

**\* THE HON'BLE SRI JUSTICE B KRISHNA MOHAN**

**+ WRIT PETITION No.3332 & 6800 of 2024**

% 16.04.2024

**W.P. No.3332 of 2024:-**

Between:

# Rastriya Praja Congress (Secular),  
Central Office, at D.No. 12-11-113,  
Aryapuram, RPC Street, (RPC Bhavan).  
Rajahmundry-4, Rep. by its Founder  
President, Srinivas Meda, S/o. Meda  
Surya Narayana, Aged about 54 years.

.... Petitioner

Versus

\$ The Election Commission of India,  
Rep. by its Secretary, Nirvachan  
Sadan, Ashoka Road, New Delhi-110  
001 and 3 others.

....Respondents

**W.P. No.6800 of 2024:-**

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Sadan, Ashoka Road, New Delhi-110  
001 and 2 others.

....Respondents

! Counsel for the petitioner : M/s. Corpus Juris Law Panel  
Sri. M.V.Raja Ram.

^ Counsel for the respondents: The learned Standing Counsel  
for the respondent Nos.1 to 3.  
Sri. E. Sambasiva Pratap and  
Sri. V. Venkata Subbaiah  
for the respondent No. 4.

<Gist:

>Head Note:

? Cases referred:

W.P.No.6995 of 2024

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DATE OF ORDER PRONOUNCED 16.04.2024.

**SUBMITTED FOR APPROVAL:**

**THE HON'BLE SRI JUSTICE B KRISHNA MOHAN**

1. Whether Reporters of Local newspapers may be allowed to see the Order? Yes/No
2. Whether the copies of order may be marked to Law Reporters/Journals? Yes/No
3. Whether Your Lordships wish to see the fair Copy of the Order? Yes/No

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**JUSTICE B KRISHNA MOHAN**

**IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI**

**THE HON'BLE SRI JUSTICE B KRISHNA MOHAN**

**WRIT PETITION Nos. 3332 and 6800 of 2024**

**COMMON ORDER:**

Heard the learned counsel for the petitioner, the learned Standing counsel for the 1<sup>st</sup> respondent and the learned Senior Counsel for the 4<sup>th</sup> respondent in the 1<sup>st</sup> case.

2. The W.P.No. 3332 of 2024 is filed questioning the letter of the 1<sup>st</sup> respondent dated 18.08.2023 and the letter of the 1<sup>st</sup> respondent dated 24.01.2024.

3. The W.P.No. 6800 of 2024 is filed questioning the action of the 1<sup>st</sup> respondent in issuing the letter dated 06.02.2024 addressed to the petitioner by not considering the application of the petitioner dated 16.10.2023 and 20.12.2023 under 10-B of the Election Symbols (Reservation and Allotment) Order, 1968.

4. Under the impugned letter dated 18.08.2023 of the 1<sup>st</sup> respondent addressed to the petitioner, it was informed that the application of the petitioner dated 13.05.2023 was received on 17.05.2023 requesting for allotment of common symbol to the candidates of the petitioner-party in the upcoming General Elections in the States of Andhra Pradesh

and Telangana, found to be premature as it was made prior to the prescribed time period as per para 10-B of the Election Symbols (Reservation and Allotment) Order, 1968 and as the said application was submitted in an incomplete proforma, it has not been considered.

5. Under the impugned letter of the 1<sup>st</sup> respondent dated 24.01.2024, the 4<sup>th</sup> respondent along with the other parties were given concessions as sought under para 10-B of the Election Symbols (Reservation & Allotment) Order, 1968 for the forthcoming General Elections to the Legislative Assembly of Andhra Pradesh and Sikkim, 2024. In which the 4<sup>th</sup> respondent is allotted “Glass Tumbler” as common symbol to contest in all the 175 Assembly Constituencies in the State of Andhra Pradesh. The application of the 4<sup>th</sup> respondent is dated 12.12.2023 in proforma for allotment of common symbol under para 10-B of the Election Symbols (Reservation & Allotment) Order, 1968, which was submitted by hand on the same day. As per para 10-B (A) (ii) of the Election Symbols (Reservation & Allotment) Order, 1968, the application can be made by any party to the 1<sup>st</sup> respondent commission at any time during the period commencing from six (6) months prior to the date of expiry of the term of the

Assembly and latest by five (5) clear days before the date of which the notification (or the 1<sup>st</sup> phase of the notifications in the case of phased Elections) of the Election is scheduled to be issued. As per the para 10-B (A) (iv) of the said order 1968, the party shall give the names of the 10 symbols in order of preference from out of list of free symbols notified by the Commission under paragraph 17 of that order. It is the contention of the petitioner that the application of the 4<sup>th</sup> respondent is not in order and Annexure-I was not given by the 4<sup>th</sup> respondent. Whereas the petitioner made another application in proforma dated 20.12.2023, which was received by the 1<sup>st</sup> respondent on 26.12.2023. The window of the 1<sup>st</sup> respondent was open on 12.12.2023 in terms of para 10-B (A) (ii) as stated above.

