

*** THE HON'BLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH**

AND

*** THE HON'BLE SRI JUSTICE G.M.MOHIUDDIN**

+ WRIT PETITION Nos.8409 and 8647 of 2026

(CNR Nos.HBHC010175042026 and HBHC010179012026)

% Dated: 18.09.2026

Alleti Maheshwar Reddy and another

...Petitioners

vs.

\$ The Hon'ble Speaker-cum-Tribunal under the Tenth Schedule
to the Constitution of India, Telangana Legislative Assembly
at Hyderabad, Telangana, Presided by the Speaker, and another.

...Respondents

! Counsel for the petitioner in W.P.No.8409 of 2026:

Learned Senior Counsel Sri K.Vivek Reddy,
representing Sri Naraparaju Avaneesh

! Counsel for the petitioner in W.P.No.8647 of 2026:

Learned Senior Counsel Sri Gandra Mohan Rao,
representing Sri S.Santosh Kumar

^ Counsel for respondent No.1 in W.P.Nos.8409 and 8647 of 2026:

Sri A.Tulsi Raj Gokul

^ Counsel for respondent No.2 in W.P.No.8409 of 2026:

Learned Senior Counsel Sri A.Venkatesh,
representing Sri K.V.Rusheek Reddy

^ Counsel for respondent No.2 in W.P.No.8647 of 2026:

Learned Senior Counsel Sri Gourav Agrawal,
representing Sri K.V.Rusheek Reddy

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> Head Note:

? Cases referred

1. 2025 INSC 912
2. 1992 Supp (2) SCC 651
3. (2020) 2 SCC 595
4. (2004) 8 SCC 747
5. 2019 (5) ALT 241 (DB) (TS)
6. 2009 (3) ALT 324 (DB)
7. (2006) 11 SCC 1 : 2006 SCC OnLine SC 1375
8. 1994 Supp (2) SCC 641
9. (2024) 2 SCC 719
10. (2020) 20 SCC 209
11. 2025 INSC 201
12. (2020) 1 SCC 1
13. (1996) 2 SCC 353
14. (2009) 9 SCC 310
15. (2000) 8 SCC 191
16. 2013 (2) ALT 310 (DB)
17. (2007) 4 SCC 270
18. (2013) 11 SCC 794
19. AIR 1965 SC 1892
20. (2016) 8 SCC 1
21. (2009) 10 SCC 170
22. (1969) 3 SCC 238
23. (1988) 3 SCC 319

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

THE HON'BLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH
AND
THE HON'BLE SRI JUSTICE G.M.MOHIUDDIN

WRIT PETITION Nos.8409 and 8647 of 2026
(CNR Nos.HBHC010175042026 and HBHC010179012026)

Dated: 18.09.2026

Reserved on: 21.08.2026

Pronounced on: 18.09.2026

Uploaded on : 18.09.2026

WRIT PETITION No.8409 of 2026

Between:

Alleti Maheshwar Reddy

...Petitioner

and

The Hon'ble Speaker-cum-Tribunal under the Tenth Schedule
to the Constitution of India, Telangana Legislative Assembly
at Hyderabad, Telangana, Presided by the Speaker and another.

...Respondents

WRIT PETITION No.8647 of 2026

Between:

Mr. Padi Kaushik Reddy

...Petitioner

and

The Hon'ble Speaker-cum-Tribunal under the Tenth Schedule
to the Constitution of India, Telangana Legislative Assembly,
Hyderabad and another

...Respondents

COMMON ORDER:**(Per Hon'ble the Chief Justice Sri Aparesh Kumar Singh)**

Learned Senior Counsel Sri K.Vivek Reddy, representing learned counsel Sri Naraparaju Avaneesh appears for the petitioner in W.P.No.8409 of 2026.

Learned Senior Counsel Sri Gandra Mohan Rao, representing learned counsel Sri S.Santosh Kumar, appears for the petitioner in W.P.No.8647 of 2026.

Learned counsel Sri A.Tulsi Raj Gokul appears for respondent No.1 in W.P.Nos.8409 and 8647 of 2026.

Learned Senior Counsel Sri A.Venkatesh, representing learned counsel Sri K.V.Rusheek Reddy, appears for respondent No.2 in W.P.No.8409 of 2026.

Learned Senior Counsel Sri Gourav Agrawal, representing learned counsel Sri K.V.Rusheek Reddy, appears for respondent No.2 in W.P.No.8647 of 2026.

2. The decision of the Hon'ble Speaker-cum-Tribunal under the Tenth Schedule to the Constitution of India, Telangana Legislative Assembly at Hyderabad (hereinafter referred to as, 'the Hon'ble Speaker'), passed in Disqualification Petition Nos.4 of 2024 and 1 of 2024, dated 11.03.2026 is the subject matter of these writ petitions.

Facts in W.P.No.8409 of 2026:

3. W.P.No.8409 of 2026 has been preferred by an elected Member of the Telangana Legislative Assembly (MLA) from a political party – Bharatiya Janata Party (BJP). The Hon'ble Speaker by the impugned order 11.03.2026 has dismissed the Disqualification Petition No.4 of 2024 filed by the petitioner on 01.07.2024 seeking a declaration that the respondent No.2 is disqualified from continuing as a Bharat Rashtra Samithi (BRS) party MLA. The relevant facts pleaded and borne from record are as under:

4. In December, 2023, respondent No.2 was elected as an MLA representing BRS party from 60-Khairatabad Constituency. In the said election, he has contested against the candidate nominated by the Indian National Congress (INC) party. On 23.04.2024, respondent No.2 filed his nomination as a candidate set up by the INC party for the 2024 Lok Sabha elections, 08-Secunderabad Parliament Constituency. Respondent No.2 campaigned against the BRS party candidate from the Secunderabad Constituency and ultimately he lost the 2024 Lok Sabha elections. The petitioner, therefore filed the Disqualification Petition before the Hon'ble Speaker on 01.07.2024 seeking a declaration that respondent No.2 was disqualified from continuing as a BRS party MLA as he has voluntarily given up his membership of the BRS party by

contesting in the Parliamentary elections against the BRS party and on behalf of the INC party. There was extensive delay in disposing of the disqualification petition. Finally on 31.07.2025, vide judgment in Civil Appeal arising out of SLP (C) Nos.2353-54 of 2025, the Hon'ble Supreme Court directed the Hon'ble Speaker to decide the disqualification petition within three months (**Padi Kaushik Reddy vs. the State of Telangana¹**). On 11.03.2026, the Hon'ble Speaker dismissed the disqualification petition. The same has been made subject matter of challenge on 17.03.2026.

Submissions of learned Senior Counsel Sri K.Vivek Reddy, representing learned counsel Sri Naraparaju Avaneesh, appearing for the petitioner in W.P.No.8409 of 2026:

5. Learned Senior Counsel submits that the Hon'ble Speaker has opined that disqualification petition has to be based on the conduct within the House. The Speaker's jurisdiction under the Tenth Schedule is confined to the conduct within the House. The conduct outside the House is only relevant if such conduct destabilises BRS's strength or functioning in the House. That respondent No.2's conduct of contesting elections from a different party did not amount to voluntarily giving up BRS membership under the Tenth Schedule. That respondent No.2 continued to be a BRS member because respondent No.2 never

¹ 2025 INSC 912

formally resigned from the BRS and did not enrol as a member of the INC party. He continued to sit with the BRS party and complied with BRS whips and has faced no disciplinary action and BRS party has condoned his conduct. That the documents relied upon by the petitioner were hearsay as they were not certified copies or proved by witnesses and there was no evidence that respondent No.2 gave up BRS membership. The petitioner did not comply with the mandatory verification requirements under Rule 6 of the Members of Telangana Legislative Assembly (Disqualification on Ground of Defection) Rules, 1986 (hereinafter referred to as, “the 1986 Rules”) and hence disqualification petition was dismissed.

6. On behalf of the petitioners, the following propositions have been raised:

(a) The impugned order ought to be reviewed for (i) breach of constitutional mandate; (ii) legal *mala fides* and (iii) perversity. The impugned order is amenable to review under Article 226 of the Constitution of India. The decisions in **Kihoto Hollohan vs. Zachillhu**², **Padi Kaushik Reddy** (supra) and **Shrimanth Balasaheb Patil vs. Speaker, Karnataka Legislative Assembly**³ have been relied upon in support of the said proposition.

² 1992 Supp (2) SCC 651

³ (2020) 2 SCC 595

(b) That contesting elections from a different party amounts to voluntarily giving up membership. It is well settled that contesting parliamentary elections on another party's ticket amounts to voluntarily giving up membership under para 2(1)(a) of the Tenth Schedule. The decisions in **Dr. Mahachandra Prasad Singh vs. Chairman, Bihar Legislative Council**⁴ and **R.Bhoopathi Reddy vs. Chairman, Telangana State Legislative Council, Hyderabad**⁵ have been relied upon in support of the said propositions.

(c) Once respondent No.2 was set up as a candidate by the INC party, he was deemed to be a member of the INC party. In support of the said proposition, reliance is placed on the decisions in **Mandadi Satyanarayana Reddy vs. A.P.Legislative Assembly**⁶ and **Jagjit Singh vs. State of Haryana**⁷.

(d) That a formal resignation from BRS party is not the requirement to trigger the disqualification. In this regard, he relies upon the decision of the Hon'ble Supreme Court in **Ravi S. Naik v. Union of India**⁸.

(e) It is further submitted that the enquiry under para 2(1)(a) is limited to whether respondent No.2 voluntarily gave up BRS

⁴ (2004) 8 SCC 747

⁵ 2019 (5) ALT 241 (DB) (TS)

⁶ 2009 (3) ALT 324 (DB)

⁷ (2006) 11 SCC 1 : 2006 SCC OnLine SC 1375

⁸ 1994 Supp (2) SCC 641

membership. In view of respondent No.2's admission, no further evidence is required. That respondent No.2 has not denied the facts necessary for the present enquiry on defection. In 2023, respondent No.2 was elected as an MLA from BRS party. On 23.04.2024, respondent No.2 filed his nomination for Lok Sabha elections from INC party despite being an elected BRS member. Therefore, respondent No.2 was set up as an INC party candidate in 2024 Lok Sabha elections.

(f) Since this factual position establishes disqualification, the Hon'ble Speaker is under duty to decide to that effect. He has once again referred to the case of **Dr. Mahachandra Prasad Singh** (supra) (para 7 and 16). Moreover, when facts are admitted, no further evidence is required. That admission is the best evidence. He has placed reliance on **Jagjit Singh** (supra) (para 48) and **Dr. Mahachandra Prasad Singh** (supra) (para 19)).

(g) That once disqualification is triggered, no subsequent acts of the Member or Party can undo it. It is settled law that disqualification relates back to the date of defection. Respondent No.2 stood disqualified on 23.04.2024 once he filed his nomination for Lok Sabha elections from a different party. He has referred to **Subhash Desai vs. State of**

Maharashtra⁹ (paras 209 and 210) and **Shrimanth Balasaheb Patil** (supra) (para 93).

(h) That the Hon'ble Speaker erred in considering the subsequent facts such as payment of fees by respondent No.2, compliance with BRS whips and no disciplinary action by BRS.

(i) That taking extraneous facts into account amounts to legal *mala fides*. He has relied upon **Ramjit Singh Kardam vs. Sanjeev Kumar**¹⁰ (para 68) and **Dr. Amaragouda L Patil vs. Union of India**¹¹ (paras 52 to 56).

(j) That once disqualification applies, the Hon'ble Speaker is under a duty to carry out the mandate of the Tenth Schedule. The legislative objective of para 2(1)(a) of the Tenth Schedule is to prevent defection by elected members from the party which had set him up. Reliance is placed on para 13 of **Kihoto Hollohan** (supra).

(k) That even if the petitioner withdrew the disqualification petition, the Hon'ble Speaker must carry out the mandate of the Tenth Schedule. There is no discretion conferred on the Hon'ble Speaker to decide otherwise.

(l) That the 1986 Rules are directory in nature and cannot be strictly read to defeat the Tenth Schedule. The Hon'ble Speaker erred in

⁹ (2024) 2 SCC 719

¹⁰ (2020) 20 SCC 209

¹¹ 2025 INSC 201

holding that the petitioner violated the rules for verification of pleadings. The petitioner relied on the official/public documents which are presumed to be genuine. Reference is made to Sections 80 and 81 of the Bharatiya Sakshya Adhiniyam, 2023 (BSA) and to **M. Siddiq vs. Suresh Das**¹² in this regard.

(m) That without prejudice to the above, procedural rules cannot render the disqualification petition invalid or affect the duty of the Hon'ble Speaker to carry out the enquiry on disqualification as held in **Dr. Mahachandra Prasad Singh** (supra) (para 16).

(n) Learned Senior Counsel for the petitioner has referred to the findings rendered by the Hon'ble Speaker on each of the four issues framed by him and assailed them on the grounds of breach of constitutional obligations and perversity. The Hon'ble Speaker has taken into account the findings which are totally alien to the scheme of disqualification. The purpose of para 2(1)(a) of the Tenth Schedule is to see that the voter elected candidate of one party has to be a part of that party. Para 2(1)(b) of the Tenth Schedule comes into play for conduct of a member of any party within the House by voting or abstaining from voting contrary to any direction issued by the political party to which he belongs. The petitioner's case rests primarily on the alleged acts of respondent No.2 being set up as INC party candidate of

¹² (2020) 1 SCC 1

Secunderabad Lok Sabha Constituency and filing nomination papers and actively campaigning for the INC party in Lok Sabha elections. The evidence produced by the petitioner includes a Gazette Notification issued by the Election Commission of India wherein respondent No.2 appears at Sl.No.60 showing his party affiliation as BRS and Form 26 filed by respondent No.2 during 2024 Lok Sabha elections showing that he was declared as a candidate set up by the INC party. He was contesting against the BRS party candidate, thereby changing his affiliation. The finding of the Hon'ble Speaker that the BRS party has continued to treat him as a Member of the House and thereby condoned his conduct is something beyond the records - either of the evidence of respondent No.2 or that of the petitioner in this case. It, therefore, amounts to perversity. Once a Member has incurred disqualification under para 2(1)(a) of the Tenth Schedule, the action cannot be condoned. The issue of condonation comes only under para 2(1)(b) of the Tenth Schedule when the political party gives a whip and the candidate disobeys and votes in a different manner. The candidate can be disqualified if within 15 days that political party condones it.

(o) The Hon'ble Speaker has committed an error in asking the petitioner to prove the facts which have not been denied. It is the first principle of evidence that the petitioner has to prove facts which have

been denied by the other side. Respondent No.2 has admitted that he contested the Assembly elections from BRS party and contested the Lok Sabha elections from the INC party and campaigned against BRS party. None of the exhibits have been denied by respondent No.2 either before the Hon'ble Speaker or before this Court.

(p) In respect of the final finding of the Hon'ble Speaker that the petitioner has not complied with mandatory procedural requirements under the 1986 Rules, it is submitted that the Hon'ble Speaker passed similar order in the other disqualification petitions also which have been copied and pasted in the petitioner's case, whereas the petitioner has relied upon the Gazette Notification and not on the news reports.

