THE CONSTITUTION (FIFTY-SECOND AMENDMENT) ACT, 1985

An Act further to amend the Constitution of India

Be it, enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:-

1. Short title and commencement. (1) This Act may be called the Constitution (Fifty-second Amendment) Act, 1985.
   (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Amendment of Article 101. In article 101 of the Constitution, in sub-clause (a) of clause (3), for the words, brackets and figures "clause (l) of article 102" the words, brackets and figures "clause (l) or clause (2) of article 102" shall be substituted.

3. Amendment of Article 102. In Article 102 of the Constitution,-
   (a) for the brackets, figure and words "(2) For the purposes of this article", the words "Explanation" – For the purposes of this clause shall be substituted;
   (b) the following clause shall be inserted at the end, namely:-
      "(2) A person shall be disqualified for being a member of either House of Parliament if he is so disqualified under the Tenth Schedule."

4. Amendment of article 190. In article 190 of the Constitution, in sub-clause (a) of clause (3), for the words, brackets and figures "clause (1) of article 191", the words, brackets and figures "clause (1) or clause (2) of article 191" shall be substituted.

5. Amendment of article 191. In article 191 of the Constitution –
   (a) for the brackets, figures and words "(2) For the purposes of this article", the words "Explanation – For the purposes of this clause shall be substituted;
   (b) the following clause shall be inserted at the end namely:-
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.

6. **Addition of Tenth Schedule.** After the Ninth Schedule to the Constitution, the following Schedule shall be added, namely:

**TENTH SCHEDULE**

*Articles 102(2) and 191 (2)*

Provisions as to disqualification on ground of defection

1. **Interpretation** – In this Schedule, unless the context otherwise requires,-

(a) "House" means either House of Parliament or the Legislative Assembly or, as the case may be, either House of the Legislature of a State;

(b) "legislature party", in relation to a member of a House belonging to any political party in accordance with the provisions of paragraph 2 or paragraph 3 or, as the case may be, paragraph 4, means the group consisting of all the members of that House for the time being belonging to that political party in accordance with the said provisions;

(c) "original political party" in relation to a member of a House, means the political party to which he belongs for the purposes of sub-paragraph (1) of paragraph 2;

(d) "paragraph" means a paragraph of this Schedule.

2. **Disqualification on ground of defection** – (1) Subject to the provisions of paragraphs 3, 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 authorized 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 or 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.

(2) An elected member of a House who has been elected as such otherwise than as a candidate set up by any political party shall be disqualified for being a member of the House if he joins any political party after such election.

(3) A nominated member of a House shall be disqualified for being a member of the House if he joins any political party after 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.

(4) Notwithstanding anything contained in the foregoing provisions of this paragraph, a person who, on the commencement of the Constitution (Fifty-second Amendment) Act 1985, is a member of a House (whether elected or nominated as such) shall, -

(i) where he was a member of a political party immediately before such commencement, be deemed, for the purposes of sub-paragraph (I) of this paragraph, to have been elected as a member of such House as a candidate set up by such political party;
(ii) in any other case, be deemed to be an elected member of the House who has been elected as such otherwise than as a candidate set up by any political party for the purpose of sub-paragraph (2) of this paragraph or, as the case may be, be deemed to be a nominated member of the House for the purposes of sub-paragraph (3) of this paragraph.

3. Disqualification on ground of defection not to apply in case of split – Where a member of a House makes a claim that he and any other members of his legislature party constitute the group representing a faction which has arisen as a result of a split in his original political party and such group consists of not less than one-third of the members of such legislature party –

(a) he shall not be disqualified under sub-paragraph (i) of paragraph 2 on the ground –

(i) that he has voluntarily given up his membership of his original political party; or

(ii) that he has voted or abstained from voting in such House contrary to any direction issued by such party or by any person or authority authorized by it in that behalf without obtaining the prior permission of such party, person or authority and such voting or abstention has not been condoned by such party person or authority within fifteen days from the date of such voting or abstention; and

(b) from the time of such split, such faction shall be deemed to be the political party to which he belongs for the purposes of sub-paragraph (1) of paragraph 2 and to be his original political party for the purposes of this paragraph.

4. Disqualification on ground of defection not to apply in case of merger – (1) A member of a House shall not be disqualified under sub-paragraph (i) of paragraph 2 where his original political party merges with another political party and he claims that he and any other members of his original political party –
(a) have become members of such other political party or, as the case may be, of new political party formed by such merger; or
(b) have not accepted the merger and opted to function as a separate group,

and from the time of such merger, such other political party or new political party or group, as the case may be, shall be deemed to be the political party to which he belongs for the purposes of sub-paragraph (I) of paragraph 2 and to be his original political party for the purposes of this sub-paragraph.

(2) For the purposes of sub-paragraph (I) of this paragraph, the merger of the original political party of a member of a House shall be deemed to have taken place if, and only if, not less than two-thirds of the members of the legislature party concerned have agreed to such merger.

5. Exemption — Notwithstanding anything contained in this Schedule a person who has been elected to the office of the Speaker or the Deputy Speaker of the House of the People or the Deputy Chairman of the Council of States or the Chairman or the Deputy Chairman of the Legislative Council of a State or the speaker or the Deputy Speaker of the Legislative Assembly of a State, shall not be disqualified under this Schedule —
(a) if he, by reason of his election to such office, voluntarily gives up the membership of the political party to which he belonged immediately before such election and does not, so long as he continues to hold such office thereafter, rejoin that political party or become a member of another political party; or
(b) if he, having given up by reason of his election to such office his membership of the political party to which he belonged immediately before such election, rejoins such political party after he ceases to hold such office.

6. Decision on questions as to disqualification on ground of defection —
(1) If any question arises as to whether a member of a House has become subject to disqualification under this Schedule, the question shall be referred for the decision of the Chairman or, as the case may be, the Speaker of such House and his decision shall be final:

Provided that where the question which has arisen is as to whether the Chairman or the Speaker of a house has become subject to such disqualification; the question shall be referred for the decision of such member
of the House as the House may elect in this behalf and his decision shall be final.

(2) All proceedings under sub-paragraph (I) of this paragraph in relation to any question as to disqualification of a member of a House under this Schedule shall be deemed to be proceedings in Parliament within the meaning of article 122 or, as the case may be, proceedings in the Legislature of a State within the meaning of article 212.

7. **Bar of Jurisdiction of Courts** – Notwithstanding anything in this Constitution, no court shall have any jurisdiction in respect of any matter connected with the disqualification of a member of a House under this Schedule.

8. **Rules** – (I) Subject to the provisions of sub-paragraph (2) of this paragraph, the Chairman or the Speaker of a House may make rules for giving effect to the provisions of this Schedule, and in particular, and without prejudice to the generality of the foregoing such rules may provide for –

(a) the maintenance of registers or other records as to the political parties, if any, to which different members of the House belong;

(b) the report which the leader of a legislature party in relation to a member of a House shall furnish with regard to any condonation of the nature referred to in clause (b) of sub-paragraph (I) of paragraph 2 in respect of such member, the time within which and the authority to whom such report shall be furnished;

(c) the reports which a political party shall furnish with regard to admission to such political party of any members of the House and the officer of the House to whom such reports shall be furnished; and

(d) the procedure for deciding any question referred to in sub-paragraph (I) of paragraph 6 including the procedure for any inquiry which may be made for the purpose of deciding such question.

(2) The rules made by the Chairman or the Speaker of a House under sub-paragraph (I) of this paragraph shall be laid as soon as may be after they are made before the House for a total period of thirty days which may be comprised in one session or in two or more successive sessions and shall take effect upon the expiry of the said period of thirty days unless they are sooner approved with or without modifications or disapproved by the House and where they are so approved, they shall take effect on such approval in
the form in which they were laid or in such modified form, as the case may be, and where they are so disapproved, they shall be of no effect.

(3) The Chairman or the Speaker of a House may, without prejudice to the provisions of article 105 or, as the case may be, article 194, and to any other power which he may have under this Constitution direct that any willful contravention by any person of the rules made under this paragraph may be dealt with in the same manner as a breach of privilege of the house.
DISQUALIFICATION ON GROUND OF DEFECTION RULES, 1985

In exercise of the powers conferred by paragraph 8 of the Tenth Schedule to the Constitution of India, the Speaker, Lok Sabha, hereby makes the following rules, namely:-

1. **Short Title** – These rules may be called the Members of Lok Sabha (Disqualification on Ground of Defection) Rules, 1985.

2. **Definitions** – In these rules, unless the context otherwise requires –

   (a) ‘Bulletin’ means the Bulletin of the House of the People (Lok Sabha);
   
   (b) ‘Committee’ means the Committee of Privileges of the House of the People (Lok Sabha);
   
   (c) ‘Form’ means a form appended to these rules;
   
   (d) ‘date of commencement’, in relation to these rules means the date on which these rules take effect under sub-paragraph (2) of paragraph 8 of the Tenth Schedule;
   
   (e) ‘House’ means the House of the People (Lok Sabha);
   
   (f) ‘leader’, in relation to a legislature party, means a member of the party chosen by it as its leader and includes any other member of the party authorized by the party to act, in the absence of the leader as, or discharge the functions of, the leader of the party for the purposes of these rules;
   
   (g) ‘member’ means a member of the House of the People (Lok Sabha);
   
   (h) ‘Tenth Schedule’ means the Tenth Schedule to the Constitution of India;
   
   (i) ‘Secretary-General’ means the Secretary-General to the House of People (Lok Sabha) and includes any person for the time being performing the duties of the Secretary-General.

3. **Information to be furnished by leader of a legislature party** – (1) The Leader of each legislature party (other than a legislature party consisting 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 Speaker may for sufficient cause allow, furnish the following to the Speaker namely:-

(a) a statement (in writing) containing the names of members of state legislature party together with other particulars regarding state members as in Form 1 and the names and designations of the members of such party who have been authorized 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 constitution or by any other name) of the political party concern 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) sub-rule (I) to the speaker, within thirty days after the first sitting of 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 had been formed on the first date on which its strength increased.

(4) Whenever any change take place in the information furnished by leader of a legislature party under sub-rule (1) or by a member under sub-rule (I) or by a member under the 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 abstained from voting in the House contrary to any direction issued by such political party or by any person or authority authorized 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 member, 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 regard as having abstained from voting only when he, being entitled to vote, voluntarily refrained from voting.

4. *Information etc. to be furnished by members* – (1) Every member who has taken his seat in the House before the date of commencement of these rules shall furnish to the Secretary-General, within thirty days from such date or within such further period as the Speaker may for sufficient cause allow, a statement of particulars and declaration as in Form III.

(2) Every member who takes his seat in the House after the commencement of these rules shall, before making and subscribing an oath or affirmation under Article 99 of the Constitution and taking his seat in the House, deposit with the Secretary-General, his election certificate or, as the case may be, certified copy of the notification nominating him as a member and also furnish to the Secretary-General a statement of particulars and declaration as in Form III.

*Explanation* – For the purposes of this sub-rule, “Election Certificate” means the certificate of election issued under the Representation of the People Act, 1951 (43 of 1951) and the rules made thereunder.

(3) A summary of the information furnished by the members under this rule shall be published in the Bulletin and if any discrepancy therein is pointed out to the satisfaction of Speaker, necessary corrigendum shall be published in the Bulletin.
5. Register of Information as to Members – (1) The Secretary-General shall maintain, as in Form IV, a register based on the information furnished under Rules 3 and 4 in relation to the members.

(2) The information in relation to each member shall be recorded on a separate page in the Register.

6. Reference 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-General.

(3) The Secretary-General 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 (i) 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.
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 a 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;
     
     - (b) where such member belongs to any legislature party and such petitioner 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 the sub-rule), the Speaker may either proceed to determined 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 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 shall by order in writing –

(a) dismiss the petition, or

(b) declare that the member in relation to whom the petition has been made has become subject to disqualification under the Tenth Schedule, and cause copies of the order to be delivered or forwarded to the petitioner, the member in relation to whom the petition has been made and to the leader of the legislature party, if any, concerned.

(2) Every decision declaring a member to have become subject to disqualification under the Tenth Schedule shall be reported to the House forthwith if the House is in session, and if the House is not in session, immediately after the House reassembles.

(3) Every decision referred to in sub-rule (1) shall be published in the Bulletin and notified in the Official Gazette and copies of such decision forwarded by the Secretary-General to the Election Commission of India and the Central Government.

9. Directions as to detailed working of these rules – The Speaker may, from time to time, issue such directions as he may consider necessary in regard to the detailed working of these rules.
Form I
[See Rule 3 (l)(a)]

Name of the Legislature Party: - Name of the Corresponding Political Party

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Name of the Member (in block letters)</th>
<th>Father’s/Husband’s name</th>
<th>Permanent Address</th>
<th>Name of the State from which elected</th>
<th>Name of the Constituency from which elected</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>(2)</td>
<td>(3)</td>
<td>(4)</td>
<td>(5)</td>
<td>(6)</td>
</tr>
</tbody>
</table>

Date: 
Signature of the leader of the legislature party

Form II
[See Rule 3(6)]

To
The Speaker,
Lok Sabha.

Sir,

At the sitting of the House held on .......(date) during voting on .......(subject-matter)........

Shri .................M.P. ...........(Name of the member)
(Division No....... member of ..... M.P., (Division No. .......) (name of political party), member of ...........(name of the political party) and leader
(name of legislature party) had voted/ of/sole member of .......... And member of......
(Abbiated from voting, 
(name of legislature party)
Voted/abstained from voting, 
contrary to the direction issued by ............* (Person/authority/party) without obtaining the prior permission of the said person/authority/party.

2. On (date) .......... the aforesaid matter was considered by ...............t(person/authority/party) and the said voting/abstention was condoned/was not condoned by him/it.

Date: 
Yours faithfully,
(Signature)

FORM III
[See Rule4]

1. Name of the member (in block letters):
2. Father's/husband's name:
3. Permanent Address:
4. Delhi Address:
5. Date of election/nomination:
6. Party affiliation as on –
(i) Date of election/nomination:
(ii) The 28th February, 1985:
(iii) Date of signing this form:

DECLARATION

I........ hereby declare that the information given above is true and correct. In the event of any change in the information above, I undertake to intimate the Speaker immediately.

Date:                                                 Signature/thumb impression of the member

* Here mention the name of the person/authority/party, as the case may be, who had issued the direction.

1 Strike out inappropriate words/petitions.
2 To be filled in only by member elected or nominated before the 1st March, 1985, being the date of commencement of the Constitution (52nd Amendment) Act, 1985.

