

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P. (C) 8077/2009 & CM APPL No. 4657/2009

PADAM PRASAD SHARMA Petitioner

Through: Ms. Pinky Anand, Senior
Advocate with Mr. Balendu
Shekhar, Advocate.

versus

UNION OF INDIA & ORS. Respondents

Through: Mr. Girish Pande, Advocate
for Mr. Ravinder Agarwal,
CGSC for UOI.
Mr. P.R. Chopra, Advocate
for R-2.
Mr. A. Mariarputham, Senior
Advocate with Mr. Anurag
Mathur, Advocate for R-3.

CORAM: JUSTICE S. MURALIDHAR

- | | |
|---|-----|
| 1. Whether Reporters of local papers may be allowed to see the order? | Yes |
| 2. To be referred to the Reporter or not? | Yes |
| 3. Whether the judgment should be reported in Digest? | Yes |

ORDER
15.03.2011

Introduction

1. Stating that he is a citizen of India and a resident of Nandu Gaon, Harrboty, Poklok, Kamrang, South Sikkim and ‘an educated farmer’, the Petitioner has filed this writ petition for a direction to the Union of Indian in the Ministry of Home Affairs (‘MHA’) to decide a complaint made by him on 9th June 2008 against Respondent No. 3, Shri Pawan Kumar Chamling, who is at present

the Chief Minister of Sikkim.

2. Although a further prayer is for a declaration that Respondent No. 3 “has ceased to be a citizen of India and disqualified to hold any constitutional post”, Ms. Pinky Anand, learned Senior counsel appearing for the Petitioner, at the outset stated that the Petitioner does not press that prayer. He confines his prayer to a direction to the MHA to decide his complaint dated 9th June 2008.

3. Earlier the Petitioner had filed a writ petition under Article 32 of the Constitution which was dismissed as withdrawn by the Supreme Court on 27th March 2009 with liberty to the Petitioner to pursue other remedies.

The Petitioner’s case

4. The Petitioner states that in the first week of February 2008, the Petitioner was informed by a Senior Advocate in Sikkim that Respondent No. 3 held citizenship of Nepal. The said Senior Advocate informed the Petitioner that the certificate of Nepali citizenship and related documents were handed over to Respondent No. 3 by the Superintendent of Nepal Police. The Petitioner states that one Shri Fauda Singh Paudyal R/o Tashiding, West Sikkim handed over to him a photocopy of a certificate of Nepali

citizenship acquired by Respondent No. 3 which was duly attested by the Competent Authority of the Government of Nepal. The said photocopy has been enclosed as Annexure P-1 to this writ petition. The said certificate is in Nepali and an English translation thereof has been placed on record by the Petitioner.

5. The Petitioner states that on 26th April 2008 the Petitioner visited the address indicated in the Nepali citizenship certificate to obtain details of Respondent No. 3 and his family members. He claims to have met one Shri Raghunath Niraula, Secretary-cum-Office In-charge, Village Development Committee Office, Budhabare, Jhapa, Nepal on 27th April 2008. The Petitioner states that he was asked to deposit Rs. 10/- Nepal Currency for House Tax in the name of Ash Bahadur Rai Chamling, the father of Respondent No. 3. Upon paying the said 'house tax' the Petitioner was handed over a population certificate showing the names of Respondent No. 3, his wife and children. The Petitioner has enclosed as Annexure P-2 to the writ petition a copy of the said Population Certificate dated 27th April 2008 and the House Tax Receipt as Annexure P-3. Translated copies of the said documents have also been placed on record.

6. On the basis of the above two documents, i.e. certificate of Nepali Citizenship of Respondent No. 3 and copy of the Population

Certificate, the Petitioner filed a written complaint on 9th June 2008 with the MHA. A perusal of the copy of the said complaint, enclosed with the writ petition shows that on the basis of the above two documents the Petitioner claimed that Respondent No. 3 has “voluntarily and willfully acquired the citizenship of Nepal without renouncing his Indian Citizenship and by doing so he has committed a fraud and his Indian Citizenship stands terminated. His Nepalese Citizenship is clearly established from a mere perusal of several documents/certificates issued by the Nepalese Government authorities.” Quoting Section 9 of the Citizenship Act, 1955 (‘CA’), the Petitioner asked that Respondent No. 3 be held disqualified from holding the post of the Member of the Legislative Assembly of Sikkim and Chief Minister of the State of Sikkim. The Petitioner also sought a direction under Article 191 (1) (d) of the Constitution of India to Respondent No. 3 to relinquish his Chief Ministership.

