

**ELECTION COMMISSION OF INDIA**  
**Nirvachan Sadan, Ashoka Road, New Delhi-110 001.**

F.No. 56/7/2017/Vol-II

Dated: 8<sup>th</sup> February, 2019

To,

<b><u>Petitioners</u></b> 1. Smt. Zeneisilie Ate Loucii W/o Shri Lhoutuo Loucii R/o, Zhadima Village, P.O. Chiechama, Kohima District Kohima -797105	<b><u>Respondents</u></b> 2. The President, Nationalist Democratic Progressive Party, House No. 155(1), Ward No. 4, Chumukedima, Dimapur, Nagaland -797103
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Sub:- Petition under section 29A of the Representation of the People Act, 1951, seeking cancellation of registration of Nationalist Democratic Progressive Party- Smt. Zeneisilie Ate Loucii complainant and Nationalist Democratic Progressive Party - regarding

Sir,

I am directed to forward herewith a certified copy of the Commission's Order dated 07.02.2018 passed in the above matter.

Yours faithfully,



(KAPTAN CHAND)  
UNDER SECRETARY

Copy to:

1. The Chief Electoral Officer of Nagaland, Kohima.
2. Sh. Arunabh Chowdhury (Advocate for the Petitioner) , J6, Golf Links, Lower Ground Floor, New Delhi -110003.
3. Ms Aishwarya Bhati, 18(Advocate for the Respondent), Todar Mal Road, Bengali Market, New Delhi-110001



**भारत निर्वाचन आयोग**  
**Election Commission of India**

निर्वाचन सदन  
NIRVACHAN SADAN  
अशोक रोड, नई दिल्ली - 110 001  
ASHOKA ROAD, NEW DELHI - 110 001

## **BEFORE THE ELECTION COMMISSION OF INDIA**

Petition under Section 29A of the Representation of the People Act, 1951, seeking  
cancellation of registration of Nationalist Democratic Progressive Party.

Smt. Zeneisiile Ate Loucii - Complainant

and

Nationalist Democratic Progressive Party- Respondent

Present: For Complainant:

- (1) Dr. Abhishek Manu Singhvi, Senior Advocate
- (2) Sh. Arunabh Chowdhury, Advocate
- (3) Sh. Amit Bhandari, Advocate
- (4) Sh. Karma Dorjee, Advocate
- (5) Sh. K. Luikang Michael, Advocate
- (6) Sh. Anivesh Bhandari, Advocate
- (7) Ishaan Karki, Advocate

For Respondent:

- (1) Sh. Vikas Singh, Senior Advocate
- (2) Sh. U.K. Uniyal, Senior Advocate
- (3) Ms. Aishwarya Bhati, Advocate



- (4) Ms. Nitya Nambiar, Advocate
- (5) Sh. Vitro Rio, Advocate
- (6) Sh. Mohit Kumar Gupta, Advocate
- (7) Sh. Dhananjay Garg, Advocate
- (8) Sh. Deepak Mishra, Advocate
- (9) Sh. Kapish Seth, Advocate
- (10) Sh. Tokheho
- (11) Sh. Chingwang K
- (12) Sh. Rusemtong

### ORDER

1. The Nationalist Democratic Progressive Party (NDPP) (hereinafter '**Respondent Party**') was registered as political party with the Commission under Section 29A of the Representation of the People Act, 1951 (hereinafter '1951 Act') w.e.f 20-10-2017. The registration was based on application made by the Respondent Party on 25-05-2017. After completion of all requisite formalities including publishing of public notice by the Respondent Party inviting objections against the proposed registration, the order regarding registration of the Respondent Party was issued on 20-10-2017.

2. A complaint dated 07-05-2018 from Smt. Zeneisiile Ate Loucii (hereinafter '**Complainant**') was received in the Commission on 08-05-2018. The complainant made allegations with regard to the registration of the Respondent Party as a political party under Section 29A of the 1951 Act and sought a direction from the Commission withdrawing the registration of the Respondent Party. The Complainant alleged that the Respondent Party obtained its registration by fraud, having filed false affidavits of its President, 3 General Secretaries and 11 members, in violation of paragraphs 3(viii) and 3(ix) of the Guidelines and Application Format for Registration of Political Party (hereinafter, "Guidelines") issued by the Commission under Article 324 of the Constitution and Section 29A of the 1951 Act. A reply from the Respondent Party, the



NDPP, was sought vide the Commission's notice dated 25-05-2018. After seeking extension of time on two occasions, the respondent party filed its reply on 19-07-2018. The Complainant filed rejoinder thereto on 20-08-2018.