Form IV  
[See Rule 5(1)]

| Name of Memb- | Father's/ | Permanent | Delhi | Name of the State from which electe- | Date of election/ | Name of Political Party to which he belongs | Name of Legislatu- | Remarks |
| er (in block letters) | husband's name | Address | Address | d | Nomination | d | re party | re party | to which he belongs |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
DECISIONS OF LOK SABHA SPEAKERS IN DEFECTION CASES

DECISION OF LOK SABHA SPEAKER RABI RAY IN THE JANATA SPLIT CASE (11 JANUARY 1991)

Mr. Speaker. In the matter of the petition field by Shri Santosh Bhartiya against Smt. Usha Sinha and 29 other Members listed at Annexure I and the petition filed by Shri Satya Pal Malik against the aforementioned 30 Members both praying the disqualification under the Tenth Schedule of the Constitution and the Members of the Lok Sabha (Disqualification on Ground of Defection) Rules, 1985.

and

In the matter of the petition filed by Shri Sukhdeo Paswan against Shri V.C. Shukla and six other Members listed at Annexure II under Tenth Schedule of the Constitution and the Members of Lok Sabha (Disqualification on Ground of Defection) Rules, 1985.

and

In the matter of the petition field by Shri Devendra Prasad Yadav against Shri Shakeelur Rehman under the Tenth Schedule of the Constitution and the Members of Lok Sabha (Disqualification on Ground of Defection) Rules, 1985.

and

In the matter of exclusion of Shri Chandra Sekhar and 24 other Members from Janata Dal given at Annexure III followed by their declaration as unattached Members.

In the matter of request of Shri Chandra Sekhar dated 6 November 1990 for recognition of Janata Dal (S) as a Political Party.

The facts of the above cases in brief are that on the 6 November 1990, I received a letter jointly sent by Sarva Shri Chandra Sekhar, Devi Lal, Chand Ram and Hukum Deo Narain Yadav, MPs and one Member of Rajya Sabha, informing me Janta Dal had split at all levels in every state and that following the split, 58 Members vide Annexure IV along with some Members of Rajya Sabha, and constituted a group representing the breakaway faction of Janata Dal and that they had adopted the name of Janata Dal (S).

Earlier on the 5 November 1990, I had received a letter from Shri Vishwanath Pratap Singh, leader of Janata Dal in Parliament informing me...
that 25 Members of Lok Sabha belonging to Janata Dal vide Annexure III have been expelled from the party for anti-party activities and were no longer members of the Janata Dal Legislature Party in Lok Sabha. On receipt of this information, in conformity with the well-established Parliamentary usage and practice and keeping in view that the matter was of party discipline between the leader and its members, I had decided to declare the said 25 Members as ‘Unattached’ for the purpose of their functioning in the House, allotment of seats, freedom from the party whip, etc. These members were informed of my decision the same evening.

On the 6 November 1990 at 1700 hours, I received a letter from Shri Vishwanath Pratap Singh claiming that 25 Members of the Janata Dal having already been expelled, the residual strength of the claimed split group came to only 33, which is less than 1/3rd of the residual strength of the Janata Dal in Lok Sabha i.e. 115 and, therefore, the splinter group should not be recognized. The said communications received from Shri Chandra Sekhar and Shri Vishwanath Pratap Singh about the split were sent to each other for enabling them to furnish additional comments, if any. Shri Chandra Sekhar in a reply dated the 6 November and received on the 7 November furnished his further comments.

On 7 & 8 November 1990 two petitions were received under Rule 6 of the Members of Lok Sabha (Disqualification on Ground of Defection) Rules, 1985 (hereinafter referred to as Disqualification Rules, 1985) from Shri Santosh Bharatiya & Shri Satya Pal Malik, respectively against 30 Members vide Annexure I. Out of the 30 Members, Shri Gurdial Singh Saini resigned from Lok Sabha w.e.f. the 9 November 1990. On being satisfied that the petitions were in order, the petitions were forwarded to the Respondents- and their comments have been received. The Respondents had also requested for personal hearing for which an opportunity was given on the 7 January 1991.

On the 23 November 1990, I received 7 petitions from Shri Sukhdeo Paswan under Disqualification Rules, 1985. The list of Respondents is at Annexure II. On being satisfied that the petitions were in order, they were forwarded to the Respondents and the comments of the Members have since been received. The Members had also requested for personal hearing and accordingly an opportunity was granted to them on the 7 January 1991.
On the 14 December 1990, I received a petition from Shri Devendra Prasad Yadav, MP praying for disqualification of Dr. Shakeelur Rehman, MP on the ground that the latter had voluntarily given up membership of Janata Dal. The petition was referred to Dr. Rehman for his comments, and as per his request an opportunity for personal hearing was also granted to him on the 7 January 1991.

The issues to be decided by me are as follows:-

i) Whether a split took place in the original Janata Dal in terms of Paragraph 3 of the Tenth Schedule.

ii) Whether the expulsion of 25 Members by Shri Vishwanath Pratap Singh on the 5 November 1990 and their being treated as unattached by me has any legal effect on the plea of split;

iii) Whether any of the Respondents have incurred any disqualification under Tenth Schedule of the Constitution.

3. Regarding issues (i) & (ii) the contentions of four petitioners under the Disqualification Rules and of Shri Vishwanath Pratap Singh may be summarised as follows:

a) 25 Members were expelled on the 5 November 1990 and the fact of expulsion was promptly intimated to the Speaker. The expulsion has occurred prior to any alleged split.

b) The remaining Members claiming a split do not constitute 1/3rd of the remaining strength of the Janata Dal namely 115 and therefore are liable to be disqualified.

c) It is claimed by the Respondents variously that a split took place at 10.30 A.M. on the 5 November 1990 and even if it is admitted for the sake of argument that the split did occur, it had to be deemed to have occurred on the 5 November and Members defecting after the 5th, that is those not covered in the list of 58 Members and voting against the Whip on 7 November or 16 November cannot in any case be covered by the split.

d) The first condition of split required under Para 3 of Tenth Schedule, namely, that any split in the Legislature Party has to arise as a result of a split in the original Political Party has not been fulfilled because Shri Chandra Sekhar himself is reported to have said in the Hindu of Delhi.
edition dated 6 November 1990 that only the parliamentary party had split and not the Janata Dal.

The arguments of the Respondents can be summarized as follows:-

a) That at 9.30 A.M. on 5 November 1990 there was a split in the Janata Dal on the organization side in a meeting held at No. 2 Willingdon Crescent, New Delhi. Following this, a meeting of MPs was held and the parliamentary Party split at 10.30 AM that very day.

b) The Tenth Schedule does not recognize expulsion on account of anti party activities outside the House.

c) The expulsion of 25 Members by Shri Vishwanath Pratap Singh is illegal and is malafide directed at countermanding a genuine split.


e) In a letter dated the 14 November 1990 Shri Harmohan Dhawan purported to be the Chief Whip of the splinter group claimed that 65 Members belonging to Janata Dal had joined JD(S) though the letter did not carry signatures of individual members.

f) That Rajya Sabha and Election Commission have recognized Janata Dal (S) as a separate Political Party.

4. Of the 30 Members vide Annexure I against whom petitions for disqualification are considered Shri Gurdial Singh Saini has resigned and the name of Shri Basavraj Patil does not appear in: the list of 58 Members which was submitted to me by Shri Chandra Sekhar on 6 November 1990. Since the case against the 28 Members is, more or less, similar, they can be discussed together. The case against them is that they had been elected as Members of Janata Dal. That they voted against a Whip issued by the Whip of the Janata Dal followed by another Whip issued by the Leader of the Janata Dal on the 4 November 1990, that they had voted contrary to directions from Whips, and that such contravention is evident from voting recorded by Lok Sabha Secretariat. That the split cannot be recognised for reasons already mentioned in Para 3 supra and that therefore they are liable to be disqualified under Paragraph 2 of the Tenth Schedule, not having been protected under
Paragraph 3. In defence, each of the Respondents has stated that there was a split prior to expulsion and that following split they constituted another group namely JD(S). That the expulsion of 25 Members should not be taken note of and therefore the split satisfied the criterion stipulated in Paragraph 3 of the Tenth Schedule. That in as much as Shri Vishwanath Pratap Singh had given a call for conscience votes on the 7 November the Whip was not binding on the Members.

5) It is admitted by both parties that a Whip was issued by the Janata Dal for the Confidence Motion on the 7 November 1990. It is admitted by both parties that the Respondents have voted against the Motion of Confidence on 7 November. In support of the claim for split, the Respondents have enclosed copies of minutes of General Body Meeting purported to have been held at 9.30 A.M. on 5 November 1990, minutes of meeting of Janata Dal Members of Parliament held at 10.30 A.M. same day and the copies of press reports. The press reports do not indicate the time of the purported split. While the letter of Shri Vishwanath Pratap Singh was received by the undersigned on 5 November at 1.45 PM, the claim of split by Shri Chandra Sekhar was received only on the 6 November at 1.10 A.M. Respondents have referred to news of split being broadcast by official media. The copies of news bulletin not having been presented before me, as far as evidence on the basis of press reports is concerned, there is nothing to show that the split occurred prior to the expulsion or prior to the receipt of the letter informing the expulsion of 25 members by Shri Vishwanath Pratap Singh. On the other hand, Shri Vishwanath Pratap Singh has argued that in view of a claim made by Shri Chandra Sekhar in the 'The Hindu' dated 6 November 1990, that only the Parliamentary Party had split and not the Janata Dal, an essential condition for recognition of split under Paragraph 3 had not been fulfilled. In view of inadequate evidence, I do not wish to go into the legality of expulsion just as I do not want to go into the legality of the meeting of the splinter group namely as to whether or not such meeting was held as per party Constitution. Shri Chandra Sekhar in his letter dated the 4 December 1990, and received by Lok Sabha Secretariat on the same day, has annexed Form III purportedly signed by 63 Members under the Disqualification Rules, 1985. These forms have also been referred to in the petitions of the respondents, and copy thereof enclosed. Rule 4 of the Disqualification Rules, 1985 provides for intimation to
the Speaker by a member regarding *inter alia* change of party status immediately. It is not understood why these forms were not submitted to the undersigned on the 5 November or immediately thereafter when the split is claimed to have taken place. The word ‘immediately’ has to be contrasted with the requirement of 30 days prescribed under Rule 3 of the Disqualification Rule and therefore it has to be presumed that information in Form III has to be submitted more promptly than a leader is required to furnish the information in Form I. It has been argued during personal hearing that a Respondent may not be in headquarters and therefore may not be able to send the Form III immediately. While this general claim has been made, no individual Respondent had made any prayer for specific dispensation on this account and therefore the claim may not be accepted *per se*. There is also no explanation as to why the information was not submitted to the Speaker. It is claimed by the Respondents that the above 28 Members were present on the 5th in Delhi at the meeting which resulted in the alleged split but there is no explanation whatsoever as to why these forms were not submitted. This being the only evidence presented by the respondents referring to the timing of split, I hold that the respondents have not been able to establish beyond reasonable doubt that the split occurred prior to expulsion. In absence of information in Form III, I have to rely on the only other information available, namely, the letter dated 6 November 1990 of Shri Chandra Sekhar signed by 58 members. Here also certain discrepancies are noticed. While the list submitted by Shri Chandra Sekhar on 6 November contained 58 names, two of the Members who had appended their signatures to the list namely Shri Ram Naresh Singh and Shri Mandhata Singh wrote saying that they owed allegiance to Janata Dal led by Shri Vishwanath Pratap Singh. Shri Harmohan Dhawan purported to be the Chief Whip of the Janata Dal (S), wrote to me on the 14 November 1990 that 64 Members were with the splinter group. In the list submitted by Shri Chandra ‘Sekhar on the 14 December 1990 there were 63 names. The petitioners have also referred to the appeal made by Shri Vishwanath Pratap Singh on the 7 November during his speech in Lok Sabha on that day. I have carefully perused the whole speech. On a close reading of the speech, I hold that the appeal of Shri Vishwanath Pratap Singh as contained in his speech delivered in the House on the 7 November is an appeal bordering on the rhetoric and would not amount to overriding a specific
written direction which is recognized widely and universally as a standard mode of direction in the functioning of Political Parties. As I have discussed already, the fact that Form III though dated 5 November was not submitted to me immediately thereafter and in fact was not submitted to me at all but was apparently submitted to Shri Chandra Sekhar who collected it and submitted it to me leads me to conclude that the averment made therein cannot be taken on face value.

6. The petitioner has also stated that the Chairman, Rajya Sabha has already recognized the formation and recognition of Janata Dal (Samajwadi) in the Rajya Sabha. As per established Parliament traditions, I should not go into that plea. The petitioner has also enclosed a copy of the order of Election Commission dated he 27 December 1990 recognizing JD(S) as a Political Party. I have carefully considered the notification referred to. The notification recognized JD(S) with effect from 27 December 1990 and does not throw any light on the status of the Party on 5 November or on 7 November or on 16 November.

7. While from the above, it will be clearly seen that there is no evidence to show that the split occurred prior to expulsion, since there are claims and counterclaims about timing of the split vis-à-vis timing of expulsion and since both the actions of expulsion and the meeting of the splinter group have been challenged, I hold that the benefit of doubt should go to the Respondents, who would become disqualified in the event of my not recognizing the split to have taken place prior to the expulsion.

There is a widely held view including that of common man, and a view which I share in many respects, that the existing law on defection suffers from several lacunae in regard to substantive matters as well as procedures. While there can be no two opinions that in a democratic system, freedom of dissent has to be an essential ingredient, it has also to be accepted that it should be open and honest. If dissent is honest, it should be ventilated and canvassed openly and need not be clandestine and secretive. Equally important is that honest dissent involves sacrifice and not even remotely motivated with self-aggrandizement. The present goings on in the country are indeed deeply disturbing and distressing and if the situation is allowed to drift, people will lose their faith in the very system. Our country won freedom with enormous sacrifice of millions of our people-known and unknown-and foundation of a
free India was laid with moral values and political ethics preached and practised by the Father of the Nation. And I quote from Gandhiji, "If you must dissent, you should take care that your opinions voice your inner-most convictions and are not intended merely as a convenient party cry." Those values alone can sustain our hard won freedom and lend strength to our goal for an egalitarian society free from any discrimination based on caste, creed, sex etc. and equality and well-being for all. Without taking religion in the usual sense, certain moral fabric is essential for every society to survive and keep it strong. If our ambitions and greed for power overtake the national interest and the interest of the people, surely the future is dark. I do not wish to be a prophet of dooms, in fact, I am an incorrigible optimist, and I have great faith in our people who have tremendous resilience to tide over any kind of gravest crisis and it is the will of our people which has always guided us over the ages. I, therefore, appeal to this Honourable House of which I am an humble servant and through this House to all concerned to ponder over the situation and address themselves to the main and the only question as to how to keep the torch of our long cherished values of freedom and dignity shining and take the country on its march towards peace, prosperity and happiness.

At the moment, I am bound by the law as it obtains today and I am trying to interpret it and apply it to the present issues before me to the best of my ability and in the best interest of the country. As I have said, in the event of my not recognizing the split to have taken place prior to expulsion, these 28 Members will stand disqualified, and any benefit of doubt, therefore, has to go in their favour. As such, the petitions for disqualification against the aforementioned 28 Members are dismissed.