7. The Petitioner has with the writ petition enclosed extracts of reports that appeared in the press on the issue and asserts that continuation of Respondent No. 3 as the Chief Minister of Sikkim is contrary to the established constitutional principles. It is stated that the applications filed by the Petitioner under the Right to Information Act, 2005 (‘RTI Act’) seeking status of the Petitioner’s complaint were not answered by the MHA. The Petitioner states

that he also filed a petition before the Governor of Sikkim on 27th January 2009. With no response forthcoming the present petition was filed.

The District Collector's factual report

8. In response to the notice issued to it, the Election Commission of India ('ECI'), Respondent No. 2, filed an affidavit on 12th November 2009. The ECI stated that the Petitioner made a representation to it on 17th November 2008 praying for deletion of names of six persons, i.e. Respondent No.3 and his family members, from the electoral roll of 11–Namchi Singhithang Assembly Constituency on the ground that they were citizens of Nepal. The Chief Electoral Officer, Sikkim informed the ECI that the said representation dated 17th November 2008 was forwarded to the District Collector ('DC'), South Sikkim, who is also the Electoral Registration Officer for the said constituency. The DC submitted a factual report dated 29th January 2009. A copy of the said factual report of the DC has been enclosed with the affidavit of the ECI.

9. The DC on making a detailed examination concluded that the documents produced by the Petitioner “are false, baseless and concocted” and, therefore, there was no justification to consider

deletion of the name of Respondent No. 3 and his family members from the electoral roll of the said constituency. The said report noted that the name of Respondent No. 3 is recorded in the Sikkim Subject Register ('SSR') at Serial No. 152 Volume No. XVII at Rangang Block of South Sikkim. The name of his wife Tika Maya Chamling is recorded in the SSR at Serial No. 126 Volume No. XX at Jaubari Block of South Sikkim. As per the Sikkim Citizenship Order 1975 ('SCO'), the persons who were subjects of Sikkim automatically became citizens of India with effect from 26th April 1975, which is the date of formal merger of the State of Sikkim with the Union of India. The report concluded that Respondent No. 3 and his wife are *bona fide* citizens of India and that the rest of the persons, i.e. the offspring of Respondent No. 3 would also therefore be the citizens of India. It is further pointed out that the family of Respondent No. 3 and his wife have been owning landed property in their native villages in South Sikkim, viz., Yangyang and Kholaghari, for many generations and were permanent citizens of India for generations together.

10. The report of the DC further noted that Respondent No. 3 was a member of the Yangyang Gram Panchayat in South Sikkim as its President prior to 1983-84 and contested the elections to the Legislative Assembly of Sikkim in 1985. He repeatedly represented

the Damthang Constituency in South Sikkim as a Member of the Legislative Assembly for the last five continuous terms. While in the first term he was Chairman of Sikkim Distilleries Ltd. during the second term he was a Cabinet Minister for the Department of Industries, Information & Public Relations and Printing. The report dated 29th January 2009 of the DC further noted that as of that date Respondent No. 3 had been the Chief Minister of Sikkim for a third term. Under the Representation of People Act, 1951 only a citizen of India could elect and be elected as a representative of the people. It was pointed out that in all these years no objection was filed under the Registration of Electors Rules, 1960 before the District Electoral Registration Officer against the inclusion of the name of Respondent No. 3 and his family members in the electoral rolls.

11. Significantly, the DC's factual report dated 29th January 2009 records that the Petitioner is an active and prominent member of Bharatiya Janta Party ('BJP') in the State of Sikkim. He contested on the BJP ticket in the elections to the State Legislative Assembly in 2004. Even before the ECI could reply to his representation he got it published in a magazine. The DC's report states that the citizenship certificate enclosed with the complaint did not even mention the date of issue of the certificate which was of doubtful authenticity. The Population Certificate enclosed by the Petitioner

mentioned that Smt. Binita Chamling was the daughter-in-law of Respondent No. 3 whereas he did not have any daughter-in-law by that name. This document showed Smt. Binita Chamling to be the wife of Shri Bishal Chamling, the son of Respondent No. 3, whereas he married Smt. Roshna Gurung on 12th December 1997. As of the date of the Population Certificate, Respondent No. 3 was 47 years old. However, it showed the age of Respondent No. 3 as 44 years. Since there were so many discrepancies, the DC concluded that the two documents relied upon by the Petitioner were fictitious and could not be relied upon.

