

**\*IN THE HIGH COURT OF DELHI AT NEW DELHI**

%

**Date of decision: 7<sup>th</sup> July, 2016**

+

**W.P.(C) No.8363/2010**

**COMMON CAUSE, A REGD. SOCIETY** ..... **Petitioner**

Through: Mr. Rohit Kumar Singh, Adv.

Versus

**BAHUJAN SAMAJ PARTY** ..... **Respondent**

Through: Mr. Satish Chandra Mishra, Sr. Adv.  
with Mr. Ashok Chhabra and Mr.  
Shail Kumar Dwivedi, Adv. for BSP.  
Mr. P.R. Chopra, Adv. for Election  
Commission of India.

**CORAM:-**

**HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW**

1. The petition (a) impugns the order dated 11<sup>th</sup> October, 2010 of Election Commission of India (ECI) of dismissal as not maintainable of the application preferred by petitioner seeking freezing of the symbol "Elephant" as the reserved symbol of the respondent Bahujan Samaj Party (BSP), a Recognised National Party within the meaning of Clauses 6 and 6A of the Election Symbols (Reservation and Allotment) Order 1968, (Symbols Order); and, (b) seeks a mandamus to the ECI to cancel or freeze the reserved election symbol "Elephant" of the respondent BSP.

2. Notice of the petition was issued and a reply has been filed on behalf of the respondent BSP and to which a rejoinder has been filed by the petitioner. Vide order dated 16<sup>th</sup> July, 2012 ECI which was earlier impleaded as respondent No.1, was deleted from array of parties but its counsel requested to remain present.

3. When the matter was called on 25<sup>th</sup> February, 2016, the senior counsel for the respondent BSP stated that the order of ECI under challenge in this petition came to be passed in pursuance to an order of the Supreme Court in a petition filed by some other person and which petition is still pending before the Supreme Court and the said order of ECI has been placed before the Supreme Court for further consideration in that proceedings; he thus contended that the hearing of this petition be deferred till the decision of the Supreme Court.

4. It was however enquired from the senior counsel for the respondent BSP as to why in the last over five years for which this petition had been pending, the respondent BSP did not have this petition transferred to the Supreme Court or seek a clarification in this respect from the Supreme

Court, particularly when it was informed that in the last five years the petition in the Supreme Court had been taken up on several occasions.

5. Per contra, the contention of the counsel for the petitioner was that though the impugned order of ECI, besides on the application of the petitioner is also on the applications of others but the petitioner herein is not a party in the proceedings before the Supreme Court and the relief claimed by the petitioner is also materially different from the relief claimed in the proceeding before the Supreme Court.

6. In this view of the matter, option was given to the senior counsel for the respondent BSP that this petition would be adjourned for a period of one month to enable the respondent BSP to seek directions from the Supreme Court. However the senior counsel for the respondent BSP did not press the objection taken earlier and accordingly the counsels were heard and judgment reserved.

7. It is the case of the petitioner (i) that the petitioner vide its application dated 25<sup>th</sup> June, 2009 to ECI drew attention to the recent trend, of erecting at public places and at State expense, statues of political functionaries and symbols linked to the ruling party – the statues entailing a monumental

waste of public resources were built to last till the end of time; this practice has assumed gargantuan proportions in the State of Uttar Pradesh, where statues of incumbent Chief Minister and other members of the respondent BSP and its election symbol “Elephant” were sprouting from countless memorials, public squares and parks; (ii) that such display has the effect of disturbing the level playing field vis-a-vis the political functionaries and candidates of other parties; reliance in this regard is placed on ECI’s circulars No.437/6/INST/2008-CC&BE dated 28<sup>th</sup> March, 2009 and 1<sup>st</sup> April, 2009 prohibiting display in government buildings and premises of photographs and images of the political functionaries who have deep influence on the minds of electors and many of whom are still active in public life and may even be contesting the current general elections; (iii) that besides the petitioner, Shri Ravi Kant and Shri Sukumar, Advocates and one Shri Atul Kumar Singh had also filed similar applications before ECI and all the three sets of applications were clubbed together; and, (iv) that Shri Ravi Kant aforesaid also filed W.P.(C) No.266/2009 before the Supreme Court seeking *inter alia* directions to the State of Uttar Pradesh to stop further construction and expenditure of public funds for installing the statues of the incumbent Chief Minister and the party symbol of the respondent BSP in

public land and to remove the statues in question from public land and the Supreme Court vide interim order dated 22<sup>nd</sup> February, 2010 in the said petition, finding that the said Shri Ravi Kant had also moved ECI for certain relief with respect to the statues, had directed ECI to decide the application /representation of the said Shri Ravi Kant.