Submissions of learned Senior Counsel Sri Gandra Mohan Rao, representing learned counsel Sri S.Santosh Kumar, appearing for the petitioner in W.P.No.8647 of 2026:

7. (a) Learned Senior Counsel has referred to the facts mentioned in the writ affidavit and submitted that the Hon'ble Speaker opined that the acts allegedly committed by respondent No.2 are outside the Assembly. Therefore, he lacks jurisdiction. The five points for determination were framed by the Hon'ble Speaker after the arguments were concluded. Respondent No.2 deserted the BRS party and joined the INC party in the presence of the Hon'ble Chief Minister and the Media on 15.03.2024. He has also referred to the decision of the Apex Court in the judgment

dated 31.07.2025 directing him to decide the matter within three months. The Hon'ble Speaker deferred the decision for eight months till the impugned order was passed. The Hon'ble Speaker had issued notices to the defected MLAs on 16.01.2025. Before filing of counter affidavits, all the defected MLAs had a meeting with the Hon'ble Chief Minister including respondent No.2. On 24.12.2025, respondent No.2 gave a statement that he still remains in INC party. On 26.12.2025 also, he gave a statement in ABN news channel that he still remains in INC party. Respondent No.2 filed the counter affidavit only on 19.01.2026 after six months of the direction by the Apex Court. Rejoinder to that was filed on 29.01.2026. Evidence in chief of the petitioner was also filed on 29.01.2026. The petitioner was cross-examined by learned counsel for respondent No.2 on 18.02.2026. Oral arguments were held on 07.03.2026. Respondent No.2 did not choose to file any documents.

(b) The documents filed by the petitioner in Chief Affidavit were marked as Exs.P.1 to P.30, which are as under:

Sl.No.	Date	Description of document	Ex.No.
1.	06.11.2023	Copy of Form 26 of the respondent No.2	P1
2.	04.12.2023	Copy of Gazette Notification No.44 declaring the list of elected candidates	P2
3.	15.03.2024	Copy of Photograph of the respondent No.2 and met with AICC Incharge deep Das Munshi along with Mallu Batti Vikramarka and Telangana Pradesh Congress Committee President Sri A.Revanth Reddy (original Newspapers filed along with DP)	P3
4.		Copy of the Photograph of respondent No.2 joining in the Indian National Congress Party	P4
5.	21.03.2024	INC Party list of candidates selected for Lok Sabha Elections in which Sl.No.46 reflects name of Danam Nagender	P5
6.	24.04.2024	Copy of the Form 26 – Affidavit filed by the	P6

		respondent No.2 for Lok Sabha Election	
7.		Copy of the result sheet uploaded in Election Commission of India Website	P7
8.	31.07.2025	Copy of Judgment in SLP (C) No.2353-54 of 2025 of the Hon'ble Supreme Court	P8
9.	27.01.2026	Copy of Notice served on petitioner vide Lr.No.199/Legn./2024-14	P9
10.	05.05.2024	Facebook Page posts of Election Campaign by respondent No.2 for Secunderabad Parliamentary Constituency	P10
11.	16.10.2024	Facebook Post of respondent No.2 who attended INC Party Meeting at Gandhi Bhavan	P11
12.	18.09.2024	Facebook Page Post of respondent No.2 who attended a protest call organized by INC party	P12
13.	11.05.2024	Facebook Page post of respondent No.2 who organized bike rally	P13
14.	06.05.2024	Facebook Page post of respondent No.2 who campaigned with Mohd. Azaruddin in Secunderabad Parliament Constituency	P14
15.	06.05.2024	Respondent No.2 giving a press statement to Amma Youtube Channel to vote in his favour in Secunderabad Parliamentary Constituency	P15
16.	28.04.2024	Respondent No.2 giving a press statement to TV5 News Channel to vote in his favour within the Secunderabad Parliamentary Constituency	P16
17.	03.05.2024	Respondent No.2 giving a press statement to TV9 News Channel to vote in his favour within the Secunderabad Parliamentary Constituency	P17
18.	24.04.2024	Respondent No.2 giving a press statement to 10 TV News Channel to vote in his favour within the Secunderabad Parliamentary Constituency	P18
19.	24.12.2025	Respondent No.2 giving a press statement to TV5 News Channel that he still remains in INC Party	P19
20.	24.12.2025	Respondent No.2 giving a press statement to Sakshi TV News Channel stating that he will ensure the Congress Party wins in the GHMC election	P20
21.	26.12.2025	Respondent No.2 giving a press statement to ABN News Channel that he still remains in INC Party	P21
22.	05.05.2024	Facebook Post of respondent No.2 who attended Road Show at Seethaphalmandi to Musheerabad	P22
23.	06.05.2024	Facebook Post of respondent No.2 who posted a Photo of Model Ballot Paper showing Hand Symbol to vote in favour of him on the Polling Date which was scheduled on 13.05.2024	P23
24.	07.05.2024	Facebook Post of respondent No.2 participated in Road Show at Abids along with Komati Reddy Venkat Reddy and other congress party leaders and requested all the voters to vote in his favour	P24
25.	22.03.2024	Respondent No.2 in his official X page shared a photograph expressing his gratitude for giving the opportunity to contest as Member of Parliament from Secunderabad Parliamentary Constituency	P25
26.	19.10.2024	Facebook Post of respondent No.2 who had participated in the INC Party Meeting which is named as Rajiv Gandhi Sadbhavana Yatra held at Charminar in which respondent No.2 was wearing Indian National Congress Party scarf	P26
27.	06.11.2024	Facebook Post of respondent No.2 wearing INC Party Scarf and holding the flag of INC Party went to Begumpet Airport to welcome Sri Rahul Gandhi,	P27

		AICC Member	
28.	17.08.2025	Copy of Video footage of Sri Mahesh Kumar Goud, President TPCC in TV as well as ANI Media Channel	P28
29.	26.03.2025	Copy of Article published in print media – statement made by the Hon’ble Chief Minister Sri A.Revanth Reddy during Assembly Sessions	P29
30.	07.09.2025	Copy of Article published in Print and Electronic Media in relation to the defected MLAs meeting Hon’ble Chief Minister Sri A.Revanth Reddy at his residence on account of notices issued by the Hon’ble Speaker	P30

(c) It is submitted that since the Hon’ble Speaker was not fixing any time schedule as is mandated under law for deciding the disqualification petition, W.P.Nos.9472, 11098 and 1853 of 2024 were filed. By judgment dated 09.09.2024, the learned Single Judge directed the Secretary, Telangana Legislative Assembly to place the disqualification petitions before the Hon’ble Speaker for fixing a schedule within a period of four weeks. However, assailing the said judgment, the Secretary, Telangana Legislative Assembly filed W.A.Nos.1157, 1158 and 1160 of 2024. By common judgment dated 22.11.2024, the judgment of the learned Single Judge was set aside. However, the learned Division Bench directed the Hon’ble Speaker to decide the petitions filed by the writ petitioners within a reasonable time taking into account the pendency of such petitions, the object of inclusion of the Tenth Schedule to the Constitution of India as well as the tenure of the Assembly. Since nothing moved thereafter, the petitioners and also BRS party moved the Hon’ble Supreme Court in SLPs against the judgment of the learned Division Bench. By judgment

dated 31.07.2025 in Civil Appeal arising out of SLP (C) Nos.2353-54 of 2025, the Apex Court observed that there was no occasion for the Secretary of the Telangana Legislative Assembly to challenge the order passed by the learned Single Judge in as much as nothing adverse could be found in the said order. The Apex Court directed the Hon'ble Speaker to decide the disqualification petitions within three months. The respondent No.2 filed his counter affidavit after six months only on 19.01.2026 taking a plea that the petitioner has drawn certain assumptions based upon newspaper and media reports to conclude that respondent No.2 has voluntarily given up his membership of BRS. That he had not tendered his resignation as a member of BRS party and he has not been intimated about any expulsion from the BRS party. Respondent No.2 stated that he had only attended a courtesy meeting in his personal capacity with the Hon'ble Chief Minister on 15.03.2024 which cannot be construed as an act of disqualification and giving up membership of BRS. Reliance on speculative newspaper reports and media clippings has no evidentiary value.

(d) Respondent No.2 has clearly admitted that he met the Hon'ble Chief Minister on 15.03.2024 and also the draping of Kanduva which is an INC party Kanduva. However, respondent No.2 has taken a stand that it is a traditional way of welcoming persons by placing Kanduvass on

their shoulders. Learned Senior Counsel for the petitioner reiterates that respondent No.2 has not denied that his name was included in the INC party list which is a proof of voluntarily giving up his membership of BRS party within the meaning of para 2(1)(a) of the Tenth Schedule.

(e) The contention of respondent No.2 that the fundamental right to contest the elections cannot be termed as defection inviting disqualification is untenable in law. The learned Senior Counsel for the petitioner further submits that the findings of the Hon'ble Speaker that the acts relied upon by the petitioner are fundamentally different from the acts that have a direct bearing on the proceedings, majority, or stability of the Telangana Legislative Assembly. Contesting the Lok Sabha elections has no impact on the Assembly proceedings, is untenable in law. The disqualification proceedings are applicable not only to the Members of the Legislative Assemblies but the Members of Lok Sabha and Rajya Sabha and Members of Legislative Councils, though the Government is not formed based on the strength of the Rajya Sabha or the Legislative Council. Even when an independent candidate joins any political party after being elected independently, he is liable for disqualification.

(f) Learned Senior Counsel has explained the interpretation clause at para 1 of the Tenth Schedule, where the words 'House',

‘Legislature Party’, ‘Original Political Party’ and ‘Paragraph’ respectively are defined. He further sought to elucidate the distinction between the application of para 2(1)(a) and 2(1)(b) on the question of disqualification of a Member of the House. He submits that the philosophy of anti-defection law is based on morals, principles and standards of society. A candidate is elected from a particular political party based on the programme announced by the said party on manifesto, such trust cannot be defied by a candidate by joining another party. A duty has been entrusted upon the Hon’ble Speaker under Article 191(2) read with the Tenth Schedule as a presiding officer of the House to decide the disqualification petition due to defection. There is a duty cast on the Hon’ble Speaker to see that the constitutional mandate is not frustrated. He has also referred to the decision in **Kihoto Hollohan** (supra) (paras 4, 9, 10, 11, 14, 24(A), 30, 42, 44, 47, 49, 52, 53, 113, 114, 118, 119, 181, 182). He submits that the Hon’ble Speaker has not even referred to the decision in **R.Bhoopathi Reddy** (supra) cited on behalf of the petitioner.

(g) He submits that five points were framed by the Hon’ble Speaker for his decision. Point Nos.1, 2, 3 and 5 are common in both the writ petitions. Point No.4 deals with ‘What is the legal effect of BRS Party’s silence, continued official recognition of the respondent No.2 as

a BRS member, and the absence of any internal disciplinary action against the respondent No.2'. It is not in dispute that no disciplinary action or show cause notice was issued to respondent No.2 by the BRS party. The BRS party has not communicated to the Hon'ble Speaker's office that respondent No.2 has ceased to be its member or the party disowns him as required under Rules 3(4) of the 1986 Rules. The Hon'ble Speaker held that this institutional silence and continued recognition carries decisive weight. The anti-defection law is designed to protect the party's legislative mandate. When the BRS party and its leadership continued to treat respondent No.2 as its member, it would be anomaly for the party MLA to obtain declaration that respondent No.2 has defected from the party. He submits that the findings of the Hon'ble Speaker on point No.4 are untenable in law. He submits that the question of condonation of the acts of the member to vote or abstains from voting contrary to the directions issued by the political party is applicable under para 2(1)(b) of the Tenth Schedule. He also referred to various provisions of the 1986 Rules, specifically to Rule 2(g) which defines 'member' and Rule 3, which requires a leader of its legislative party to submit within thirty days after the first sitting of the House or where such legislature party is found after the first sitting, a statement in writing containing the names of the members of such legislature party

together with other particulars regarding such members in Form-I. As per sub-rule (4) of Rule 3, whenever any change takes place in the information furnished by the leader of the legislature party, he shall within thirty days thereafter or within such further period as the Hon'ble Speaker may for sufficient cause allow, furnish in writing information in the Hon'ble Speaker with respect to such change. He also refers to sub-rule (6) of Rule 3, wherein in cases of voting or abstention, the legislature party has to furnish information to the Hon'ble Speaker in Form-II whether such voting or abstention has or has not been condoned by such political party, person or authority. He has also referred to Rule 6 which provides for filing of petition in relation to a member if he has violated the Tenth Schedule of the Constitution of India. It provides for the procedure for filing of such petitions. Rule 6(6) provides that every petition shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (CPC) for the verification of pleadings. He submits that once the petition has been received by the Hon'ble Speaker and is satisfied that the petition complies with the Rules, he should forward the petition to the Member in relation to whom the petition has been filed within seven days to give his comments in writing to the Hon'ble Speaker. After considering his comments, the Hon'ble Speaker may either proceed to determine the question or if he is

satisfied refer the petition to the Committee for making the preliminary enquiry and submitting a report to him. In this case, the petition was filed on 18.03.2024 and a notice was given only on 16.01.2025. A counter affidavit has been filed on 19.01.2026 when the Rule contemplates giving of seven days time originally. This shows the biased attitude of the Hon'ble Speaker. He submits that neither the Evidence Act nor the CPC is applicable to the proceedings before the Hon'ble Speaker who has to carry out the constitutional mandate. He has referred to the decision of **Dr. Mahachandra Prasad Singh** (supra).

(h) Learned Senior Counsel for the petitioner submits that in the present case a petition was filed along with an affidavit at the end of it though verification was not done as required by CPC. The Hon'ble Speaker, however, accepted the petition and issued notice. Therefore, once the Hon'ble Speaker is satisfied that the petition complies with the requirement of the 1986 Rules and has issued notice, the plea of not verifying the petition does not arise. The Hon'ble Speaker cannot dismiss the petition on the ground of defective filing of the petition. The Hon'ble Speaker has to decide as per the substantive provisions of the Tenth Schedule. He has referred to paras 7, 8, 11, 17, 18, 19 and 25 of the decision in **Ravi S. Naik** (supra), **G. Viswanathan vs. Hon'ble**

Speaker, Tamil Nadu Legislative Assembly, Madras¹³ (paras 5, 7, 11 to 15) and **Jagjit Singh** (supra) (paras 1, 2, 8, 14, 17, 24, 25, 29, 41, 42 and 44) and submitted that the respondent No.2 cannot escape from the disqualification proceedings on general pleas and vague denials. He submits that once a Member has gone to the Chief Minister's residence and was offered Kanduva of such political party, the only inference that can be drawn is that he has voluntarily given up his political party and no further enquiry or evidence is required. He has referred to the case of **R.Bhoopathi Reddy** (supra) and **G.Viswanathan** (supra). Therefore, the impugned decision is unsustainable in law.

Submissions of learned Senior Counsel Sri A.Venkatesh, representing learned counsel Sri K.V.Rusheek Reddy, appearing for respondent No.2 in W.P.No.8409 of 2026:

8. (a) Learned Senior Counsel Sri A.Venkatesh submits that the anti-defection is there since the year 1985. The frame work and the jurisprudence of this particular aspect has been started from 1992. While recollecting the words of Abraham Lincoln that Government is 'Of the People', 'By the People' and 'For the People' till the earth perishes, he submits that a Member of Legislative Assembly is elected by the public. Therefore, while considering the defection, which entails serious consequences, it should be seen that no injustice to the electorate

¹³ (1996) 2 SCC 353

is inflicted. The anti-defection law is to be applied on much stricter standards than the Representation of the People Act, 1951. Therefore, in appreciating the anti-defection law, the rigor should be much more higher. The power of judicial review can be exercised over the Speaker's decision on four parameters as laid down in **Kihoto Hollohan** (supra).