The stand of the MHA

12. In its counter affidavit, the MHA raised an objection as to the territorial jurisdiction of this Court to entertain the present petition. While denying that the MHA failed to take action on the Petitioner's complaint, it is stated that "the genuineness of the purported document filed along with the complaint and the issue of citizenship card has not been established. It has also not been established whether the citizenship card has been issued in favour of respondent no. 3 or the same has been acquired by the petitioner. It is submitted that to verify the authenticity of such allegations, inputs were sought from the State Government and Security agencies. The security agency has stated that there are no inputs to

indicate that respondent no. 3 had ever applied for or obtained any such documents for Nepalese citizenship.”

13. The MHA also refers to the fact that the name of Respondent No. 3 was recorded in the SSR. By virtue of the SCO he automatically became a citizen of India with effect from 26th April 1975. It is further stated that “in the alleged Nepali Citizenship Certificate, the birth place of Shri Pawan Kumar Chamling is shown as ‘Mechi Zone, Ilam District, Sanischare’ and that he is permanently residing at ‘Mechi Zone Jhapa District, Budhabare Village Panchayat Ward No. 5’ whereas in the Population Certificate (Annexure P-2), the same is shown as ‘Setipani Tole of Ward No. 5, Budhabare Village Development Committee’ which goes on to show that the documents on which the petitioner has based his allegations are forged and fabricated and cannot be relied upon.” As regards the Population Certificate, it is stated that it contains incorrect details and is of doubtful authenticity.

The version of Respondent No. 3

14. Respondent No. 3 has filed a counter affidavit where apart from objecting to the maintainability of the writ petition in this Court, it is pointed out that a dispute as to citizenship cannot be made the subject matter of a writ petition under Article 226 of the

Constitution. In terms of Rule 30 of the Citizenship Rules, 1955, it is only the Central Government which can undertake an inquiry when a dispute is raised as to citizenship. It is further submitted that the Petitioner has sought to project himself as a farmer and has suppressed the fact that he is a Member of the BJP and a political activist opposed to Respondent No. 3. In the year 2004, he contested elections to the Legislative Assembly of the State of Sikkim and lost. In the elections held in May 2009, the Petitioner contested as a BJP candidate against Respondent No. 3 and lost. It is accordingly submitted that the present writ petition is politically motivated and is an abuse of the process of law. It is urged by Respondent No. 3 that the Petitioner is fighting political battles by creating and fabricating false documents in order to gain political mileage.

15. It is also pointed out by Respondent No. 3 that there are numerous discrepancies in the Population Certificate and the Nepali Citizenship Certificate. The dates of birth of Respondent No. 3 and the family members as mentioned in the Population Certificate were erroneous. This has been demonstrated in a comparative chart in para VI (b) of the preliminary submissions in the counter affidavit. The said Population Certificate was purported to be of the family of Smt Binita Rai, although there is no such person in the

family of Respondent No.3. Further, according to the Petitioner he paid the house tax in the name of Ash Bahadur Rai Chamling whereas the Population Certificate was in respect of the family of one Binita Rai.

16. Respondent No. 3 states that he is a holder of an Indian passport and has been the Chief Minister of Sikkim since 1994. He was born at Yangang, South Sikkim and studied there. Respondent No. 3 resided at Ghurpisey, Namchi, South Sikkim for a very long time and the official residence of the Chief Minister is at Mintokgang, Gangtok, East Sikkim. It is categorically stated that Respondent No. 3 is a citizen of India and he has not applied for or obtained citizenship of Nepal.

17. Respondent No.3 points out that at the time of scrutiny of nomination papers for the elections to the State Legislative Assembly in May 2009, the Petitioner as a candidate of the BJP raised an objection to the nomination of Respondent No. 3 alleging that he was not an Indian citizen. The Returning Officer rejected the objection and passed a reasoned order dated 11th April 2009. A copy of the said order was made available to the Petitioner. However, after the election of Respondent No. 3, the Petitioner did not challenge the order of the Returning Officer. He also did not

file any election petition.