8. As regards the petition against Shri Basavraj Patil, it is observed that his name did not figure in the list furnished by Shri Chandra Sekhar on the 6 November 1990. According to the records of Lok Sabha Secretariat and as admitted by both parties, Shri Patil voted against the Motion of Confidence against Party Whip on the 7 November. In view of my discussions in Para 5 above, in as much as the name of Shri Patil does not appear in the list of 58 members submitted by Shri Chandra Sekhar, I cannot hold that he was part of the splinter group, which came into existence on 5 November 1990. The claim that he belonged to (S) on 7 November 1990 does not hold good. As he did not belong to JD(S) on the 7 November 1990, he cannot claim to have
escaped directions of Janata Dal Party on that day. As he cannot be held to have joined the splinter group on 5 November 1990, his declaration under Form III cannot be taken on face value and is clearly an afterthought. The appeal made by Shri Vishwanath Pratap Singh on 7th on the floor of the House cannot be said to override a specific written direction by the Party vide my observations at Para 5 supra. In view of the above, I hold that Shri Basavraj Patil has become disqualified under Paragraph 2(1)(b) of the Tenth Schedule and Rule 8(1)(b) of the Disqualification Rules.

9. As regards the case of Shri Hemendra Singh Banera, it is observed that his name was included in the list of 58 members furnished by Shri Chandra Sekhar. However, Shri Banera handed over two letters on 7 November 1990, one to Lok Sabha Secretariat, and one to me personally. In both the letters, he had stated that he was abiding by the Whip of the leader of the Janata Dal and was voting in favour of the Motion moved by Shri Vishwanath Pratap Singh. He also stated that other correspondence bearing his name or signature has to be treated as cancelled. As he made this claim on the 7th November it will be presumed that the signature appended to the letter of Shri Chandra Sekhar dated the 5th November was withdrawn and rescinded. In view of what I have already discussed, the process of split is presumed to have closed on the 5th November and therefore anyone subsequently joining the splinter group of Janata Dal shall not be covered by the split for the purpose of Paragraph 3 of the Tenth Schedule. In any case, it is neither his claim nor the claim of anybody else that there was a second split. Shri Banera, therefore, cannot seek any protection under Paragraph 3. His contention that there were discussions about reunion of the party, while may be morally sound or otherwise, have no relevance whatsoever for the purpose of Tenth Schedule. I, therefore, hold that Shri Banera has incurred disqualification under Paragraph 2 of the Tenth Schedule read with Rule 8(1)(b) of the Disqualification Rules.

10. Two Members, namely, Shri Mandhata Singh and Shri Ram Naresh Singh whose names appear in the list of 58 Members submitted by Shri Chandra Sekhar on 6 November 1990 met me on 7 and submitted in writing that they owed allegiance to Janata Dal and that they are going to vote in favour of the Motion on 7th November 1990 as per the Whip issued by Janata
Dal. In view of their averments they cannot be said to have belonged to JD(S) faction.

11. In view of the discussions above, I recognize Janata Dal(S) as a distinct party consisting of 54 Members as at Annexure VI, arising out of a split in Janata Dal on 5 November 1990. From the time of such split that is with effect from the 5 November 1990, I hold under Paragraph 3(b) of the Tenth Schedule that these 54 Members shall belong to Janata Dal(S), which will be deemed to be their original Political Party for the purpose of sub-Paragraph (1) of Paragraph 2 of the Tenth Schedule.

12. Shri Sukhdeo Paswan has filed a petition against among others, Shri Manavendra Singh. The case against Shri Manavendra Singh is that he voted in support of the Motion of Confidence on 7 November '1990 in accordance with the Whip of Janata Dal, but contravened the Whip on 16 November 1990. From office records I observe that Shri Manavendra Singh was absent on 7 November 1990; and therefore the averment made in the petition of Shri Paswan was not correct to this extent. Shri Manavendra Singh has already been recognized to belong to ID(S) vide my observation at Para 11 op.cit. He thus came to the discipline of JD(S) with effect from the 5 November 1990, and was not subject to the Whip of Janata Dal thereafter. This being the position, I dismiss the petition against Shri Manavendra Singh.

13. Five of the petitioners against whom Shri Sukhdeo Paswan has filed similar petitions and who have submitted similar responses are Shri Vidya Charan Shukla, Dr. Bengali Singh, Shri Sarwar Hussain, Shri Bhagey Gobardhan and Shri Devananda Amat. The allegation against them is that the respondents had been Members of Janata Dal Legislature Party, that in obedience to the Whip of the Janata Dal the respondent had voted for the Motion of confidence on the 7 November 1990, that the respondents did not join the splinter group on the 5 November or on the 7 November 1990, that a three-line Whip was issued to all the Members including the respondents directing the Members to vote against the Motion of Confidence moved by the Prime Minister Shri Chandra Sekhar and that the respondents voted against the Whip, that the voting against the Whip has not been condoned, by the Party, that the respondents are not covered by Paragraph 3 of the Tenth Schedule and each of the respondents is, therefore, liable to be disqualified under Para 2(1)(a) and 2(l)(b) of the Tenth Schedule. In reply, the
respondents have stated that on the 5 November 1990, the Party had split, both at the organizational and the legislature levels, that the split took place on 5 November 1990, that it had more than 1/3rd of the strength of Janata Dal, that no notice should be taken of the expulsion, that including 63 Members they have signed Form III claiming Party affiliation to JD(S) at 10.30 AM on 5 November 1990, that after the aforesaid split on the 5 November leaders of both the groups had started negotiation for coming together again for reuniting the Party, that it was in this atmosphere that the respondents voted in favour of Shri Vishwanath Pratap Singh on 7 November 1990, that having been outside the jurisdiction of Janata Dal with effect from 5 November 1990, the Whip of Janata Dal was not binding on them either on 7 November 1990 or on 16 November 1990.

I observe that these five respondents are not in the list of 54 Members who have been recognized to constitute JD (S). There is one factual error in the petition against Dr. Bengali Singh. While the petition states that Dr. Bengali Singh voted in support of the Motion on 7 November 1990, in fact he was absent on that day as the record would show. However, this does not have any material effect on the cause of action, namely, that he had voted against the Whip on the 16 November 1990. His abstention on 7 November 1990 which also amounts to violation of Party Whip does not seem to have been condoned. In view of what has already been discussed, the split is presumed to have taken place on 5 November 1990 constituting 54 Members. The split has to be only one-time affair, as even a cursory reading of the Tenth Schedule would show. The declaration in Form III purported to have been signed on 5 November cannot be relied upon as the same was not submitted immediately, and in any case was not submitted by the member before me. The fact that four respondents had voted in accordance, with the Whip on 7 November further proves that the Form III furnished by the respondents is an afterthought. The other respondent Dr. Bengali Singh had made certain claims regarding his voting on the 7 November which having self-contradictions need not be gone into. In any case these five respondents did not figure in the list submitted by Shri Chandra Sekhar on 6th November 1990 and this has not been explained by the respondent. The plea that there were hopes of rapprochement between the two factions, while could have moral ramifications have no implication as far as the proceedings under the
Tenth Schedule is concerned. The five respondents, therefore, did not belong to JD(S) on 5 November 1990, the day on which the split came into being and as they do not constitute 1/3rd of the residual strength of Janata Dal they are not protected under Paragraph 3.9, therefore, hold, that Shri Vidya Charan Shukla, Dr. Bengali Singh, Shri Sanwar Hussain, Shri Bhagey Gobardhan and Shri Devananda Amat stand disqualified under Paragraph 2 of the Tenth Schedule read with Rule 8(1)(b) of the Disqualification Rules, 1985.

14. In respect of Dr. Shakeelur Rehman, the petition alleges that on 21 November he was sworn in as a Member of the Council of Ministers in Shri Chandra Sekhar’s government, and that this is tantamount to giving up membership voluntarily for the purpose of Paragraph 2(1)(a) of the Tenth Schedule. It is admitted that Dr. Shakeelur Rehman was a member of Janata Dal. His name appears in the list submitted by Shri Chandra Sekhar on 4 December 1990 and Form III purported to have been signed by him on 5 November 1990 is enclosed in the letter of Sh. Chandra Sekhar. Dr. Rehman has thus given up membership of his Party, namely, Janata Dal in the meaning of Paragraph 2(a) of the Tenth Schedule. In his defence, as also in the oral submissions, it is pleaded that there were some discussions which indicated a possibility of restoration of status quo ante, that keeping this in view he had voted On 7 November 1990 and 16 November 1990 in favour of Shri Vishwanath Pratap Singh but had decided to join the Government subsequently. As discussed supra, the split is recognized with effect from the 5 November 1990 and split for the purpose of the Tenth Schedule is only a one time affair, and cannot be an on-going or continuous process or phenomenon. The Form III purportedly signed on the 5 November 1990 is clearly an afterthought, keeping in view the circumstances, namely, that the Respondent was not in the list of members submitted by Shri Chandra Sekhar on 6 November 1990 and also on 16 November 1990, that the alleged revised Form III was not submitted to me on or immediately after 5 November 1990 and that his name does not appear in the list dated 14 November 1990 submitted by Shri Harmohan Dhawan. The plea that on 7 November 1990 and 16 November 1990 he belonged to JD (S) and therefore subject to Whip of JD (S) and not that of JD, is clearly an afterthought for the same reason. It has been stated during personal hearing that once a Member makes a ‘claim’ should be accepted, and that this should be the end of the matter. Even
conceding for the sake of argument that a claim validly made could be accepted at face value, it is observed that the claim made here is not validly made inasmuch as (i) claim has not been made before the Speaker as required under the Disqualification Rules, 1985 (ii) claim has not been made immediately, as required under the Disqualification Rules. Therefore the claim is an afterthought. As such, while Dr. Rehman is liable to be disqualified under Para 2(1)(a), he cannot have the protection of a split under Para 3 of the Tenth Schedule. I, therefore, declare that Dr. Shakeelur Rehman has become disqualified under the Tenth Schedule and Rule 8(1) (b) of the Disqualification Rules.

ORDER

15. In exercise of the powers conferred upon me by the Tenth Schedule to the Constitution and the Members of Lok Sabha (Disqualification on Ground of Defection) Rules, 1985, , Rabi Ray, Speaker Lok Sabha, hereby order that since 54 Members whose names I would state hereafter constitute a faction which has arisen as a result of the split in the original Janata Dal Party and such group consists of not less than 1/3rd of the Members of the original party, this faction shall be deemed to be a new Political Party in terms of Para 3 of the Tenth Schedule and that these 54 members shall be treated as members of the Janata Dal (S) which would be their original party hereafter for the purpose on Paragraph 3 of the Tenth Schedule.

| 1. | Shri Bal Gopal Mishra | 28. | Shri Ramji Lal Suman |
| 2. | Shri Babanrao Dhakane | 29. | Shri Yuvraj |
| 3. | Shri Baga Ram Chauhan | 30. | Shri Mangaraj Malik |
| 4. | Shri Bhakt Charan Das | 31. | Shri Manvendra Smgh |
| 5. | Shri Bhagwan Das Rathor | 32. | Shri A.N. Singh Deo |
| 6. | Shri Chandra Sekhar | 33. | Shri Rao Birendra Singh |
| 7. | Shri Chand Ram | 34. | Shri Janeshwar Misra |
| 8. | Shri Desai Choudhary | 35. | Shri Brij Bhusan Tiwari Brij |
| 9. | Shri Daulat Ram Saran | 36. | Shri Subodh Kant Sahay |
| 10. | Shri Devi Lal | 37. | Smt. Usha Sinha |
| 11. | Shri Dhanraj Singh | 38. | Shri Chhotey Singh Yadav |
| 12. | Shri Dharmesh Prasad Verma | 39. | Shri Ram Singh Shakya |
16. In exercise of powers conferred upon me under Paragraph 6 of the Tenth Schedule to the Constitution of India and the Rules thereunder, I, Rabi Ray, Speaker, Lok Sabha, hereby declare that the following 7 Members of Lok Sabha have incurred disqualification for being Members of Lok Sabha in terms of Paragraph 2(1) (b) of the said Schedule:

1. Smt Basavraj  
2. Shri Hemendra Singh Banera  
3. Shri Vidyra Charan Shukla  
4. Dr. Bengali Singh  
5. Shri Sarwar Hussain  
6. Shri Bhagey Gobardhan  
7. Shri Devananda Amat.

Accordingly, the aforesaid Members have ceased to be Members of Lok Sabha with immediate effect, and their seats shall thereupon fall vacant.

17. In exercise of powers conferred upon me under Paragraph 6 of the Tenth Schedule of the Constitution of India and the rules thereunder, I, Rabi Ray, Speaker, Lok Sabha, hereby declare that Dr. Shakeelur Rehman, Member, Lok Sabha has incurred disqualification for being a Member of Lok Sabha in terms of Paragraph 2(1) (a) of the said Schedule. Accordingly, Dr.
Shakeelur Rehman has ceased to be a Member of Lok Sabha with immediate effect, and his seat shall thereupon fall vacant.

Copies of this order be forwarded to the petitioners, the Members in relation to whom the petitions are made and to the Leaders of the Janata Dal and Janata Dal (S).

### ANNEXURE I

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<td>Smt. Usha Sinha</td>
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### ANNEXURE II

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**ANNEXURE IV**

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`xxxi`
2. Decision of Lok Sabha Speaker Shivraj Patil in the Janata Split Case. (1 June 1993)

Before Hon'ble Speaker Lok Sabha

In the matter of application filed by 20 Members of Janata Dal Legislature Party on 7 August 1992

&

In the matter of four petitions filed by Shri V.P. Singh against S/Shri Ram Sundar Das, Govind Chandra Munda, Ghulam Mohammad Khan and Ram Badan, MPs.

&

In the matter of eight petitions filed by Shri V.P. Singh against S/Shri Anadi Charan Das, Suryanarayan Yadav, Ramlakhan Singh Yadav, Ram Sharan Yadav, Roshan Lal, Arjun Singh Yadav, Abhay Pratap Singh and Upendranath Verma, MPs.

&

In the matter of two composite petitions filed by Shri Shrikant Jena against (i) S/Shri Ajit Singh, Rasheed Masood, Harpal Panwar and Satyapal Singh Yadav and (iii) S/Shri Rajnath Sonkar Sastri, Ramnihore Rai, Ram, Awadh and Shivsharan Verma, MPs.

Facts: Main points in the pleadings

1. The Janata Dal got 59 Members elected to the Tenth Lok Sabha, Shri V.P. Singh was the Leader of the Janata Dal Parliamentary Party.

Singh Yadav, Arjun Singh Yadav and Roshan Lal gave an application to the Speaker asking that they should be given separate seats in the Lok Sabha. It is marked as “DL”.

3. The application bore the signatures of the above-mentioned Members of the Lok Sabha and also four more signatures. These four signatories did not accompany the 20 Members when the application was delivered to the Speaker.

4. The 20 Members were asked to sign the application again confirming that they had put their signature on the application of their free will.