8. ECI, in the impugned order dated 11<sup>th</sup> October, 2010, has found/observed/held:-

- (i) that the claim in the application of freezing of the election symbol amounted to withdrawing the symbol 'elephant' from the respondent BSP and allotting an alternative symbol to the party so that the respondent BSP does not get an undue advantage of its symbol which had been propagated at the State cost;
- (ii) allotment and reservation of symbol to recognised political parties or withdrawal of such allotment or reservation has to be traceable to specific provisions under the Symbols Order;
- (iii) grant of recognition to a party which entitles it to a reserved symbol under the Symbols Order is dependent on the poll performance of the party in terms of the percentage of votes polled and the number of seats won as per the criteria laid down in paragraphs 6A and 6B of the Symbols Order;

- (iv) under the Symbols Order, withdrawal of reserved symbol is either:-
- (a) a consequence of withdrawal of recognition upon failure of the party to come up with the poll performance as required; or,
  - (b) a consequence of the recognised political party failing or refusing to observe the provisions of the 'Model Code of Conduct for Guidance of Political Parties and Candidates' (Model Code of Conduct) as issued by the ECI or to follow or carry out any lawful directions and instructions of the ECI given from time to time with a view to furthering the conduct of free, fair and peaceful elections or safeguarding the interests of the general public and the electorate in particular, also resulting in withdrawal of recognition.
- (v) neither was it the ground of the petitioner or any of the other applicants before ECI that the respondent BSP had failed in the required poll performance or that it had violated any lawful direction or instruction issued by ECI;
- (vi) the only question which remained was whether the respondent BSP had violated the Model Code of Conduct by erecting and installing the statues of 'elephant' and Ms. Mayawati;

- (vii) however the Model Code of Conduct comes into play when ECI announces any schedule for an election and it ceases to be effective on the completion of election by declaration of result;
- (viii) every political party has a right to propagate its symbol by erecting of statues of the symbol and also of its leaders, without however misuse of public funds and official position;
- (ix) ECI is not empowered to go into the question of misuse of official position and public funds in the matter of erection of such statues as the same had the sanction of the State Legislature;
- (x) that the State Government had however refused to furnish the information as to where and how many of the statues had been erected and installed and thus ECI was in dark with respect thereto and unable to gauge the impact of the statues on the mind of the electors;
- (xi) that thus ECI was not capable of granting the reliefs claimed; and,
- (xii) however at the time of elections ECI would take appropriate steps and measures to see that statues of Ms. Mayawati and BSP symbol 'elephant' do not disturb the level playing field and do not give undue advantage to the respondent BSP vis-a-vis other political parties.

9. The counsel for the petitioner argued (i) that ECI in the impugned order has accepted most of the submissions of the petitioner and rejected almost all the contentions of the respondent BSP but notwithstanding the same held the application to be not maintainable; (ii) the application could not have been rejected on the ground of the respondent BSP having failed to provide the desired information; (iii) that ECI having accepted the contention that the respondent BSP was guilty of defeating the object of Model Code of Conduct by installing statues of its election symbol at public expense, ought to have withdrawn the symbol; (iv) that ECI vide its order dated 8<sup>th</sup> January, 2012 had required each and every statue of ‘elephant’ erected in public places in the State at government expense to be covered until the impending general election to the State Legislative Assembly; however no such covering was ordered during 2014 Lok Sabha Election; (v) that ECI has very wide power under Article 324 of the Constitution of India to issue any order/direction to ensure free and fair elections which are critical to the preservation of our democratic polity; (vi) reliance is placed on *Mohinder Singh Gill Vs. The Chief Election Commissioner, New Delhi* (1978) 1 SCC 405, *Union of India Vs. Association for Democratic Reforms* (2002) 5 SCC 294 and *Kuldip Nayar Vs. Union of India* (2006) 7 SCC 1 to



contend that where the law on the subject is silent, Article 324 is a reservoir of power for the ECI to act for the avowed purpose of pursuing the goal of free and fair election; (vi) that the installation of permanent representations of election symbol of a political party in a public place has the effect of permanently disturbing the level playing field in an electoral contest; and, (vii) if the display of a photograph inside an office can vitiate the level playing field, the installation of a permanent statue at a public place which is visible at all times to every passerby can be said to have a deeper impact on the mind of the electorate.