18. Respondent No.3 states that the population of Sikkim consists primarily of three communities – (i) Sikkimese Lepcha (ii) Sikkimese Bhutia and (iii) Sikkimese Nepalis, of which the Sikkimese Nepali community forms a large proportion of the population of Sikkim. It is pointed out that this often results in allegations being made by political rivals that a prominent person either in politics or in government is a citizen of Nepal. It is submitted that the present petition is an abuse of the process of law and ought to be dismissed with exemplary costs.

Petitioner's rejoinder

19. The Petitioner's rejoinder to the counter affidavit filed by Respondent No. 1 reiterates the submissions made in the writ petition. It is alleged that the MHA is deliberately trying to safeguard Respondent No. 3 from the rigours of the law. It is submitted that the MHA was required to seek information from the Government of Nepal in order to ascertain the Nepali Citizenship status of Respondent No. 3. It is submitted that no details have been given about the inputs from the security agencies. Significantly, the Petitioner does not deny that the name of Respondent No. 3 is recorded in the SSR and that he automatically became a citizen of

India in terms of the SCO with effect from 26th April 1975. As regards the Nepali Citizenship Certificate and the Population Certificate the Petitioner asserts that the onus is on the MHA to ascertain the genuineness of the said documents from the Government of Nepal.

20. In his rejoinder to the counter affidavit of Respondent No. 3, the Petitioner does not deny that the Petitioner is a member of the BJP but states that his affiliation with the BJP has “least concern with the factum of the complaint dated 9th June 2008.” It is reiterated that the Petitioner’s complaint ought to have been processed under the CA read with Schedule III of Rule 30 of the Citizenship Rules, 1956.

Submissions of counsel

21. Ms. Pinky Anand, learned Senior Counsel appearing for the Petitioner reiterated the averments made in the writ petition and submitted that the genuineness of the documents enclosed with the Petitioner’s complaint ought to have been verified by the MHA by making enquiries with the Government of Nepal. She referred to Rule 2 of the Schedule III read with Rule 30 (2) of the Citizenship Rules, 1956 and submitted that the MHA should have referred the question to the Indian Embassy in Nepal or to the Government of

Nepal. According to her the report of the DC Sikkim was not reliable since the DC was serving under the Government of Sikkim. She pointed out that despite this Court's order dated 17th July 2009, the MHA failed to indicate what the present status of the Petitioner's complaint was. She further submitted that onus should not have been shifted on to the Petitioner to show that the documents annexed to the complaint were genuine. The case of the Petitioner was that Respondent No. 3 had voluntarily acquired the citizenship of Nepal after becoming an Indian citizen and, therefore, in terms of Section 9 of the CA, he ceased to be an Indian citizen and consequently was disqualified from holding the post of the Chief Minister of Sikkim and Member of the Legislative Assembly of Sikkim. At this stage, the Petitioner would be satisfied if a direction is issued to the MHA to inquire into the complaint dated 9th June 2008 of the Petitioner in accordance with the Act and Rules and verify the genuineness of the documents from the Government of Nepal.

22. Appearing for the MHA, Mr. Girish Pande, learned counsel referred to the averments in the counter affidavit and pointed out that unless the documents enclosed with the complaint were *prima facie* acceptable, there was no compulsion on the MHA to resort to the procedure outlined in the CA for determining if Respondent No.

3 had voluntarily acquired the citizenship of another country.

23. Appearing for Respondent No. 3 Mr. A. Mariarputham, learned Senior counsel submitted that the certificate of Nepali citizenship has no date and that this rendered the said document inherently of doubtful authenticity. It showed Respondent No. 3 to be 44 years old and his being a permanent resident of a place in Nepal. Even, if it were presumed that such a certificate has been issued in 1994, since Respondent No. 3 was born in 1950, the certificate was inherently fallacious since Respondent No. 3 was at all times a resident of Sikkim. Respondent No. 3 was elected to the Sikkim State Legislative Assembly continuously since 1985 and has been the Chief Minister of Sikkim for three consecutive terms. He also refers to the averments in the counter affidavit of Respondent No. 3 to show that the Population Certificate was also a forged and fabricated document. Therefore, neither document could even be *prima facie* considered to be genuine. In the circumstance, there was no obligation on the MHA to further inquire into the complaint made by the Petitioner. It was plain that the Petitioner was a political rival of Respondent No. 3 and was abusing the process of law by filing a false and motivated complaint based on fabricated documents.

