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**IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD
(LUCKNOW)**

P.I.L. CIVIL No. - 28404 of 2021

Petitioner :- Sheshmani Nath Tripathi

Respondent :- E.C.I.Thru. Chief Election Commissioner, New
Delhi & Anr.

Counsel for Petitioner :- In Person

Counsel for Respondent :- A.S.G., Vijay Vikram Singh

Hon'ble Devendra Kumar Upadhyaya, J.

Hon'ble Mrs. Saroj Yadav, J.

(Per Devendra Kumar Upadhyaya, J.)

1. These proceedings under Article 226 of the Constitution of India have ostensibly been instituted in public interest challenging paragraphs 3 of an order issued on 19th September, 1989 by the Election Commission of India (hereinafter referred to as "Election Commission"), whereby it has been observed that Bhartiya Janta Party shall be recognized as a National Party, for which symbol "Lotus" shall be reserved for it in terms of the provisions contained in sub paragraph 2 of paragraph 7 of the Election Symbols (Reservation and Allotment) (Second Amendment) Order 1989 (hereinafter referred to as "Second Amendment Order, 1989).

2. Similar prayer has been made challenging paragraph 3 of another order dated 23rd September, 1989 issued by the Election Commission, whereby it has been observed that Indian National Congress shall be a National Party for which symbol "Hand" shall be reserved.

3. Heard Shri Sheshmani Nath Tripathi, petitioner in person and Shri Vijay Vikram Singh, learned counsel representing the Election Commission.

4. At the outset, we may observe that though this petition has purportedly been filed in "public interest", however, from the pleadings available on record, it can very well be inferred that the petitioner has attempted to espouse a personal cause as well. In this regard, it is noted that in paragraph 6 of the petition it has been stated that the petitioner is a primary member of Samajwadi Party in U.P. which is a registered political party under section 29A of the Representation of People Act, 1951 (hereinafter referred to as the "Act") and plea of discrimination in issuance of Letters of Registration under section 29A of the Act has been raised by stating that paragraph 3 in the impugned orders dated 19th September, 1989 and 23rd September, 1989 issued by the Election Commission in respect of two political parties, namely, Bhartiya Janta Party and Indian National Congress, it has been provided that these parties shall be National Parties and their election symbols shall also be reserved, however, similar provision is missing in the registration letter issued in respect of Samajwadi Party on 21st May, 1993. Thus a cause on behalf of the Samajwadi Party has also been attempted to be pleaded in this writ petition. In the same breath, however, the petitioner also states in the writ petition that he does not have any personal or private interest in this writ petition in any manner whatsoever and that the

petition has been filed in public interest and also that the entire cost of litigation is being borne by the petitioner himself. The petitioner has also stated that he is a public spirited person and that the matter raised herein carries immense importance as such he has filed this petition. In paragraph 4 of the writ petition, it has also been averred by the petitioner that the result of this litigation will not lead to any undue gain to himself or to any one associated with him or any undue loss to any one, body of persons or the State, though the petitioner, admittedly, is a member of another political party, namely, Samajwadi Party.

5. The writ petition also, in our considered opinion, suffers from non-joinder of necessary parties. In this regard, it is noticeable that though it has been prayed in the writ petition that paragraph 3 of the letters of recognition dated 19th September, 1989 and 23rd September, 1989 may be quashed and struck down, however, the political parties, which are likely to be affected in case the prayer made in this petition is granted, have not been impleaded as respondents.

6. As noticed above, letters of registration issued by the Election Commission way back in the year 1989 are now being challenged after a lapse of about 32 years offering an explanation that in case of violation of fundamental rights conferred on the citizenary of this country in part III of the Constitution of India, delay is not material. Further explanation which has been sought to be given is that the impugned letters of registration have been challenged as the petitioner received reply to a query made by him under the Right to Information Act from the Election Commission by its letter dated 12.05.2021 enclosing therewith the impugned letters of registration in response to his application dated 15.04.2021. The said reply, it has been stated, was received by the

petitioner on 27.10.2021. The explanation offered for such inordinate delay in instituting this petition though is not satisfactory, however, we are entertaining the petition for the reasons given hereinafter.

7. Having observed as above, we have, nonetheless, entertained this writ petition and proceed to decide the same as an important issue has been raised in the petition pertaining to scope and ambit of section 29A of the Act and also the powers and jurisdiction of Election Commission under Article 324 of the Constitution of India.