(b) Learned Senior Counsel submits that the present case is one where judicial review should not be exercised over the Hon'ble Speaker's order. As per the Hon'ble Speaker's decision, the candidates have not incurred the disqualification.

(c) The learned Senior Counsel has submitted that the petitioner in his cross-examination has admitted that the petition was filed without any verification. It is therefore in the teeth of paras 6 and 7 of the 1986 Rules. He has relied upon the decision in **Anil Vasudev Salgaonkar vs. Naresh Kushali Shigaonkar**¹⁴ (paras 44 to 63), which prescribes the manner in which pleadings in an election petition has to be framed. He also relies upon **Ravinder Singh v. Janmeja Singh**¹⁵ (paras 7 and 11) and on the requirement of verification in an election petition. He submits that in disqualification petition the material facts have to be strictly pleaded. He submits that the decision in

¹⁴ (2009) 9 SCC 310

¹⁵ (2000) 8 SCC 191

Dr. Mahachandra Prasad Singh (supra) is inapplicable as in that case the verification was filed. He relies on **Mandadi Satyanarayana Reddy** (supra) in order to contend that in the absence of verification, the Hon'ble Court should dismiss the petition. He submits that none of the four grounds for judicial review as per the decision in **Kihoto Hollohan** (supra) at para 111 have been made out for interference by this Court in judicial review. He submits that if the Hon'ble Speaker's decision is reasonable, it is not amenable to judicial review. He relies on **Jagjit Singh** (supra) (para 14). He submits that the disqualification petition of this nature is to be decided by the Hon'ble Speaker in respect of the actions inside the House. If the act complained of is outside the House, such as contesting election from another party, the Hon'ble Speaker does not have jurisdiction. He submits that if the contention of the petitioner is accepted, respondent No.2 would be disqualified without any evidence. The electorate can be unfairly deprived of representation through their elected member in such an event. He submits that during cross-examination, no certified copy of Exs.P.1 to P.4 was filed. He also refers to the answers given by the petitioner during the cross-examination such as to question No.8. He has referred to the findings of the Hon'ble Speaker in respect of point Nos.1, 2, 3 and 4, at para 11.3 of the impugned order, in support of the

submission that the decision of the Hon'ble Speaker does not suffer from any legal *mala fides* or perversity calling for interference by this Court under Article 226 of the Constitution of India.

(d) Learned Senior Counsel submits that the Hon'ble Speaker has relied on Article 191(1) and (2) of the Constitution of India to make segregation that the conduct outside the House does not have direct nexus with the conduct inside the House proceedings. Under Article 191(1) clauses (a) to (e), any person can lodge a complaint to the Governor. It is the discretion of the Governor to decide the matter. He submits that there is no complaint by the BRS party to whom respondent No.2 belongs. Therefore, the conduct of respondent No.2 outside the House discussed in point No.2 of the impugned order has been answered against the petitioner.

Submissions of learned Senior Counsel Sri Gourav Agrawal, representing learned counsel Sri K.V.Rusheek Reddy, appearing for respondent No.2 in W.P.No.8647 of 2026:

9. (a) Learned Senior Counsel Sri Gaurav Agrawal submits that the averments made in the disqualification petition or the material placed before the Hon'ble Speaker do not show as to whether respondent No.2 has voluntarily given up his membership of the political party from which he was elected. If the political party on whose ticket respondent No.2 got elected, does not directly or indirectly come forward and

substantiate the disqualification, it should not result in disqualification. Only one member of the political party has come forward with the disqualification petition. Therefore, the Hon'ble Speaker has observed that there is no material before him to come to a conclusion that respondent No.2 has voluntarily given up the membership. Therefore, answer to point No.4 is justified.

(b) When the Constitution uses the word 'voluntarily giving up membership of a political party', it is not mere resignation. If the Hon'ble Speaker comes to a conclusion that the conduct of respondent No.2 shows that he has given up membership of the political party, that is sufficient reason to disqualify him. But the Hon'ble Speaker also has to come to a conclusion as to the date on which respondent No.2 has given up the membership of BRS. The materials placed before the Hon'ble Speaker are insufficient, therefore, the disqualification petition must fail.

(c) After notice received from the Hon'ble Speaker, respondent No.2 filed his counter affidavit on 19.01.2026, in which, he has dealt with the averments made in the disqualification petition.

(d) Reference is made to the complaint, which is the genesis of the present proceeding i.e., the disqualification petition. It is alleged that on 15.03.2024, respondent No.2 has met the present Chief Minister, All

India Congress Committee (AICC) In charge and Deputy Chief Minister and again participated in a ceremony on 17.03.2024, where a tri-colour scarf (Kanduva) was put around his neck, on the basis of which, the petitioner avers that respondent No.2 has joined the INC party on 17.03.2024 and consequently given up the membership of the BRS party. It is the case of the petitioner that respondent No.2 has joined the INC party on 15.03.2024 and the Disqualification Petition No.1 of 2024 was filed on 18.03.2024. It is the allegation of the petitioner that on 21.03.2024, AICC released a list of its candidates for the Lok Sabha Elections of 2024 and respondent No.2 was shown as their candidate from Secunderabad division. On 30.03.2024, an additional affidavit was filed by the petitioner in the same Disqualification Petition bringing this subsequent development to the notice of the Speaker. It is to be noted that petitioner did not chose to amend the disqualification petition at all. This additional affidavit cannot be read as a pleading in disqualification petition. On the basis of the averments made in the additional affidavit, petitioner wants that respondent No.2 is disqualified on the ground that he has contested the Lok Sabha elections as an INC candidate from Secunderabad division.

(e) In his counter affidavit, respondent No.2 has taken a clear stand that the allegation of meeting the Chief Minister is insufficient to

come to a conclusion that he has voluntarily given up the membership of the political party.

(f) The only material in support thereof is Newspapers/Media reports annexed to the disqualification petition. None of these materials show that respondent No.2 made a statement that he has joined the INC party on that date. Therefore, this material is insufficient to disqualify a member of the House. He has referred to the list of documents, which include the press release dated 21.03.2024, news clippings dated 22.03.2024, original newspapers dated 22.03.2024 and video clippings of TV9 debate. Except the press release dated 21.03.2024, all other material according to respondent No.2 are secondary evidence, which the Hon'ble Speaker has rightly disregarded.

(g) Pages 490 to 494 of the writ petition are the list of documents relied on by the petitioner. Annexure 1 dated 06.11.2023 is the copy of BRS Form 26 affidavit; Annexure 2 is copy of the Gazette notification declaring the list of elected candidates by the Election Commission; Annexures 3 and 4 are copies of photographs of respondent No.2 meeting AICC In charge and others and joining in INC party and the original newspapers filed along with the Disqualification Petition. Annexure 5 is the list of the AICC candidates for the Lok Sabha elections including Secunderabad division dated 21.03.2024; Annexures

6 and 7 are respondent No.2's Form 26 affidavit dated 24.04.2024 and result sheet which cannot be disputed. Annexure 8 is the judgment of the Supreme Court in SLP(C) No.2353-54 of 2025 dated 31.07.2025 wherein a direction was issued to the Hon'ble Speaker to decide the matter within three months. Annexure 9 are the notices dated 27.03.2021 and 27.01.2026 which are served on the petitioner. Annexures 10 to 14 are Facebook posts of the Election campaign dated 05.05.2024, 16.10.2024 and 18.09.2024. Annexures 15 to 21 are statements on YouTube channel dated 16.05.2024 and press statements. Annexures 22 to 27 are Facebook posts of road shows, Annexure 28 is copy of video footages in media channels. Annexures 29 and 30 are articles published in print and electronic media. On these 30 documents the petitioner has laid his case that respondent No.2 has defected on 15.03.2024. These documents, according to respondent No.2, are totally inadmissible as none of the persons, who were the authors of these documents, had been examined. Therefore, the Hon'ble Speaker has rightly held that without any veracity, genuineness and authenticity, he would not rely on media reports, as they are mere inferences without any documents in support thereof. Therefore, respondent No.2 has not given up the membership of BRS. As there is no official membership certificate of the INC party

and there is no contribution to the INC party, there is nothing to show that on 15.03.2024, respondent No.2 has joined the INC party.

(h) Learned Senior Counsel submits that in the cross examination, the petitioner has given contradictory statements. On the one hand, he stated that he filed the disqualification petition on oral instructions of the Party President and on the other hand, he says that being a Member of the House, he had filed the petition. There is no material to show that the petitioner was authorised by the party to write to the Hon'ble Speaker to take action against respondent No.2, as he has voluntarily given up the membership of the political party.

(i) Learned Senior Counsel for respondent No.2 submitted that it is crucial in such cases to decide the date of disqualification. Petitioner has alleged that respondent No.2 joined the INC party on 15.03.2024. In answer to question No.8, the petitioner has stated in his cross examination that respondent No.2 joined the INC party on 15.03.2024 based on the media reports and photographs which have been annexed as exhibits. The petitioner further stated that he personally verified from respondent No.2 who admitted that the list of INC candidates was published on 21.03.2024. These materials are insufficient to decide that the respondent No.2 defected on 15.03.2024. Learned Senior Counsel submits that the tri-colour scarf (Kanduva) is given as a token of respect.

In this Kanduva, the green colour is on top and orange colour is below. The Hon'ble Speaker has therefore held that wearing tri-colour scarf (Kanduva) would not amount to an inference that respondent No.2 had joined the INC party. Learned Senior Counsel submits that the Hon'ble Speaker has answered point No.2 on this alleged conduct of respondent No.2 meeting the INC party leaders and allegedly joining the ceremony and contesting the Lok Sabha elections on the INC party ticket in detail by referring to the totality of evidence while coming to the conclusion that it did not give rise to the irresistible inference of voluntary giving up of BRS membership required under para 2(1)(a) of the Tenth Schedule of the Constitution of India. To disqualify an elected representative on the basis of speculative media reports concerning activities that the member's own party has chosen to condone would be an unjustified interference with the democratic mandate. Moreover, the petitioner has relied on hearsay evidence. His lack of personal knowledge and continued institutional adherence of respondent No.2 to the BRS within the House led to the conclusion that the high constitutional threshold for para 2(1)(a) of the Tenth Schedule has not been met. Therefore, no grounds are made out for interfering in the matter.

(j) Learned Senior Counsel for respondent No.2 has also referred to the discussion on point No.3 by the Hon'ble Speaker. He submits

that the Hon'ble Speaker has rightly held that the petitioner has not been able to discharge the heavy burden of proof required to establish the disqualification. The petitioner admitted in his cross-examination that he had no personal knowledge of the alleged joining ceremony. That despite this lack of personal knowledge, the petitioner failed to examine a single primary witness, such as reporter, editor, publisher or any other media professional, who could verify the contents of the media reports. Therefore, the secondary evidence materials were unverified hearsay, legally insufficient to displace a democratically elected representative.

(k) On point No.4 relating to legal effect of the BRS party's silence, continued official recognition of respondent No.2 as a BRS member and the absence of any internal disciplinary action against respondent No.2, the Hon'ble Speaker has held that respondent No.2 continued to be recognized as BRS member in the official records and has adhered to all party directions within the Legislative Assembly and has not formally joined any other political party. Therefore, the petitioner has failed to establish that respondent No.2 has by clear, categorical and unambiguous conduct, voluntarily given up his membership of the BRS party. The irresistible inference of defection sought by the petitioner cannot be safely drawn. Therefore, the grounds for disqualification are not met. It is submitted that the Hon'ble Speaker

has applied his mind and balanced all the factors to come to the conclusion that the aforesaid acts do not substantiate the plea of disqualification of respondent No.2.

Reply submissions of learned Senior Counsel Sri K.Vivek Reddy:

10. Learned Senior Counsel for the petitioner in W.P.No.8409 of 2026 in his reply has, *inter alia*, made the following submissions:

(a) That disqualification under para 2(1)(a) has been applied to conduct outside the House in the following cases:

i) Members of Legislative Assembly contesting subsequent Parliamentary elections from another party (**Dr. Mahachandra Prasad Singh** (supra)).

ii) Member of Legislative Council campaigning on behalf of his wife who was a candidate of another political party (**Konda Muralidhar Rao vs. Dr. A.Chakrapani, Hon'ble Chairman, A.P.Legislative Council**¹⁶).

iii) Member of Legislative Council from BRS contesting Legislative Assembly elections from Congress party (**R.Bhoopathi Reddy** (supra)).

iv) Meeting Governor with opposition party leaders (**Ravi S. Naik** (supra)).

v) Members of Legislative Assembly requesting the Governor to invite another political party to form the Government (**Rajendra Singh Rana vs. Swami Prasad Maurya**¹⁷).

¹⁶ 2013 (2) ALT 310 (DB)

¹⁷ (2007) 4 SCC 270

vi) Voting for candidates proposed by other political parties in Legislative Council elections (**Mandadi Satyanarayana Reddy** (supra)).

(b) In the case of **Dr. Mahachandra Prasad Singh** (supra), **Konda Muralidhar Rao** (supra), **R.Bhoopathi Reddy** (supra), **Ravi S.Naik** (supra) and **Rajendra Singh Rana** (supra) the Hon'ble Courts have, in exercise of powers of judicial review, declared that the concerned legislators have suffered disqualification.

(c) He has further submitted that defection proceedings are materially different from election disputes.

i) Defection is a constitutional wrong whereas election disputes are for statutory infractions. **Kihoto Hollohan** (supra) (para 9) and Chapter III – Disqualifications under the Representation of the People Act, 1951 have been referred to.

ii) Election disputes are adversarial proceedings. Defection proceedings are non-adversarial (**Dr. Mahachandra Prasad Singh** (supra) (para 16)).

iii) There is no *lis* between the member moving the disqualification petition and the member who incurs a disqualification.

iv) In defection proceedings the Hon'ble Speaker has an independent duty *de hors* pleadings.

v) Even withdrawal of a disqualification petition makes no difference, once facts are informed to the Hon'ble Speaker, there is a constitutional duty to decide on defection.

(d) It is pointed out that the order in Disqualification Petition No.4 of 2024 concerning W.P.No.8409 of 2026 stands on a different footing than Disqualification Petition No.1 of 2024 concerning W.P.No.8647 of 2026.

i) Disqualification Petition No.4 of 2024 was filed on 01.07.2024 after respondent No.2 filed his nomination as an INC party candidate on 23.04.2024.

ii) There is no reliance on media reports. The list of exhibits are official documents or gazette notification.

iii) The verification memo and Section 63 of BSA affidavit were filed by the petitioner on 02.03.2026.

(e) It is further submitted that defection under para 2(1)(a) of the Tenth Schedule is independent of actions of the political party.

i) Para 2(1)(a) is not concerned with whether political party condoned actions of respondent No.2. Only the enquiry under para 2(1)(b) is concerned with condonation by political party. Learned Senior Counsel refers to **Dr. Mahachandra Prasad Singh** (supra) (para 15).

ii) Defection proceedings are not bilateral affairs, whereby any voluntarily giving up of membership can only happen if the political party initiates defection proceedings.

iii) Even if respondent No.2 subsequently contests elections from BRS, he would stand disqualified for disqualifying act of having contested as INC party candidate against a BRS candidate.