5. A photocopy of the said application was sent to Shri V.P. Singh for his comments.


7. In essence what is stated in the written statement is as follows:

(i) S/Shri Aiit Singh, Rashid Masood, Harpal Panwar and Satyapal Singh Yadav, all Members of the Lok Sabha, were expelled from the primary membership of Janata Dal by Shri S.R. Bommai, President of the Janata Dal. Shri Ajit Singh was expelled on 26 December 1991. The three others were expelled in the month of January 1992.

(ii) S/Shri R. Sonker Shastri, Ramnihose Rai, Ram Awadh and Shivsharan Verma, all Members of the Lok Sabha, were expelled from the primary membership of the Party by Shri S.R. Bommai, President of the Janata Dal on 19 July 1992.

(iii) As such, the eight Members mentioned above had also lost their membership of Janata Dal Legislature Party.

(iv) They could not thus for part of the group of 20 Members seeking to separate from their original Party i.e. Janata Dal.

(v) S/Shri Ram Sundar Das, Govind Chandra Munda, Ghulam Mohammed Khan and Ram Badan, all Members of the Lok Sabha, had violated the whip issued to them, for voting in favour of the No Confidence Motion moved against the Government on 17 July 1992. Under the provision of Rule 2(1)(b) of the Tenth Schedule of the Constitution of India, they had incurred disqualification and they had ceased to be Members of the Lok Sabha from 17 July 1992.
Thus, out of 20 Members, 12 Members had incurred disqualifications and ceased to be the Members of the Lok Sabha.

S/Shri Ram Sharan Yadav, Abhay Pratap Singh, Ramlakhan Singh Yadav, Anadi Charan Das, Roshan Lal, Aijun Singh yadav, Upendranath Verma, and Suryanarayan Yadav—all eight Members of the Lok Sabha, could not form a group of Members consisting of 1/3rd of Members of Janata Dal Parliamentary Party who could separate from Janata Dal as per the provision of Para 3 of the Tenth Schedule of the Constitution of India. They too had incurred disqualification under Para 2(1) (a) of the Tenth Schedule and ceased to be Members of Lok Sabha from 7 August 1992.

So, the Application of the said 20 Members should be rejected.

8. In terms of Para 2(l)(b) of the Tenth Schedule, Shri V.P. Singh filed petitions against S/Shri Ram Sundar Das, Govind Chandra Munda, Ghulam Mohammad Khan and Ram Badan, all Members of the Lok Sabha, on 11 August 1992.

9. In essence, the relevant points in the petitions are identical. They are as follows:

(i) The Respondents were directed to vote in favour of the No Confidence Motion moved against the Government.

(ii) On 17 July 1992, voting took place on the said Motion.

(iii) The Respondents abstained from voting and violated the Whip issued to them voluntarily.

(iv) Therefore, they incurred the disqualification and ceased to be the Members of the Lok Sabha from 17 July 1992.

(v) The Petitioner sought a declaration to that effect.

10. The Respondents filed their written statements on 19 August 1992. In essence, they state that:

(i) They had not violated the Whips voluntarily.

(ii) They tried to vote on the Motion as per the directions of the party;

(iii) But, due to the reason given in Para 11 of each of the written statements, they could not abide by the Whips issued to them.

(iv) Their acts were involuntary and so they were not liable to disqualified.
11. In Para 11 of his written statement, Shri Ram Sundar Das says, in essence that—

(i) On the day of voting on the No Confidence Motion, he was, resting in the Library of the Parliament, as he was not well due to Blood Pressure.

(ii) When the Division Bell rang, he rushed to the Lok Sabha Chamber.

(iii) However, by the time he reached the entrance of the Lok Sabha Chamber, the doors were closed and he could not enter the House.

(iv) He wanted to vote in favour of the Motion, but could not.

(v) His act of not voting was involuntary.

(vi) So, he was not liable to be disqualified.

12. In Para 11 of his written statement, Shri Govind Chandra Munda, in essence, says that—

(i) He was not well on July 15, 16 and 17, 1992 and was suffering from acute pain in his neck and body due to cervical spondylitis.

(ii) On 17 July 1992, he attended the morning Session of the Lok Sabha. But, in the afternoon, he went to his house because he felt unwell and took some herbal medicine which made him unconscious.

(iii) He wanted to vote on the Motion. He had kept his Party leader informed that if he was required to be present in the House to vote, he should be taken in an ambulance with the approval of the Doctor, to the Lok Sabha, to vote on the Motion. But that was not done.

(iv) His abstention from voting was involuntary.

(v) So, he was not liable to be disqualified.

13. In Para No. 11 of his written statement Shri Ghulam Mohammed Khan, in essence, says that—

(i) He was suffering from Diabetes and other ailments and was not well on 17 July 1992 and on two days before that date;

(ii) He was admitted in the Ram Manohar Lohia Hospital and was in the Hospital on 17 July 1992.

(iii) He wanted to vote on the Motion.
(iv) So, he had informed the Party leader that if his presence in the House was necessary, he could be taken to the House, with the consent of the Doctor.
(v) His act of not voting was involuntary.
(vi) So, he was not liable to be disqualified.

14. In Para 11 of his written statement, Shri Ram Badan says that-
(i) He was present in the Lok Sabha on 17 July 1992 and pressed the Button, supporting the Motion.
(ii) His eye sight is weak. So he could not see on the Board to find out if his vote was rightly recorded.
(iii) He asked the attendant in the House, who was giving slips to the Members 'to correct their votes wrongly recorded, if his vote was recorded. And he was informed by the attendant that his vote was recorded.
(iv) Afterwards, he found out that his vote was not recorded.
(v) He wanted to vote in favour of the Motion.
(vi) He did not violate the Whip voluntarily.
(vii) Hence, he was not liable to be disqualified.

15. In terms of Para 2(1) (a) of the Tenth Schedule, on 22 August 1992, Shri V.P. Singh filed eight petitions against S/Shri Ram Sharan Yadav, Abhay Pratap Singh, Ramlakhan Singh Yadav, Anadi Charan Das, Roshan Lal, Arjun Singh Yadav, Upendranath Verma and Suryanarayan Yadav, all members of the Lok Sabha.

16. In essence, the contents of the Petitions are identical, except the names of the Respondents and are as follows:

(i) S/Shri Ajit Singh, Rashid Masood, Harpal Panwár, Satyapal Singh Yadav, R. Sonker Shastri, Ramnihore Rai, Ram Awadh and Shivsharan Verma were expelled from the primary membership of Janata Dal, by the President of the Party Shri S.R. Bornmai, So, they had lost their membership of the liegislative Party. They formed one group.

(ii) S/Shri Ram Sundar Das, Govind Chandra Munda, Ghulam Mohammed Khan and Ram Badan had violated the Whip issued to them on 17 July 1992 ; and had incurred liability of disqualification
under Para 2(1)(b) of the Tenth Schedule and ceased to be members of the Lok Sabha from 17 July 1992. They formed the second group.

(iii) The eight Respondents formed the third group.

(iv) The three groups could not form one composite group of Members to be able to separate from the Janata Dal, without incurring the liability of disqualification.

(v) The Respondents could not enjoy the immunity provided in Para 3(a)(i) of the Tenth Schedule, as they were not one-third of the 51 Members of Janata Dal, on 7 August 1992, as the eight members who were expelled and the four Members who had ceased to be Members of the Lok Sabha from 17 July 1992, could not be counted in the group along with them.

(vi) Janata Dal was not split outside the Parliament, as required, to allow the Legislature Party of Janata Dal to split legally.

(vii) The Petitioner prays for declarations that the Respondents are disqualified and cease to be Members of the Lok Sabha from 7 August 1992.

17. The respondents filed their written Statements on 31 August 1992.

18. In essence, they state that-

(i) The eight Members could not be expelled by the Party Leaders as per the Tenth Schedule of the Constitution of India.

(ii) The four members had not voluntarily abstained from voting and had not voluntarily violated Whips and had not lost their membership of the Lok Sabha.

(iii) On 7 August 1992, Janata Dal Legislature Party had 59 Members.

(iv) On 7 August 1992, Janata Dal Legislature Party had split.

(v) 20 Members who had formed one group and were more than 1/3rd of the Members of Janata Dal Legislature Party and sought permission to sit separately and split the party, had not incurred disqualification and did not cease to be Members of the Lok Sabha in view of the provision of Para 3(a)(i) of the Tenth Schedule of Constitution of India.

(vi) Ajit Singh faction claimed to be the original Janata Dal.

19. On 3 October 1992, Shri Shrikant Jena, Member of Lok Sabha and Chief Whip of the Janata Dal parliamentary party filed one petition against S/ Shri
Ajit Singh, Rashid Masood, Harpal Pañwar and Satyapal Singh Yadav, in terms of Para 2(1)(a) and under Para 6 of the Tenth Schedule.

20. In essence, the main points made in the Petition are that-

(i) The Respondents claimed that on 5 February 1992, the Janata Dal was split and Shri Ajit Singh was endorsed as the President of the Party.

(ii) When the split took place on 5 February 1992, there were only four Members from the Lok Sabha who were part of the group splitting the Party.

(iii) The four Members were not equal to 1/3 of the Members of Janata Dal in Lok Sabha to enjoy immunity under Para 3(a)(i) of the Tenth Schedule of the Constitution of India.

(iv) Four Members of the Janata Dal had incurred disqualification and lost their membership of Lok Sabha on 17 July 1992 for having violated the Whips.

(v) The Petitioner had stated that the four Respondents and other four Members were expelled from the primary membership of Janata Dal and as such had lost their membership of Janata Dal in Parliament.

(vi) In view of the clear admission given by the Respondent that they had split the Party on 5 February 1992, in the written statements filed by them and in the statements given before the Election Commission, the Petitioner prays that the Respondents be declared to have incurred disqualification and lost their membership of the Lok Sabha with effect from 5 February 1992.


22. In essence, the Respondents' stand is that-

(i) The Petitioner cannot be allowed to approbate and reprobate.

(ii) The Petitioner cannot say that the Respondent are not Members of Janata Dal and Janata Dal Parliamentary Party, as they were expelled from the Party and also that they should be declared as disqualified and ceased to be members of the Lok Sabha from 5 February 1992.
23. On 3 October 1992, Shri Shrikant Jena, Member of Lok Sabha and Chief Whip of Janata Dal Parliamentary Party filed one petition against S/Shri R. Sonker Shastri, Ramnihore Rai, Ram Awadh and Shivsharan Verma, all Members of Lok Sabha, in terms of Para 2(1) (a) of the Tenth Schedule to the Constitution of India.

24. In essence, the Petitioner says that-

(i) Shri Ajit Singh and three others and the Respondents in this case were expelled by the Party.

(ii) Shri Ram Sundar Das and three others had violated the Whips and incurred disqualification and ceased to be the members of the Lok Sabha from 17 July 1992.

(iii) Shri Ajit Singh and three other Members of Parliament claimed in clear terms that on 5 February 1992, they had split from Janata Dal and that they belonged to the faction which was the original Janata Dal. This claim was made by them in the written statements filed by them and also the statements filed by them before the Election Commission.

(iv) Thus, Shri Ajit Singh and other three Members formed a separate party in terms of Para 3(b) of the Tenth Schedule.

(v) On 7 August 1992, 20 Members filed an application before the Speaker, seeking a declaration that they had split and asking for separate seats in the Lok Sabha.

(vi) As Shri Ajit Singh and three other Members had formed a separate party, they could not be a part of the group of Janata Dal, separating from the original Party.

(vii) Remaining 16 Members could not be a group consisting of 1/3rd Members of Janata Dal in Parliament. So, they incurred disqualification.

(viii) The Respondents thus incurred disqualification and ceased to be Members of the Lok Sabha with effect from 7 August 1992 in terms
of Para 2(1)(a) of the Tenth Schedule for having not acquired the immunity in terms of 3(a)(i) of the same.


26. In essence, the stand of the Respondents is that-

(i) The Petitioner should not be allowed to approbate and reprobate.
(ii) They claim immunity under Para 3(a)(i) of the Tenth Schedule.
(iii) The faction of Janata Dal to which they belong is the original Janata Dal and as such all the Members of Janata Dal in Parliament belong to their faction unless they claimed otherwise.
(iv) All other contents regarding expulsion and disqualification on the ground of violation of Whips by other members and also other contents are denied.
(v) The Respondents pray that the petition be dismissed.

How the proceedings were conducted?

27. The application given by the 20 members and 12 Petitions filed by Shri V.P. Singh and 2 Petitions by Shri Shrikant Jena, have many common points. Therefore, with agreement between the parties, it was decided that all the Petitions and the application would be heard and decided jointly.

28. The parties to the dispute were allowed to plead their cases themselves as well as through their lawyers. They filed their pleadings, examined the witnesses and argued on points of law and facts through their lawyers who did their tasks excellently, cordially and justly.

29. Broadly, the Civil Procedure Code was followed in conducting the proceedings.

30. Wherever it could be followed, the principles of natural justice were followed.

31. The leaders of the political parties in the Lok Sabha were allowed to put forth their views on legal points orally as well as in writing.

32. The proceedings were allowed to be watched and reported by the Press and the media.

33. Documentary and oral evidence was adduced and produced by the parties.

34. The lawyers of the parties advanced detailed arguments which continued for about 20 hours.
35. The evidence and the arguments were recorded verbatim. They are available on audio cassettes too.
36. The pleadings, the evidence and the arguments are compiled in the form of paper books.
37. The points at issue were listed and on them evidence was allowed -to be produced and arguments were heard.
38. The points at issue were finalized after hearing the parties. The parties however, did not strictly follow the points at issue while arguing the case. The decision in the subsequent paras gives findings on the issues in a general manner.

**Issues Relating to Document Dl**

(i) Is Dl filed under the Constitution of India, any other Law or the Rules of Procedure of Lok Sabha?
(ii) What do the signatories claim under Dl?
(iii) At what time and in what manner the claims under the Tenth Schedule of the Constitution of India are to be proved?
(iv) Can the Leader of a Political Party expel a Member of his Party and terminate his Membership of the Legislative Party, so as to change his rights, obligations and immunities given under the Constitution of India, other Laws or the Rules of Procedure in Lok Sabha?
(v) What is the significance of the Members sitting separately at the instance of their Party Leader on their expulsion from their party? Does it have and significance for interpreting and enforcing the Tenth Schedule of the Constitution of India?
(vi) What is the significance of the Members sitting separately at their own instance? Does it have any significance for interpreting and enforcing the Tenth Schedule of the Constitution of India?
(vii) What Order?

**Issues Relating to Violation of Whip**

(i) Does the Petitioner prove that the Respondent violated the Whip voluntarily and if so, the Respondent ceased to be a Member of Parliament with effect from 17 July 1992?
(ii) Does the Respondent prove that he did not voluntarily refrain from voting?
(iii) What Order?

Issues relating to voluntarily giving up the membership of the Political Party

(i) Does the Petitioner prove that the Respondent has become liable to disqualified under Para 2(1)(a) of the Tenth Schedule of the Constitution of India by being a signatory to Document D1?