8. It has been argued by the petitioner that the letters of registration dated 19th September, 1989 and 23rd September, 1989 have been issued by the Election Commission in exercise of its power vested in it under section 29A of the Act which clearly does not empower the Election Commission either to declare a political party as a National Party or to reserve its election symbol, therefore paragraph 3 of the said letters of registration are bad in law.

9. Drawing attention of the Court to the language used in section 29A of the Act, it has vehemently been submitted by the petitioner that the said provision empowers the Election Commission only to decide either to register an association or a body as a political party or not so to register it on consideration of the particulars and other relevant factors as required by the said section. It has, thus, been urged that as per the scheme envisaged in section 29A of the Act, an association or a body of individuals is required to make an application for its registration as a political party giving particulars/information required under sub sections 2, 3, 4 and 5 of section 29-A of the Act and the Election Commission after receiving the particulars/information, is mandated to consider

the same and take a decision either to register the applicant as a political party or not to register it. The petitioner has thus, submitted that section 29-A of the Act does not in its ambit encompass the powers of recognizing a political party as a National Party or a State Party or to reserve the Election Symbol for such a political party.

10. On the strength of the aforesaid submission, it has thus, been argued that the impugned paragraph 3 of the letters of registration dated 19th September, 1989 and 23rd September, 1989 whereby the political parties concerned have been recognized as National Parties and election symbols have also been reserved, is unlawful, without jurisdiction and amounts to transgression of its authority and power by the Election Commission as vested in it under section 29A of the Act. It has further been argued that the impugned stipulation contained in paragraph 3 of the letters of registration dated 19th September, 1989 and 23rd September, 1989 is not available in the letters of registration issued by the Election Commission in respect of other political parties, such as Samajwadi Party, Rashtriya Rashtrawadi Party, Bahujan Samajwadi Party and Vikas Party. The letters of registration of these parties issued by the Election Commission have been annexed as annexures 2, 3, 7 and 8 to the writ petition which are dated 21.05.1993, 02.04.2014, 30.09.1989 and 06.11.1996 respectively. It has, thus, been argued that the impugned stipulation in paragraph 3 in the letters of registration of two parties is missing in the letters of registration issued under section 29A of the Act in respect of other political parties, which is violative of Article 14 of the Constitution of India. The petitioner has also pleaded that stipulation of impugned paragraphs in the letters of registration in respect of aforementioned two political parties is violative of Articles 19(1)(C) , 19(4) and 21 of the

Constitution of India. It has also been stated by the petitioner that the impugned paragraphs of the letters of registration are non-est in view of the provisions contained in Article 13 of the Constitution of India.

11. Shri Tripathi has also submitted that it is not only that under section 29A of the Act the Election Commission is not allowed to allot symbols and grant recognition but also that there is no other authority available to the Election Commission to grant recognition or grant symbol to any political party. Reference in this regard has been made by the petitioner to the Election Symbols (Reservation and Allotment) Order, 1968 (hereinafter referred to as "Allotment Order, 1968") who has stated that if a field is already covered by the statutory provisions (in this case section 29A of the Act), the Election Commission has to act within its bounds as circumscribed by the said statute and even Article 324 of the Constitution of India does not permit the Election Commission to travel beyond the scope of section 29A of the Act.

12. On the other hand, Shri Vijay Vikram Singh, learned counsel representing the Election Commission, has stated that the instant petition does not espouse the cause of any public interest and that the petition has been filed as Public Interest Litigation only as a camouflage for serving personal interest. He has also argued that delay of about 32 years in filing this petition has not been explained. On the merit, learned counsel representing the Election Commission has submitted that the impugned paragraph 3 contained in the letters of registration dated 19th September, 1989 and 23rd September, 1989 does not suffer from any illegality and as a matter of fact, the same are only a communication of the fact that these political parties were National Parties and that their symbols were reserved. He has, thus, argued that even though

paragraphs 3 of these two letters of registration are not referable to section 29A of the Act, however, the same being only a communication of an existing fact, cannot be faulted with on any count. On behalf of Election Commission, it has also been argued that Article 324 of the Constitution of India vests plenary powers in the Election Commission so far as superintendence, direction and control of the elections are concerned. His submission, thus, is that recognition of a political party as a National Party or a State Party and reservation of symbols are the matters related to control of elections as such the Election Commission is fully empowered to issue Allotment Order, 1968 and that the impugned paragraphs 3 of the letters of registration are referable to the said Order, 1968.

