former member of the Bihar Legislative Council, who was elected on a Congress ticket as MLC but later contested the Lok Sabha elections as an independent candidate. Mr Mahachandra Singh, after the judgment given by Chairman, Bihar Legislative Council, did not get relief even from the apex court. The copies of the petitions were sent to Mr Stephen Marandi for filing a counter affidavit. In his reply, Mr Marandi has requested to reject the petition.

An open hearing was also conducted on 27.01.2006 in which the petitioners and the respondent appeared along with their respective counsels. Mr Rajiv Sinha, appearing on behalf of Mr Kamlakant Sinha, pleaded that since at the time of nomination for Assembly election, Mr Marandi was a Rajya Sabha member on a JMM ticket, the status of his case was similar to that of Mr Mahachandra Singh. The learned lawyer said the moment Mr Marandi filled up his nomination papers as an independent candidate, he attracted disqualification under the Xth Schedule as he was a member of the JMM then, the membership of which was voluntarily given up by him.

the Xth Schedule read with Article 191(2) of the Constitution, the seat held by Mr Marandi in the Rajya Sabha should have fallen vacant. Besides, he had resigned from the membership of the Rajya Sabha after being elected to the Jharkhand Vidhan Sabha as an independent candidate within the stipulated period due to which the matter has become irrelevant.

The counsel of Mr Stephen Marandi also pleaded that the case should not be treated as being identical to that of Mr Mahachandra Singh, as Mr Singh had lost the Lok Sabha election & when he went back to the Bihar Legislative Council, a petition was filed against him for disqualification on grounds of having contested the Lok Sabha election as an independent candidate voluntarily giving up the membership of Congress party & thus had invited disqualification under the Xth Schedule.

Mr Stephen Marandi, the counsel said, won the election as an independent & entered the Jharkhand Vidhan Sabha as an independent member & hence he did not come under the scanner of the Xth Schedule. The Xth Schedule, he said, would have been applicable only when Mr Marandi would have violated the conduct laid down for an independent member in the Constitution. He told the court that since Mr Marandi has not joined any political party after his election to the Assembly as an independent candidate, his case did not fall within the purview of the Xth Schedule. Mr Gadodia pleaded that Mr Marandi ceased to be a member of Jharkhand Mukti Morcha soon after filing his nomination papers as an independent candidate on 15.02.2005, i.e. much prior to his election as a member of the Jharkhand Legislative Assembly & taking oath on 10.03.2005 as its member. The counsel further added that Mr Marandi was not a member of any political party in the Jharkhand Assembly therefore there was no question and/or occasion for him to resign from any political party, including JMM,

before taking oath as a member of the Jharkhand Legislative Assembly.

After hearing the detailed arguments presented by the learned counsels of the petitioner & the opposite party, I hold that the case of Mr Stephen Marandi was not identical to that of Mr Mahachandra Singh. If we compare both the cases, the Xth Schedule can only be applicable in the case of Mr Marandi in the Rajya Sabha alone and not in the Jharkhand Vidhan Sabha, which he entered as an independent candidate. The court also holds that to equate the case of Mr Mahachandra Singh with that of Mr Stephen Marandi will be a mistaken notion. I, therefore, reject the petitions filed by Mr Kamia Kant Sinha & Mr Mohril Murmu and hold that the case of Mr Stephen Marandi in no way comes under the Xth Schedule for disqualification as Mr Marandi has not joined any political party after his election as an independent candidate. He retained the dual membership as per the provision mentioned in the Constitution of India and the moment he filed his nomination papers as an independent candidate, he should be deemed to have given up the membership of the JMM voluntarily and hence the question of his disqualification does not arise.

J. S. Narayan
8/6/20