(ii) Does the Respondent prove that the immunity provided by Para 3 of the Tenth Schedule is available to him?

(iii) What Order?

Issues relating to the case of Shri Ajit Singh and three others

(i) Does the Petitioner prove that Shri Ajit Singh and three others have become liable to be disqualified under Para 2(1)(a) of the Tenth Schedule of the Constitution of India, by constituting a separate faction of the Janata Dal Party?

(ii) Do the Respondents prove that the immunity granted by Para 3 of the Tenth Schedule is available to them?

(iii) What Order?

Issues Relating to the case of Shri Rajnath Sonkar Shastri and three others

(i) Does the Petitioner prove that Shri Rajnath Sonkar Shastri and three others have become liable to be disqualified under Para 2(1a) of the Tenth Schedule of the Constitution of India, by being a signatory to the document D1?

(ii) Do the Respondents prove that immunity granted by Para 3 of the Tenth Schedule is available to them?

(iii) What Order?

Law points

39. By and large, following were the law points which came up for discussion through the course of proceedings.

How Law of Anti-Decision should be interpreted

40. The Tenth Schedule of the Constitution of India is treated and popularly known as the law of anti-defection.
41. It is framed to curb and control the menace of crossing of the floor by the elected representatives of the people in Legislatures.

42. Before it came into existence, the legislators could vote as they liked, could leave their parties and could join other parties, without incurring any liability or disqualification or losing their membership of the legislature. They enjoyed right to freedom of voting, joining or forming any party. The right was identical with the right enjoyed by other citizens. The same kind of right is enjoyed by the Members in Parliaments in other countries.

43. However, the right was misused and abused. It was used to destabilise and form Governments on principles which were capricious and unethical.

44. Therefore, the present law was framed to contain the menace of defection.

45. It creates obligations and rights for the legislators.

46. It enjoins that the legislator has to vote according to the Whip issued to him by his party, has not to leave his party, has not to form any party, has not to join any party. If he violates these obligations he can be declared as disqualified to be the member of the legislature and lose his membership of the legislature.

47. These obligations are not absolute. They are relaxed by the same law which creates the obligations. The legislator can vote as he likes in violation of the Whip issued to him, if 1/3rd Members of his Party in the legislature wish to vote along with him differently from the direction given by the Party. He can separate from his party and form a new party, without incurring any disqualification in company of 1/3rd Members of his Party in legislature, on a split in his party. He can merge with any other party without incurring any disqualification in such company of 2/3rd members of his party in the legislature. These rights are given to him because they were available to him, before the Tenth Schedule came into existence as such rights are necessary in democratic and parliamentary systems, because such rights are enjoyed by the citizens under Part III of the Constitution of India and also
because such rights are available to the legislators in Parliaments and legislatures of other countries.

48. Therefore, the provisions of the Tenth Schedule have to be interpreted very meticulously and strictly.

49. The interpretation can influence very wide and long range of activities and large number of institutions and individuals. The laws creating rights and obligations for citizens and a class of persons and more so for elected representatives of the people have also to be interpreted very carefully and strictly.

50. That which is not in the Tenth Schedule cannot be introduced in it.

51. The provisions of the party Constitution cannot be read and introduced in the Tenth Schedule.

52. Some provisions of the Tenth Schedule cannot be interpreted to frustrate other provisions of the same.

53. The provisions of the Tenth Schedule have not to be used in a colourable manner.

Expulsion

54. The stand of the petitioners was that the leader of the political party could expel members of the party from their primary membership and if it was done, the members lost their membership of the party in legislature also.

55. They contend that the expulsion could be effected under the provisions of their Party Constitution.

56. They concede that there was no provision in the Tenth Schedule or any other law or rules under which they could expel the members.

57. They asserted that the expelled members could not form part of the group intending to separate from the original party to make it equal to a group having 1/3rd members of the party in legislature.

58. They held that the Speaker did not have any authority to look into the matter of expulsion. He could not try to ascertain if the procedure provided in the Party constitution to expel the members was followed or not. And yet he was, according to them, expected to discount the Members from the group of
members having the right to split from the original party in 1/3rd number of members of the party in legislature.

59. They were of the opinion that if that was not allowed to be done, they would be unable to keep their Party intact and discipline their members.

60. They thought that there existed a contractual obligation between the party members and their party as a whole, which could not be adjudicated upon by courts of law or the Speaker, for that matter.

61. They held that the relationship between the Members of a Club and the Club was identical with the relationship between the Members of a Party and the Party.

62. It is difficult to concede the views expressed by the Petitioners on this point in the manner mentioned above.

63. In this respect, Explanation (a) to Para 2(1) is relevant:

“(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.”

This is a constitutional status given to the Member, which cannot be taken away from him by expulsion.

64. A Member of the Legislature comes to the House, not only because he was given the ticket, by his Party, but because he was elected by the voter’s also. He is not only obliged to the Party but he is also obliged to the voters.

65. If there is a contract, the contract is not between two Parties. It is a tripartite contract. A contract between the member, his Party and the Voters. His obligation to voters is greater than his obligation to his Party.

66. His rights and obligations as a member of his Party may arise out of the Constitution of his Party. Therefore, for party purposes, he is bound by the party Constitution.

67. His rights and obligations as a Member of the Legislature emanate from the Constitution of India and other relevant laws and rules. For the purpose of his Parliamentary rights and duties, he is bound by the Constitution of India, the Tenth Schedule and other relevant laws. His party constitution cannot have an upper hand over the Tenth Schedule or other parts of the Constitution of India or other statutes and rules of procedure made by the Legislature.
68. The Party Constitution cannot add to or reduce from rights and duties
given to the Member of the Legislature under the Constitution of India and
other relevant laws.

69. The Tenth Schedule is framed to curb and control the menace of floor
crossing and is relevant to the activities of the Member as a Parliamentarian,
and to his commissions, omissions, and activities in the legislature rather than
to his activities as a party member outside the legislature, not connected with
parliamentary activities.

70. The Speaker has no right or duty to help the leaders of the parties to keep
their parties in order and discipline their members.

71. A legislator may discharge his duties as a Member of his Party. He may
do his duties as a Legislator. The Tenth Schedule applies to his duties and
rights as the Legislator. It does not apply to his rights and duties as a Party
Member.

72. The Party leader may expel his Member from his Party and may not give
him party facilities. He may not give him a ticket in the next election. He may
not give him party positions and posts. He may not give him opportunities to
attend party meetings. He may not be given opportunities to be Member of
Committees or institutions as a Party member.

73. But, the Party leader cannot deprive the legislator of rights and facilities
which can be available to him because of the fact that he is elected and
because of the provisions in the Tenth Schedule, the Constitution of India,
other relevant laws and rules.

74. The provision in the Party Constitution cannot be read the provisions and
part and parcel of the Tenth Schedule and the Constitution of India.

75. The Constitution of India or the Tenth Schedule have not to be interpreted
to suit the Parties and to fit their constitutions.

76. The Speaker is not to be bound by the Party Constitution. He has to
function in accordance with the Tenth Schedule, the Constitution of India and
relevant laws and rules.

77. In the Lok Sabha, there are 23 Parties. They have their own constitutions,
which are and can be amended in a manner they like. It is not possible to find
out if they are amended as per the procedures laid down for the purpose.

78. The Speaker is not expected to follow them or be bound by them. If that is
done, the result would be very confusing.
79. Therefore, it can be held that as there are no provisions in the Tenth Schedule of the Constitution of India or in any other part of the Constitution of India, or in any other relevant laws or Rules of Procedure followed in the Lok Sabha for the purpose of parliamentary functioning and with respect to his rights and duties as a Member of the Legislature and not for his party rights and duties and functioning, a Member of a Party elected to a Legislature by the voters, under the Constitution of India and other relevant laws cannot be expelled.

80. It is not correct and legal to hold that if a Member of a Party is expelled from its primary membership, he loses his membership of his legislature party.

81. It is not correct and legal to hold that the Party leaders can alter the obligations and rights of the Legislators given to them by the law, by expelling them for their primary membership under their Party constitution.

82. In the past, members were expelled to achieve different objectives.

83. Members of the Legislature should be allowed to be expelled for the purpose of implementing the Tenth Schedule, only if there are provisions for the purpose in the Tenth Schedule and not otherwise.

84. As there are no provisions in the Tenth Schedule or any other part of the Constitution the expulsion of the Members for parliamentary purposes is not legal and cannot be allowed.

85. The Petitioners realized the legal position correctly and conceded this interpretation of the law.

86. That is why, they have filed petitions against eight members who they claimed were expelled and were not Members of their Legislature Party. By doing so, they have conceded that for parliamentary purposes, the elected members of the legislature cannot be expelled by the Party leaders under their Party Constitution.

87. Though a little ambiguously, this position is treated as correct by the petitioners in their petitions filled against the allegedly expelled members of their party.

**Unattached**

88. In the past, in some cases, when the Members were expelled, they were called Unattached, to distinguish them from Party Members as well as from the Independent Members.
89. The word Unattached is not used anywhere in the Tenth Schedule or any part of the Constitution of India or any other relevant laws or the Rules of procedure followed in the Parliament.

90. A Member belonging to a Party has certain rights and obligations under the Tenth Schedule of the Constitution of India.

91. An Independent member also has certain rights and obligations under the same law.

92. But an Unattached Member does not appear to have any particular status or position.

93. As to what kind of obligations he is subjected to or as to what kind of rights he has is not very clear and is very confusing.

94. Therefore, it is correct to hold the word has no particular legal meaning attached to it and does not create any obligations or rights for the Member who is declared as Unattached.

When does the decision taken become operative?
95. (i) From the date of the decision taken?
(ii) From the date of the Petition filed?
(iii) Or from the date on which the violation of Whip takes place or the Party is split or the other Party is joined by the Members?

96. The general rule is that the laws are made prospective.

97. If they are intended to be retrospective, that has to be made clear in specific terms in the laws themselves.

98. When two interpretations can be put on the laws, one giving them prospective character and the second giving them the retrospective character, the interpretation which gives them prospective character has to be accepted.

99. The retrospective nature of law may hurt innocent persons. Hence, making laws retrospective or interpreting them in such a manner that they become retrospective should be tried to be avoided.

100. The Tenth Schedule of the Constitution of India is prospective and not retrospective in nature.

101. The provision in the Tenth Schedule are such that they cannot be interpreted to make them retrospective or the decisions given under them, retroactive.
102. It provides that the Speaker can declare a Member disqualified, if a petition is filed before him for that purpose. He cannot make the declaration without a petition having been filed before him by any Member.

103. The Leader of the Party is expected to give a Notice to an erring member and ask him as to why a Petition should not be filed against him.

104. If the Member gives a satisfactory reply to his leader, he may condone his lapse in which case no petition can be filed against the erring Member.

105. If a Member is liable to be disqualified and if he joins a Group of Members who are oblivious of the liability of the Member and other Members take a step to separate from their original Party with a belief that they are a group of requisite number of Members and the Member under the liability loses his membership later on and if the decision given is made retroactive, injustice would be caused to other Members. This kind of situation is expected to be avoided.

106. It is for these reasons, it can justly be held that the Tenth Schedule of the Constitution of India is not of retrospective character and the decisions given under its provisions need not be retroactive or retrospective.

107. In their petitions filed on 11 August 1999 against Shri Ram Sundar Das and three others, the Petitioners pray that the Respondents be declared as disqualified and that they cease to be Members of the Lok Sabha from 17 July 1992, the date on which they violated the Whips.

108. The petitioners want the decision to be retroactive.

109. In other petitions also, the prayers are to make the decisions retroactive.

110. All the decisions taken under the Tenth Schedule on the Petitions, shall be operative from the date of the decision and not retrospectively.

Has the speaker any authority to adjudicate in the matters relating to the party activities and their leaders' decisions outside the Parliament.

111. The Tenth Schedule is meant to curb and control the floor crossing by Legislators.

112. It applies to the Parliamentary activities of the Legislators.

113. If a Legislator violates a Whip issued to him, if he leaves his party voluntarily, if he forms a new party or if he joins another party, he is punished under the Tenth Schedule, he is disqualified to be the Member of his legislature.
114. To punish him, the Speaker can go into the details to ascertain if the Whip was voluntarily violated, if the Member left his Party or joined another Party, etc.

115. If a Member does not abide by the Whip issued to him, in a company of 1/3\textsuperscript{rd} Members of his Party in Parliament, or if he leaves the Party in a Company of 1/3\textsuperscript{rd} Members in his Parliamentary Party or if he joins another Party in a group of 2/3\textsuperscript{rd} Members of his Party in Parliament, under Paragraph 3 or 4 of the Tenth Schedule, he would not be punished and subjected to disqualification of his membership of the legislature.

116. The Speaker can decide if the group consisted of 1/3\textsuperscript{rd} or 2/3\textsuperscript{rd} Members of the Party of the legislator in the Legislature and declare if he is or is not disqualified.

117. He has to decide if the Party had issued the Whip, whether it was violated voluntarily.

118. He has to decide if the political party had split outside the legislature.

119. He cannot decide if the political party claiming to be original party is having majority support or not.

120. That can be done by the Election Commission.

121. It is not necessary for him to count the number of Members going with one faction or the other outside the Parliament.

122. It is not necessary for him to find out as to how many members of Parliament were with one faction or the other outside the Parliament.

123. He can take cognizance of the fact of split in the Party in the Parliament.

124. But that can be done by him, when it is brought to his notice through a Petition by a Member in the Parliament.

125. In these matters, he does not act \textit{suo moto}. The leader of the Party is allowed to condone the acts of their party members in the Parliament.

126. The Speaker has to find out if the group separating from the original Parliamentary Party consisted of 1/3\textsuperscript{rd} Members of the party in Parliament or not.

127. He has to find out if the group joining any other Parliamentary Party has 2/3\textsuperscript{rd} Members of his Party in Parliament or not.

128. It is not necessary for him to find out if the political party splitting outside the Parliament has 1/3\textsuperscript{rd} Members of the Party in the Parliament or not.
129. It is difficult for him to find out on what ideological differences the party is split.
130. The fact of split is more relevant for his to implement the Tenth Schedule.
131. The jurisdiction of the Speaker is more pronounced with respect to the activities of the Parliamentarians in the Parliament.
132. It is least effective with respect to the activities of the Parliamentarians outside the Parliament.
133. The Tenth Schedule is not meant to control, guide and direct the activities of the political parties and their members and to punish parliamentarians for their commissions and omissions outside the Parliament.
134. The Speaker is not expected to dabble in keeping the political parties weak or strong or discipline the parliamentarians for their party purposes.
135. In party matters relating to the Parliamentarians outside the Parliament, jurisdiction is available to the forums presided over by other authorities and not by the Speaker.