- That constitutional courts have declared defection even when the Hon'ble Speaker refused to disqualify a candidate (**Rajendra Singh Rana** (supra)).

(f) Learned Senior Counsel has submitted that when facts are admitted, any issue of burden of proof does not arise. In the present case, respondent No.2 admits to all relevant facts. Therefore, no other view is possible except that respondent No.2 defected from BRS (**Jagjit Singh** (supra) (para 48) and **Dr. Mahachandra Prasad Singh** (supra) (para 19)).

(g) That verification of annexures does not arise because respondent No.2 has not denied the averments made in the petition. That verification of averments was filed before the Hon'ble Speaker and it satisfied the standard laid down in **Dr. Mahachandra Prasad Singh** (supra).

i) Verification filed in this case is consistent with the verification clause in **Dr. Mahachandra Prasad Singh** (supra) (paras 16 and 17) .

ii) In any event, verification was a procedural defect that was curable. The petitioner had filed a verification memo (page 181 of W.P.No.8409 of 2026).

iii) That procedural rules cannot frustrate the object of substantive provisions ((**Ravi S. Naik** (supra) (para 18) and **Dr. Mahachandra Prasad Singh** (supra) (para 16)).

iv) After issuing notice on the disqualification petition and forwarding copies of the petition, the Hon'ble Speaker is estopped from dismissing the petition on procedural grounds. Learned Senior Counsel refers to Rule 7(2) of the 1986 Rules.

(h) That petitioner relied on public documents and gazettes which are presumed to be genuine and no verification was required.

(i) He has relied on the provisions of Sections 80 and 81 of BSA and the decision in the case of **M. Siddiq** (supra) in support of the proposition.

(j) He submits that when respondent No.2 contested and campaigned against a BRS candidate, there was an irresistible inference of defection. That findings on verification and burden of proof in Disqualification Petition No.4 of 2024 have been copied and pasted from the order of Disqualification Petition No.1 of 2024 at para 10.2 and 10.3 of the impugned order.

(k) Learned Senior Counsel submits that the finality attached to the Hon'ble Speaker's decision does not detract from judicial review for constitutional violations, *mala fides*, breach of natural justice and perversity as laid down in **Kihoto Hollohan** (supra) (para 111). That the requirement that allegations must be proved by evidence is not applicable to the present case as respondent No.2 has admitted the allegations. He also submits that strict rules of evidence are not

applicable in disqualification proceedings as held in (**Konda Muralidhar Rao** (supra) (para 14)). He submits that in the case of **Speaker, Orissa Legislative Assembly v. Utkal Keshari Parida**¹⁸, the Apex Court has clearly held at para 19 that any person can file the disqualification petition. The 1986 Rules, therefore, framed before the decision in **Utkal Keshari Parida** (supra) cannot be applied to the case at hand.

Reply submissions of learned Senior Counsel Sri Gandra Mohan Rao:

11. Learned Senior Counsel, in his reply, has reiterated his statements made earlier. He submits that when respondent No.2 met the Hon'ble Chief Minister and the AICC In charge of the said party in the State and also other INC party leaders, which has been published in the media and Kanduva was placed on his shoulders, the only irresistible conclusion is that he has voluntarily given up membership of the party from which he was elected as MLA. He has once again referred to the disqualification petition and the additional affidavit filed by the petitioner and submitted that respondent No.2 in his counter affidavit, has at no place denied the allegation that he had joined the INC party. Learned Senior Counsel has referred to **Brundaban Nayak vs. Election Commission of India**¹⁹ rendered by a Constitution Bench on Article 191 of the Constitution of

¹⁸ (2013) 11 SCC 794

¹⁹ AIR 1965 SC 1892

India. He submits that the date of disqualification of respondent No.2 is 15.03.2024 on which date, respondent No.2 joined the INC party. All the subsequent acts reinforce this conclusion that respondent No.2 joined the INC party and sought a ticket to contest the Parliamentary elections in 2024. He further submits that in the given facts and circumstances, this court may arrive at a conclusion on the date of respondent No.2's defection as 15.03.2024 or 21.03.2024, as the case may be. He submits that respondent No.2 contested the elections in April 2024. He has been continuing for more than two years since then due to the delay in disposal of the disqualification petition by the Hon'ble Speaker which defeats the object behind the Tenth Schedule.

Submissions of Sri Tulsi Raj Gokul, learned counsel for respondent No.1:

12. Learned counsel submits that the Hon'ble Speaker is a high constitutional authority. He is not expected to defend his order in a court proceedings. He, however, submits that since the allegations of bias on the conduct of the Hon'ble Speaker have been made, it is imperative to refer to the opinion of the Apex Court at para 115 of **Kihoto Hollohan's** case (supra). In the said case, the Apex Court has considered the office of the Hon'ble Speaker to be an embodiment of propriety and impartiality. Apart from his legislative functions, one such function is of a judicial character of adjudication on the disqualification petitions. The

investiture of power of determination and adjudication is invested on the Hon'ble Speaker by virtue of the Tenth Schedule of the Constitution. The Hon'ble Speaker in this case has adhered to the principles of natural justice and taken into consideration all the documents and pleadings following the principles laid down in **Jagjit Singh's** case (supra). The Hon'ble Speaker has also given the opportunity of cross examination following the principles in **Ravi S. Naik's** case (supra) and opportunity of personal hearing was also given and an impartial decision was rendered. Therefore, this court may consider the submissions of the rival parties in the light of the high constitutional position of the Hon'ble Speaker in the scheme of the Tenth Schedule of the Constitution of India.

Issues:

13. On the basis of the pleadings on record and the legal submissions of the parties, the following issues arise for decision in these writ petitions:

- (i) Whether the decision of the Hon'ble Speaker is vitiated on the grounds of judicial review as laid down by the Hon'ble Supreme Court in the decision of **Kihoto Hollohan** (supra)?
- (ii) Whether respondent No.2 a sitting MLA of the Telangana Legislative Assembly has incurred disqualification in

terms of para 2(1)(a) of the Tenth Schedule of the Constitution of India and if so, with effect from what date?

Analysis:

14. Before dealing with the issues referred to hereinabove, the principles on which judicial review of the decision of the Hon'ble Speaker/Chairman can be undertaken under Article 226 of the Constitution of India as has been laid down in the case of **Kihoto Hollohan** (supra) at para 111, are to be taken note of which are extracted hereunder:

“111. In the result, we hold on contentions (E) and (F):

That the Tenth Schedule does not, in providing for an additional grant (*sic* ground) for disqualification and for adjudication of disputed disqualifications, seek to create a non-justiciable constitutional area. The power to resolve such disputes vested in the Speaker or Chairman is a judicial power.

That Paragraph 6(1) of the Tenth Schedule, to the extent it seeks to impart finality to the decision of the speakers/Chairmen is valid. But the concept of statutory finality embodied in Paragraph 6(1) does not detract from or abrogate judicial review under Articles 136, 226 and 227 of the Constitution insofar as infirmities based on violations of constitutional mandates, mala fides, non-compliance with Rules of Natural Justice and perversity, are concerned.

That the deeming provision in Paragraph 6(2) of the Tenth Schedule attracts an immunity analogous to that in Articles 122(1) and 212(1) of the Constitution as understood and explained in *Keshav Singh case* [(1965) 1 SCR 413 : AIR 1965 SC 745] to protect the validity of proceedings from mere irregularities of procedure. The deeming provision, having regard to the words ‘be deemed to be proceedings in Parliament’ or ‘proceedings in the legislature of a State’ confines the scope of the fiction accordingly.

The Speakers/Chairmen while exercising powers and discharging functions under the Tenth Schedule act as Tribunal adjudicating rights and obligations under the Tenth Schedule and their decisions in that capacity are amenable to judicial review.

However, having regard to the Constitutional Schedule in the Tenth Schedule, judicial review should not cover any stage prior to the making of a decision by the Speakers/Chairmen. Having regard to the constitutional intendment and the status of the repository of the adjudicatory power, no *quia timet* actions are permissible, the only exception for any interlocutory interference being cases of interlocutory disqualifications or suspensions which may have grave, immediate and irreversible repercussions and consequence.”

15. The Hon'ble Speaker/Chairman, while exercising powers and discharging functions under the Tenth Schedule acts as Tribunal adjudicating rights and obligations under the Tenth Schedule and their decisions in that capacity are amenable to judicial review. The judicial review of such decision is permissible on the following four grounds:

- i) Violation of constitutional mandate;
- ii) *Mala fides*
- iii) Non-compliance of the rules of natural justice; and
- iv) Perversity.

16. The facts of the case in Disqualification Petition No.4 of 2024 from which W.P.No.8409 of 2026 arises show that respondent No.2, an MLA elected from the BRS party from 60-Khairatabad Assembly Constituency filed his nomination as a candidate set up by the INC party for the 2024 Lok Sabha elections to 08-Secunderabad constituency on 23.04.2024. He also campaigned against the BRS party candidate from Secunderabad Constituency. He ultimately lost the 2024 Lok Sabha elections. The disqualification petition by the petitioner, an MLA from BJP party, was filed on 01.07.2024 before the Hon'ble Speaker seeking a declaration that respondent No.2 was disqualified from continuing as BRS party MLA, as he had voluntarily given up his membership in BRS by contesting the Parliamentary elections from the INC party and against the BRS party.

17. Let it be indicated here that by order, dated 31.07.2025, the Hon'ble Supreme Court directed the Hon'ble Speaker to decide the disqualification petition within three months. Respondent No.2 filed his counter affidavit on 19.01.2026. The petitioner submitted his examination in chief and was cross-examined. After hearing learned counsel for the parties, the Hon'ble Speaker dismissed the disqualification petition on 11.03.2026 by the impugned decision.

18. The disqualification petition specifically alleged that respondent No.2 has contested the Parliamentary elections against the BRS and on behalf of the INC party and had become disqualified to continue as a member of BRS party for having voluntarily given up his membership of the BRS. The petitioner filed Ex.P1 – downloaded copy of the affidavit dated 06.11.2023 filed by respondent No.2 in Form 26 before the Returning Officer for Election to Telangana Legislative Assembly from 60 – Khairatabad Constituency, Ex.P2 – downloaded copy of the Gazette Notification No.44, dated 04.12.2023, issued by the Chief Electoral Officer, Telangana; Ex.P3 – downloaded copy of the affidavit dated 23.04.2024 filed by respondent No.2 in Form 26 before the Returning Officer for Election to Lok Sabha 08-Secunderabad Parliamentary Constituency and Ex.P4 – downloaded copy of Form 7A dated 29.04.2024 issued by the Returning Officer, 08-Secunderabad

Parliamentary Constituency and Additional Collector (Revenue), Hyderabad. In the counter affidavit, respondent No.2 did not deny that he was elected as a Member of BRS (election results notified in Gazette No.44, dated 04.12.2023 issued by the Chief Electoral Officer, Telangana). Respondent No.2 admitted that he filed his nomination for Lok Sabha elections from the INC party on 23.04.2024, despite he being an elected BRS member. He also did not deny that he was set up as INC party candidate for the 2024 Lok Sabha elections. Respondent No.2 also did not deny that he campaigned against the BRS candidate in the Lok Sabha elections. The petitioner supported these statements in his examination and cross-examination. These documents were evidenced as Exhibits in the disqualification petition. In the wake of such pleadings and the evidence on record, the Hon'ble Speaker framed the following four points for consideration after conclusion of the arguments:

(1) Whether the Speaker's jurisdiction as a Tribunal under Paragraph 6 of the Tenth Schedule is constitutionally confined to conduct having a direct nexus with legislative proceedings within the House, and if so, whether the present Petition, founded substantially on conduct external to the Telangana Legislative Assembly, is maintainable?

(2) Whether the Respondent's conduct of contesting the Lok Sabha election on the INC ticket constitutes "voluntarily giving up membership" of the BRS within the meaning of Paragraph 2(1)(a) of the Tenth Schedule?

(3) What is the evidentiary value of the material placed on record by the Petitioner, and whether the Petitioner was discharged the heavy burden of proof required to establish disqualification?

(4) Whether the Petitioner has complied with the mandatory procedural requirements under the 1986 Rules?

19. The Hon'ble Speaker also took note of the decisions in **Kihoto Hollohan** (supra), **Jagjit Singh** (supra), **Ravi S.Naik** (supra), **Dr. Mahachandra Prasad Singh** (supra) and **Nabam Rebia and Bamang Felix vs. Deputy Speaker, Arunachal Pradesh Legislative Assembly**²⁰ cited by the learned counsel for the parties.

Point No.1 has been answered in the following manner.

6.8. This Tribunal is of the considered view that while the Speaker's jurisdiction is not strictly limited to the Assembly floor, it is constitutionally "tethered" to the legislative sphere. Under Article 191(1) and Article 192, the Governor, guided by the Election Commission, is the proper authority for disqualifications arising from a member's external status or general political conduct. Conversely, Article 191(2) and the Tenth Schedule vest the Speaker with a specialized, narrow jurisdiction to protect the House from instability caused by legislative defection. To extend this authority to regulate a member's external electoral choices, where those choices have no impact on the stability or functioning of this House, would be to impermissibly merge two distinct constitutional pathways of disqualification.

6.9. The main purpose of the Tenth Schedule, as articulated in **KIHOTO HOLLOHAN (SUPRA)**, is to prevent unprincipled floor-crossing that jeopardizes the mandate given by the electorate to a political party within the legislature. In the absence of any act by the Respondent that destabilizes the BRS Legislature Party's numerical strength or functioning in this House, the jurisdictional trigger for Paragraph 2(1)(a) remains dormant.

20. The findings of the Hon'ble Speaker on point No.1 are in violation of the constitutional mandate under Article 191(2) of the Constitutional of India read with para 2(1)(a) and 2(1)(b) of the Tenth Schedule for the reasons recorded hereinafter. Article 191(2), para 2(1)(a) and 2(1)(b) are extracted hereunder:

²⁰ (2016) 8 SCC 1

191. Disqualifications for membership.—(1) xxx

(2) A person shall be disqualified for being a member of the Legislative Assembly or Legislative Council of a State if he is so disqualified under the Tenth Schedule.

2. Disqualification on ground of defection.—(1) Subject to the provisions of paragraphs 4 and 5, a member of a House belonging to any political party shall be disqualified for being a member of the House—

(a) if he has voluntarily given up his membership of such political party; or

(b) if he votes or abstains from voting in such House contrary to any direction issued by the political party to which he belongs or by any person or authority authorised by it in this behalf, without obtaining, in either case, the prior permission of such political party, person or authority and such voting or abstention has not been condoned by such political party, person or authority within fifteen days from the date of such voting or abstention.

*Explanation.—*For the purposes of this sub-paragraph,—

(a) an elected member of a House shall be deemed to belong to the political party, if any, by which he was set up as a candidate for election as such member;

(b) a nominated member of a House shall,—

(i) where he is a member of any political party on the date of his nomination as such member, be deemed to belong to such political party;

(ii) in any other case, be deemed to belong to the political party of which he becomes, or, as the case may be, first becomes, a member before the expiry of six months from the date on which he takes his seat after complying with the requirements of article 99 or, as the case may be, article 188.