13. The Parliament has enacted Representation of People Act, 1951 to provide for conduct of elections to the Houses of Parliament and to the House or the Houses of Legislature of each State and the matters connected thereto. Part IV A was inserted in the Representation of People Act by way of enacting Act 1 of 1989 by the Parliament, whereby section 29A was added. Section 29A of the Act which came into force w.e.f.15.06.1989, is extracted herein 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.

(2) Every such application shall be made,—

(a) if the association or body is in existence at the commencement of the Representation of the People (Amendment) Act, 1988 (1 of 1989), within sixty days next following such commencement;

(b) if the association or body is formed after such commencement, within thirty days next following the date of its formation.

(3) Every application under sub-section (1) shall be signed by the chief executive officer of the association or body (whether such chief executive officer is known as Secretary or by any other designation) and presented to the Secretary to the Commission or sent to such Secretary by registered post.

(4) Every such application shall contain the following particulars, namely:—

(a) the name of the association or body;

(b) the State in which its head office is situate;

(c) the address to which letters and other communications meant for it should be sent;

(d) the names of its president, secretary, treasurer and other office-bearers;

(e) the numerical strength of its members, and if there are categories of its members, the numerical strength in each category;

(f) whether it has any local units; if so, at what levels;

(g) whether it is represented by any member or members in either House of Parliament or of any State Legislature; if so, the number of such member or members.

(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.]

Registration of political party-Scope and effect

Registration of political party is not compulsory, but optional. However, registration enables a political party to claim certain benefits under law such as accepting of a contribution from any person or company. Similarly, under Election Symbols Order, certain symbols are reserved for a recognized political party for the exclusive allotment to the candidate set up by such political party; Jeevan Chandrabhan Idnani v. Divisional Commissioner, Konkan Bhavan, AIR 2012 SC 1210: (2012)(2) SCC 794: 2012 (2)JT 134: 2012(2) SCALE 48: 2012 (1) SLT 78."

14. A perusal of the aforementioned section 29A of the Act reveals that the said provision was added for the purposes of registration of political parties. It provides that an association or body of individual citizens of India which intends to avail itself of the provisions of part IVA of the Act shall make an application to the Election Commission for its registration as a political party. Sub section 2 of section 29A provides for time period within which such association or body may make an application seeking

registration as a political party. Sub sections 3, 4 and 5 stipulate the information and other material to be furnished for registration. Sub section 6 permits the Election Commission to call for such other particulars as may be deemed fit from the association or the body seeking its registration as a political party. Sub section 7 provides that the Commission on consideration of the application and after giving reasonable opportunity of being heard to the representative of the applicant shall decide either to register the applicant as a political party or not so to register it for the purposes of Part IVA of the Act. Section 29B and Section 29C were inserted later in the Principal Act w.e.f. 11.09.2003 and 01.04.2017 respectively, which entitle a registered political party to accept contributions and require such political party to declare the donation received by it. Accordingly, registration of an association or a body of citizens of India as a political party enables it to claim certain benefits under law, such as accepting contributions. It also obligates the political party to declare donations received by it. Registration of a political party under section 29A, as is apparent from a bare reading of the said provision, is for the purposes of availing such political party of the provisions of Part IVA of the Act.

15. No doubt section 29A or any other provision contained in Part IVA of the Act, 1951 does not empower the Election Commission either to recognize a political party or to reserve the election symbols. However, the power to recognize a National Party or a State Party and to reserve the election symbol is in terms of the provisions contained in the Allotment Order, 1968 which has been issued by the Election Commission in exercise of its power conferred by Article 324 of the Constitution of India and Rules 5 and 10 of the Conduct of Elections Rule, 1961 and all other powers enabling it in that behalf. Clause 4 of the Allotment

Order, 1968 provides that a symbol shall be allotted to a contesting party in accordance with the provisions of the said order in every contested election. Clause 5 classifies the election symbols into two categories, namely, (i) reserved symbol which is a symbol reserved for a recognized political party for exclusive allotment to the contesting candidates set up by that party and (ii) a free symbol which is a symbol other than a reserved symbol. Clause 6 classifies recognized political parties either as a National Party or a State Party. Clause 6A and 6B of the said Allotment Order provides for eligibility for recognition as a State Party or a National Party. Clause 6C provides for conditions for continued recognition as a National Party or State Party. Clause 8 provides for choice of symbols and allotment thereof, according to which a candidate set up by a National Party or State Party in an election shall be allotted the symbol reserved for that party and no other symbol. The Allotment Order, 1968 also contains the provisions for allotment of free symbols as well. Clause 17 mandates the Election Commission to publish list in the Gazette of India specifying the National Parties, State Parties and symbols reserved for them.