The documents forming the basis of Petitioner's complaint

24. A perusal of the complaint dated 9th June 2008 of the Petitioner shows that it is based essentially on the two documents referred to hereinbefore, i.e., the certificate of Nepali Citizenship allegedly issued by an authority in Nepal, a copy of which was allegedly given to the Petitioner by one Shri Fauda Singh Paudyal and a Population Certificate which the Petitioner claims to have obtained from an authority in Nepal on 27th April 2008.

25. A perusal of the citizenship certificate, a photocopy of which is at Annexure P-1 (page 28 of the paper book) shows that it does not bear any date at all. The translated copy of the said certificate (as produced by the Petitioner) reads as under:

“His Majesty’s Government
Office of Chief District Officer
Chandragadhi, Jhapa

Citizenship certificate No. 10371

Nepali Citizenship Certificate

The citizenship certificate has been issued to
Mr. Pawan Kumar Chamling, 44 years, born at
Mechi Zone, Ilam District, Sanichare and
permanently residing at Mechi Zone, Jhapa
District, Budhabare Village Panchyat Ward No.
5, the son of Ash Bahadur Rai, resident of
Mechi Zone, Ilam District, Budhabare Village

Panchayat Ward No. 5, by descent as per the Constitution of Nepal and Clause 3 of Nepal Citizenship Act, 2020 B.S. (1963 A.D.).”

26. The Nepali Citizenship Act is of the Nepali year 2020 BS which corresponds to 1963 AD. It appears that the Nepali calendar is approximately 57 years ahead of the Gregorian calendar. The age of Respondent No. 3 is indicated as 44 years. There appears to be not much of a dispute that Respondent No. 3 was born in 1950. Going by the counter affidavit of Respondent No. 3, his precise date of birth is 22nd September 1950. This would place the approximate date of the purported Citizenship Certificate as some time in 1994.

27. In the first place, it is indeed inconceivable that a document which purports to be a Citizenship Certificate does not bear any date. Secondly, the Petitioner admittedly belongs to the BJP and has contested elections to the Sikkim State Legislative Assembly on the BJP ticket in 2004 and again in 2009. He would obviously know that Respondent No. 3 has been a Member of the Sikkim State Legislative Assembly continuously since 1985 and has been the Chief Minister of Sikkim for three consecutive terms since 1994. Obviously Respondent No.3 has been throughout residing in Sikkim. Yet, the Citizenship Certificate which is sought to be relied upon by the Petitioner shows Respondent No. 3 to be a permanent

resident of 'Mechi Zone, Jhapa District, Budhabare Village Panchyat Ward No. 5.' The Petitioner, more than anyone else, would have realised that the said statement regarding the permanent residence of Respondent No.3 was on the face of it unbelievable and improbable. It rendered the said certificate of doubtful authenticity. Being active in politics in Sikkim, and admittedly being a political rival of Respondent No. 3 it was within the knowledge of the Petitioner that Respondent No.3 was for several years a permanent resident of Sikkim at least from 1985 when Respondent No.3 was continuously elected to the Legislative Assembly and since 1994 when he became the Chief Minister. It is absurd to imagine that Respondent No.3 would in 1994 when he became Chief Minister of Sikkim seek Nepali citizenship. When such a document as the purported Citizenship Certificate was given to him the Petitioner ought to have doubted its genuineness himself. He did not bother to make any further inquiry and straightway presumed that the document was a genuine one. This is plain from the language used in the complaint dated 9th June 2008 addressed to the MHA. The document of Nepali Citizenship as produced by the Petitioner renders it inherently improbable and unbelievable and this was definitely to the knowledge of the Petitioner himself. This could never have been the basis of a complaint against Respondent No. 3 questioning his qualification to continue as the Chief Minister

of Sikkim.

28. Thirdly, the factual report dated 29th January 2009 of the DC has found the said document to be fake and bogus. The relevant portion of the said report reads:

“6. It is pertinent to mention here that the so-called Citizenship Certificate enclosed with the complaint does not even mention the date of issue of the certificate. It is surprising how such an important document like Citizenship Certificate would not have the date of issue mentioned in it. This casts an aspersion on the genuineness and authenticity of the Certificate and proves that the Certificate is fake and bogus.”