21. The case of **Dr. Mahachandra Prasad Singh** (*supra*), cited before the Hon'ble Speaker is on similar facts wherein it was held that contesting a parliamentary election on another party's ticket amounts to voluntarily giving up membership under para 2(1)(a) of the Tenth Schedule to the Constitution of India (see paras 20 and 23). Mahachandra Prasad Singh was an elected Member of Bihar Legislative Council (MLC) from Tirhut Graduate Constituency as a candidate of Indian National Congress. While being so, he contested the elections to the Fourteenth Lok Sabha in March, 2004 from Maharajgunj

Parliamentary Constituency as an independent candidate. A member of the Bihar Legislative Council sent a petition to the Chairman of the Legislative Council stating that the petitioner had incurred disqualification from being a Member of the House on the ground that he had contested the Parliamentary elections from Maharajgunj Parliamentary Constituency as an independent candidate. After considering the explanation offered by Mahachandra Prasad Singh, the Chairman of the Legislative Council passed the impugned order holding that the petitioner had contested the election for the Bihar Legislative Council in the year 1998 as a candidate of Congress party and was a member of the said political party and that he had contested Lok Sabha election 2004 as an independent candidate and thus, he had voluntarily given up his membership of Congress party and therefore, he was disqualified for being a Member of the House in view of para 2(1)(a) of the Tenth Schedule read with Article 191(2) of the Constitution of India and seat held by him in the House has become vacant. Mahachandra Prasad Singh approached the Supreme Court against the order of his disqualification in a petition under Article 32 of the Constitution of India. The Apex Court held that by contesting the Parliamentary election as an independent candidate, despite being elected MLC from the Congress party, he voluntarily gave up the membership of Congress

party. Paras 20 and 23 containing the opinion of the Apex Court are extracted hereunder:

20. The third submission of Shri Mishra has hardly any substance. In view of Explanation (a) appended to sub-paragraph (1) of Paragraph 2 of the Tenth Schedule, the petitioner shall be deemed to belong to Indian National Congress Party by which he was set up as a candidate for contesting the election for Member of Legislative Council in the year 1998. By contesting the parliamentary election as an independent candidate, he voluntarily gave up the membership of Congress Party. In *G. Viswanathan v. Hon'ble Speaker T.N. Legislative Assembly* [(1996) 2 SCC 353] the Bench quoted with approval the observations made in *Ravi S. Naik v. Union of India* [1994 Supp (2) SCC 641] in para 11 of the Report that even in the absence of a formal resignation from membership, an inference can be drawn from the conduct of a member that he has voluntarily given up his membership of the political party to which he belongs. On the facts of the present case, it cannot be said that the finding arrived at by the Chairman of the Legislative Council that the petitioner gave up the membership of Indian National Congress Party to which he belonged is one which could not reasonably and possibly have been arrived at.

23. No new point has been urged by Shri P.S. Mishra in the present case. It is admitted in paras 4 and 6 of the writ petition that the petitioner had been elected as member of the Legislative Council in the year 1998 as a candidate of Indian National Congress Party and that he filed his nomination papers for contesting the parliamentary election held in May 2004 as a candidate of Samajwadi Party. This factual position was not disputed by the petitioner in the replies given by him to the Chairman of the House. In such circumstances, there cannot be even the slightest doubt that the petitioner has voluntarily given up his membership of Indian National Congress Party. No exception can, therefore, be taken to the decision taken by the Chairman of the House that the petitioner has incurred the disqualification for being a member of the House under Paragraph 2(1)(a) of the Tenth Schedule and Article 191(2) of the Constitution and the seat held by him had fallen vacant.

22. The Hon'ble Speaker has not even referred to and discussed the ratio rendered in **Dr. Mahachandra Prasad Singh** (supra) while giving a finding on point No.1 that the Speaker's jurisdiction is constitutionally tethered to the legislative sphere. That under Article 191(2) and the Tenth Schedule the Speaker is vested with a specialised, narrow jurisdiction to protect the House from instability caused by legislative

defection. To extend this authority to regulate a member's external electoral choices, where those choices have no impact on the stability or functioning of this House, would be to impermissibly merge two distinct constitutional pathways of disqualification under Article 191(1) and (2) of the Constitution of India.

23. The disqualification under para 2(1)(a) for the conduct outside the House by Hon'ble Speaker has been applied not only in the case of **Dr. Mahachandra Prasad Singh** (supra), but also in **Konda Muralidhar Rao** (supra), **R.Bhoopathi Reddy** (supra), **Ravi S. Naik** (supra) and **Rajendra Singh Rana** (supra). Therefore, the findings of the Hon'ble Speaker on point No.1 cannot be sustained in the permissible grounds of judicial review as laid down in the case of **Kihoto Hollohan** (supra).

24. Point No.2 framed by the Hon'ble Speaker, i.e., whether the Respondent's conduct of contesting the Lok Sabha election on the INC ticket constitutes "voluntarily giving up membership" of the BRS within the meaning of para 2(1)(a) of the Tenth Schedule, has been answered holding that the act of contesting Lok Sabha election while being a Member of State Legislative Assembly is not constitutionally prohibited. The Representation of the People Act, 1950 and the Constitutional Scheme permit any eligible citizen including an MLA to

contest elections to Parliament. If contesting a Parliamentary election on a different party's ticket were to be treated as automatic defection from the State Assembly, the Constitution would expressly provide so. No such provision exists. Constitutional disqualification cannot be founded upon implication where the text does not so mandate. The Hon'ble Speaker further held that disqualification of an elected representative on the basis of speculative media reports concerning activities that the members own party has chosen to condone would be an unjustified inference with the democratic mandate. The petitioner has relied on hearsay. His lack of personal knowledge and the continued institutional adherence of the respondent No.2 to the BRS within the House led to the conclusion that the High Constitutional threshold for para 2(1)(a) has not been met. Therefore, the petitioner has failed to make out any ground available within the scope of Tenth Schedule warranting disqualification of respondent No.2. The Hon'ble Speaker also held that respondent No.2's conduct taken into totality does not give rise to the irresistible inference of voluntarily giving up of BRS membership required under para 2(1)(a) of the Tenth Schedule.

25. The finding of the Hon'ble Speaker on point No.2 is perverse in the eye of law and the settled position in this regard as laid down in the case of **Dr. Mahachandra Prasad Singh** (supra) and other decisions

referred to while dealing with the findings rendered on point No.1 by the Hon'ble Speaker.

26. Para 2(1)(a) of the Tenth Schedule is not concerned with, where the political party condoned actions by respondent No.2. In an enquiry under para 2(1)(b) whether the conduct of the member in violating the whips or direction on the floor of the House, it is to be seen that such act has been condoned by the political party.

27. The petitioner had categorically relied on Exs.P.1 to P.4, which are downloaded copy of affidavit dated 06.11.2023 filed by the respondent No.2 in Form 26 before the Returning Officer of 60-Khairatabad Assembly Constituency (Ex.P.1), downloaded copy of Gazette Notification No.44, dated 04.12.2023 issued by the Chief Electoral Officer, Telangana (Ex.P.2), downloaded copy of the affidavit dated 23.04.2024 filed by the respondent No.2 in Form 26 before the Returning Officer of 08-Secunderabad Parliamentary Constituency (Ex.P.3) and downloaded copy of Form 7A dated 29.04.2024 issued by the Returning Officer of 08-Secunderabad Parliamentary Constituency (Ex.P.4). Moreover, respondent No.2 has not denied the material facts which constitute disqualification i.e., his election as a Member of BRS to the Legislative Assembly in 2023; his nomination as a candidate set up by the INC party for Parliamentary elections to the Lok Sabha in

2024; that he had filed his nomination from the INC party to the Lok Sabha on 23.04.2024 and that he had campaigned against the BRS candidate in the Lok Sabha elections. When respondent No.2 had admitted all the relevant facts constituting the acts of disqualification, the Hon'ble Speaker could not take any other view of the matter except that he had defected from BRS party. The issue in the similar set of facts has been dealt with and answered in the case of **Dr. Mahachandra Prasad Singh** (supra) at para 19 and **Jagjit Singh** (supra) at para 48.

The relevant extracts are as under:

Dr. Mahachandra Prasad Singh (supra):

19. ... Regarding the complaint of non-supply of the copy of the letter sent by Prof. Arun Kumar, leader of Indian National Congress in the Bihar Legislative Council, whereby he had informed that the petitioner Shri Mahachandra Prasad Singh had ceased to be a member of Indian National Congress for violating the party discipline, the only relevant fact stated therein is that the petitioner had been elected as a member of the Bihar Legislative Council on a Congress ticket but he had contested the parliamentary election as an independent candidate. These facts have never been disputed by the petitioner in his replies, which he submitted before the Chairman of the Legislative Council and have also been admitted in Paragraphs 5 and 7 in the present writ petition. Therefore, the non-supply of copy of the letter of the leader of Congress Legislative Party has no bearing at all as no prejudice can be said to have been caused to the petitioner and consequently in the facts of the present case, no principle of natural justice can be said to have been violated.

Jagjit Singh (supra)

48. Relying upon *Narayan Bhagwantrao Gosavi Balajiwale v. Gopal Vinayak Gosavi* [AIR 1960 SC 100 : (1960) 1 SCR 773] it was sought to be contended on behalf of the petitioners that the admissions allegedly made before the media could be explained and shown as erroneous and not binding on them and, therefore, opportunity ought to have been granted to them to prove so and the failure to grant opportunity vitiates the impugned orders. The petitioners had failed to plead how the admissions/statements made by them were erroneous. Had they done so, then the question of its proof would have arisen. Instead of so doing, the petitioners only took shelter under the general vague denial pleading that they wish to adduce evidence. It is also to be remembered, as observed by the Supreme Court in the aforesaid case, that admission is the best evidence that can be relied upon, and though not conclusive, is decisive of the matter, unless

successfully withdrawn or proved erroneous. The petitioners have failed to satisfy the latter part.

28. In view of the discussion made hereinabove, the finding on point No.2 by the Hon'ble Speaker cannot be sustained on grounds of perversity and breach of constitutional obligations.

29. Point No.3 deals with the evidentiary value of the material placed on record by the petitioner and whether the petitioner has discharged the heavy burden of proof required to establish disqualification.

30. The Hon'ble Speaker has dealt with the petitioner's evidence which consists of Ex.P.1, which is the downloaded copy of the affidavit dated 06.11.2023 filed by respondent No.2 in Form 26 before the Returning Officer for Election to Telangana Legislative Assembly from 60 – Khairatabad Constituency. This document is the statutory affidavit filed in Form 26 by respondent No.2 along with his nomination on 06.11.2023 as a candidate of BRS contesting the Khairatabad Assembly Constituency. This has not been denied by respondent No.2.

31. Ex.P.2 is the downloaded copy of the Gazette Notification No.44, dated 04.12.2023, issued by the Chief Electoral Officer, Telangana, declaring the results of the general elections to the Telangana State Legislative Assembly, 2023, where at serial No.60, the name of respondent No.2 appears as elected member of 60-Khairatabad

Assembly Constituency from BRS. This fact has not been denied by respondent No.2.

32. Ex.P.3 is the downloaded copy of the affidavit dated 23.04.2024 filed by respondent No.2 in Form 26 before the Returning Officer for Election to Lok Sabha 08-Secunderabad Parliamentary Constituency declaring himself to be a candidate set up by the INC party. These facts and the affidavit have not been denied by respondent No.2.

33. Ex.P.4 is the downloaded copy of Form 7A dated 29.04.2024 issued by the Returning Officer, 08-Secunderabad Parliamentary Constituency and Additional Collector (Revenue), Hyderabad, showing the list of contesting candidates to the House of the people from the 08-Secunderabad Parliamentary Constituency, and the said document was issued after completion of scrutiny and withdrawal of nominations for the 2024 Lok Sabha elections. The name of respondent No.2 appears along with his photograph, address and the party affiliation as “Indian National Congress” with the party symbol of “hand”. Respondent No.2 has not denied the assertion of the fact and the document at Ex.P.4. The Hon’ble Speaker has, while dealing with this point, held that the documents marked as Exs.P.3 and P.4 are neither original documents nor certified copies obtained from the competent authority in accordance with the prescribed procedure for issuance of certified copies.

Therefore, no evidentiary value can be attached to the said documents, particularly when the persons connected with those documents have not been examined to prove their execution, authenticity or correctness. Therefore, the petitioner has failed to establish by cogent, convincing and trustworthy evidence that respondent No.2 voluntarily gave up the membership of BRS party and joined the INC party. This point was accordingly answered against the petitioner and in favour of respondent No.2. In the absence of proof of the documents, the allegation of voluntarily giving up the membership cannot be sustained. The Hon'ble Speaker relied upon the case of **Ravi S. Naik** (supra) to hold that the findings of the Speaker must be supported by credible evidence. In the case of **Rajendra Singh Rana** (supra) the Hon'ble Supreme Court held that the discretion must be determined on the basis of materials and evidence placed before the Speaker. In the case of **Shrimanth Balasaheb Patil** (supra) also it was reiterated that the Speaker must rely on legally admissible material and relevant evidence while determining disqualification. Since the petitioner failed to produce relevant official material documents, the allegations could not be accepted. In the absence of testimony, the secondary materials remain unverified hearsay, which is legally insufficient to displace a democratically elected representative. The findings on point No.3 by the Hon'ble

Speakers are untenable on the ground that the petitioner relied on public documents and gazettes. Sections 80 and 81 of BSA read as under:

80. Presumption as to Gazettes, newspapers, and other documents.—The Court shall presume the genuineness of every document purporting to be the Official Gazette, or to be a newspaper or journal, and of every document purporting to be a document directed by any law to be kept by any person, if such document is kept substantially in the form required by law and is produced from proper custody.

Explanation.—For the purposes of this section and Section 92, document is said to be in proper custody if it is in the place in which, and looked after by the person with whom such document is required to be kept; but no custody is improper if it is proved to have had a legitimate origin, or if the circumstances of the particular case are such as to render that origin probable.

81. Presumption as to Gazettes in electronic or digital record.—The Court shall presume the genuineness of every electronic or digital record purporting to be the Official Gazette, or purporting to be electronic or digital record directed by any law to be kept by any person, if such electronic or digital record is kept substantially in the form required by law and is produced from proper custody.

Explanation.—For the purposes of this section and Section 93 electronic records are said to be in proper custody if they are in the place in which, and looked after by the person with whom such document is required to be kept; but no custody is improper if it is proved to have had a legitimate origin, or the circumstances of the particular case are such as to render that origin probable.

34. In the case of **M. Siddiq** (supra), the Constitution Bench at para 861 held as under:

861. Section 81 of the Evidence Act, 1872 requires the court to “presume the genuineness of every document purporting to be...any Official Gazette, or the Government Gazette of any colony, dependency or possession of the British Crown...”. [Section 81 of the Evidence Act, 1872 provides thus: “**81. Presumption as to Gazettes, newspapers, private Acts of Parliament and other documents.**—The Court shall presume the genuineness of every document purporting to be the London Gazette, or any Official Gazette, or the Government Gazette of any colony, dependency or possession of the British Crown, or to be a newspaper or journal, or to be a copy of a private Act of Parliament of the United Kingdom printed by the Queen's Printer and of every document purporting to be a document directed by any law to be kept by any person, if such document is kept substantially in the form required by law and is produced from proper custody.”] Section 81 raises a presumption of the genuineness of the document and not of its contents. When the court has to form an opinion on the existence of a fact of a public nature, Section 37 of the Evidence Act [Section 37 of the Evidence Act, 1872 provides thus: “**37. Relevancy of statement as to fact of public nature, contained in certain Acts or notifications.**—When the Court has to form an opinion as to the existence of any fact of a public nature, any statement of it, made in a recital contained in any Act of Parliament of the United Kingdom, or in any Central Act, Provincial Act, or a State Act, or in a Government notification or notification by the Crown Representative appearing in the Official Gazette or in any printed paper purporting to be the London

Gazette or the Government Gazette of any Dominion, colony or possession of His Majesty is a relevant fact.”] indicates that any statement of it in a Government Gazette is a relevant fact. While gazetteers have been noticed in several decisions of this Court, it is equally important to note that the reliance placed on them is more in the nature of corroborative material.