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136. The application filed by 20 Members of the Lok Sabha on 7 August 1992 seeking separate seats for them to sit in the House cannot be treated as application under the Tenth Schedule of the Constitution of India.
137. It can at best be treated as a piece of evidence which could be used in the petitions filed under the Tenth Schedule.
138. The fact of split of a political party outside the Parliament and inside the Parliament by requisite number of Members cannot be used to obtain a declaration from the Speaker that the Party is correctly and legally split.
139. The same fact can be used as a defence in a petition filed against the members splitting the Party, to show that the group separating from the Party in Parliament consisted of 1/3rd Members of the Party in Parliament.
140. The application can be considered under Rule 4 of the Rules of Procedure of the Lok Sabha which reads as follows:

"4. The Members shall sit in such order as the Speaker may determine."

141. On the day on which the application was given, i.e., 7 August 1992, all the signatories to the document were sitting members of the Parliament belonging to the Janata Dal Parliamentary Party.
142. The plea that Shri Ajit Singh and 3 other Parliamentarians and also 4 other Parliamentarians were expelled from their primary membership of the party by the President of the Party on the dates which preceded the date on which the application was made and hence on that date, i.e., 7 August 1992 they were not the Members of the Janata Dal Party in Parliament and they could not be valid Members of the Group separating from the Janata Dal in Parliament, cannot be accepted.

143. Parliamentarians cannot be legally and validly expelled by their party leaders from their primary membership of the party to annul their membership of the parliamentary party, to defeat the provisions of the Tenth Schedule of the Constitution.

144. There are no provisions in the law which envisage that kind of expulsion of the Members of the Parliament.

145. Expulsions of the Parliamentarians from their primary membership of the party to cancel their membership of the parliamentary party under the party constitution is not valid and acceptable.

146. If that is allowed to be done, the purpose of the provisions in the Tenth Schedule would be frustrated. That would amount to introducing something in the fundamental law of the country from a Party constitution which can be changed at any time.

147. For the reasons given in other parts of the decision also, it is held that S/Shri Ajit Singh, Rasheed Masood, Harpal Panwar, Satyapal Singh Yadav, Rajnath Sonkar Shastri, Ramnihore Rai, Ram Awadh and Shiv Sharan Verma were Members of Parliament, belonging to the Janata Dal on the relevant date, i.e. 7 August 1992.

148. On that date, i.e., 7 August 1992, petitions were not filed against them seeking for declaration that they were disqualified and had lost their membership of the Parliament.

149. In the written reply to the application filed by the opposite side, it is stated that Shri Ram Sundar Das and three other Parliamentarians had violated the directions given to them 'to vote in favour of the No Confidence Motion submitted against the Government and that the four Parliamentarians had incurred liability of disqualification for being Members of the Lok Sabha with effect from 17 July 1992. And so, they could not from part of the group validly to bring the number of Members to the requisite level.
150. On 7 August 1992 there were no petitions filed and pending against them complaining that they violated the Whips and seeking declaration of their disqualification from being the Members of the Lok Sabha.

151. On 7 August 1992 they were validly sitting Members of the Lok Sabha belonging to the Janata Dal Party.

152. In other parts of the decision, it is held that the decisions given in these matters cannot be of retroactive or retrospective character.

153. Hence it can be held that they could legally and validly be the Members of the Group seeking separation from the original party.

154. Against S/Shri Ram Sharan Yadav, Abhay Pratap Singh, Ramlakhan Singh Yadav, Anadi Charan Das, Roshan Lal, Arjun Singh Yadav, Upendranath Verma and Suryanarayan Yadav, petitions were filed seeking their disqualification on 22 August 1992.

155. However, on the relevant date, i.e., 7 August 1992, there were no petitions filed against them.

156. On the relevant date, they were sitting Members of the Janata Dal Parliamentary Party.

157. On the relevant, date, i.e., 7 August 1992, all the signatories to the application were sitting Members of the Janata Dal in Parliament.

158. Their number was equal to 20 which is more than one-third of 59, which is the number of Members of Janata Dal in the Lok Sabha on the relevant date.

159. The signatories to the application in a way indicated that there was a split in the Janata Dal, outside the Parliament.

160. The application in a way indicated that there was a split in the Parliamentary Party of Janata Dal in Lok Sabha.

161. Although the averments to these effects were made lukewarmly and a little loss lucidly, all the other facts and averments made in the subsequent pleadings by both the Parties go to point out that there was a split in the Janata Dal outside as well as inside the Parliament, which had taken place before and on the relevant date respectively.

162. Therefore, the application can be and is allowed to grant their prayer that they be allowed to sit separately.
Petition against Shri Ram Sundar Das

163. Most of the averments of the Petitioner in the Petition are not denied and are accepted by the Respondent.

164. Only point on which the Respondent takes a different stand relates to his abstention-from voting.

165. The Petitioner avers that the Respondent voluntarily violated the Whip. The Respondent asserts that he did not abstain from voting voluntarily.

166. The Respondent says that on 17 July 1992, he was unwell, suffering from variable Blood Pressure and in the afternoon was resting in the Library.

167. According to him, when the division bell rang, he tried to rush to reach the Lok Sabha Chamber but because of weak health and injury to his leg, he could not arrive at the door before it was closed and so he could not enter the House and vote in favour of the No Confidence motion, although he wanted to do so, very much.

168. The Respondent examined himself only to prove his assertions.

169. He did not file any other evidence of any kind on any of the points connected with his stand.

170. The distance between the Library and the Lok Sabha Chamber is easily coverable, even by a slow walker, unless the person covering the distance purposely slows down or neglects to cover the distance by talking to the persons in the Central Hall or enroute.

171. The Respondent could have rested in the Lok Sabha, in the manner he could have rested in the Library, for the Library is not a place meant for resting and with facilities really to rest in a proper manner.

172. The Respondent should have understood the contingency in which he finds himself and should have remained in the House to vote on the Motion.

173. The plea taken by him is not convincing and acceptable.

174. It is, therefore, concluded that his act of abstention from voting was not involuntary.

175. The Respondent has become liable to disqualification in terms of Para 2(1) (b) of the Tenth Schedule of the Constitution of India and ceases to be the Member of a Lok Sabha from the date of this decision.
Petition against Shri Govind Charidra Munda

176. The only point in dispute in this Petition also relates to the abstention from voting by the Respondent on the No Confidence Motion against the Government on 17 July 1992.

177. According to the Respondent, he wanted to vote on the Motion and was, in the Parliament House in the morning of the said date.

178. In the evening, he felt unwell because of the cervical spondylitis and other reasons also and so he went to his house to take medicine and rest.

179. At his house he took some herbal medicine which made him unconscious. So he could not go to the Parliament and vote on the Motion.

180. He says he had also informed the Leader of his Party to take him to the Lok Sabha, in Ambulance with the consent of the Doctor, if it was necessary for him to attend the House, But nothing in that respect was done.

181. The Respondent examined himself and other witnesses in support of his stand. They were cross-examined by the lawyer of the Petitioner.

182. He produced some documentary evidence also to prove his plea.

183. The stand of the Respondent is not convincing and acceptable.

184. The evidence given by him is contradictory and not acceptable.

185. The evidence given by his witness is also not convincing and acceptable.

186. There are contradictions between his documentary and the oral evidence.

187. There are contradictions in the evidence given by him and his witnesses.

188. Illness which he suffered from was not such that he could not have gone to the Lok Sabha Chamber to vote.

189. If he really wanted to vote, he could have organized to be in the Lok Sabha, just at the time of voting and then retired to his house for rest or to the Doctor for medical assistance.

190. His plea that he had asked the Leader of the Party to take him to the House in a vehicle with the permission of the Doctor, if his presence in the House was a must, is not acceptable. He could have gone to the Lok Sabha Chamber on his own, without asking his Leader to take him there. His asking the Leader to take him to the House appears to be an attempt to shift the responsibility to some one else for his default.

191. As a responsible Member of the House, he could have remained present in the House and voted.
192. The fact that he went to his village in Orissa next day itself goes to show that he was not in a very bad shape on the relevant date.

193. The plea that he had asked his Party leader to take him to the House, if need be, appears to be a device invented to overcome the difficulties arising out of his absence, in consultation with another Member.

194. The demeanour of the witness suggested that they were making artificial statements.

195. In view of the unconvincing pleas adopted, evidence given and arguments advanced, it is difficult to hold that Respondent did not vote involuntarily because of the circumstances beyond his control.

196. It is, therefore, held that he abstained from voting voluntarily and has become liable to be disqualified for being the Member of the Lok Sabha with effect from the date of the decision.

**Petition against Shri Ghulam Mohammed Khan**

197. In this petition also, the point in dispute is identical to that in dispute in other three cases.

198. The Respondent pleads that on 17 July 1992, he was not well and was in Ram Manohar Lohia hospital and suffering from diabetes and other ailments.

199. He says that he had informed the Leader of his Party that if his presence in the House was essential he should be taken there with the consent of the Doctor.

200. He states that he intended to vote on the motion, but he could not do so because of conditions beyond his control.

201. He examined himself and other two witnesses to prove his stand. He and other witnesses were cross-examined by the Lawyer of Respondent.

202. He produced some documents to support his plea.

203. He came back to his house on 17 July 1992. This fact contributes towards strengthening the belief that he was not in very bad shape on 17 July 1992.

204. His stand that the leader of the Party should take him to the House, with the consent of the Doctor, is the kind of stand taken by Shri Govind Chandra Munda, a Respondent in the other Petition.

205. It is not very convincing and acceptable. What he is asking his leader to do, he could have done himself.
206. It appears to be a part of the attempt to shift the responsibility from himself to someone else.

207. As a responsible Member of the House, he should have taken care to be present in the House to vote.

208. As he was in New Delhi, it could not have been difficult for him to attend to duties of voting in the House.

209. The evidence given by him is not convincing.

210. The evidence given by other witnesses also does not evoke great confidence. Their approach appears to be casual and not convincing.

211. There are some contradictions between his oral and documentary evidence.

212. There are some contradictions in the evidence given by him and his witnesses.

213. In view of these facts, the plea adopted by the Respondent that his abstention from voting was involuntary cannot be accepted.

214. Therefore, it is held that he has become disqualified to be the Member of the Parliament with effect from the date of this decision.

Petition Against Shri Ram Badan

215. The Respondent pleads that on 17 July 1992, he was in the Lok Sabha and he did press the Button to vote in favour of the Motion and that because of the defect in the machine, his vote was not recorded.

216. He says he asked the attendant in the House if his vote was recorded on the Board or not. According to him, the attendant informed him that it was recorded.

217. He says that his eyesight is weak and so he could not see the Board properly to find out if the vote was really recorded or not.

218. His plea is that he intended to vote but by accident he could not vote.

219. He examined himself to support his plea.

220. He did not examine the attendant in the House as his witness to corroborate his evidence on his plea.

221. The plea of the Respondent is not convincing and acceptable.

222. The evidence produced by him is not convincing.

223. And so, 'it is not possible to hold that his abstention from voting was involuntary.
224. It is, therefore, concluded that the Respondent has incurred the liability of disqualification for being the Member of the Lok Sabha with effect from the date of this decision.

**Eight Petitions**

225. On 22 August 1992, Shri V.P. Singh filed Petitions against S/Shri Rain Sharan Yadav, Abhay Pratap Singh, Ramlakhan Singh Yadav, Anadi Charan Das, Roshan Lal, Arjun Singh Yadav, Upendranath Verma and Susyanarayan Yadav, all Members of the Lok Sabha in terms of Para 2(1)(a) of the Tenth Schedule of the Constitution of India.

226. The contents of all the petitions are identical. So, they are dealt with jointly.

227. In essence, the petitioner's stand is as follows:

(i) The Respondent did not claim that there was a split in the Janata Dal Political Party on or before 7 August 1992 and that he belonged to one of the factions.

(ii) Para 3(a) (i) of the Tenth Schedule contemplates a split in the political party prior to the split in the party in the Parliament, which is not shown to have taken place.

(iii) Shri Ajit Singh and seven other Parliamentarians were expelled from the Party's primary membership on three dates which preceded the relevant date, i.e. 7 August 1992. So, they had ceased to be Members of the Janata Dal in Parliament on the dates of their expulsions.

(iv) Shri Ram Sundar Das and three other Parliamentarians had violated the Whips issued to them on 17 July 1992. So, they had become liable to be disqualified to be the Members of the Lok Sabha with effect from the date on which the Whips were violated.

(v) Thus, the Respondents could not form a group consisting of 1/3rd Members of Janata Dal in the Parliament as the Members expelled and the Members disqualified, could not form part of the group on 7 August 1992.

(vi) For these reasons, the Respondents had incurred the liability of disqualification for being the Members of the Lok Sabha with effect from 7 August 1992.

(vii) The three groups—one consisting of the expelled members, the second consisting of the Members who had lost their membership of the Parliament
for having violated the Whips and the third consisting of the Respondents who could not come together to form a group to claim benefit under Para 3(a)(i) of the Tenth Schedule of the Constitution of India.

(viii) According to the Petitioner, Members who were expelled from the primary membership of their party, by the Party President lost their Membership of the Parliamentary Party from the day of their expulsion.

(ix) The above position was accepted by the former Speakers who had treated the expelled Members as Unattached Members.

(x) The President of Janata Dal expelled his Party Members in the Parliament on different dates, having gaps of many days between the days on which they were expelled for anti-party activities.

(xi) Other Members continued to be members of the Janata Dal in the Parliament. In fact, some of them participated in the party elections.

(xii) The Respondents contend that no split in Janata Dal Political Party did take place before or after the eight Members were expelled by the President of the Party.

(xiii) They say that to claim the immunity under Para 3(a) (i) of the Tenth Schedule, there should be a split in the political party and there should also be a split afterwards in the Parliamentary Party. Without there being two splits, the members could not enjoy the immunity under Para 3(a) (i) of the Tenth Schedule.

(xiv) They contend that Shri Ajit Singh did not claim a split in the political-party in the pleadings in the Court and also before the Election Commission. His stand was that he was the President of the original Janata Dal.

(xv) The anti-defection law contemplates that there would be a political party and a legislature party.

(xvi) A split in the Political Party could not be caused by a few Members in the Parliament. It has to be caused by a large number of Members of the Party.

(xvii) Therefore, it could not be held that there was a split in the political party of Janata Dal as required by the Law.

(xviii) The conduct of the Respondents in making the application to the Speaker on 7 August 1992 asking for separate seat in the Parliament amounted to giving up the Party as contemplated in Para 2(1)(b) of the Tenth Schedule of the Constitution of India.
(xix) The prayer by the Petitioner is that the Respondents be declared to have become subject to disqualification and to have ceased to be the Members of the Lok Sabha from 7 August 1992.

228. The Respondents filed their written statement on 31 August 1992. In substance it states that-

(i) The points raised by the Petitioner were replied to in the pleadings filed by them in other cases.

(ii) The Respondents claim that they were the Members of the original Janata Dal and that their claim would be proved in other forums.