3. The Commission fixed hearing for 25-10-2018. At that hearing, Dr. Abhishek M Singhvi, Learned Senior Counsel appearing for the complainant made his submissions. Dr. Singhvi also submitted a chart giving the names of 27 persons who had submitted affidavit affirming membership in the Respondent Party in connection with its registration and who were allegedly members of NPF. The matter was further heard on 26-10-2018, at which Shri Vikas Singh, Learned Senior Counsel made his submissions on behalf of the Respondent Party. At the next hearing on 15-11-2018, the case was further heard and Sh. Vikas Singh continued his submissions for a brief period. The hearing was further adjourned as Sh. Vikas Singh was unwell. The last hearing was held on 06-12-2018 on which date Sh. Vikas Singh concluded his submissions and Sh. U.K. Uniyal, Learned Senior Counsel supplemented the submissions on behalf of the respondent party. Dr. Singhvi made rejoinder submissions.

4. The submissions made by the Complainant together with the arguments made during the hearing as well as in written form, are summarized in the subsequent paras. The crux of the Complainant's allegations is that the President, 3 General Secretaries and 11 members of the Respondent Party (a list of 27 members was submitted during the hearing) deliberately filed false affidavits under oath, swearing that they were not members of any other political party registered with the Commission, when in actuality, these individuals were active members of the Naga People's Front (hereinafter 'NPF') on 17-5-2017, the date of affirming the affidavit, as also on 25-5-2017, the date of filing of the application for registration of the Respondent Party before the Commission. It was also contended that affidavits to this effect were also filed by the office bearers of Respondent Party. The submissions made by the Complainant in the pleadings and the submissions made by the Learned Senior Counsel on behalf of the complainant during the hearing are summarized below.

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- (i) In connection with the dispute between two factions of the NPF (raised before the Commission under paragraph 15 of the Election Symbols (Reservation & Allotment) Order, 1968, numbered as Dispute No. 3/2017), the faction led by Shri Neiphiu Rio had produced affidavits dated 04.08.2017 of Central Office Bearers of NPF and joint affidavits of the Central Executive Council ("CEC") declaring their allegiance and support to Shri Neiphiu Rio, as the legitimate president of the NPF.
- (ii) The appointment orders of the office bearers, filed before the Commission and signed by Shri Neiphiu Rio on 20-09-2017, show that some of the members were appointed to office-bearer roles in the Party extending till January 2020, and were thus active members of the NPF. Members appointed to various roles within the party for the period 2017 – January 2020 were :
- Sh. Metpong Longleng – Vice President;  
Sh. Theyiekiekie Tachi - Vice President and Office bearer in Disciplinary Action Committee;  
Sh. Tseikase - Vice President of Central Farmers' Wing;  
Sh. Peter Kuotsu - Secretary of NPF and  
Sh. Vibeilietuo Kets - Central Executive Council Member.
- Sh. N. Metpong Phom is alleged to have submitted an affidavit dated 4.08.2017, affirming support to Neiphiu Rio and withdrawing support from Shurhozilie Liezietsu in Dispute No. 3/2017 before the Commission.
- iii. The attendance register for the General Convention of the NPF Party held on 20-09-2017 at Dimapur shows that Sh. Peter Kuotsu, Sh. Vibeilietuo Kets, Sh. Theyiekiekie Tachi, Sh. Thinuoneio Sote and Sh. Neibazo Penyii attended the convention.
- iv. Among the deponents who had sworn affidavits for registration of the Respondent Party, one Shri Baungan Phom and one Shri L. Shasha Phom,

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are both government servants, serving in the office of the Primary Health Centre, Longleng, Nagaland as a medical attendant and a primary teacher in a government school in Nagaland, respectively. Accordingly, the Complainant alleges that these two members are prohibited from being affiliated with any political party.

