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

+ **W.P.(C) 775/2017**

AZAD BHARAT CONGRESS

..... Petitioner

Through: Mr. Vatsalya Vigya and
Ms. Swetab, Advocates.

versus

ELECTION COMMISSION OF INDIA

..... Respondent

Through: Mr. P.R. Chopra, Advocate.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

ORDER

% **02.02.2017**

1. The present petition has been filed by the petitioner, a political party registered under the Representation of People Act, 1951, praying *inter alia* that the respondent/ECI be directed to allot it a common symbol for contesting the general election to the Legislative Assembly in the State of Uttar Pradesh.
2. On the last date of hearing, none was present on behalf of respondent/ECI.
3. Today, Mr. Chopra, learned counsel appears for the respondent/ECI and states that vide letter dated 16.1.2017, the President of the petitioner was duly informed that the request for allotment of a common symbol cannot be acceded to as the symbol proposed by the petitioner is either allotted or a resembling symbol. Reference in the said letter has been made to para 10B of the Election Symbols (Reservation and Allotment) Order, 1968 (in short

‘the Order’). A copy of the aforesaid letter is handed over by counsel for the respondent, with copy furnished to counsel for the petitioner and taken on record.

4. Counsel for the respondent/ECI submits that the aforesaid Rule envisages that the intention to contest an election is to be given by a party to the respondent/ECI at any time during the period commencing from the date of six months prior to the date of expiry of the term of the Assembly and latest by five clear days before the date on which the notification of the election is scheduled to be issued. He submits that para 10B of the Order states that no proposal for a new symbol shall be entertained by the Commission unless it is made at least three months before the date of expiry of the term of the Assembly of Uttar Pradesh, which is 27.5.2017. In the light of the aforesaid Order, the application of the petitioner for allotment of a symbol cannot be entertained by the respondent/ECI as the date of expiry of the term of the Assembly of Uttar Pradesh is 27.5.2017 and an application under Section 10B of the Order could be made on or before 18.11.2016 and the timeline having already expired in the present case, the request of the petitioner cannot be entertained.

5. Counsel for the petitioner states that after filing the present petition, his client has received a letter dated 16.1.2017 from the respondent/ECI with regard to concession to candidates set up by registered unrecognized political parties for allotment of common symbol under para 10B of the Order. He submits the name of the petitioner finds mention at Sr. No.25 of the aforesaid letter.

6. The said letter would not be of any assistance as it permits the petitioner to participate in the elections for the Legislative Assembly of

Uttarakhand for the year 2017 and not for the Legislative Assembly of Uttar Pradesh.

7. As a result, the prayer made in the petition is declined. The writ petition is dismissed.

HIMA KOHLI, J

FEBRUARY 02, 2017
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