6. The learned Standing counsel for the 1<sup>st</sup> respondent submits that any application received on or after 12.12.2023 would be considered by the 1<sup>st</sup> respondent commission on first come, first served basis as per para 10-B explanation (iv) of the above said Order, 1968. In this case, the petitioner's application is dated 20.12.2023 and the 4<sup>th</sup> respondent's application is dated 12.12.2023 as already stated above in detail.

7. The learned Standing counsel for the 1<sup>st</sup> respondent produces the relevant extract of the Inward Register of the 1<sup>st</sup> respondent commission with respect to the application of the 4<sup>th</sup> respondent, which shows that the application of the 4<sup>th</sup> respondent dated 12.12.2023 was received by one Mr. Kamal Sharma, R&I, Employee of the 1<sup>st</sup> respondent on 12.12.2023 at 10.29 a.m and the same was forwarded immediately to one Ms. Jaydeb Lahiri, Secretary, PPS-II of the 1<sup>st</sup> respondent. Ultimately, the result was communicated to the 4<sup>th</sup> respondent on 20.02.2024 at 02.36 p.m. He further submits that only when the application is made in proforma by the party/applicant enclosing all the necessary documents and the information furnished as required at the time of submission of the application itself, the Commission would consider finally for concession sought as per the above said Order, 1968 by allotting a common symbol to that party/applicant to contest the forthcoming Elections. Since, the application of the 4<sup>th</sup> respondent dated 12.12.2023 was completely in order at the time of submission itself, the same has been considered by the 1<sup>st</sup> respondent favourably under the impugned letter of the 1<sup>st</sup> respondent dated 24.01.2024 along with the other eligible parties. Since the petitioner's

application was made prematurely contrary to the above said Order, 1968, the same was not considered under the impugned letter of the 1<sup>st</sup> respondent dated 18.08.2023 and as the documents furnished along with the letter of the petitioner dated 10.08.2020 were incomplete under section 29(A) (9) of the Representation of People's Act, 1951, the same was rejected vide the impugned letter of the 1<sup>st</sup> respondent dated 06.02.2024 which is assailed in the 2<sup>nd</sup> writ petition (W.P.No. 6800 of 2024).

8. Even after sending some more information and the documents additionally by any of the parties/applicants in continuation of their earlier/original applications submitted, they would not cure the defects and as such they are not entitled to be given any benefit under the above said Order, 1968. Unless the applications submitted in proforma are fully loaded with all the necessary documents and information required to be furnished strictly in terms of law, they are not entitled to be considered favourably as per the above said Order, 1968. Since the petitioner made another application earlier dated 16.10.2023, the same was also rejected as it was made prematurely contrary to the above said Order, 1968. Be that as it may, the another application of the

petitioner dated 20.12.2023 was received by the 1<sup>st</sup> respondent on 26.12.2023 and it was also not considered for allotment of common symbol to the candidates of the petitioner-party for the upcoming General Elections under para 10-B of the Election Symbols (Reservation & Allotment) Order, 1968 on the ground that on the date of application, there are no authorized office bearers as per the records of the Commission and the same was communicated by the 1<sup>st</sup> respondent vide letter dated 06.03.2024 which is not under challenge in these writ petitions.

9. The learned Standing counsel for the 1<sup>st</sup> respondent also relies upon the decision of the Division Bench of the Telangana High Court in W.P.No. 6995 of 2024 dated 01.04.2024 which held at para Nos. 11, 12, 13 and 14 of the said order as under:

“11. Thus, from perusal of the relevant extract of the Symbols Order, 1968, the guidelines dated 29.08.2014 and the order passed by Election Commission of India dated 25.05.2022, it is evident that a political party is required to furnish the annual audited accounts of the financial years concerned as well as the expenditure statement and the contributions received by it. The application submitted by a

registered political party for allotment of common symbol has to be dealt with on first-come-first-served basis.