- v. Mr. Peter Kuotsu and Mr. Vibeilietuo Kets had made donations of Rs. 20 lakh and Rs. 40 lakh respectively, in 2014 to the NPF party, which were reflected in the NPF's Lok Sabha election expenditure return submitted to the Commission on 17-09-2017.
- vi. As per the membership register certified by Sh. Neiphiu Rio as the leader of one of the rival factions of NPF in the dispute case before the Commission, ~~Sh.~~ Peter Kuotsu, Neibazo, ~~Sh.~~ Thinuoneio Sote, Sh. S. Heno, Sh. Theyiekielie, Sh. Chumben Murry, Sh. Ahyulo Kent, Sh. Neihulie, Sh. Avio Tetso, Sh. Vibeilietuo Kets and ~~Sh.~~ Metpong Phom as members of the NPF for the period 2015-2020.
- vii. Certain members of the Respondent party have misled the Commission by affirming on oath that they were not members of any other political party registered with the Commission when in fact they were active members of the NPF. In doing so, they 'played a fraud upon the Commission'. President and three General Secretaries of the Respondent Party also made false statement in their affidavits in which they affirmed that none of the members of the Respondent Party was member of any other party. As per the law laid down by the Supreme Court in *Indian National Congress v. Institute of Social Welfare*, the Commission while exercising its power to register a political party under section 29A acts in a quasi-judicial capacity, and the act of filing false affidavits before the Commission is a fraud which vitiates the entire process. The Complainant relied upon the Supreme Court's judgement in *Rajeshwar Baburao Bone*

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v. *State of Maharashtra*<sup>1</sup> in which the apex court upheld the decision of a Scrutiny Committee which recalled its previous order when it came to light that it was obtained based on false affidavits. Accordingly, the Complainant has called upon the Commission to withdraw the registration of the party which practiced such fraud. The Supreme Court's Judgement in *Sciemed Overseas Inc. v. BoC India Limited*, was also cited, in which the court rued the filing of false affidavits, calling it an 'unhealthy trend' which was to be 'strongly discouraged'.

viii. The Guidelines regarding registration as political party having been issued under Article 324 of the Constitution of India and Section 29A of the Representation of People Act, 1951, have statutory force and are binding and mandatory. Registration is a 'sine qua non' or condition precedent for the recognition of a political party as a state party, and consequent allotment of symbol, and any vitiation of the registration should thus also vitiate the recognition afforded to the said party. Thus, if the registration of the political party itself was vitiated by fraud, then all subsequent actions, such as grant of recognition as State party would also go.

ix. The Complainant relied on *M. Veerabhadra Rao v. Tek Chand*<sup>2</sup> to argue that affidavits are by their very nature, statements or declaration relevant to the subject matter, the truth of which is sworn by the deponents in the presence of a person authorized in law to accept the affirmation, in order to give sanctity to it. The Supreme Court in *Krishan Chander Nayar v. Chairman, Central Tractor Organization*<sup>3</sup> emphasized the responsibility for making precise and accurate statements in the affidavit. In addition, reliance was placed on *Dhananjay Sharma v. State of Haryana and Ors*<sup>4</sup>,

<sup>1</sup>(2016) 3 SCC 70.

<sup>2</sup>1984 (Supp) SCC 571.

<sup>3</sup>AIR 1962 SC 602.

<sup>4</sup>(1995) 3 SCC 757.

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in which the Supreme Court held that the swearing of false affidavits in judicial proceedings has the tendency to obstruct, impede and interfere with the administration of justice, to extend the proposition to quasi-judicial proceedings under Section 29A of the RP Act.

5. Accordingly, the Complainant made the following prayers:
- Cancel the registration of the Respondent Party,
  - Cancel the recognition of the Respondent party in the state of Nagaland,
  - Initiate action against the members concerned of the Respondent party under criminal law.

#### **Submissions on behalf of Respondent Party**

6. The submissions made by the Respondent in ~~the~~ reply filed by them on 19-07-2018 and the submissions of the Senior Counsels at the hearing are summarized as follows: -

- Respondent Party was formed on 17-05-2017 at Dimapur, Nagaland at a General Body Meeting in which office bearers of the newly formed party were unanimously elected. The complaint filed by the Complainant was politically motivated and filed at the behest of the NPF and the respondent denies all allegations. The documents supplied by the Complainant allegedly showing that some of the founding members of the Respondent Party were also members of the NPF at the relevant point, were false and factually incorrect.
- The Respondents denied the allegations made by the Complainant that members of the Respondent party were active members of any other party on the date of production of their affidavits or the date of registration application of the Respondent Party. The members of the Respondent Party referred to by the Complainant, had already tendered their resignation from NPF prior



to joining the Respondent Party. The members and office bearers of the Respondent Party who furnished affidavits in connection with its application for registration were members of the NDPP and had announced the same. Public notice regarding application for registration of Respondent Party was also duly published in the local newspapers on 08-09-2018. Copies of the resignation letters together with fresh affidavits of these members were supplied with the Respondent Party's reply of 19-07-2018 together with their resignation letters.