29. As regards the Population Certificate, the dated indicated is 2065/1/15 B.S. which corresponds to 27th April 2008. It states that it has been conferred to the “house of Binita Rai.” Respondent No. 3 has categorically stated that there is no ‘Binita Rai’ in his family. The said Certificate refers to one ‘Binita Chamling’ as being the daughter-in-law of Respondent No.3 and the wife of Shri Bishal Chamling, son of Respondent No. 3. The counter affidavit of Respondent No. 3 categorically states that Bishal Chamling married Roshna Gurung in 1997. Further, the Petitioner has not been able to deny the averment of Respondent No.3 that the dates of birth of

each of the persons mentioned in the Certificate is demonstrably erroneous.

30. Again the Population Certificate appears to be of doubtful authenticity and riddled with errors. It can hardly constitute the basis for a complaint against Respondent No. 3 as regards his Indian citizenship. The report of the DC is categorical that the Population Certificate is “fictitious and cannot be relied upon.” It holds that “it is established beyond doubt that the documents produced by the complainant are false, baseless and concocted.”

31. Although the Petitioner sought to dismiss the report of the DC as being unreliable, the Petitioner failed to disclose in his petition, and did not deny in his rejoinder, that the said report was on the basis of the representation made by him to the ECI on 17th November 2008 seeking the deletion of names of Respondent No. 3 and his family members from the electoral rolls of 11–Namchi Singhithang Assembly Constituency Assembly. The Petitioner never challenged the rejection of his representation based on the said factual report of the DC.

32. Learned Senior counsel for Respondent No. 3 is right in his submission that it is not any and every complaint which can

become the subject matter of inquiry by the Central Government under Rule 2 of Schedule III to the Citizenship Rules, 1956. The complaint must have some substance and be based on documents that are *prima facie* reliable. In other words, when the documents which form the basis of the complaint are of inherently doubtful validity the central government would not be obliged to act upon such complaint in terms of Section 9 (2) CA read with Schedule III to the Citizenship Rules, 1956. In any event the MHA did call for inputs from not only the state government but security agencies as well. The Petitioner may be justified in his grievance that the MHA ought to have informed him of the status of his complaint. However, the unreliability of the documents forming the basis of the complaint does not justify the issuance of any direction to the MHA to undertake any fresh enquiry.

Claim of the Petitioner even otherwise untenable

33. There is another factor which renders the claim of the Petitioner untenable. The Petitioner does not deny that the name of Respondent No. 3 figures in the SSR and that by virtue of the SCO he automatically became a citizen of India with effect from 26th April 1975. Given the fact that Respondent No.3 has been repeatedly elected to the Sikkim State Legislative Assembly since 1985 and has been the Chief Minister for three consecutive terms

since 1994, it is highly unlikely that Respondent No. 3 would in 1994 voluntarily acquire Nepali citizenship stating that he was a permanent resident of Nepal.

34. The Petitioner filed this petition describing himself as “an educated farmer”. He has failed to explain why he suppressed the fact that he is a member of the BJP and had contested on the party ticket the elections to the Legislative Assembly of Sikkim in 2004 and 2009. Importantly he suppressed the fact that he contested against and lost the election to Respondent No.3 in 2009. The Petitioner also suppressed the fact that he made a representation dated 17th November 2008 to the ECI seeking deletion of the names of Respondent No.3 and his family members from the electoral rolls and that the said representation was rejected after an enquiry by the DC. The Petitioner also suppressed the fact that in the 2009 elections to the Legislative Assembly of Sikkim the Petitioner unsuccessfully challenged before the Returning Officer the nomination of Respondent No.3 on the ground that he was not a citizen of India. This objection was overruled by a detailed order of the Returning Officer which the Petitioner did not challenge.

Conclusion

35. In the above circumstances, this Court finds substance in the

contention of Respondent No. 3 that the complaint dated 9th June 2008 was made by the Petitioner for gaining political mileage. For a person active in politics in Sikkim, and presumably a public figure, the Petitioner was expected to act responsibly in activating the legal processes. The documents forming the basis of the Petitioner's complaint questioning the Indian citizenship of Respondent No.3 were inherently unreliable. Coming as it did from the Petitioner the complaint dated 9th June 2008 could not have been and indeed was not ignored. However, it resulted in an avoidable waste of precious public resources in examining its tenability.

36. Since the writ petition is on merits found to be without substance, it is not necessary for this Court to decide the preliminary objections as to its maintainability. This Court holds that no ground has been made out by the Petitioner for the grant of the relief prayed for. The writ petition and the pending application are dismissed.

S. MURALIDHAR, J

MARCH 15, 2011
ak