10. Per contra, the senior counsel for the respondent BSP argued (i) that there is no provision in the Symbols Order to freeze a particular symbol; (ii) there can be no cancellation/withdrawal of election symbol *de hors* the provisions of the Symbols Order; (iii) the respondent BSP did not gain anything in any manner from the erection and installation of the said statues in the Assembly elections held in the year 2012; (iv) that there is no bar to the use of an election symbol; (v) example was given of a bicycle and cow which are election symbols and can be seen all over; (vi) that a recognised political party cannot be left without a symbol; and, (vii) elephants are to be

seen not only in the statues erected and installed by the State Government but in all the temples also.

11. The counsel for ECI stated that do's and don't's qua the symbols are during the election time only and not otherwise.

12. The counsel for the petitioner in rejoinder argued that if the party in power so propagates its symbol with public money, then it is wrong, otherwise it is not.

13. I have considered the controversy and wondered whether there is any bar to a recognised political party with its own monies so propagating its symbol or its leaders, year round, by installing statues or hoardings thereof, in compliance with Municipal and other applicable Regulations. I am unable to find any, and as aforesaid, the counsel for the petitioner also agreed that it is so open to a political party.

14. The only issue which thus remains is, of the respondent BSP having done so by misuse of public monies and public office.

15. However the counsel for the petitioner was at a loss to show any power vested in ECI to, on such grounds, exercise any jurisdiction.

16. Though the Symbols Order is not found to contain any specific clause even for allotment of a symbol to a recognised political party but Clause 5 thereof while giving the classification of symbols defines a reserved symbol as a symbol which is reserved for a recognised political party for exclusive allotment to contesting candidates set up by that party and vide Clause 8 thereof provides that a candidate set up by a recognised political party, at any election, in any constituency of India, shall choose and shall be allotted the symbol reserved for that party and no other symbol. Clause 8(3) further provides that a reserved symbol shall not be chosen by or allotted to any candidate in any constituency other than a candidate set up by a recognised political party for whom such symbol has been reserved. Therefrom it follows that ECI allots a reserved symbol to a recognised political party. The same necessarily has to be done by passing an order to the said effect.

17. I have wondered whether the power of ECI of making an order of allotment and reservation of election symbol for a recognised political party would, in accordance with the General Clauses Act, 1897, include the power to withdraw the election symbol so reserved/allotted.

18. Section 16 of the General Clauses Act provides that where, by any Central Act or Regulation, a power to make any appointment is conferred, then, unless a different intention appears, the authority having power to make the appointment shall also have power to suspend or dismiss any person so appointed. Similarly Section 21 of the said Act provides that where, by any Central Act or Regulation, a power to issue notifications, orders, rules, or bye-laws is conferred, then that power includes a power, to add to, amend, vary or rescind notifications, orders, rules or bye-laws so issued.

19. Though the Symbols Order may not qualify as a Central Act or Regulation but by virtue of Clause 2(2) thereof provides that the General Clauses Act shall as far as may be applied in relation to the interpretation of the Symbols Order as it applies in relation to the interpretation of a Central Act.

20. Vis-à-vis Central Act, Supreme Court in *Shree Sidhbali Steels Ltd. Vs. State of U.P.*, (2011) 3 SCC 193, referring besides to Section 21 of the General Clauses Act also to Section 14 thereof, held that when a power

is conferred to do a particular act such power can be exercised from time to time and carries with it the power to withdraw, modify, amend or cancel.

21. Vis-à-vis ECI, it was held in *Janata Dal (Samajwadi) Vs. The Election Commission of India* (1996) 1 SCC 235 that it cannot be conceived that a political party having been recognised as a national party or a State party shall continue as such in perpetuity although it had forfeited the right to be recognised as a national party; though there is no specific provision under the Symbols Order vesting power in the ECI to derecognise a political party, Clause 2(2) thereof making the provisions of the General Clauses Act applicable, vests power in ECI, which had issued the order recognising a political party, to derecognise the political party.

22. I may however state that since the judgment aforesaid, vide notification dated 1<sup>st</sup> December, 2000 the Symbols Order was amended and Clause 6C thereof as it now stands, lays down “conditions for continued recognition as a National or State Party.”