- (iii) The Respondents cited the judgement of the Supreme Court in *Indian National Congress (I) v. Institute of Social Welfare & others* which observed that the Parliament had not vested the Commission with the power to deregister a party for non-compliance with the conditions for grant of registration, as this would involve a detailed enquiry with ~~evidence~~, which could potentially involve the Commission in matters of a political nature. Furthermore, in regard to registration, the Supreme Court in *Satya Paul Anand v. State of MP*<sup>5</sup> held that: "some irregularity in the procedure committed during the registration process would not lead to fraudulent execution and registration of the document, but a case of mere irregularity".
- (iv) For the purpose of establishing fraud, it has to be shown through cogent evidence that the misrepresentation was made with deliberate intention to deceive the authorities. The Respondents quoted the Supreme Court in *Harijas Rai Makhija v. Pushparani Jain*<sup>6</sup> in which it was held that "mere concealment or non-disclosure without intent to deceive or a bald allegation without proof and intent to deceive would not render a decree obtained by a party as fraudulent".

<sup>5</sup>(2016 10 SCC 767).

<sup>6</sup>(2017) 2 SCC 797



- (v) Non-disclosure of facts not required by a statute to be disclosed, would not amount to fraud. They quoted *Shrisht Dhawan v. M/s Shaw Brothers*<sup>7</sup> and *Bhaurao Dagdu Pāralkar v. S/o Maharashtra*<sup>8</sup> in support of this contention and further argued that fraud under public and administrative law had to be treated differently from fraud under private law. They relied upon *Brij Mohan Gupta v. Registrar of Societies*<sup>9</sup> in which it was held that submission of affidavits which did not comply with the guidelines framed by the government for registration of societies, did not amount to fraud as such requirements were not contemplated by the statute.
- (vi) The Respondents argued that no action for deregistration can be taken against the party as even if the affidavits were not 'proper', the requirement of submitting affidavits is directory and not mandatory. In support of this argument, the Respondents submitted that mandatory requirements are specifically stipulated. They contrasted the language used in sub-clause (iv) of paragraph 3 of the Guidelines with the language used in paragraph 4 of the Guidelines. Paragraph 4 of the Guidelines uses the phrase '*advised to ensure*' that the application is complete in all respects as per checklists and further states that if requisite information has not been furnished, it '*may*' not be possible to consider the application. However, paragraph 3(iv) of the Guidelines, specifically mentions that the party "*shall* bear true faith and allegiance" as a mandatory requirement. Accordingly, they argue that making a non-mandatory condition, which is not stipulated by Section 29A, mandatory, would make it ultra vires of the substantive legislation.
- (vii) Affidavits filed by Sh. Neiphiu Rio in connection with Dispute Case No. 3 of 2017 in which some members are stated to have declared allegiance to Sh. Rio are not legally tenable for the purposes of the current complaint. The Dispute Case No. 3 of 2017 was not adjudicated upon by the Commission

<sup>7</sup>AIR 1992 SC 1555

<sup>8</sup>(2005) 7 SCC 605

<sup>9</sup>MANU/DE/2729/2012.

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and the same was dismissed as withdrawn. In any event, the Respondent Party was not impleaded as a party in the said dispute case.

- (viii) Right to form a political party is derived from Article 19(1)(c) of the constitution and is a fundamental right, which cannot be infringed by guidelines issued by the Commission. Respondent relied on the order of the Delhi High Court in WP(C) No. 1458/2014- *Hans Raj Jain Vs. Election Commission of India* to argue that the provisions of Section 29A were not intended to be a deterrent to the registration of political parties and particulars sought thereunder were only for the purposes of identification. They also relied on *A.C. Jose v. Sivan Pillai*<sup>10</sup> to argue that the Commission's powers under Article 324 cannot be used to supplant, but only to supplement law made by Parliament.
- (ix) The complaint should be dismissed for non-joinder of necessary parties, since fraud is specifically attributed to some persons, and intention to deceive being a 'sine qua non' of fraud, the persons against whom allegations of false affidavit have been filed, ought to have been arrayed as parties in the complaint. In addition, a specific prayer was made against these individuals in terms of the Commission initiating necessary criminal action against them.
- (x) Respondent also questioned the locus standi of the Complainant to move such a complaint. Respondent contended that if members of NPF had actually submitted affidavit affirming membership in NDPP, only the NPF could have filed such a complaint.
- (xi) The Complainant did not raise any objections during the statutory period for raising public objections when the public notice was published by Respondent Party about the application for registration submitted in the

<sup>10</sup>(1984) 2 SCC 656.