35. The Hon’ble Speaker also acted in teeth of the law laid down by the Hon’ble Supreme Court that when acts are admitted, the question of burden of proof does not arise. In **Dr. Mahachandra Prasad Singh** (supra) also it was held that in defection proceedings, the Hon’ble Speaker has an independent duty to carry out the mandate of the Tenth Schedule. There is no *lis* between the person moving the petition and the member of the House who is alleged to have incurred a disqualification. Whereas the election disputes are adversarial proceedings, the defection proceedings are non-adversarial. The power is conferred upon the Hon’ble Speaker under Article 191(2) read with Tenth Schedule of the Constitution of India to correct a constitutional wrong of defection. The vice of para 2(1)(a) of the Tenth Schedule is attracted when respondent No.2 did not deny having contested the Lok Sabha elections from the INC party by filing his nomination papers for the INC party on 23.04.2024, despite being an elected BRS member. In the case of **R.Bhoopathi Reddy** (supra), a Division Bench of this Court also held that once a member of a political party contests elections on behalf of another party, he is considered to have voluntarily given up the

membership of the original political party. Para 70 thereof is quoted hereunder:

70. Undoubtedly, the petitioner himself had admitted that he did contest the election, scheduled to be held on 07.12.2018, on a ticket issued by the INC Party. In the case of G. Viswanadhan (9 supra) the Apex Court has already held that "when a Legislator joins another political party, he has to be treated as having voluntarily given up his membership of the party by which, he was set up as a candidate for the original election". In the present case, the petitioner fought the original election on 12.12.2015 under the support of TRS Party. However, in the election held on 07.12.2018, he fought the election, as mentioned above, on behalf of the INC Party. Thus, obviously, he had "voluntarily given up his membership" of the TRS Party. Once such an admission is made by the petitioner, the giving of an opportunity of hearing would be merely a formality, a ceremony to be performed. In catena of cases, the Hon'ble Supreme Court has opined that where the giving of an opportunity of hearing would merely be a ceremony to be performed, such an opportunity need not be given to the concerned person. Hence, the petitioner need not have been given an opportunity of hearing.

36. Reliance placed by the Hon'ble Speaker in the cases of **Ravi S.Naik** (supra), **Rajendra Singh Rana** (supra) and **Shrimanth Balasaheb Patil** (supra) on this point are misplaced.

37. In **Ravi S. Naik** (supra), the Hon'ble Supreme Court had in a matter relating to split in the party laid down the proposition that the Disqualification Rules are procedural in nature and any violation of the same would amount to an irregularity in procedure which is immune from judicial scrutiny in view of sub-para (2) of para 6 of Disqualification Rules. The field of judicial review in respect of the orders passed by the Hon'ble Speaker under sub-para (1) of para 6 would confine to breaches of the constitutional mandates, *mala fides*, non-compliance with rules of natural justice and perversity. Violation of Disqualification Rules cannot amount to violation of constitutional

mandates. Rules have subordinate status to the Constitution and cannot be equated with the provisions of the Constitution. Any violation of the Disqualification Rules does not afford a ground for judicial review of the order of the Speaker in view of finality clause contained in sub-para (1) of para 6 of the Tenth Schedule. In the facts of the said case, the Hon'ble Supreme Court held that the allegations regarding reference to extraneous materials and circumstances in the order of the Speaker such as reference of photographs printed in newspapers, showing the appellant-members with MLAs belonging to another party while meeting the Governor to say about the party strength for forming the government is not sustainable as the Speaker while referring to the photographs was also drawing an inference about their meeting with the Governor which had not been denied by the appellants. The allegation of denial of opportunity to adduce evidence is also without substance. Therefore, reference to the said decision by the Hon'ble Speaker is misplaced.

38. In case of **Rajendra Singh Rana** (supra), on a question of defection of Bahujan Samaj Party (BSP) MLAs, the Apex Court held that for seeking protection from disqualification for defection under paras 3 and 4 of the Tenth Schedule, it is not enough that a claim is made of a split in the original party in addition to showing that one-third

members of the legislature party have quit the party. Those who have left the party have to *prima facie* show by relevant materials that there has been a split in the original party. The said decision has no application in the present case since the petitioner had produced and relied upon official documents such as Exhibits P.1 to P.4 in support of his case. Respondent No.2 has not denied these allegations in his counter affidavit.

39. In the case of **Shrimanth Balasaheb Patil** (supra), the issue was whether by resignation of the member, the disqualification proceeding would become infructuous provided the acts warranting disqualification under Tenth Schedule occurred prior to the date of resignation. The Apex Court held that taint of disqualification does not vaporise by tendering resignation. The decision of the Speaker/Chairman relates back to the date when action/facts warranting disqualification under the Tenth Schedule took place. The interpretation which glorifies the spirit of the Constitution should be adopted. The inhibition contained under the Constitution requires wider interpretation to cure existing evil.

40. Reliance placed by the Hon'ble Speaker in the case of **Udey Chand v. Surat Singh**²¹ is also misplaced as the said case relates to an election petition filed under Section 176 of the Haryana Panchayati Raj Act, 1994 alleging that since the Returning Officer had violated the

²¹ (2009) 10 SCC 170

provisions of the said Act and the Rules framed thereunder and had committed certain illegality, the election of the appellant be set aside. Reference to the said decision does not apply to the case on hand, which deals with disqualification petition under the Tenth Schedule read with Article 191(2) of the Constitution of India.

41. The findings of the Hon'ble Speaker, therefore, suffer from perversity in failing to take into consideration the materials and the evidence on record by which the petitioner had discharged the burden of proof required to establish disqualification in the absence of any denial by respondent No.2.

42. Point No.4 deals with the question whether the petitioner has complied with the mandatory procedural requirements under the 1986 Rules.

43. The Hon'ble Speaker held that the procedural defects under Rule 6(6) and 6(7) regarding the lack of verification for each annexure were fatal to the maintainability of the petition. The Hon'ble Speaker referred to the decisions in **Anil Vasudev Salgaonkar** (supra) and **Ravinder Singh** (supra) on the proposition that the pleadings in matters relating to elected representatives must be construed strictly and that defects in material pleadings are fatal to the proceedings.

44. The petitioner has taken the plea that the findings on verification and burden of proof in Disqualification Petition No.4 of 2024 have been copied and pasted from the order in Disqualification Petition No.1 of 2024, i.e., paras 10.2 and 10.3. Moreover, the Hon'ble Supreme Court in the case of **Dr. Mahachandra Prasad Singh** (supra) has clearly laid down that procedural rules cannot render the disqualification petition invalid or affect the duty of the Hon'ble Speaker to carry out enquiry on disqualification petition. In the case of **Ravi S.Naik** (supra) also referred to hereinabove, the Apex Court held that Disqualification Rules are procedural in nature and any violation of the same would amount to an irregularity in procedure which is immune from judicial scrutiny. Violation of disqualification rules cannot amount to violation of constitutional mandates.

45. The decisions relied on by the respondent No.2 in **Anil Vasudev Salgaonkar** (supra) and **Ravinder Singh** (supra) were rendered in respect of petitions alleging corrupt practices under the Representation of People Act, 1951. The reference to the rules of pleadings in a case of election petition therein do not apply to the case on hand, which deals with disqualification petitions under the Tenth Schedule read with Article 191(2) of the Constitution of India.

46. In order to appreciate the applicability of the 1986 Rules, Rules 3, 6 and 7 thereof are extracted hereunder:

3. Information to be furnished by leader of a Legislature party: (1) The Leader of each Legislature Party (other than a Legislature Party consisting of only one member) shall, within thirty days after the first sitting of the House, or, where such Legislature Party is formed after the first sitting, within thirty days after its formation, or, in either case within such further period as the Speaker may for sufficient cause allow, furnish the following to the Speaker, namely -

(a) A statement (in writing) containing the names of the members of such Legislature party together with other particulars regarding such members as in Form-I and the names and designations of the members of such party who have been authorised by it for communicating with the Speaker for purposes of these rules;

(b) a copy of the rules and regulations (whether known as such or as constitution or by any other name) of the political party concerned; and

(c) where such Legislature party has any separate set of rules and regulations (whether known as such or as constitution or by any other name) also a copy of such rules and regulations.

(2) Where a Legislature party consists of only one member, such member shall furnish a copy of the Rules and Regulations mentioned in clause (b) of sub-rule (1) to the Speaker, within thirty days after the first sitting of the House or, where he has become a member of the House after the first sitting, within thirty days after he has taken his seat in the House, or in either case within such further period as the Speaker may for sufficient cause allow.

(3) In the event of any increase in the strength of a Legislature Party consisting of only one member, the provisions of sub-rule (1) shall apply in relation to such Legislature Party as if such Legislature Party has been formed on the first date on which its strength increased.

(4) Whenever any change takes place in the information furnished by the Leader of a Legislature Party under sub-rule (1) or by a member under sub-rule (2), he shall within thirty days thereafter, or, within such further period as the Speaker may for sufficient cause allow, furnish in writing information to the Speaker with respect to such change.

(5) In the case of the House in existence on the date of commencement of these rules, the reference in sub-rules (1) and (2) to the date of the first sitting of the House shall be construed as a reference to the date of commencement of these Rules.

(6) Where a member belonging to any political party votes or abstains from voting in the House contrary to any direction issued by such political party or by any person or authority authorised by it in this behalf, without obtaining, in either case, the prior permission of such political party, person or authority, the Leader of the Legislature Party concerned or where such member is the Leader, or as the case may be, the sole member of such Legislature Party, such members, shall, as soon as may be after the expiry of fifteen days from the date of such voting or abstention, and in any case within thirty days from the date of such voting or abstention, inform the Speaker as in Form II whether such voting or abstention has or has not been condoned by such political party, person or authority.

Explanation:- A Member may be regarded as having abstained from voting only when he being entitled to vote voluntarily refrained from voting.

6. References to be by petitions: (1) No reference of any question as to whether a member has become subject to disqualification under the Tenth Schedule shall be made except by a petition in relation to such member made in accordance with the provisions of this Rule.

(2) A Petition in relation to a member may be made in writing to the Speaker by any other member;

Provided that a Petition in relation to the Speaker shall be addressed to the Secretary.

(3) The Secretary shall,—

(a) as soon as may be after the receipt of a petition under the proviso to sub-rule (2) make a report in respect thereof to the House; and

(b) as soon as may be after the House has elected a Member in pursuance of the proviso to sub-paragraph (1) of paragraph 6 of the Tenth Schedule place the petition before such member.

(4) Before making any Petition in relation to any member, the petitioner shall satisfy himself that there are reasonable grounds for believing that a question has arisen as to whether such member has become subject to disqualification under the Tenth Schedule.

(5) Every Petition,—

(a) shall contain a concise statement of the material facts on which the Petitioner relies; and

(b) shall be accompanied by copies of the documentary evidence, if any, on which the petitioner relies and where the petitioner relies on any information furnished to him by any person, a statement containing the names and addresses of such persons and the gist of such information as furnished by each such person.

(6) Every petition shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (5 of 1908) for the verification of Pleadings.

(7) Every annexure to the Petition shall also be signed by the Petitioner and verified in the same manner as the petition.

7. Procedure: (1) On receipt of petition under rule 6, the Speaker shall consider whether the petition complies with the requirements of that rule.

(2) If the Petition does not comply with the requirements of rule 6, the Speaker shall dismiss the Petition and intimate the petitioner accordingly.

(3) If the Petition complies with the requirements of rule 6 the Speaker shall cause copies of the Petition and of the annexures thereto to be forwarded:

(a) to the member in relation to whom the petition has been made; and

(b) where such member belongs to any Legislature party and such petition has not been made by the Leader thereof, also to such Leader and such member or Leader shall within seven days of the receipt of such copies, or within such further period as the Speaker may for sufficient cause allow, forward his comments in writing thereon to the Speaker.

(4) After considering the comments, if any, in relation to the Petition, received under sub-rule (3) within the period allowed (whether originally or on extension under that sub-rule), the Speaker may either proceed to determine the question or, if he is satisfied, having regard to the nature and circumstances of the case that it is necessary or expedient so to do, refer the petition to the Committee for making a preliminary inquiry and submitting a report to him.

(5) The Speaker shall, as soon as may be after referring a petition to the Committee under sub-rule (4), intimate the petitioner accordingly and make an announcement with respect to such reference in the House or, if the House is not then in session, cause the information as to the reference, to be published in the Bulletin.

(6) Where the Speaker makes a reference under sub-rule (4) to the Committee, he shall proceed to determine the question as soon as may be after receipt of the report from the Committee.

(7) The procedure which shall be followed by the Speaker for determining any question and the procedure which shall be followed by the Committee for the purpose of making a preliminary inquiry under sub-rule (4) shall be, so far as may be, the same as the procedure for inquiry and determination by the Committee of any question as to breach of privilege of the House by a member and neither the Speaker nor the Committee shall come to any finding that a member has become subject to disqualification under the Tenth Schedule without affording a reasonable opportunity to such member to represent his case and to be heard in person.

(8) The provisions of sub-rules (1) to (7) shall apply with respect to a petition in relation to the Speaker as they apply with respect to a Petition in relation to any other member and for this purpose, reference to the Speaker in these sub-rules shall be construed as including references to the member elected by the House under the proviso to sub-paragraph (1) of paragraph 6 of the Tenth Schedule.

47. In the case of **Dr. Mahachandra Prasad Singh** (supra), the Hon'ble Supreme Court at para 16 held that the object of Rule 6 requires every petition should be signed and verified in the manner laid down in CPC for the verification of pleadings so that frivolous petitions making false allegations may not be filed in order to cause harassment. Further the Apex Court held that it is not possible to give strict interpretation to Rules 6 and 7, otherwise the very object of the Constitution (Fifty-second Amendment) Act by which the Tenth Schedule was added would be defeated. A defaulting legislator, who has otherwise incurred disqualification under para 2 would be able to get away by taking the advantage of even a slight or insignificant error in the petition and thereby asking the Chairman to dismiss the petitioner under sub-rule (2)

of Rule 7. The validity of the Rules can be sustained only if they are held to be directory in nature as otherwise, on strict interpretation, they would be rendered *ultra vires*. The Apex Court further at para 18 observed that the provisions of Rules 6 and 7 are directory in nature and on account of non-filing of an affidavit as required by sub-rule (4) of Order VI Rule 15 CPC, the petition would not be rendered invalid nor would the assumption of jurisdiction by the Chairman on its basis be adversely affected or rendered bad in any manner. Reference has also been made in similar contentions raised before the Bench in **Ravi S. Naik** (supra), para 18 thereof. Therefore, the finding on point No.4 rendered in complete disregard of the directory nature of the disqualification rules as laid down by the Hon'ble Supreme Court while interpreting the provisions of the Tenth Schedule of the Constitution of India is perverse in the eye of law.