23. However subsequently, in *Indian National Congress (I) Vs. Institute of Social Welfare* (2002) 5 SCC 685; in the context of the question, whether ECI has power to de-register or cancel the registration of a political party on

the ground that it had called for *hartal* by force, intimidation or coercion and thereby violated the provisions of the Constitution or on the ground of having violated the undertaking given at the time of its registration, it was held that Section 21 of the General Clauses Act cannot be invoked by ECI to de-register a political party on such grounds because for Section 21 to apply, the order which can be modified or rescinded has to be in the nature of a notification, rule, bye-law etc. i.e. either executive or legislative in character but de-registration of a political party on such grounds would entail a quasi judicial enquiry under Section 29-A of the Representation of People Act, 1951 (R.P. Act) into whether the undertaking and Section 29-A have been violated or not and Section 21 has no application where an authority is required to act *quasi judicially*. It was further held that Parliament deliberately omitted to vest ECI with the power to de-register a political party for non-compliance with the conditions for the grant of such registration - may be for the reason that under the Constitution ECI is required to function independently and ensure free and fair elections; an enquiry into non-compliance with the conditions for the grant of registration might involve the Commission in matters of a political nature and could mean monitoring by the Commission of the political activities, programmes

and ideologies of political parties. It was however clarified that ECI is not deprived of its power to cancel the registration where registration has been obtained by practicing fraud or forgery or where a registered political party amends its nomenclature of association, rules, regulations abrogating therein conforming to provisions of Section 29-A(5) of R.P. Act or intimates that it has ceased to have faith in and allegiance to the Constitution of India or on any like ground where no enquiry is called for on the part of ECI.

24. In the judgment supra of a bench of two Hon'ble Judges, the earlier judgment in *Janta Dal (Samajwadi)* of a bench of three Hon'ble Judges was not noticed. In fact Supreme Court earlier, in *Kanhiya Lal Omar Vs. R.K. Trivedi* (1985) 4 SC 628 referring on *Sadiq Ali Vs. Election Commission of India* (1972) 4 SCC 664 which were also not noticed, held that ECI cannot be disabled from exercising its plenary powers under the Conduct of Election Rules, in the matter of allotment of symbols and for issuing directions in connection therewith and that it is plainly essential that ECI should have the power to settle disputes between two rival groups or between splinter groups for allotment of a symbol.

25. Such power, I may notice, is expressly with the ECI under Clause 15 of the Symbols Order. So is the power given by Clause 16A to suspend or withdraw recognition on the grounds of violation or defiance of Model Code of Conduct or of any lawful direction or instruction of ECI and which enquiry is to be after giving a reasonable opportunity of showing cause. In my humble opinion, an enquiry of the nature mentioned in Clause 16A of Symbols Order into whether a recognised political party has defied the provisions of the Model Code of Conduct and/or of the directions issued by ECI from time to time for free, fair and peaceful elections or for safeguarding the interest of general public and electorate in particular would necessarily take the hue of a political nature and/or could mean monitoring by the ECI of the political activities, programmes and ideologies of political parties. The same appears to belie the logic/reasoning given in *Indian National Congress (I)* supra that “an enquiry into non-compliance with the conditions for the grant of registration might involve the Commission in matters of a political nature and could mean monitoring by the Commission of the political activities, programmes and ideologies of political parties”.

26. I however remain bound by *Indian National Congress (I)* supra and as per which the provisions of General Clauses Act cannot be read in the



Symbols Order for exercise of a power requiring a quasi-judicial enquiry. Certainly, in the absence of any existing direction of ECI with respect to the situation of which grievance is made by petitioner, withdrawal of symbol or freezing of symbol would require a quasi-judicial enquiry. The petitioner also has not contended otherwise.

27. Even otherwise, as per Symbols Order, 'recognition' as a political party carries a right to a reserved symbol. I have not been able to find any conditions prescribed qua use of or dealing with that symbol. It thus appears that a symbol once reserved for a recognised political party under the prevalent laws, cannot be taken away. This is certainly a lacuna and which, if the averments of the petitioner are correct, has indeed been exploited by the respondent BSP. However with respect to the law of elections, which is a special law, it has famously been said by the Supreme Court in *Jyoti Basu Vs. Debi Ghosal* (1982) 1 SCC 691 that a right to elect or to be elected, fundamental though it is to democracy, is anomalously enough neither a fundamental right nor a Common Law Right and is pure and simple a statutory right; and that outside of statute, there is no right to elect, no right to be elected and no right to dispute an election – statutory creations they are and therefore subject to statutory limitations.

