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ITEM NO.58

COURT NO.2

SECTION X

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

WRIT PETITION (CIVIL) NO(s). 163 OF 2014

AAM AADMI PARTY & ANR

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With appln(s) for permission to intervene by the applicant
above-named)

Date: 07/03/2014 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.M. LODHA

HON'BLE MR. JUSTICE N.V. RAMANA

For Petitioner(s)

Mr. Fali S. Nariman, Sr. Adv.
Mr. Shanti Bhushan, Sr. Adv.
Mr. Prashant Bhushan, Adv.
Ms. Kamini Jaiswal, Adv.
Mr. Rohit Singh, Adv.
Mr. Kartik Seth, Adv.
Mr. Sri Krishna Tiwari, Adv.
Mr. Abhimanue Shrestha, Adv.
Mr. Shubhash Sharma, Adv.
Mr. Divyesh Pratap Singh, Adv.

For Respondent(s)

Mr. Goolam E. Vahanvati, Attorney General
Mr. K.V. Vishwanathan, A.S.G.
Mr. Rohit Sharma, Adv.
Ms. Jaishree Viswanathan, Adv.
Mr. V.K. Prasad, Adv.
Mr. Vikas Garg, Adv.
Mr. B.K. Prasad, Adv.

Mr. Manohar Lal Sharma, Adv.

Mr. Rabin Majumdar, Adv.

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

Interlocutory applications for intervention are dismissed.

One of the arguments put forth by Mr. Fali S. Nariman, learned senior counsel for the petitioners is : In view of the grounds K to N and P to S in the counter affidavit of the Union of India, whether after the enactment of Tenth Schedule waiting or accepting defection to happen is at all a relevant consideration on whether or not to keep the Assembly in suspended animation and not to be dissolved ?

Mr. Goolam E. Vahanvati, learned Attorney General, submits that the above question is no more res integra in light of the Constitution Bench decision of this Court in Rameshwar Prasad and Others (VI) Vs. Union of India and Another¹. In this regard, learned Attorney General referred to paras 82 to 86 of the said

judgment.

On the other hand, Mr. Fali S. Nariman, learned senior counsel for the petitioners, also relies upon para 86 of the said judgment wherein the Constitution Bench observed :

"86. Undisputedly, a Governor is charged with the duty to preserve, protect and defend the Constitution and the laws, has a concomitant duty and obligation to preserve democracy and not to permit the "canker" of political defections to tear into the vitals of the Indian democracy..."

The judgment of this Court in Rameshwar Prasad and Others (VI)¹ may need deeper consideration, if necessary.

But before we consider that, it is necessary to have the views of two political parties who have been impleaded as respondent Nos. 2 and 3 because their firm position in the matter may obviate necessity of consideration of the above question.

Let notice be issued to respondent Nos. 2 and 3 returnable on March 31, 2014.

Dasti, in addition to the ordinary process, is permitted.

We record that learned Attorney General in the course of hearing has handed over copy of the Lieutenant General's report dated 15.02.2014 to the advocate-on-record for the petitioners.

Rejoinder affidavit handed over by the advocate-on-record for the petitioners in the Court is taken on record.

|(Rajesh Dham)
|Court Master

| |(Renu Diwan)
| |Court Master