48. On behalf of respondent No.2, it has been argued that while considering the question of defection under the Tenth Schedule, the standards should be much stricter in exercise of the powers of the judicial review. The unseating of the elected MLA would entail serious consequences and do injustice to the electorate. Learned Senior Counsel for respondent No.2 submitted that the impugned decision of the Hon'ble Speaker does not deserve to be set aside on the four parameters

of judicial review rendered in the case of **Kihoto Hollohan** (supra). It is a case where the Hon'ble Speaker upon consideration of the entire materials based on record in the form of pleadings and evidence adduced by the petitioner has by a well reasoned decision held that respondent No.2 did not incur disqualification. He has submitted that a sitting MLA can contest the Lok Sabha elections. It is only after being elected that he can choose to remain in one party or the other. Therefore, the allegation that respondent No.2 has voluntarily given up his affiliation to BRS by contesting Parliamentary elections from INC party is not correct. The petitioner relied upon four exhibits to support the allegations that respondent No.2 has voluntarily given up his membership to BRS. The petitioner was under a duty to satisfy the ingredients of Rule 6 of the 1986 Rules. According to him, non-compliance of verification along with the petition is infraction of Rules 6 and 7 of the 1986 Rules. The petitioner had filed a Memo to satisfy the requirement of verification subsequent to the cross-examination at the time of final arguments. It cannot cure the defect of Rule 6(6) or 6(7) of the 1986 Rules. This aspect has also been considered by the Hon'ble Speaker in impugned order. In the absence of compliance of Rule 6(6) and 6(7) of the 1986 Rules, the Hon'ble Speaker has rightly dismissed the petition after dealing with the issue under point No.4 of the impugned order. He

submits that in the case of **R.Bhoopathi Reddy** (supra), the requirement of compliance of Rule 6 and 7 has been held to be mandatory, otherwise it is fatal. He has also sought to distinguish the decision of **Dr. Mahachandra Prasad Singh** (supra) by stating that the Apex Court at para 16 observed that the object of Rule 6 is to ensure that frivolous petitions making false allegations may not be filed in order to cause harassment. Learned Senior Counsel for respondent No.2 has reiterated his submission that there is a distinction between Article 191(1)(e) and Article 191(2) of the Constitution of India. In a case of this nature, the Governor is only the competent authority who can disqualify if the conduct of the Member is outside the House. Even Rule 7(3) of the 1986 Rules provides that a copy of the complaint is sent to the Leader of the House, i.e., BRS calling for his explanation. It shows that the complaint should only be in relation to the House. If the conduct of the member is outside the House, then it attracts disqualification under Article 191(1)(e) of the Constitution of India. This issue has been dealt with by the Hon'ble Speaker under point No.1 in the impugned order. Respondent No.2 has not violated even a single whip by the BRS. No complaint has been given by the BRS party to whom respondent No.2 belongs.

49. The contentions raised by the learned Senior Counsel for respondent No.2 in support of the impugned decision does not merit acceptance for the following reasons:

50. The election disputes are materially different from defection proceedings as while the latter deals with constitutional grounds and is non-adversarial in nature, the election disputes are in relation to statutory infractions. Even withdrawal of disqualification petition would make no difference once the points have been informed to the Hon'ble Speaker who has constitutional duty to decide on the issue of defection. The principle behind this has been laid down by the Apex Court in the case of **Kihoto Hollohan** (supra) at para 9 which is quoted hereunder:

9. This brings to the fore the object underlying the provisions in the Tenth Schedule. The object is to curb the evil of political defections motivated by lure of office or other similar considerations which endanger the foundations of our democracy. The remedy proposed is to disqualify the Member of either House of Parliament or of the State Legislature who is found to have defected from continuing as a Member of the House. The grounds of disqualification are specified in Paragraph 2 of the Tenth Schedule.

51. In the same case, the Apex Court observed that a political party functions on the strength of shared beliefs. Its own political stability and social utility depends on such shared beliefs and concerted action of its members in furtherance of those commonly held principles. Any freedom of its members to vote as they please independently of the political parties' declared policies will not only embarrass its public image and popularity but also undermine public confidence in it which

in the ultimate analysis is its sources of sustenance – nay indeed its very survival. The opinion of the learned author – Griffith and Ryle on ‘Parliament Functions, Practice and Procedure’ (1989 edn., p.119) was referred to and quoted at para 44, which reads as under:

Loyalty to party is the norm, being based on shared beliefs. A divided party is looked on with suspicion by the electorate. It is natural for Members to accept the opinion of their Leaders and Spokesmen on the wide variety of matters on which those Members have no specialist knowledge. Generally Members will accept majority decisions in the party even when they disagree. It is understandable therefore that a Member who rejects the party whip even on a single occasion will attract attention and more criticism than sympathy. To abstain from voting when required by party to vote is to suggest a degree of unreliability. To vote against party is disloyalty. To join with others in abstention or voting with the other side smacks of conspiracy.

52. The Apex Court in answer to contention (A) held that the provisions of Para 2 of the Tenth Schedule are valid and do not violate any rights or freedom under Articles 105 and 194 of the Constitution. The provisions are salutary and are intended to strengthen the fabric of Indian parliamentary democracy by curbing unprincipled and unethical political defections. In this backdrop, the vesting of adjudicatory functions in the Speakers/Chairmen to hold a pivotal position in the scheme of Parliamentary democracy and as guardians of the rights and privileges of the House become all the more important. In the case of **Kihoto Hollohan** (supra), the Apex Court upheld the vestiture of power to adjudicate questions under the Tenth Schedule in such constitutional functionaries as they are expected to and do take far-reaching decisions in the functioning of Parliamentary democracy. In that legal backdrop,

the threshold for examining the decision of the Hon'ble Speaker under judicial review has been limited to infirmities based on violation of constitutional mandates, *mala fides*, non-compliance of rules of natural justice and perversity by the Constitution Bench in **Kihoto Hollohan** (supra).

53. However, in the facts and circumstances of the case, we are of the opinion that the findings of the Hon'ble Speaker on each of the four points are unsustainable on grounds of violation of constitutional mandates and perversity for the reasons recorded hereinabove.

54. Reference to the 1986 Rules, which are directory in nature to invalidate the disqualification proceedings are equally misplaced in the light of the decisions rendered in the case of **Ravi S.Naik** (supra) and **also Dr. Mahachandra Prasad Singh** (supra).

55. We, therefore, hold that the impugned decision of the Hon'ble Speaker is unsustainable on the grounds of judicial review under Article 226 of the Constitution of India as laid down in the case of **Kihoto Hollohan** (supra) and is accordingly set aside.

56. Further, on the basis of the facts and circumstances and the reasoning recorded hereinabove, this Court is of the considered view that the respondent No.2 incurred disqualification upon having contested the election as a candidate set up by the INC party for the Parliamentary

elections to the Lok Sabha in the year 2024, despite being a member of BRS party.

57. The next question to be answered is the date on which respondent No.2 incurred disqualification.

58. Respondent No.2 filed his nomination as a candidate for INC party on 23.04.2024 for contesting election to the Secunderabad Lok Sabha constituency despite being a member of BRS. Therefore, respondent No.2 voluntarily gave up the membership of BRS party as per para 2(1)(a) of the Tenth Schedule read with Article 191(2) of the Constitution of India on 23.04.2024.

59. In **Subhash Desai** (supra), the Apex Court dealt with the issue that the disqualification relates back to the date of defection. The findings at paras 209 and 210 in the said decision by the Constitution Bench are extracted hereunder:

209. Aggrieved by the order of the Speaker, the disqualified MLAs approached this Court under Article 32 of the Constitution. The MLAs who had tendered their resignations argued that the Speaker did not have the jurisdiction to adjudicate the petitions for their disqualification because they had already resigned and were therefore not members of the House who could be disqualified. Relying on *Rajendra Singh Rana* [*Rajendra Singh Rana v. Swami Prasad Maurya*, (2007) 4 SCC 270], this Court rejected this submission and held that the Speaker has the jurisdiction to determine the disqualification petitions because disqualification relates to the date when the act constituting defection is alleged to have been committed : (*Shrimanth Balasaheb Patil case* [*Shrimanth Balasaheb Patil v. Karnataka Legislative Assembly*, (2020) 2 SCC 595], SCC p. 633, para 93)

“93. As such, there is no doubt that the disqualification relates to the date when such act of defection takes place. The tendering of resignation does not have a bearing on the jurisdiction of the Speaker in this regard. At this point we may allude to *D. Sanjeevayya v. Election Tribunal* [*D. Sanjeevayya v. Election Tribunal*, 1967 SCC OnLine SC 46 : AIR 1967 SC

1211] , wherein this Court has held that : (AIR pp. 1213-14, para 5)

‘5. It is, therefore, not permissible, in the present case, to interpret Section 150 of the Act in isolation without reference to Part III of the Act which prescribes the machinery for calling in question the election of a returned candidate. When an election petition has been referred to a Tribunal by the Election Commission and the former is seized of the matter, the petition has to be disposed of according to law. The Tribunal has to adjudge at the conclusion of the proceeding whether the returned candidate has or has not committed any corrupt practice at the election and secondly, it has to decide whether the second respondent should or should not be declared to have been duly elected. A returned candidate cannot get rid of an election petition filed against him by resigning his seat in the legislature, whatever the reason for his resignation may be.’ Therefore, the aforesaid principle may be adopted accordingly, wherein the taint of disqualification does not vaporise, on resignation, provided the defection has happened prior to the date of resignation.”

(emphasis supplied)

210. The decision in *Shrimanth Balasaheb Patil* [*Shrimanth Balasaheb Patil v. Karnataka Legislative Assembly*, (2020) 2 SCC 595] applied the principle that disqualification relates to the date on which the act of defection takes place to mean that acts or events subsequent to the commission of the conduct prohibited under the Tenth Schedule, do not have an exculpatory effect. In other words, subsequent acts or events do not have the effect of curing such conduct or releasing the actor from the consequences which follow. This is consistent with the decision in *Rajendra Singh Rana* [*Rajendra Singh Rana v. Swami Prasad Maurya*, (2007) 4 SCC 270] . Mr Shinde's appointment is therefore not barred by Article 164(1-B) of the Constitution.

60. In the case of **Rajendra Singh Rana** (supra), the Constitution Bench of the Apex Court found that the petition seeking disqualification of thirteen members had been allowed to drag on till disposal of the said case, though they had failed to establish defence or answer to the charge of defection under the Tenth Schedule. The term of Legislative Assembly after the elections in February 2002 was coming to an end on expiry of five years. Remand of the proceedings to the Speaker would mean that the proceeding itself may become infructuous. Therefore, the

Hon'ble Supreme Court held that the thirteen members stood disqualified with effect from 27.08.2003 in terms of Article 191(2) read with para 2 of the Tenth Schedule.

61. The present case is one where the disqualification proceedings have lingered on for more than one and half years and by now almost three years term of the Legislative Assembly has expired. Therefore, the matter need not be remanded to the Hon'ble Speaker for taking a fresh decision. In such circumstances, this Court in exercise of powers of judicial review deems it just and proper to declare that respondent No.2 stands disqualified from 23.04.2024 as a Member of Telangana Legislative Assembly having contested as a candidate set up by the INC party for Secunderabad Constituency in the Lok Sabha elections 2024 despite being a member of BRS party. As a result thereof, the said seat is rendered vacant.

W.P.No.8647 of 2026:

62. Disqualification petition No.1 of 2024 from which W.P.No.8647 of 2026 arises against the same respondent No.2, was preferred by a Member of the Telangana Legislative Assembly who was elected on BRS ticket. The said disqualification petition was filed on 18.03.2024 seeking a declaration that respondent No.2 has incurred disqualification from his membership of the Legislative Assembly under para 2(1)(a)

and 2(1)(b) of the Tenth Schedule to the Constitution of India read with Article 191(2) of the Constitution of India and Rule 6(1) and (2) of the 1986 Rules. The petitioner alleged that respondent No.2 was elected as Member of Legislative Assembly on BRS ticket in the General Elections 2023. He has by overt conduct and public action voluntarily given up his membership of the BRS and changed his allegiance to the INC party. The petitioner, in particular, alleged that copy of the photograph of respondent No.2 and his meeting with AICC In charge Deepa Das Munshi along with Sri Mallu Batti Vikramarka and Telangana Pradesh Congress Committee President Sri A.Revanth Reddy – Ex.P.3 and the copy of the photograph of respondent No.2 joining the INC party – Ex.P.4, show that respondent No.2 had joined the INC party. In the list of candidates nominated for Lok Sabha elections of 2024 published by the INC party on 21.03.2024, the name of respondent No.2 is reflected at serial No.46 – Ex.P.5. The affidavit filed by respondent No.2 for contesting the Lok Sabha election in Form 26 as a candidate set up by the INC party dated 23.04.2024 is Ex.P.6. Ex.P.7 is the copy of the result sheet uploaded in Election Commission of India website. Thereafter, Exs.P.10 to P.30 starting from 05.05.2024 till 07.09.2025 are Facebook posts and media reports showing respondent No.2 attending the INC party meeting and campaigning as a candidate for INC party,

press statements to T.V. channels, video footage in T.V. channels along with the articles published in the print media, substantiating the allegations. Respondent No.2 filed the counter affidavit on 19.01.2026 maintaining that he is *bona fide* member of BRS and continued to adhere to the party discipline. He has not resigned the BRS party or enrolled in the INC party. He has not been expelled from the BRS party. His political activities outside the Legislative Assembly do not meet the threshold requirement of disqualification under the Tenth Schedule. Respondent No.2 also contended that the Hon'ble Speaker's authority was confined to the conduct within the Legislative sphere and not to the political activities of MLAs outside the House. The petitioner filed a rejoinder and additional documents. Thereafter, petitioner was examined and cross-examined as P.W.1 and he exhibited Exs.P.1 to P.30. The respondent No.2 did not enter the witness box nor examined any witness on his behalf. Detailed submissions and written submissions were submitted by both the parties. The Hon'ble Speaker in the instant disqualification petition framed five issues for determination which are as under:

1. Whether the Speaker's jurisdiction as a Tribunal under Paragraph 6 of the Tenth Schedule is constitutionally confined to conduct having a direct nexus with legislative proceedings within the House, and if so, whether the present Petition, founded substantially on conduct external to the Telangana Legislative Assembly, is maintainable?
2. Whether the Respondent's conduct including meeting INC leaders, participating in the alleged 'joining' ceremony, and contesting the Lok Sabha election on the INC ticket constitutes "voluntarily giving

up membership” of the BRS within the meaning of Paragraph 2(1)(a) of the Tenth Schedule?

3. What is the evidentiary value of the material placed on record by the Petitioner, and whether the Petitioner has discharged the heavy burden of proof required to establish disqualification?
4. What is the legal effect of the BRS Party’s silence, continued official recognition of the Respondent as a BRS member, and the absence of any internal disciplinary action against the respondent?
And
5. Whether the Petitioner has complied with the mandatory procedural requirements under the Defection Rules?

63. It is important to mention here that points No.1, 3 and 4 in Disqualification Petition No.4 of 2024 are the same in the instant Disqualification Petition No.1 of 2024.