28. I therefore hold that there is no power in ECI under the Symbols Order, to withdraw/freeze an election symbol once allotted and/or reserved for a recognised political party and the only manner in which the symbol once allotted/reserved is lost, is on loss of recognition. Though the powers of ECI otherwise flow from Article 324 of Constitution of India and are plenary but ECI, in exercise of such powers having promulgated the Symbols Order and having therein not provided for such eventuality, the same, in my opinion, cannot be sprung as a surprise.

29. Neither ECI had nor I have any doubt that if there is any truth in what the petitioner complains of, then what the respondent BSP has done is wrong. Wherever there is a wrong, there has to be remedy. There is no wrong without a remedy—*ubi jus ibi remedium* and which, Supreme Court in *Dhannalal Vs. Kalawatibai* (2002) 6 SCC 16 has held, leads to the invention of the form of action. I am of the view that a constitutional functionary as ECI, upon finding a wrong or a possibility of wrong in the arena of election and qua which it has plenary powers cannot express helplessness owing to lack of any existing provision and has to devise ways and means to address the wrong, to maintain purity in the stream of election.

ECI, in this spirit has to be continuously evolving to keep pace with the evolving society and ought to have invented the remedy.

30. Clause 16A of the Symbols Order providing for suspension or withdrawal of recognition is also found to be providing therefor either on the ground of refusing or defying to observe the provisions of the ‘Model Code of Conduct for Guidance of Political Parties and Candidates’ as issued by the ECI or on the ground of refusing or defying to follow or carry out the lawful directions and instructions of ECI given from time to time with a view to furthering the conduct of free, fair and peaceful elections or safeguarding the interests of the general public and the electorate in particular. However as aforesaid, before de-recognising a political party a reasonable opportunity of hearing is required to be given.

31. ECI in the impugned order has held that Model Code of Conduct is applicable only during the election and not otherwise. No dent to the said reasoning of ECI has been made by the petitioner. As far as the other ground for withdrawal of recognition accorded to a political party prescribed in Clause 16A supra is concerned, though I have perused the “Handbook for Candidates” published by the ECI in the year 2009, the “Code of Conduct –

Do's & Dont's" published by ECI on 7<sup>th</sup> January, 2007 as well as the "Model Code of Conduct for the Guidance of Political Parties and Candidates" published by ECI in 2007 and also the "Compendium of Instructions on Model Code of Conduct" published by ECI on 21<sup>st</sup> August, 2015 as available on the website of ECI but I am unable to find any instruction/guideline prescribed prohibiting the conduct of which the petitioner accuses the respondent BSP and for defiance of which it can be said that ECI ought to have initiated proceedings for withdrawal of recognition of the respondent BSP.

32. However it is found (i) that vide ECI's letter no.3/9/2004/J.S.–II dated 24<sup>th</sup> August, 2004 the directions relating to aspect of advertisements in print media were issued (See instructions serial no.32 in the "Compendium of Instructions on Model Code of Conduct" published on 21<sup>st</sup> August, 2015); (ii) that vide ECI's letter no. 437/6/2004-PLN III dated 24<sup>th</sup> December, 2004 the party in power was directed to ensure that no cause is given for any complaint that it has used its official position for the purposes of its election campaign and issue of advertisement at the cost of public exchequer in the newspapers and other media and the misuse of official mass media during the election period for partisan coverage of political news and publicity

regarding achievements with a view to furthering the prospects of the party in power was prohibited and direction issued for removal of hoardings, advertisements, etc. which purport to project the achievements of any living political functionaries or political party or which carry their photos or names or party symbol, at the cost of public resources (See instructions serial no.30 in the “Compendium of Instructions on Model Code of Conduct” published on 21<sup>st</sup> August, 2015); (iii) in the “Handbook for Candidates – 2009”, vide Clause 6(A) thereof wall writing, pasting of posters or display of any cut-outs, hoardings, banners, flags etc. on Government premises and Government offices and their campus was prohibited and the party in power was directed to ensure that no public place was dominated/monopolised and that all parties and candidates should be provided equal opportunity in this regard; (iv) in the “Code of Conduct – Do’s & Dont’s” dated 7<sup>th</sup> January, 2007, announcement of new projects or programme or concessions or financial grants in any form or promises thereof or laying of foundation stones, etc., which have the effect of influencing the voters in favour of the party in power was prohibited and misuse of official machinery for election work was also prohibited; and, (v) in the “Model Code of Conduct for Guidance of Political Parties and Candidates” also, Chapter VII dealing with

party in power and issues detailed instructions to ensure that no cause is given to any complaint that it has used its official position for the purposes of its election campaign.