(iii) They say that on 7 August 1992, the Parliamentary Party had split; and the group which split consisted of Members equal to 1/3rd Members of Janata Dal Parliamentary Party.

229. The claims made by the Petitioners in this case and Petitioners in other cases filed against Shri Ajit Singh and three other Parliamentarians and Shri Rajnath Sonkar Shastri and three others and those made by the Respondents in these petitions and the Respondents in other Petitions are quite confusing and contradictory.

230. In spite of the contradiction in claims made by both sides, there is so much material in their pleadings, evidence and arguments to hold that Janata Dal Political Party and split before 7 August 1992. The material is also contained in the submissions made by the Parties in the Court of Law and also before the Election Commission. Therefore, the Respondents can claim the immunity provided in Para 3(a) (i) of the Tenth Schedule.

231. It is already held that the President of the Janata Dal could not expel Shri Ajit Singh and three others from the Parliamentary Party of Janata Dal and could not abridge their rights and duties. They continued to be Members of the Parliamentary Party of Janata Dal.

232. It is also held that Shri Ram Sundar Das and three others were valid Members of the Parliamentary Party of Janata Dal and Lok Sabha on 7 August 1992. So, they could form part of the group on the date, separating from Janata Dal Parliamentary Party.

233. There is, therefore, no difficulty in holding that Shri Ajit Singh and seven other Parliamentarians, Shri Ram Sundar Das and three other Parliamentarians and the Respondents could form a group consisting of 1/3rd members of Janata Dal in Parliament and could separate from other
Members of the Janata Dal Parliamentary Party without becoming liable to be disqualified.

234. The stand of the Petitioner that the expelled Members of the Party lost their membership of the Parliamentary Party is not valid, legal and correct. The reasons why it is not correct are given in the previous paras.

235. The reference to the stand taken in the past to the word "Unattached" is also made in the previous paras. What is suggested by the Petitioner in that respect is not correct and valid.

236. Therefore, it is not possible to hold that the respondents had become disqualified to be Members of the Lok Sabha in terms of Para 2(1)(b) of the Tenth Schedule of the Constitution of India.

237. Therefore, the Petitions are dismissed.

Petition against Shri Ajit Singh and three others

238. On 3 October 1992, Shri Shrikant Jena, the Chief Whip of Janata Dal Parliamentary Party, filed a composite petition against Shri Ajit Singh, Rashid Masood, Harpal Panwar and Satyapal Singh Yadav in terms of Para 2(1)(a) of the Tenth Schedule of the Constitution of India.

239. This petition is not filed by Shri V.P. Singh, the Leader of the Janata Dal Parliamentary Party.

240. The Petitioner repeats that the Respondents were expelled from their primary membership of Janata Dal by the President of the Party, that other four members were also expelled for their anti-party activities, and that four other parliamentarians had become disqualified to be members of the Lok Sabha for having violated the Whips issued to them.

241. The Petitioner states that on 7 August 1992, the Respondents and other four expelled Members and another four Members who had become liable to be disqualified and other eight members made an application to the Speaker seeking separate seats for them in the Lok Sabha.

242. He says that Shri Ajit Singh had in very clear terms claimed that on February 1992, Janata Dal had split and he was endorsed as the President of the original Janata Dal.

243. Para 7 of the Petition is very relevant and reads as follows:

"7. That expulsion of a Member of the Parliament by the Party he belongs to does not result in the forfeiture of his
membership of the House, because Para 2(1)(c) of the Tenth Schedule which originally was included in the draft legislation was deleted from the Amendment Bill. Petitioner, therefore, did not file a Petition against the Respondents herein for seeking their disqualification from the House immediately after the expulsion orders, were passed against him."

244. The Petitioner says that on 5 February 1992, the only four Members formed part of a faction that had arisen as a result of the split.

245. According to him, his act of becoming the President of a faction of the Janata Dal, in the company of only three members of the Janata Dal Parliamentary Party amounted to giving up his party. As the four Members were not equal to 1/3rd Members of the Janata Dal in Parliament, they became liable to be disqualified to be Members of the Lok Sabha from 5 February 1992.

246. Para 13 of the Petition reads as follows:

"13. That the question as to whether the expulsion of the Respondents herein was valid or invalid need not, therefore, be pursued in view of the admission of the Respondents quoted above as a result of which they have incurred the disqualification."

247. It is prayed that the Respondents may be declared as disqualified from being Members of the Lok Sabha with effect from 5 February 1992-245. The stand of the Petitioner in this Petition is quite contrary to the stand of Shri V.P. Singh in other petitions.

249. The Petitioner treats the Respondents - as Members of his Parliamentary Party even on the date of filing his Petition i.e. 3 October 1992, and gives up the stand under which his Party used to treat the Respondents and four other Members of his Parliamentary Party as Unattached and not belonging to his Party in the Parliament.

250. The stands contradict each other.


252. In essence the stand taken by the Respondents is as follows: The Respondents repeat what they had said in other Petitions on the points of expulsion of eight members, disqualification of four Members on the ground of
violation of the. Whips and disqualification of eight Members on the ground of having given up their party.

253. They state that they are the Members of the original Janata Dal and as such all others are the Members of the Janata Dal, excepting those who specifically deny to be so.

254. Most other points are denied by them.

255. There is ample evidence in the record to show that there had taken place a split in Janata Dal before 7 August 1992.

256. The Tenth Schedule relates to split in the Parliamentary Party and not the political party outside the Parliament. The law proposes to protect the Parliamentary Party, having elected Members and does not protect the political party outside the House. It is meant to curb defection. It is not meant to protect political parties outside the Parliament.

The Respondents, therefore, cannot be declared to have become disqualified on the ground of having left their Party in insufficient numbers on 5 February 1992.

257. Therefore, the Petition deserves to be and is dismissed.

**Petition Against Shri Rajnath Sonkar Shastri and three others**

258. On 3 October 1992, Shri Shrikant Jena, the Chief Whip of Janata Dal Party in Parliament, filed a composite petition against S/Shri Rajnath Sonkar Shastri, Ramnihore Rai, Ram Awadh, and Shiv Sharan Verrna, in terms of Para 2(1) (a) of the Tenth Schedule of the Constitution of India.

259. Out of 14 petitions, 12 are filed by Shri V.P. Singh, Leader of the Janata Dal in Parliament and 2 are filed by Shri Shrikant Jena, the Chief Whip of Janata Dal in Parliament.

260. Shri V.P. Singh, contends in almost all the petitions that Shri Ajit Singh and three others were expelled from the primary membership of the Party and so they had lost their membership of the Janata Dal Parliamentary Party and so, they could not form a party of the group separating from Janata Dal headed by Shri Bommai as its President to make tip the requisite number so that the separating Members do not get disqualified.

261. Shri Shrikant Jena contends in this petition and in the petition filed against Shri Ajit Singh and three others that Shri Ajit Singh and three others had in clear terms admitted that on 5 February 1992, they had split from the
party headed by Shri Bommai and that a new Party was formed by them on 5 February 1992.

262. If the new Party was formed and if Shri Ajit Singh and three others became the Members of the new Party, they could not join the group on 7 August 1992 to separate from the Parliamentary Party in requisite numbers.

263. Thus, on 7 August 1992, the other remaining members were only 16 and they could not form a group having the requisite number and hence the Respondents in this petition who were the signatories to the application given to the Speaker on 7 August 1992 could become disqualified for having given up their Party in insufficient numbers.

264. The stand taken by Shri V.P. Singh is contrary to the stand taken by Shri Shrikant Jena.

265. The Petitioner asks that the respondent should take a fixed stand and they should not approbate and reprobate. However, the Petitioners themselves appear to be approbating and reprobating.

266. The faction of Janata Dal headed by Shri S.R. Bommai, appears to have given up the stand that the Members of Parliament can be expelled from the Parliamentary Party.


268. Through the written statement they say that Shri Ajit Singh and seven others could not be legally expelled from the Janata Dal Parliamentary Party, that Shri Ram Sundar Das and three others could not be disqualified on the ground that they had violated the Whips issued to them.

269. They say that Shri Ajit Singh and three others belonged to the original Janata Dal and as such all other Members of Janata Dal Parliamentary Party belonged to their faction, unless any of them declared specially otherwise.

270. It is already held that the President of the Janata Dal could not expel Shri Ajit Singh and three others from the Parliamentary Party of Janata Dal and could not abridge their rights and duties. They continued to be Members of the Parliamentary Party of Janata Dal.

271. It is also held that Shri Ram, Sundar Das and three others were valid Members of the Parliamentary Party of Janata Dal and the Lok Sabha on 7 August 1992. So, they could form part of the group on that date, separating from Janata Dal Parliamentary Party.
272. There is, therefore, no difficulty in holding that Shri Rajnath Sonkar Shastri and three other Parliamentarians and the sixteen other Respondents could form a group consisting of 1/3rd Members of Janata Dal in Parliament and could separate from other Members of the Janata Dal Parliamentary Party without becoming liable to be disqualified.

273. The stand of the Petitioner that the expelled Members of the Party lost their membership of the Parliamentary Party is not valid, legal and correct. The reasons why it is not correct are given in the previous paras.

274. Therefore, it is not possible to hold that the Respondents had become disqualified to be Members of the Lok Sabha in terms of Para 2(l)(a) of the Tenth Schedule of the Constitution of India.

275. Therefore, when the said application was given to the Speaker, the Members signing it, were in requisite numbers and so the Respondents in the present petition cannot be held to have become subject to disqualification on the ground of having separated from their party in insufficient numbers.

276. Therefore, it is held that the Petition deserves to be and is hereby dismissed.

Some Thoughts on the Case and The Law

How important, how complicated and how agonizing are the matters in this case? - Moral, Legal, Political aspects of it

277. This matter is important and complicated. It has been a little agonising also.

278. It is important because it has implications for the Democracy and Parliamentary system in India.

279. It is complicated because it involves interpretation of the Tenth Schedule of the Constitution of India and the freedoms, rights and obligations enjoyed by the Indian citizens and their representatives in the Parliament.

280. The Tenth Schedule is a new law. There are not many precedents available on the basis of which it can be interpreted and enforced. It is not happily worded nor free from lacunae.

281. The totality of the matter consists of one application and fourteen petitions. Some pleadings in the petitions and applications have been contradictory and casual too.

282. The Parties to the matter are not expected to be clear on the law points involved in it. Their approach has been political rather than legal.
283. It has been agonising because, at times, words were used by the Parties which could hurt. However, it has been ultimately dealt with in a responsible manner by all concerned. The lawyers appearing in the case have been able to shed light and bring restraint and logic to bear on the proceedings.

284. The matter has moral, legal and political ingredients, according to some.

285. It is not easy to pass judgments in matters moral. Those who have to deal with matters on the basis of law have restricted scope to apply the principles of morality while deciding the issues. There may occur contradictions between the stands moral and the stands legal, taken by the Parties. In such cases, as per the rule of law, the stands legal get the upper hand. Those who have to decide have to do their best to keep the principles of morality in their minds while giving judgments on the basis of law.

286. The matters of this nature have to be decided on the basis of law. The present matter is tried to be decided on the basis of law. It is easier to judge on the basis of law. But it can become difficult too, if the law is not clear or correct interpretation is not put on it.

287. Matters and ingredients, political, are often both not straightforward and are difficult. They can solve, create and complicate issues and problems. They can prove laudatory or abusive, soothing or agonising.

288. In such cases, the chances of political ingredients manifesting agonising characteristics may or may not be limited. One can only and sincerely hope that their play may be limited and dignified.

289. The present case involves the membership of 20 Parliamentarians who are the representatives of more than two crores of Indian citizens. They are elected by the People. In a Democracy, the verdict of the People has its own value.

290. Yet, the Representatives of the People are expected to come up to the expectations of the laws. The menace of floor crossing is not easy to handle. If it remains uncontrolled, it can destroy the parliamentary and democratic systems.

291. Therefore, actions are not taken in an ebullient and impulsive manner. But actions are taken to do justice. Those who are found to go against the law are subjected to punishment.

292. To judge is not easy.
293. To do justice, according to one's own light, is the only way available to one who has to decide and judge. That is tried to be done in this case.

**Some Suggestions on the Law: The Tenth Schedule**

294. The Tenth Schedule of the Constitution of India has served to a great extent the purpose for which it has been brought into existence. It has some weak points and defects too. They are now thrown up and have become quite visible. They should not be allowed to continue in the body of the law.

**Definitions**

295. It uses some words and phrases which are not defined. They should be properly defined to make the concepts contained in them more lucid and clear.

**Situations Envisaged**

296. The law does not provide for coping up with the situations that arise in dealing with matters relating to defections. It should be made more comprehensive and should provide for possible situations which can crop up in interpreting and enforcing the law.

**Party Activities outside the Legislature**

297. The law deals with defections in the Legislature. The defections in the Legislature are connected with the activities of political parties. The activities of the Members of the Parliamentary Party are governed by the Tenth Schedule, other provisions of the Constitution, other relevant laws and the Rules of Procedure followed by the legislature.

298. The activities of the political parties outside the Legislature are not conducted according to the legal provisions for there are no laws available for the purpose. It is not easy or desirable to put them under rigid laws. The political parties should have freedom to conduct their activities as they like. But to control defections in the legislature, at times, it becomes necessary to have the activities of the political parties conducted in a predictable manner.

299. As to how it can be done should be examined. The Tenth Schedule can be made more comprehensive to cover some of the activities of the political parties to make it more effective. Or some other legislation can be agreed upon and passed by all concerned to make the political party's activities, more predictable.
Who Should Decide?

300. At present, the Speakers and Chairmen decide the Anti-Defection Law cases.

301. Originally, their decisions were supposed to be final. Now they are subject to the review by the judiciary. The provisions in the law making the decisions final and non-reviewable by the judiciary has been struck down on the ground that it was not ratified by the requisite number of State Legislatures as it involved the ouster of the jurisdiction of the judiciary.

302. If it is decided to give finality to the decision given by the Speaker or the Chairman, the provision which was struck down, can be restored by taking recourse to a procedure necessary in this respect.

303. Even then, the Judiciary may claim inherent jurisdiction to review the decisions.

304. But, the inherent jurisdiction in the light of the provision in the law giving finality to the decision of the Speaker, or the Chairman may be used in very rare and exceptional cases which is different from allowing review in a frequent and regular manner.

305. Or we can amend the law and provided that the Anti-Defection Law cases can be decided by a Supreme Court Judge or two Judges, if the cases related to the Parliament and by a High Court Judge or two Judges if the cases related to the State Legislatures.

306. The advantages in giving these cases to the Judiciary to decide are many.

307. The Judges are better equipped to decide legal matters. Anti-defection law cases have to be decided strictly according to the law. The Speaker or the Chairman may or may not be endowed with legal acumen and proficiency in law. He is certainly not going to be equal in this respect to the Judge of the Supreme Court or a High Court, whose main task is to hear legal matters and to decide them as per the law.