64. Point No.2 in Disqualification Petition No.1 of 2024 refers to the respondent No.2’s conduct including meeting the INC party leaders, participating in the alleged joining ceremony and contesting the Lok Sabha election on the INC party ticket as constituting voluntarily giving up membership of BRS within the meaning of para 2(1)(a) of the Tenth Schedule. This point also is substantially whether respondent No.2’s conduct constitutes voluntarily giving up membership of BRS within the meaning of para 2(1)(a) of the Tenth Schedule as in Disqualification Petition No.4 of 2024 (point No.2).

65. One additional point, i.e., point No.4 was framed by the Hon’ble Speaker in the instant Disqualification Petition No.1 of 2024 as to the legal effect of BRS Party’s silence, continued official recognition of respondent No.2 as a BRS member and the absence of any internal disciplinary action against respondent No.2.

66. Findings of the Hon'ble Speaker on each of the points are against the petitioner and in favour of respondent No.2. The findings on points 1, 3 and 5 are also on the same lines.

67. In answer to point No.3, the Hon'ble Speaker has also recorded that the annexures produced by the petitioner primarily consisting of newspaper clippings and media extracts are not signed or verified in the manner required by Rule 6(6) and (7) of the 1986 Rules which mandates verification in the manner laid down in CPC. Therefore, they are inadmissible. That newspaper reports and media footage are only hearsay evidence and cannot by themselves prove the facts alleged. To support this finding, reliance was placed on **Samant N. Balkrishna vs. George Fernandez**²² and **Laxmi Raj Shetty vs. State of Tamil Nadu**²³. The Hon'ble Speaker has referred to the cross-examination of the petitioner where he has stated that he had no personal knowledge of the alleged joining ceremony. Despite his lack of personal knowledge, the petitioner failed to examine a single primary witness such as Reporter, Editor, Publisher or any other media professional who could verify the contents of the media reports. Therefore, in the absence of such testimony, the secondary material remain unverified hearsay,

²² (1969) 3 SCC 238

²³ (1988) 3 SCC 319

which is legally insufficient to displace a democratically elected representative.

68. Point No.4 framed in Disqualification Petition No.1 of 2024 is on the legal effect of the BRS party's silence, continued official recognition of respondent No.2 as a BRS member and the absence of any internal disciplinary action against respondent No.2. The Hon'ble Speaker has recorded that the Leader of the BRS party has not communicated any deletion of respondent No.2's name from the list of its members nor intimated any alleged defection within the time contemplated by the 1986 Rules. This casts serious doubt on the maintainability of the petition and reinforces the contention that the petitioner is not competent to initiate the present proceedings. The Hon'ble Speaker has also recorded that respondent No.2 has successfully demonstrated that he continues to be recognized as a BRS member in the official records and has adhered to all the party directions within the Legislative Assembly and has not formally joined any other political party. The petitioner has failed to establish that respondent No.2 has, by clear, categorical and unambiguous conduct, voluntarily given up his membership of the BRS party. Therefore, the irresistible inference of defection sought by the petitioner cannot be safely drawn. The Tenth Schedule is intended to protect the integrity of the House and not to regulate the external

political choices of its members where those choices do not destabilize the legislature. Given the respondent No.2's continued adherence to party discipline within the House and the lack of action by the BRS party, the grounds of disqualification are not met.

69. In respect of point No.5 as to whether the petitioner has complied with the mandatory procedural requirements under the 1986 Rules, the Hon'ble Speaker has held that the procedural defects under Rule 6(6) and (7) regarding the lack of verification of each of the annexures are considered fatal to the maintainability of the petition. Even if the procedural lapses were treated as curable irregularities, the substantive case fails because unverified media reports cannot serve as a substitute for the irresistible inference required to prove a voluntary abandonment of membership. In answer to point No.5, the Hon'ble Speaker in the present case also relied upon **Anil Vasudev Salgaonkar** (supra) and **Ravinder Singh** (supra), as in the other Disqualification Petition No.4 of 2024.

70. This Court, hereinafter, proceeds to deal with the findings recorded on each of the points by the Hon'ble Speaker. This Court finds that the reasons and findings of the Hon'ble Speaker on point No.1 are same as in answer to point No.1 in Disqualification Petition No.4 of 2024, which this Court has adequately dealt with in the case of the

petitioner in W.P.No.8409 of 2026 and are reiterated. The conception that disqualification under para 2(1)(a) of the Tenth Schedule for the conduct outside the House and beyond the jurisdiction of the Hon'ble Speaker are not in consonance with the settled legal position as laid down in **Dr. Mahachandra Prasad Singh** (supra) and also in the other decisions referred to by this Court while dealing point No.1 in W.P.No.8409 of 2026. Therefore, reasons recorded by this Court in answer to the findings of the Hon'ble Speaker on point No.1 in W.P.No.8409 of 2026 shall apply with full force to the present case.

71. Point No.2 framed by the Hon'ble Speaker questions the conduct of respondent No.2 in meeting the INC leaders, participating in the alleged joining ceremony and contesting the Lok Sabha election on the INC ticket constitutes voluntarily giving up of membership of BRS within the meaning of para 2(1)(a) of the Tenth Schedule.

72. It is the case of the petitioner that the sequence of conduct of respondent No.2 from 15.03.2024 when he met the Hon'ble Chief Minister along with other party leaders and was garlanded with a tri-colour Kanduva; the subsequent conduct including the one of filing nomination as a candidate for Lok Sabha elections 2024 as an INC party candidate and his overt acts of campaigning as an INC party candidate against the candidate set up by the BRS party and statements made on

Facebook and TV channels cumulatively amount to voluntarily giving up of membership of BRS by respondent No.2 within the meaning of para 2(1)(a) of the Tenth Schedule. On the part of respondent No.2 a plea has been taken that contesting Lok Sabha election while being an MLA is not constitutionally prohibited on which disqualification can be incurred. He continues to be a member of BRS party and no disciplinary action has been taken against him. That the petitioner's case is based on hearsay and media reports. To support this plea, respondent No.2 has not produced any witness. The Hon'ble Speaker held that respondent No.2's conduct taken in totality does not give rise to irresistible inference of voluntarily giving up of BRS membership required under para 2(1)(a) of the Tenth Schedule. It is pertinent to mention here that Disqualification Petition No.1 of 2024 was filed on 18.03.2024 alleging the acts of respondent No.2 in formally meeting the Hon'ble Chief Minister belonging to INC party and other party leaders thereby showed that he has switched to allegiance to the INC party based upon the newspaper report. Nomination was filed on 23.04.2024 (Ex.P.6) by respondent No.2 as a candidate of INC party for Lok Sabha elections 2024 from Secunderabad Constituency. The AICC press release dated 21.03.2024 showing the selected list of the candidates for the Lok Sabha elections 2024 wherein the name of respondent No.2 was at serial No.46, the

relevant paper clippings and the evidence of the statements of respondent No.2 in the interviews given to news channels were brought on record later by way of an additional affidavit. The petitioner had referred to several media reports alleging campaigning by respondent No.2 against the BRS candidate and professing himself as INC candidate for 2024 Lok Sabha elections. It is thus evident that irrespective of media reports relied upon by the petitioner in this case, the factum of filing nomination as a Member of INC party by respondent No.2 including the affidavit, Ex.P.6, were brought to the notice of the Hon'ble Speaker during the course of disqualification proceedings. In a disqualification petition, the parties to the *lis* are not in adversarial position (see **Dr. Mahachandra Prasad Singh** (supra)). The Hon'ble Speaker has an independent constitutional duty *de hors* the pleadings to enquire whether the conduct of the member outside the House amounts to voluntarily giving up membership of the party from which he is elected. The proposition in law is held in the case of **Kihoto Hollohan** (supra), **Dr. Mahachandra Prasad Singh** (supra) and other decisions which have been referred to in the discussion made in W.P.No.8409 of 2026. Therefore, the act of filing of the nomination as a Member of INC party on 23.04.2024 (Ex.P.6) for contesting the Parliamentary Lok Sabha elections 2024 by respondent No.2 is

sufficient to hold that respondent No.2 had voluntarily given up his membership of the BRS party. Respondent No.2 has not denied the fact that he had contested the Lok Sabha elections of 2024 as an INC candidate, despite being a member of BRS party. In similar set of facts in the case of **Dr. Mahachandra Prasad Singh** (supra), it was held that contesting elections as an independent candidate while being a member of a political party amounts to defection which incurred disqualification to continue as a member of the Legislative Assembly elected from the said political party. The question of proof would arise only if the allegations remain undenied.

73. Point No.3 is couched in the same language as point No.3 in Disqualification Petition No.4 of 2024 in W.P.No.8409 of 2026. This Court while dealing with the said point in the connected case categorically held that Ex.P.3 therein – Affidavit filed in statutory Form 26 by respondent No.2 on 23.04.2024 before the Returning Officer as an INC candidate for Lok Sabha 08-Secunderabad Parliamentary Constituency in the year 2024 is not denied by respondent No.2. The copy of Form 26 – affidavit filed by respondent No.2 on 23.04.2024 before the Returning Officer as an INC candidate for Lok Sabha was filed as Ex.P.6 in Disqualification Petition No.1 of 2024. It constitutes unimpeachable evidence to hold that respondent No.2 had incurred

disqualification within the meaning of Para 2(1)(a) of the Tenth Schedule on having contested as an INC candidate for Parliamentary Elections 2024 despite being a member of BRS party. Therefore, *de hors* proof of any other media reports, this act alone would constitute the ingredients to hold that respondent No.2 had voluntarily given up his membership from the BRS party. Reliance placed by the Hon'ble Speaker on the decision of the Hon'ble Supreme Court in **Samant N. Balkrishna** (supra) is misplaced as it was rendered in respect of election petition alleging corrupt practices under the Representation of People Act, 1951. The reference to the rules of pleadings in a case of election petition therein do not apply to the case on hand, which deals with disqualification petitions under the Tenth Schedule read with Article 191(2) of the Constitution of India. Reliance placed by the Hon'ble Speaker on the decision of the Hon'ble Supreme Court in **Laxmi Raj Shetty** (supra) is equally misplaced as the said case relates to a bank clerk committing robbery and murdering the Bank's Officer and is no way connected to the facts of the instant case which deals with disqualification of the elected representative. The findings of the Hon'ble Speaker on this point therefore suffer from perversity. The reasoning recorded in answer to this point in the connected writ petition, i.e., W.P.No.8409 of 2026, therefore, applies to the present case also.

74. Point No.4 as to what is the legal effect of the BRS party's silence, continued official recognition of respondent No.2 as BRS member and the absence of any internal disciplinary action against respondent No.2 which was additionally framed in Disqualification Petition No.1 of 2024 has incidentally been also dealt with by the Hon'ble Speaker while answering point No.2 in Disqualification Petition No.4 of 2024. The Hon'ble Speaker has taken note of countervailing facts that BRS party has not taken any disciplinary action against respondent No.2 who continues to sit and participate to vote as a member of BRS party at para 7.4 in Disqualification Petition No.4 of 2024. The reasoning recorded by this Court while dealing point No.2 in Disqualification Petition No.4 of 2024 applies to the facts of the present case.

75. On point No.5, whether the petitioner has complied with the mandatory procedural requirements under the 1986 Rules, once again this Court has underlined the legal position as regards the directory nature of the 1986 Rules by referring to the decision of the Apex Court in **Ravi S.Naik** (supra) and reiterated in the case of **Dr. Mahachandra Prasad Singh** (supra) in answer to point No.4 in W.P.No.8409 of 2026. The reasoning and findings of the Hon'ble Speaker on this point are in teeth of the position in law declared by the Hon'ble Supreme Court in

Ravi S.Naik (supra) and reiterated in the case of **Dr. Mahachandra Prasad Singh** (supra) and further followed in the case of **R.Bhoopathi Reddy** (supra). Therefore, in the facts and circumstances of the case and the reasons recorded hereinabove, respondent No.2 had voluntarily given up his membership of the BRS party in terms of Para 2(1)(a) of the Tenth Schedule read with Article 191(2) of the Constitution of India having contested as a candidate set up by the INC party for Secunderabad Constituency in the Lok Sabha elections, 2024, despite being a member of BRS party. Therefore, the disqualification of respondent No.2 would relate back to 23.04.2024 when he filed his nomination as a candidate set up by the INC party to the Lok Sabha elections, 2024 from Secunderabad Constituency.

76. The contention advanced by learned Senior Counsel for respondent No.2 in support of the Hon'ble Speaker's finding do not merit acceptance. The emphasis on the different dates alleging conduct on part of respondent No.2 in the disqualification petition filed on 18.03.2024 and reliance on media reports there being no amendment to disqualification petition, would not save the explicit conduct of respondent No.2 in contesting the Lok Sabha elections 2024 from the INC party, despite being a member of BRS party. In the face of Ex.P.5 – the list of selected candidates for the Lok Sabha elections 2024 dated

21.03.2024 and Ex.P.6 - Affidavit in Form 26 dated 23.04.2024, and Ex.P.7 - result sheet issued by the Election Commission of India, dated 04.06.2024, the conduct of respondent No.2 would amount to voluntarily giving up his membership of BRS party by contesting as INC candidate. These facts and supporting documents were produced before the Hon'ble Speaker during the course of disqualification proceedings and have been disregarded in breach of constitutional obligations upon the Hon'ble Speaker who is required to enquire and determine independently whether respondent No.2 incurred disqualification by his conduct outside the House by voluntarily giving up membership of BRS party. As recorded hereinbefore, the Hon'ble Speaker committed a serious jurisdictional error in holding that the conduct of a member outside the House in such a case would not fall within the domain of the Hon'ble Speaker's power under para 2(1)(a) of the Tenth Schedule of the Constitution of India. The Hon'ble Speaker misread the law in this regard and ignored the judgments relied on by the petitioner in **Dr. Mahachandra Prasad Singh** (supra) and **R.Bhoopathi Reddy** (supra) in particular on similar facts.

77. The disqualification petitions are not guided by strict rules of procedure or evidence. Therefore, respondent No.2 cannot draw mileage by the statements given by the petitioner in his cross-examination as

pointed out by the learned Senior Counsel for respondent No.2. In a non-adversarial proceeding like this, silence of the party in question or lack of internal disciplinary action by it and the subsequent conduct of the member would not efface the disqualification incurred by respondent No.2 by openly contesting as a candidate of INC party for Lok Sabha elections, 2024, despite having been elected as a member of BRS party in the Legislative Assembly.

78. The object of the Tenth Schedule is to curb the evil of political defections motivated by lure of office or other similar considerations which endanger the foundations of our democracy.

Conclusion:

79. The decision of the Hon'ble Speaker in both the Disqualification Petition Nos.4 of 2024 and 1 of 2024 are set aside and the writ petitions are allowed. It is declared that respondent No.2 stands disqualified from 23.04.2024 as a Member of Telangana Legislative Assembly in terms of para 2(1)(a) of the Tenth Schedule read with Article 191(2) of the Constitution of India, having contested as a candidate set up by the INC party for Secunderabad Constituency in the Lok Sabha elections, 2024, despite being a member of BRS party. As a result thereof, the said seat is rendered vacant.

80. A copy of this order be communicated to the Secretary to the Hon'ble Speaker, Telangana Legislative Assembly and also to the Election Commission of India.

81. There shall be no order as to costs. Miscellaneous applications pending, if any, shall stand closed.

APARESH KUMAR SINGH, CJ

G.M.MOHIUDDIN, J

18.09.2026

Note: LR copy be marked
(By order)
vs/pln