16. Thus, so far as recognition of political parties as a National Party or a State Party is concerned, the Allotment Order, 1968 contains provisions empowering the Election Commission to do so.

17. When we examine the impugned paragraphs 3 of the letters of registration dated 19th September, 1989 and 23rd September, 1989, what we find is that the same owes its existence not to section 29A of the Act but to the provisions contained in the Second Amendment Order, 1989 issued on 11.08.1989 by the Election Commission. Though the Second Amendment Order,

1989 is specifically mentioned the impugned paragraph 3 of the letters of registration dated 19th September, 1989 and 23rd September, 1989 issued with regard to two different political parties, however, it appears that the said provision has completely been overlooked by the petitioner. The entire basis of the instant writ petition, in our considered opinion, is misreading of paragraph 3 of the letters of registration dated 19th September, 1989 and 23rd September, 1989. It appears that the said paragraphs 3 has been understood by the petitioner as if the same has been issued by the Election Commission in exercise of its power vested in section 29A of the Act and is thus referable to the said provision. The provisions of the Second Amendment Order, 1989 have completely been overlooked by the petitioner.

18. In order to properly appreciate the issue, it would be appropriate to quote the entire Second Amendment Order, 1989 notified on 11.08.1989 which is extracted herein below:

**"ELECTION COMMISSION OF INDIA
NEW DELHI, the 11th August, 1989**

THE ELECTION SYMBOLS (RESERVATION AND ALLOTMENT) (SECOND AMENDMENT) ORDER, 1989.

O. N.73(E):- In exercise of the powers conferred by article 324 of the Constitution, read with section 29A of the Representation of the People Act, 1951 (43 of 1951), and rules 5 and 10 of the Conduct of Elections Rules, 1961, and all other powers enabling it in this behalf, the Election Commission of India hereby makes the following Order further to amend the Election Symbols (Reservation and Allotment) Order 1968, namely:-

1. Short title and commencement.- (1) This Order may be called the Election Symbols (Reservation and Allotment) (Second Amendment) Order, 1989.

(2) It shall come into force on the date of its publication in the Gazette of India.

2. Amendment of paragraph 7 :- In the Election Symbols (Reservation and Allotment) Order, 1968, in paragraph 7, for sub-paragraphs (2) and (3) the following sub-paragraphs shall be substituted, namely:-

"(2) Notwithstanding anything contained in sub-paragraph (1), every political party which, immediately before the 15th day of June, 1989 is a National Party, shall, on its registration under section 29A of the Representation of the People Act, 1951, be a National party and shall, subject to the other provisions of this Order, continue to be so until it ceases to be a National Party on the result of any general election held after the said date.

(3) Notwithstanding anything contained in sub paragraph (I), every political party which, immediately before the 15th day of June, 1989, is a State party in a State, shall, on its registration under section 29A of the Representation of the People Act, 1951 be a State party in that state and shall subject to the other provisions of this Order, continue to be so until it ceases to be a State party in that State on the result of any general election held after the said date."

By order

[No.56/89]

**BALWANT SINGH,
SECRETARY,
ELECTION COMMISSION OF INDIA."**

19. As per clause 1(2) of the Second Amendment Order, it came into force on the date of its publication in Gazette of India. Second Amendment Order was published on 11.08.1989 in the official gazette. Thus, the same was enforced w.e.f. 11.08.1989. Clause 2 of the Second Amendment Order, 1989 amends paragraph/(clause) 7 of the principal Order of 1968. In paragraph 7, sub paragraphs 2 and 3 were substituted. Newly added sub paragraph 2 of paragraph 7 provides that every political party which was a National Party immediately before the 15th day of June, 1989, on its registration under section 29A of the Act shall be a National Party and shall continue to be so until the same is ceased to be a National Party. Similarly, newly added sub paragraph 3 of paragraph 7 provides

that every political party which was a State Party immediately before 15th day of June,1989, on its registration under section 29A of the Act shall be a State Party in that State and shall continue to be so until it ceases to be a State Party.