Commission despite having access to the documents related to registration of the Respondent Party, which she obtained vide RTI application on 25-08-2017. She raised her first objection only on 11-12-2017 after the expiry of the specified period for public objection. Therefore, the petition cannot be entertained at this late stage after registration process has been concluded.

- (xii) The facts pertaining to membership of an individual in a political party is at the sole discretion of the individual himself and he cannot be said to give a false affidavit in respect of his own political affiliation.

7. The Commission has carefully considered and analysed the written and oral submissions made by the learned Senior Counsels and learned counsels on behalf of the Complainant and the Respondent Party.

8. The Supreme Court has laid down in *Indian National Congress v. Institute of Social Welfare & others*, that the Election Commission while exercising its quasi-judicial power to register a political party under Section 29A of the Representation of the People Act, 1951, may review the order of registration in three exceptional cases. The first case is when a political party obtained its registration by 'practicing fraud or forgery'. The court held that "fraud or forgery practiced by a political party while obtaining a registration, if comes to the notice of the Election Commission, it is open to the Commission to deregister such a political party". The power to deregister a political party was thus held to exist in this limited circumstance. Accordingly, the main question that arises for consideration in the present matter is whether some members of NDPP filed false affidavits before the Commission in connection with the registration of NDPP resulting in the registration having been obtained by 'practicing fraud'.

9. Before going into determination of the abovementioned issue, we dispose of the objection raised by Respondent Party on the locus standi of the Complainant to file the present complaint. In a complaint of this nature raising allegation of falsity of affidavit

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and/or fraudulent means adopted, we are not inclined to accept the contention that the Complainant cannot raise the matter before the Commission. The Complainant is very much within her right to file the complaint. Therefore, contention of the Respondent on locus standi is rejected.

10. The Complainant's case is that out of the 103 deponents who had sworn affidavits dated 17-05-2017 in support of the registration application of the Respondent Party, affirming therein that they are not members of any other political party registered with the Commission, 27 of them filed affidavits, on 04-08-2017, in Dispute Case No. 3/2017, before the Commission, affirming allegiance to Mr. Neiphiu Rio as the legitimate President of the NPF. Furthermore, some of the members are alleged to have attended the General Convention of the NPF on 20-09-2017 and been appointed as office-bearers in the NPF extending till January 2020. Accordingly, the Complainant contends that these members continued to retain active membership of the NPF and have thus filed false affidavits in respect of the application for registration of the Respondent Party, since they continued to be members of another party registered with the Commission on the date of swearing the affidavit.

11. The statement in the affidavits of the members in question which is subject matter of complaint here is the affirmation that the members concerned were members of the NDPP and not members of any other Party. Complainant contends that the fact that these persons were earlier members of NPF and they submitted affidavits extending support to Shri Neiphiu Rio in the Dispute Case in NPF leads to the presumption that these persons were members of NPF when they swore the affidavits on 17-05-2017.

12. The members concerned have stated that they gave up membership of NPF by submitting resignation letters before swearing affidavits on 17-05-2017. They have submitted affidavits in this regard and also furnished copies of resignation letters stated to have been submitted by them giving up their membership in NPF. The Complainant claims that the resignation letters are manufactured ones and is an afterthought in the wake of the complaint and if one looks into all the aspects in the background of the whole matter, the conclusion that can be drawn would be that these persons were members of NPF at the relevant time and their affidavits were false and the false

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affidavits were submitted before the Commission for getting NDPP registered as a political party. In this context, the Respondent Party submits that this is a fallacious premise and that it would be for an individual to decide about membership in any particular party at any point of time or about their presence in NPF's convention.

13. As per the guidelines for registration issued by the Commission laying down instructions about the particulars and documents to be furnished in connection with application for registration as political party which has been referred to extensively by both the Complainant and the Respondent Party, one of the requirements is to submit affidavits by a minimum of 100 members affirming membership in the party and declaring that they are not members of any other party. It is important to note here that there is no requirement in the guidelines that such members should continue to be members of the party or that they should not take up membership in any other party at any subsequent point of time. Therefore, for an affidavit of this kind (stating that a member of the party is not a member of any political party) to be treated as a false affidavit, the member concerned should be a member of another party on the day on which the affidavit is sworn.