308. When the Anti-Defection Law cases are heard by the Speaker or the Chairman, the Parties to the dispute appear before them and conduct the cases. They may or may not be fully acquainted with the procedures and principles of interpretation of facts and law. So, they can be of limited help in deciding these kinds of matters.
309. In a Court of law, lawyers can plead and conduct the cases, which is bound to help in disposing of the cases, in a better manner. The lawyers do appear before the Speaker or the Chairman as is done in the present case. But, allowing them to appear before the Speaker or the Chairman is different from allowing them to appear before a Judge of the Supreme Court or a Judge of the High Court.

310. When the matters are conducted in front of the Speaker or the Chairman, the pleadings made, arguments advanced tend to be political rather than legal.

311. The Tenth Schedule is a part of the Constitution of India. The responsibility to interpret the Constitution of India is that of the Supreme Court or the High Courts. It is, therefore, more apt to have the cases involving the interpretation of the Tenth Schedule decided by the Supreme Court or High Court Judges.

312. The Presiding Officers in the Legislatures in our country have considered this matter. They have their own views. They can again consider these matters and come to a final conclusion.

313. This aspect has been discussed in many other forums also; it should now be finally considered and decided as expeditiously as is possible.

**The Whip**

314. All citizens of India can vote as they like. But, the Elected Representatives of the People have to vote as per the directions given to them by their party leaders.

315. This provision was introduced to control floor crossing. It maybe necessary to have it in the law of anti-defection.

316. But is it necessary to ask the representatives of the People to vote in a particular manner in-all cases?

317. When a Motion of No Confidence against the Government is discussed or when matters mentioned in the Manifesto are discussed, or some other very important matters are discussed, the Members of the Political Parties may be asked to take particular stands and directed to vote in a particular manner.

318. A list of matters in which voting's can be directed to be done in a particular manner can be made a part of the law and can be followed by the
Parties and their members. On subjects mentioned in such matters, voting can be directed to be done in a particular manner.

319. In all other matters, it need not be directed to be done in a particular manner.

320. If provisions of this nature are introduced in the Tenth Schedule, the Anti-Defection Law would achieve the purpose for which it is made and make the principles mentioned in the Chapter of Fundamental Rights and the Principles followed in parliamentary and democratic systems in other countries more easily available to the Members of the Legislature.

Other Provisions in the Law

321. There are some other provisions in the law which have been criticized and not liked by those who function in the Legislatures and the People also.

322. There are some provisions which need refining and fine tuning.

323. The law can be made more stringent and more effective by having some salutary provisions introduced in it.

Committee for the Purpose

324. A Committee to look into the matters relating to the Tenth Schedule for above mentioned purposes and for other purposes also can and should be constituted in consultation with the representatives of the Executive at the Centre, the Executive at the State level, the Representatives of the Presiding Officers of the Legislatures and Legislators, the Jurists and the officers well versed in the matters-parliamentary and legislative-can be asked to give a comprehensive report for overcoming the difficulties and defects of the law within a short period. Then the report can be acted upon expeditiously.

Can We Have Some Other Device?

325. Can we have some other device for these purposes?

326. Can we introduce provisions in the Constitution which can obviate the need to have a law of the nature we have now?

327. Indications are that that is possible and can be done.

328. How exactly can it be done cannot and need not be dealt with in detail at this place. What is to be perceived and remembered is that what is suggested is in the realm of possibility and should be examined and if found feasible, should be acted upon.
ORDER

1. It is held that the 20 Members of the Parliament who are signatories to the Application marked as 'D1' were the Members of the Parliament on 7 August 1992.

2. The request made by them in the Application is allowable and is allowed with respect to the sitting Members at this point of time.

3. Under the Tenth Schedule of the Constitution of India and the Members of Lok Sabha (Disqualification on the ground of Defection) Rules, 1985, it is decided

   (i) that S/Shri Ram Sundar Das, Govind Chandra Munda, Ghulam Mohammed Khan and Ram Badan have incurred disqualification for being Members of the Lok Sabha and have ceased to be the Members of the Lok Sabha with effect from the date of this order.

   (ii) that the petitions filed by Shri V.P. Singh against S/Shri Anadi Charan Das, Suryanaravan Yadav, Ramlakhan Singh Yadav, Ram Sharan Yadav, Roshan Lal, Arjun singh Yadav, Abhay Pratap Singh and Upendranath Verma, MPs., are dismissed;

   (iii) that the petition filed by Shri Shrikant Jena against S/Shri Ajit Singh, Rashid Masood, Harpal Panwar and Satyapal Singh Yadav, MPs is dismissed;

   (iv) that the Petition filed by Shri Shrikant Jena against S/Shri Rajnath Sonkar Shastri, Ramnihore Rai, Ram Awadh and Shiv Sharan Verma is dismissed on the ground that when they separated on 7 August 1992, they were sitting Members of the Lok Sabha and were equal to 1/3rd Members of Janata Dal Legislature Party.

Copies of this order be forwarded to the Petitioners, the persons/ Members in relation to whom the Petitions are made and to the Leader of the Janata Dal legislature Party in Lok Sabha.
3. DECISION OF LOK SABHA SPEAKER, SHIVRAJ PATIL IN THE
JANATA DAL (A) SPLIT CASE OF THE SEVEN (3 JANUARY 1996)

"Before Honourable Speaker, Lok Sabha"

Shri Ajit Singh

Versus

1. Shri Ram Lakhan Singh Yadav
2. Shri Ram Sharan Yadav
3. Shri Abhay Pratap Singh
4. Shri Roshan Lal
5. Shri Gulam Mohammad Khan
6. Shri Anadi Charan Das
7. Shri Govinda Chandra Munda

Petition under Para 2(1)(b) or in the alternative under Para No. 2(1)(a)
of the Tenth Schedule of the Constitution of India for a decision that the
aforesaid Respondents are disqualified for being members of the House of
People (Lok Sabha) on the ground that they had violated the Whip
duly served on them directing them to vote in favour of the No-Confidence Motion
on 28 July 1993 or in the alternative on the ground that they voluntarily gave
up the membership of the Janata Dal (A) of which they were the Members.

1. On 1 June 1993 it was decided in the Janata Dal case, that Janata Dal
(A) consisting of 20 members with Shri Ajit Singh as its Leader came into
existence. Subsequently on 28 July 1993 (at 16.15 Hrs.) Shri Ram
Lakhan Singh Yadav handed over a letter of the same date signed by
him and 6 other members belonging to Janata Dal (A) viz. Sarvashri
Roshan Lal, Abhay Pratap Singh, Govind Chandra Munda, Ram Sharan
Yadav, Anadi Charan Das and Gulam Mohammad Khan requesting for a
separate group in Lok Sabha.

2. On that day, i.e., 28 July 1993, at the voting on a motion of No-
Confidence in the Council of Ministers (held 20.20 Hrs.), Shri Ram
Lakhan Singh Yadav and the said six other members voted against the
motion. On 3rd August 1993, a letter dated 2nd August 1993 was
received from the Minister of Parliamentary affairs informing that Shri
Rain Lakhan Singh Yadav and six others who had made a request to be
seated separately in Lok Sabha had been admitted to Congress (I) and
that they be allotted seats in Congress (I) Block of seats. Comments in
this respect were obtained from Shri Ajit Singh. After considering the comments of Shri Ajit Singh and further submissions by Shri Ram Lakhan Singh Yadav and others, it was decided to seat the said 7 members separately outside the Janata Dal (A) Block of seats in Lok Sabha for the purpose of functioning in the House.

3. It may be pertinent to mention that there were allegations by Shri Ajit Singh and some other Members that Shri Govinda Chandra Munda, one of the signatories to the above letter dated 28 July 1993, was pressurised by a Minister and some Members to correct his vote to 'NO' in favour of the Government at the time of voting on the No-Confidence Motion held on 28 July 1993: 'Comments in this respect were obtained from the Minister and the Members--concerned who, had denied the respective allegations made against them in the matter. Shri Munda in his letter dated 29 July 1993 intimated that he had voted against the motion of his free will. Besides, at the time of recording a statement in the matter, when Shri Munda was asked specifically if any Member or Members or Minister or Ministers had brought any kind of pressure on him in the matter of vote cost by him, he-emphatically denied the same.

4. On 12 August 1993, Shri Rajnath Sonker Shastri, M.P., the then Chief Whip of Janata Dal (A) Legislature Party in Lok Sabha intimated in writing that Shri Ram Lakhan Singh Yadav and five other Members (excluding Shri G.C. Munda) had voted contrary to the party directive without prior permission, at the time of voting on the No-Confidence Motion held on 28 July 1993 and that the party had decided not to condone the violation of the party directive by the said six members.

5. On 26 August 1993, Shri Ajit Singh filed a composite petition under the Tenth Schedule to the Constitution and the rules made there under against the said seven members viz. Sarvashri Ram Lakhan Singh Yadav, Ram Sharan Yadav, Abhay Pratap Singh, Roshan Lai, Gulam Mohammed Khan, Anadi Charan Das and Govinda Chandra Munda.

6. The petitioner contended that 6 out of the 7 Respondents viz. Sarvashri Ram Lakhan Singh Yadav, Ram Sharan Yadav, Abhay Pratap Singh, Roshan Lai, Gulam Mohammad Khan and Anadi Charan Das, at the time of voting on the motion of No-Confidence held on 28 July 1993 voted
contrary to the party directives and hence had become subject to
disqualification under Para 2(1)(b) of the Tenth Schedule.

7. In his alternative plea, the petitioner submitted that since the letter written
by the Respondents on 28 July 1993 deciding for a separate group
amounted to giving up the membership of the original political party, the
seven respondents (including Shri G.C. Munda) had become liable to be
declared disqualified under Para 2(1)(a) of the Tenth Schedule,

8. Copies of the petition were forwarded to the respondents for their
comments as required under the Anti Defection Rules. The main stand of
the respondents in their written statements in this respect was that since
they had already decided to split from Janata Dal (A) and a valid split
had taken place and the faction, which arose pursuant thereto, was more
than 1/3rd of the total members of the Janata Dal (A) in the Lok Sabha,
there was no occasion for them to take notice of the Whip issued to them
by Janata Dal (A) and they were neither required nor obligated to obey
the Whip.

9. After considering the comments of the 7 respondents, it was decided to
hold hearings in the matter. The parties to the case were allowed to
plead their case themselves as well as through their counsels. The first
hearing in the case was held on 17 December 1993 which was attended
by the: petitioner, respondents and their Counsels. However, during the
subsequent hearings held on 11 April, 6 June and 24 August 1994,
neither the petitioner nor his Counsel was present.

10. Mention may be made here of some subsequent developments which
took place while the hearings in the case were in progress. On 30
December 1993, Shri Ajit Singh and 9 other Members of Janata Dal (A)
informed that they had decided to merge with Congress (I). After
examining the matter, seats were allotted to Shri Ajit Singh and others in
Congress (I) block of seats in Lok Sabha and they were treated as
Members of Congress(I).

11. In another development, Shri Upendra Nath Verma, MP, belonging to
Janata Dal (A) filed (i) an application to substitute his name as petitioner
in the petition against Shri Ram Lakhan Singh Yadav and others in place
of Shri Ajit Singh; (ii) composite petition for disqualification against Shri
Ajit Singh and 9 other members who had merged with Congress (I).
12. Hence, during the fourth and final hearing held on 24 August 1994 (which was also not attended either by the Petitioner or by his Counsel) apart from the main issues, another additional issue emerged for consideration viz. is it permissible for a third party to intervene in the proceedings before the Speaker in respect of a petition for disqualification under the Tenth Schedule. Shri Kapil Sibal, Counsel for the respondents in his oral arguments (on 24 August 1994) and written submissions (received on 16th September 1994), on the issue of Intervention by a third party, submitted that once the proceedings under the Tenth Schedule in respect of a petition for disqualification are set in motion, there is no occasion for any intervention by a third party.

13. As regards the main issues in the case, Shri Sibal had submitted that since a valid split had taken place in the Janata Dal (A) Legislature Party in the Lok Sabha and the 7 Respondents comprising the faction which arose pursuant therefore, constitute more than 1/3rd of the total strength of the Janata Dal (A) in Lok Sabha, they are not subject to the rigors of Para 2 of the Tenth Schedule, being within the exception set out in Para 3 of the said Schedule.

14. On 29 November 1995, the Petitioner (Shri Ajit Singh), the Respondents (Shri Ram Lakhan Singh Yadav and others) and Shri Upendra Nath Verma, MP, were called to discuss the matters involved in the case. During the meeting, the petitioner submitted a written statement stating that he did not with to pursue the case. Shri Upendra Nath Verma also filed a written statement stating that he does not wish to press his (i) application for substitution of his name as petitioner in this case and (ii) composite petition for disqualification against Shri Ajit Singh and 9 other members. The said written statements by Shri Ajit Singh and Shri Upendra Nath Verma were countersigned by me.

15. The main issue for consideration in the case in respect of composite petition by Shri Ajit Singh against Shri Ram Lakhan Singh Yadav and other members in whether:-

(i) Shri Ram Lakhan Singh Yadav and 5 other respondents (excluding Shri G.C. Munda) have incurred disqualification under Para 2(1)(b) of the Tenth Schedule for voting in the House contrary to the party directive (as prayed by the petitioner in his main plea); or
(ii) All the 7 respondents by making a request for separate group have incurred disqualification under Para 2 (1) (a) of the Tenth Schedule for voluntarily giving up membership of their original political party (as prayed by petitioner in his alternative plea).

16. The evidence that has come on record shows that the respondents had split from the original party.

17. The petitioner had stated in writing that he is not interested in pursuing the petition. Hence, it is held that the membership of the respondents cannot be terminated.

18. In view of the findings that the respondents had split from the original party, it is not necessary to decide if Shri. G.C. Munda had validly received the directions from the Whip of the original party and if he had violated the Whip. In view of this position, the membership of Shri G.C. Munda cannot be terminated.

19. Shri Upendra Nath Verma wanted to be impeded in the matter as the petitioner.

20. He did not appear before the deciding authority, at the time when the evidence was recorded or when the arguments were heard. He has given in writing that he is not interested in getting himself impleaded as the petitioner. On behalf of the respondents, it was pleaded that legally also, Shri Verma could not be impleaded as petitioner.

21. In view of the application given by Shri Upendra Nath Verma saying that he is not interested in pressing for getting himself impleaded as the Petitioner, it is not necessary to decide whether he can be impleaded as the petitioner, legally.

22. The matter of Shri Upendera Nath Verma's becoming the petitioner does not survive after his giving in writing that he is not interested in becoming the petitioner.

Order

23. Therefore, the petition is disposed of as follows:

(i) The Petition is dismissed;

(ii) The Respondents are not subject to disqualification;

(iii) Membership of Shri. G.C. Munda is not terminated;
(iv) The application of Shri Upendera Nath Verma is disposed of in terms of his second application which states that he is not interested in getting himself impleaded as the petitioner;

(v) The case is closed;

(vi) Other necessary steps may be taken in terms of the law and the rules.