20. The date 15th June of 1989 in newly added sub paragraphs 2 and 3 of the Order is of significance. It is noticeable at this juncture itself that section 29A which was inserted in the Representation of People Act by the Act 1 of 1989 came into force w.e.f. 15.06.1989. Sub section 2(a) of section 29A provides that if an association or a body was in existence at the commencement of the Act 1 of 1989, such an association or body shall make an application seeking its registration within 60 days next following such commencement. Act 1 of 1989 came into force on 15th of June, 1989. Thus, from the said date, within sixty days if any association or body intended to seek registration, application could have been made within sixty days from 15th of June, 1989. The provision contained in newly added sub clauses 2 and 3 of the Order thus was made with a purpose which has a rationale too. The purpose was to maintain continuity of any association or a body as a National or State Party, which was in existence before 15th of June, 1989 even after its registration as a National Party or a State Party and to maintain continued reservation of election symbol. This provision in the Order vide notification dated 11.08.1989 appears to have been made to avoid confusion which, in the absence of continued recognition as a National Party or a State Party and also in absence of continued reservation of election symbols, would have arisen once a political party was registered under section 29 of the Act.

21. As already observed above, clause 3 of the letters of registration dated 19th September, 1989 and 23rd September, 1989

clearly refer to Second Amendment Order, 1989 dated 11.08.1989. We have, thus, no doubt in our mind that the impugned clause 3 of these two letters of registration are not referable to section 29A of the Act, rather they are referable to the provisions contained in the newly added sub paragraphs 2 and 3 of Paragraph 7 of the order vide notification issued on 11.08.1989 by the Election Commission.

22. Submission of the petitioner that the impugned clause 3 of the aforementioned letters of registration are beyond statutory powers vested in the Election Commission under section 29A of the Act may or may not be correct, however, that in itself will not render these stipulations contained in paragraph 3 bad or without jurisdiction for the reason that the same are referable to Second Amendment Order, 1989. Submission of the petitioner that the impugned clause 3 of two letters of registration are without jurisdiction, is thus, highly misconceived.

23. We may also note that it is not the case of the petitioner that prior to issuance of the letters of registration dated 19th September, 1989 and 23rd September, 1989 the political parties concerned were not recognized as National Parties or their symbols were not reserved. There is no challenge in this petition to the recognition of the political parties or to their reserved symbols. The challenge is only to the existence of clause 3 in the letters of registration which as observed above, is referable to the Second Amendment Order, 1989 and in our opinion the Election Commission was well within its power and jurisdiction to have provided for the same.

24. Submission made by the petitioner based on the ground that the impugned paragraphs 3 of the letters of registration is violative of Article 14 of the Constitution of India as the same is itself

discriminatory, is also highly misconceived and is thus hereby rejected for the reason that it has not been pleaded as to whether the other political parties in respect of whom the letters of registration have been issued (including Samajwadi Party to which the petitioner belongs to) were recognized as National/State Party or their elections symbols were reserved or by virtue of non-existence of similar clause in their letters of registration, the parties concerned have been de-recognized and their election symbols have been de-reserved.

25. For the reasons aforesaid, challenge made in this petition on the ground of violation of Articles 19 and 21 of the Constitution of India also fails. The petitioner has also submitted that in absence of any statutory powers vested in the Election Commission of India in the field covered by the Act, the power to recognize a political party and to reserve the election symbol could not have been exercised by the Election Commission. The said submission is completely misconceived and is untenable. The recognition of a political party as a National Party or a State Party and reservation of election symbol are the functions which are exercised by the Election Commission under the provisions of Election Symbols (Reservation and Allotment) Order, 1968, as amended from time to time.