14. In India there are more than 2200 registered un-recognised political parties in addition to the recognised National and State Parties. In the multi-party system, it is not uncommon for members of one political party to cross over to another one. In the present complaint, there is no supporting evidence to prove that the members concerned were also members of NPF on 17-05-2017 (date of affidavit) or even on 25-05-2017 (date on which NDPP submitted application for registration).

15. Neither the law under Section 29A, nor the Guidelines for Application and Registration require that an individual who has acquired membership of a party shall retain that membership for any fixed period or prescribe any method for demitting such membership. It would be open to a person to give up membership of the party at any point of time. This would also mean that such a member can join another party or re-enter the earlier party, subject of course, to the conditions that may be specified by the

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party concerned regarding their membership. This would be the choice of the individual and membership in a particular party cannot be imposed on any individual.

16. As already noted above, the members in question here have stated that they had already given up membership of NPF prior to taking up membership of NDPP. In such circumstances, in the absence of any evidence to the contrary, the statement by the individual concerned about his status as regards membership in any party has to be presumed to be correct.

17. In the constitution of NPF, there is a provision which states that membership of the party shall cease by death, resignation, removal etc. or for failure to renew the membership. However, there is no reference in their constitution to acceptance or manner of acceptance of resignation from membership. The Complainant states that as per the practice and norms of the NPF, only the Central Office of NPF has the power and authority to accept resignation of any member of NPF. It is not made clear as to how the Complainant who is not a member of NPF is familiar with the norms and practice followed by NPF. Further, such a provision is not seen to be built into the party constitution of NPF.

18. In the absence of evidence to show that the members in question were also members of NPF on the abovementioned crucial dates, the Commission does not see any basis to accept the contention about false affidavits. We do not accept the argument that membership in NPF can be inferred from the circumstances. This is not a matter that can be based on inference for arriving at a conclusion.

19. Therefore, there is no evidence brought on record to show that the members concerned filed false affidavits as alleged in the complaint. The question whether there was any case of false statement in any of the affidavits would be a matter of enquiry involving trial, collecting evidence, etc.

20. Judgment in *Indian National Congress (I) Vs. Institute of Social Welfare & others*, was cited by both the parties. The law laid down in the said judgment is that the Commission is not empowered to cancel registration of a party on a complaint that



would require enquiry into the allegations/complaint. We may look at the operative part of the judgment which is reproduced below:

*To sum up, what we have held in the foregoing paragraph are as under:*

- 1. That there being no express provision in the Act or in the Symbol Order to cancel the registration of a political party, and as such no proceeding for de-registration can be taken by the Election Commission against a political party for having violated the terms of Section 29A (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 29A 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 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 practicing 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 29A(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 the provisions of Section 29A(5) of the Act; and*
  - (c) any like ground where no enquiry is called for on the part of the Commission.*



21. The three exceptions to the general rule that the Commission cannot cancel registration are vital to decide the issue at hand in this case. Exception No. (i) mentions about registration obtained by fraud. Exception (ii) applies to cases where the registered party comes forward to declare that it has amended its own constitution and removed the statutory declaration as per sub-section (5) of Section 29A to abide by the Constitution of India, and to the principles of socialism, secularism, democracy, and to uphold the sovereignty, unity and integrity of India, or declares before the Commission that the Party has ceased to have faith in the said declaration. Therefore, exceptions (a) and (b) would be cases where the act on the part of the party is evident from the record and not something that is to be unearthed through an enquiry. This becomes clear from exception (c) above which mentions about any *like ground where no enquiry is called for on the part of the Commission*. Accordingly, for acting against a party on the ground of fraud practiced for obtaining registration, it would be only those cases where forgery/fraud is manifest from the documents before the Commission that ~~the~~ Commission would be empowered to cancel registration. The Commission cannot embark on an enquiry for this purpose.

22. The allegation that government officials were also part of the Respondent Party and had submitted affidavits is not relevant. This cannot be a ground for cancellation of registration. If at all, such allegation could be a matter for departmental action against the officials, if their conduct violates any service rules.

23. In view of the factual and legal position brought out above, the Commission holds that case for cancellation of registration of Nationalist Democratic Progressive Party is not made out. Consequently, the other reliefs for cancellation of recognition, etc. also do not survive. The complaint is dismissed.

Sd/-

(ASHOK LAVASA)  
ELECTION COMMISSIONER

Sd/-

(SUNIL ARORA)  
CHIEF ELECTION COMMISSIONER

New Delhi:

Dated: 07-02-2019

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