12. In the instant case, the application for allotment of common symbol for contesting the ensuing Parliamentary Elections was filed by the petitioner on 22.12.2023. However, admittedly, along with the aforesaid application, the petitioner neither filed Contribution Reports nor filed the list of Office Bearers. The petitioner subsequent to submission of the application on 22.12.2023 had submitted a Contribution Report in Form 24A on 05.02.2024 and thereafter, submitted the list of Office Bearers in the elections, which were held subsequent to the filing of the application on 20.01.2024, on 20.02.2024 before Election Commission of India. Thus, the application submitted by the petitioner on 22.12.2023 was incomplete. The application submitted by a political party for allotment of common symbol has to be complete in all respects on the day of submission of application as the application has to be considered on first-come-first-served basis. The application dated 22.12.2023 submitted by the petitioner was incomplete and therefore, the same has rightly been rejected by Election Commission of India.

13. For the aforementioned reasons, we do not find any infirmity in the order passed by Election Commission of India.

14. In the result, the writ petition is dismissed.”

10. The learned Senior Counsel appearing for the 4<sup>th</sup> respondent in the 1<sup>st</sup> case (W.P.No. 3332 of 2024) adopts the contentions of the 1<sup>st</sup> respondent counsel and further submits that the 4<sup>th</sup> respondent contested in the previous Elections also and secured minimum percentage of votes and as such it made an application as stated above on 12.12.2023 in proforma enclosing all the necessary documents and information as required under para 10-B of the Election Symbols (Reservation and Allotment) Order, 1968. The petitioner cannot challenge the symbol allotted to the 4<sup>th</sup> respondent as its application in proforma satisfied all the requirements under law.

11. In reply, the learned counsel for the petitioner in both the cases submits that the rejection of the petitioner's application dated 13.05.2023 and allotment of symbol for the 4<sup>th</sup> respondent are illegal and arbitrary. He further submits that the petitioner submitted documents subsequently but the same were not considered by the 1<sup>st</sup> respondent Commission to consider the application submitted earlier.

12. In view of the above said facts and circumstances, rival submissions made and para 10-B of the Election Symbols (Reservation and Allotment) Order, 1968, it is to be seen that

the petitioner's earlier applications dated 13.05.2023 and 16.10.2023 were found to be made prematurely contrary to the para 10-B (A) (ii) of the Election Symbols (Reservation & Allotment) Order, 1968 and as such the impugned letters of the 1<sup>st</sup> respondent dated 18.08.2023 and 06.02.2024 cannot be found fault with as they are just and proper in tune with the above said Order, 1968. The prayer in the 1<sup>st</sup> writ petition clubbing two different issues which are not having bearing on each other is misconceived, since the 1<sup>st</sup> limb of the prayer is about questioning of non consideration of the petitioner's application dated 13.05.2023 under the impugned letter of the 1<sup>st</sup> respondent dated 18.08.2023 and the 2<sup>nd</sup> limb of the prayer is with respect to the allotment of common symbol to the 4<sup>th</sup> respondent under the impugned letter of the 1<sup>st</sup> respondent dated 24.01.2024. In these cases, as seen above, the petitioner's applications are dated 13.05.2023, 16.10.2023 and 20.12.2023. Whereas the 4<sup>th</sup> respondent's unique application is dated 12.12.2023. The only difference between the petitioner and the 4<sup>th</sup> respondent is that the applications of the petitioner are incomplete and the application of the 4<sup>th</sup> respondent is complete as contended by the learned Standing Counsel of the respondent No.1. The

petitioner miserably failed to demonstrate, how the 4<sup>th</sup> respondent is not entitled to be allotted a common symbol under the impugned proceedings of the 1<sup>st</sup> respondent dated 24.01.2024 and as such it is not liable to be interfered with. The applications of the petitioner as discussed above are failed due to lack of submission of those applications in proforma and in order by enclosing all the necessary documents and the information required to be furnished at the time of submission of those applications only as required and mandated under para 10-B of the Election Symbols (Reservation & Allotment) Order, 1968 for the purpose of scrutiny and consideration of the 1<sup>st</sup> respondent Commission. Unless the petitioner/party/applicant submits any application in proforma and in order under the above said Order, 1968 in all aspects as required and reiterated by the 1<sup>st</sup> respondent commission time and again, such application will not get any eligibility to be considered favourably to grant concession in the matter of allotment of common symbol at the time of scrutiny and consideration. That apart, admittedly, the petitioner has not challenged the letter of the 1<sup>st</sup> respondent dated 06.03.2024 wherein the application of the petitioner

dated 20.12.2023 was rejected for the reasons mentioned therein and as such no indulgence can be shown in these writ petitions.

13. Accordingly, these Writ Petitions are dismissed.

No costs.

As a sequel, Miscellaneous Petitions pending, if any, shall stand closed.

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**JUSTICE B KRISHNA MOHAN**

16.04.2024  
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