26. The issue relating to the scope and powers in respect of superintendence, directions and control of elections under Article 324 of the Constitution of India is no more *res integra*. A Division Bench of this Court, in this regard, in the case of **Shraddha Tripathi, Advocate vs. the Election Commission of India and others, Misc. Bench No.12092 of 2016 decided on 11.01.2021** has observed as under:

"As regards contention of the petitioner that the Election Commission of India does not have any power to allot

symbols to a recognized National or State level political party or to reserve a symbol for them, firstly, we are of the view that Article 324 vests ample power on the Election Commission of India for superintendence, direction and control of elections and in this context if such reservation or allotment is made it is in furtherance of the constitutional goal contained in Part XV of the Constitution of India. The only limitation is that this exercise of power cannot violate any constitutional or statutory provision or any rule made there under. We have already noticed that there is no such violation by the Election Commission of India in issuing Order, 1968 for allotment and reservation of symbols. There is no provision in the Act, 1951 or the Rules, 1961 which prohibits the Commission from reserving or allotting symbols as has been done by the Order, 1968. In fact, the said Act, 1951 and the Rules, 1961, hint or suggest such reservation and allotment of symbols, as already noticed. Vires of the Act, 1951 or Rules, 1961 are not under challenge before us. We therefore reject this contention. In fact, the vires of Order, 1968 was put to challenge before the Supreme Court of India in the case of *Kanhiya Lal Omar Vs. R.K. Trivedi and others*, 1985 (4) SCC 628. The Order, 1968 was held to be intra vires the Constitution, the Act, 1951 and the Rules, 1961. "

27. Hon'ble Supreme Court in the case of **Desiya Murpokku Dravida Kazhagam and another vs. Election Commission of India**, reported in [(2012) 7 SCC 340] in paragraphs 14, 49 and 50 has observed as under:

"14. The authority of the Election Commission under the Election Symbols Order, 1968 as a whole was also challenged before this Court in *Kanhiya Lal Omar v. R.K. Trivedi* [(1985) 4 SCC 628] , wherein it was urged on behalf of the petitioner that the said Order, being legislative in character, could not have been issued by the Election Commission, which was not entrusted by law with power to issue such an Order regarding the specification, reservation, choice and allotment of symbols that might be chosen by the candidates during elections in the parliamentary and assembly constituencies. It was also urged that Article 324 of the Constitution which vests the power of superintendence, direction and control of all elections to Parliament and to the Legislative Assemblies, in the Commission, could not be construed as conferring power on the Commission to issue the Symbols Order. Rejecting the said contention, this Court held that the expression "election" in Article 324 of the Constitution is used in a wide sense so as to include the entire process of

election which consists of several stages, some of which had an important bearing on the result of the process and that every norm which laid down a Code of Conduct could not possibly be elevated to the status of legislation or even delegated legislation. It was emphasised that there are certain authorities or persons who may be the source of rules of conduct and who at the same time could not be equated with authorities or persons who are entitled to make law in the strict sense.

49. The submissions made on behalf of the writ petitioners regarding the constitutional validity of the Election Symbols Order, 1968, and the power of the Election Commission to settle issues relating to claims of splinter groups to be the original party, had fallen for the decision of this Court about forty years ago in *Sadiq Ali case* [(1972) 4 SCC 664] , when this Court had occasion to observe that the Election Commission had been clothed with plenary powers by Rules 5 and 10 of the Conduct of Elections Rules, 1961 in the matter of conducting of elections, which included the power to allot symbols to candidates during elections. The challenge to the vires of the Symbols Order, 1968 was, accordingly, repelled.

50. The view in *Sadiq Ali case* [(1972) 4 SCC 664] has since been followed in *All Party Hill Leaders' Conference case* [(1977) 4 SCC 161] , *Roop Lal Sathi case* [(1982) 3 SCC 487] , *Kanhiya Lal Omar case* [(1985) 4 SCC 628] and as recently as in *Subramanian Swamy case* [(2008) 14 SCC 318] , to which reference has been made in the earlier part of this judgment, where the provisions of Article 324 of the Constitution vesting the superintendence, direction and control of elections, were considered in detail and it was, inter alia, held that in addition to Rules 5 and 10 of the Conduct of Elections Rules, 1961, the powers vested in the Election Commission could be traced to Article 324 of the Constitution."

28. Thus, the argument of the petitioner that the Election Commission does not have any authority to recognize a political party or to reserve an election symbol also fails.

29. For the discussions made and reasons given above, we find that the writ petition is highly misconceived which is hereby dismissed.

30. There will be no order as to costs.

Order Date :- 5th January, 2022

akhilesh/