33. It would thus be seen that in spirit, what the petitioner complains of, is prohibited though not expressly. What the respondent BSP is accused of is akin to advertisements by ruling party at the cost of public exchequer in the print media, use of by party in power of government buildings/premises and use by party in power of official machinery and of which is already prohibited and indulging wherein could lead to withdrawal of recognition and resultant loss of symbol. I am of the view that since ECI till now has not issued any express direction or instruction prohibiting recognised political parties from doing what the respondent BSP is accused of and further since the petitioner, for the wrong alleged invoked the remedy of recall/freezing of symbol and which I have held to be not available, the respondent BSP should not be caught unaware and no case for proceeding against respondent BSP for withdrawal of recognition is made out.

34. I am however of the view that there indeed is a need for ECI to now, that the lacuna has been detected and has complained of having been

exploited, to consider issuing express directions in this regard so that no political party in power can exploit the same in future. There can be no doubt of the power of ECI to issue such a direction. I direct accordingly.

35. That will however take care only of the future. The question of the installations already made by the respondent BSP continuing to give an undue advantage to the respondent BSP in future elections remains. I am of the view that covering thereof during the elections does not undo what they are capable of doing. The size of the said installations, visible from surrounding areas, even though covered, continue to remind the public of what lies beneath. In fact a covered installation is more of a reminder and has a higher impact capable of influencing. I am unable to agree with the senior counsel for respondent BSP that the loss suffered in elections is proof of the same having no influence. A failed attempt does not wash away the wrong means adopted to succeed. Just like irrespective of the party in power coming back to power or not, its violation of the directions already issued would render it liable for withdrawal of recognition, so is the position here.

36. A political party in power cannot use development activities carried out by it and which the government in any case is expected to perform, to

propagate its symbol or its leaders so as to come in the way of a free and fair election. The performance of a political party in governance should be allowed to speak for itself.

37. No merit is also found in contention of senior counsel for BSP that most of the symbols are found commonly in day to day life and are thus incapable of influencing. As aforesaid, there is no bar to a political party propagating itself at its own cost. The issue is of doing so from public places and with use of public funds to which the political party by being in power gets access.

38. Supreme Court recently in *Common Cause Vs. Union of India* (2015) 7 SCC 1, concerned with a public interest litigation seeking restraint on the Union of India and the State Governments from using public funds on the government advertisements which were primarily intended to project individual functionaries of the Government or a political party, constituted a committee to suggest guidelines to regulate government action in the matter, so as to prevent misuse / wastage of public funds in connection with such advertisements and approved of the guidelines framed *inter alia* to the effect



that the advertising must not be directed at promoting political interest of a political party.

39. The reasoning of ECI, that it could not make a factual assessment because of the directions seeking information remaining uncomplained also cannot be accepted. Supreme Court in *Sadiq Ali* supra has held that ECI is an authority created by Constitution of India and according to Article 324 has superintendence, direction and control of the conduct of elections and the fact that the power of resolving disputes has been vested in such a high authority would provide a guarantee that the power would be used in a reasonable manner. ECI, in my view, cannot abdicate its power for such reasons.

40. I therefore dispose of this petition with a request to ECI to:

(A) within a period of three months, consider issuing appropriate direction / guideline within the meaning of Clause 16A(b) of the Symbols Order preventing recognised political party in power from using public places and public funds for propagating its reserve symbol and / or its leaders, so as to come in the way of conducting of

free, fair and peaceful election and to safeguard the interest of the general public and the electorate in future; and,

(B) after issuing the said direction / guideline, within a further period of three months therefrom, consider whether the actions already done by the respondent BSP and as complained of by the petitioner are in violation of the said guideline and if finds so, to give an opportunity to the respondent BSP to undo the same, so as to in future not obstruct free and fair election and if the respondent BSP does not avail of the said opportunity, to initiate proceedings under Clause 16A of the Symbols Order for withdrawal of recognition thereof.

No costs.

**RAJIV SAHAI ENDLAW, J.**

**JULY 07, 2016**

'pp/bs'