

REVISED

ITEM NO.301

COURT NO.6

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(s) (Civil) No(s). 536/2018

DR. G. PARMESHWARA & ANR.

Petitioner(s)

VERSUS

UNION OF INDIA
THROUGH ITS SECRETARY & ORS.

Respondent(s)

WITH

I.A. No. 75881 of 2018
Application for direction.

Date : 18-05-2018 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MR. JUSTICE S.A. BOBDE
HON'BLE MR. JUSTICE ASHOK BHUSHAN

For Petitioner(s) Dr. Abhishek Manu Singhvi, Sr. Adv.
Mr. Kapil Sibal, SR. Adv.
Mr. Anup Chaudhary, Sr. Adv.
Mr. V. Lakshminarayan, Sr. Adv.
Mr. Ashok Bhan, Sr. Adv.
Mr. N.K. Mody, Sr. Adv.
Mr. Devadatt Kamat, Adv.
Mr. Prashant Kumar, Adv.
Mr. Amit Bhandhari, Adv.
Mr. Varun K. Chopra, Adv.
Mr. Nizam Pasha, Adv.
Mr. Javedur Rahman, Adv.
Mr. Aditya Bhat, Adv.
Mr. Rajesh Inamdar, Adv.
Mr. Harndar Neel, Adv.
Mr. Santosh Sharma, Adv.
Ms. Siddhi Padia, Adv.
Mr. Sumeeta Choudhari, Adv.
Ms. R.H.A. Sikander, Adv.
Ms. Dipali Dwivedi, Adv.
Mr. Siddharth K., Adv.
Mr. L. Nidhiram Sharma, Adv.
Mr. Gautam Talukdar, AOR

Mr. Kapil Sibal, Sr. Adv.
 Mr. V. Laxmshminarayan, Sr. Adv
 Mr. A.P. Ranganatha, Adv.
 Mr. K. Diwakar, Adv.
 Mr. R. Srinivasa Gowda, Adv.
 Mr. L. Srinivas Babu, Adv.
 Mr. D.K. Garg, Adv.

Mr. P. Chidambaram, Sr. Adv.
 Mr. Sunil Fernandes, AOR
 Mr. Ashish Khetan, Adv.
 Ms. Nupur Kumar, Adv.
 Ms. Anju Thomas, Adv.

For Respondent(s) Mr. Mukul Rohatgi, Sr. Adv.
 Mr. S. Padhi, Adv.
 Mr. Kush Chaturvedi, Adv.
 Mr. Sandip Patil, Adv.
 Mr. Kavın Prabhu, Adv.
 Mr. Somay Kapoor, Adv.
 Mr. Devanshi Singh, Adv.
 Mr. Nikhil Rohatgi, Adv
 Mr. Shashank Khurana, Adv.
 Ms. Ranjeeta Rohatgi, AOR
 Mr. Samten Doma, Adv.
 Ms. Priyashree, Adv.
 Mr. Ashish Yadav, Adv.
 Ms. Nisha Rohtagi, Adv.
 Ms. Devyansha, Adv.
 Mr. Vivek Reddy, Sr. Adv.
 Mr. Shailesh Madiyal, Adv.
 Mr. Nishanth Patil, AOR
 Mr. Sandeep Patil, Adv.

Mr. Sudhanshu Prakash, Adv.
 Mr. Nishanth Patil, Adv.
 Mr. Arun Shyam, Adv.

Mr. K.K. Venugopal, AG
 Mr. Maninder Singh, ASG
 Col. R. Balasubramanian, Adv.
 Ms. Shraddha Deshmukh, Adv.
 Mr. Nalin Kohli, Adv.
 Mr. Rajat Nair, Adv.
 Mr. Prabhas Bajaj, Adv.
 Mr. Akshay Amritanshu, Adv.
 Ms. Kanika Saran, Adv.
 Ms. Aarti Sharma, Adv.
 Mr. B. V. Balaram Das, AOR

Mr. Tushar Mehta, ASG
Mr. Santosh N., Adv.
Mr. V. N. Raghupathy, AOR
Mr. Kanu Agrawal, Adv.
Ms. Napur Sharma, Adv.
Mr. Mohit Jhamb, Adv.

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

In compliance with the order dated 17.05.2018 passed by this Court, Mr. Mukul Rohatgi, senior advocate who is appearing for respondent no.3, has produced the copies of letters dated 15.05.2018 and 16.05.2018 which were addressed by Mr. B.S. Yeddyurappa, State BJP President to the Governor of Karnataka. In the letter dated 16.05.2018 it is claimed that his party is the single largest party and has also the support of others and requisite majority. On that basis, the request was made to the Governor to invite him to form the Government.

Dr. Abhishek Manu Singhvi, learned senior counsel who is appearing for petitioner no.1 and Mr. Kapil Sibal, learned senior counsel who is appearing for petitioner no.2 contend that the Governor could not have invited respondent no.3 to form the Government on the basis of such letters and have made brief submissions in this behalf. These are refuted by Mr. Rohatgi. In a matter like this, detailed hearing is required in order to decide as to whether action of the Governor in inviting respondent no.3 to form the Government was valid in law or not. Since it may consume substantial time and the final decision cannot be given immediately, we deem it proper that Floor Test to ascertain the

majority of one or the other group is conducted immediately and without any delay. Though the Governor in his letter dated 16.05.2018 inviting respondent no.3 to form the Government has given him 15 days' time for proving the majority on the floor of the House, having regard to all the circumstances of this case, we are of the view that such a Floor Test be conducted tomorrow itself i.e. on 19.05.2018. Since the elected Members of Legislative Assembly are yet to take oath as specified in Schedule III of the Constitution and the Speaker is also yet to be elected, we are of the view that the following procedure be followed for conducting the Floor Test:

- A). Pro-tem Speaker shall be appointed for the aforesaid purpose immediately.
- B). All the elected members shall take oath tomorrow(19.05.2018) and this exercise shall be completed before 04.00 p.m.
- C) The Pro-tem Speaker shall conduct the Floor Test on 19.05.2018 at 04.00 P.M. in order to ascertain the majority and it shall not be by secret ballot and these proceedings shall be conducted in accordance with law.
- D) Adequate and sufficient security arrangements shall be made and Director General of Police, State of Karnataka will himself supervise the said arrangements so that there is no lapse on this count whatsoever.

Since the Floor Test is going to be held tomorrow i.e. 19.05.2018 at 04.00 p.m., Mr. Mukul Rohatgi, learned senior counsel appearing for the Chief Minister makes a statement at Bar that respondent no. 3 shall not take any policy decision till the Floor

Test is conducted.

Six weeks' time is granted to the learned counsel for the respondents to file counter affidavit.

Rejoinder affidavit, if any, be filed within four weeks thereafter.

The matter shall be listed for directions after ten weeks.

I.A. No. 75881 of 2018

The petitioners have moved this application in which prayer is made to the effect that respondent no. 3 be restrained from nominating and/or recommending any member of the Anglo Indian Community under Article 333 of the Constitution pending the floor test of respondent no.3.

Mr. Tushar Mehta, learned ASG who appears for the State Government makes a statement at Bar that there is no such move to nominate any such member till the Floor Test is cleared.

The interlocutory application is disposed of accordingly.

(ASHWANI THAKUR)
COURT MASTER (SH)

(MALA KUMARI SHARMA)
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