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

+ **W.P.(C) 5431/2024**

BHARTIYA RASHTRIYA JANSATTA & ORS. Petitioners

Through: **Mr. Abhishek Krishna and Mr. Vivek,
Advts.**

versus

THE ELECTION COMMISSION OF INDIA & ORS....Respondents

Through: **Mr. Ankit Agarwal, SC for ECI along
with Mr. Ashish Shukla, Adv. for
ECI/R-1 and 3.**

**Mr. Chetan Sharma, ASG, Mr.
Apoorv Kurup, CGSC along with Mr.
Amit Gupta, Mr. Akhil Hasija and
Mr. Vikramaditya Singh, Advts. for
R/UOI.**

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

16.04.2024

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CM APPL. 22444/2024 (Exemption)

Allowed, subject to all just exceptions.

Application stands disposed of.

W.P.(C) 5431/2024

1. The present petition seeks to highlight certain alleged anomalies in the Election Symbols (Reservation and Allotment) Order, 1968 and seeks, *inter-alia*, as under:

“a. Issue an appropriate Writ in the nature of Mandamus directing the Election Commission of India to expeditiously decide on the representation given by the Petitioner concerning the reform and equitable allocation of electoral symbols to both recognized and



unrecognized political parties, ensuring that the writ petition and its contents are considered integral to the Petitioner's representation."

2. Learned counsel for the Election Commission, who appears on advance notice submits that the representations submitted by the petitioners with regard to the issues sought to be raised in the present petition filed as Annexures-P2 and P4 to the present writ petition, have been duly disposed of by the respondent/Election Commission *vide* communication dated 12.04.2024. A copy of the said communication has been handed over during the course of hearing. The same reads as under

"Sub: - Representation from Group of Registered Unrecognized Political Parties- basic amendment to the Election Symbols (Reservation & Allotment) Order, 1968-regarding.

Sir/Madam,

I am directed to refer to the representation received from your Registered Unrecognized Political Party (RUPP) wherein it is requested to amend the Election Symbols (Reservation & Allotment) Order, 1968 and to state that no merit has been found in the said representation due to the following reasons:

- i. In this connection, it is to mention that as far as distinction between recognised and unrecognised political parties to the extent that recognised political parties get reserved symbols and unrecognized parties have to choose from free symbols, is concerned, the Hon'ble Supreme Court in Subramanian Swamy v. Election Commission of India, (2008) 14 SCC 318 has held that such distinction is valid.*
- ii. Further, the process of allotment of Common Symbols to RUPPs under the provision of the Para 10B of the Symbols Order, 1968 commences 6 (six) months prior to completion of tenure of Legislative Assembly of the State or House of the People, as the case maybe. Therefore, allotment of Common Symbol under Para 10B of Symbols Order provides for sufficient time to RUPPs to campaign along with their Common Symbols.*

Yours faithfully,

(Jaydeb Lahiri)
Secretary"



3. In view of the aforesaid, no further orders are required to be passed in the present petition. The same is accordingly, disposed of.

4. However, liberty is granted to the petitioner to assail the aforesaid communication/s dated 12.04.2024 in accordance with law.

SACHIN DATTA, J

APRIL 16, 2024/cl