

(1435)

Letter dated 28.7.74 to Sri Madhu Mehta

I have received your notice to attend the National Executive ~~and~~ 4th of August, 1974. I am trying to my best to get accommodation in the train and come, but it may not be possible also. Recently I had to undergo an operation in my ear at Vellore from where I have returned only 3 days back and it is not advisable to undertake long journey if it cannot be comfortable. I have therefore thought it proper to send you this note mentioning some points which I would like that the Executive Committee and the National Convention to consider.

1. A note regarding proposal, if any, to dissolve the party is separately attached.

2. We had our State Executive Committee meeting on 27th and 28th and the State Council meeting on 27th afternoon. No where the question of sending delegates was discussed and in fact there has been no election of delegates at all in Orissa. Our party constitution lays down that the delegates to the National Convention are to be directly elected by the members. Our President in his letter has also expressed deep anxiety that the delegates coming to the National Convention are proper representatives. But there has been a gross violation of the party constitution and no delegate has been elected in Orissa at all.

In the circumstances I would like to lodge this protest that persons who may come and claim to be delegates are really no delegates, ~~it is~~ and have no competence to speak anything as delegates. It is really unfortunate that the Orissa Unit has been functioning in this manner.

On 28.7.74 I submitted a note of dissent to be incorporated in the proceedings of the Executive Committee, but the President did not agree to do the same.

I would have like to send a note in more detail, but due to pressure of arrear works it has not been possible because I have to post it to-day at any rate and there is no time left at my disposal. Hope you will kindly excuse for the absence in case I fail to come and give due consideration to the points mentioned by me.

NOTE

Dissolution not necessary for merger

A proposal for merger can be accepted only during the existence of the Party. Once it is dissolved there remains no nucleus to adopt any proposal for merger. If at all, a decision can be adopted to merge and then dissolve but in that case the manner of dissolution has to be well pronounced and in any case without a provision for dissolution in the party constitution such a decision by the National Convention is incompetent.

There is no escape from amendment of the party Constitution first. The National Convention cannot act in a hurry which will be unconstitutional, undemocratic and arbitrary and implications violative of the fundamental rights particularly regarding association guaranteed in the Constitution of India.

No provision in Swatantra Party Constitution for dissolution.

The ensuing National Convention of the Swatantra Party perhaps proposes to adopt a decision dissolving the Swatantra party to merge in the new party in the offing. Apart from the question of merits of the merger proposal there is much to say against the proposed move for dissolution of the Swatantra party.

(1) There is no provision in the Constitution of the Swatantra party for its dissolution. In the absence of such a provision no wing of the party, not even the National Convention is competent to move for its dissolution.

Regarding the powers and functions of the National Convention nothing has been expressly said, but it is not difficult to gather and define about its scope of exercising power.

The clause regarding 'Object' lays down that the object of the party is to work in pursuance and furtherance of the principles laid down by the preparatory convention of the Swatantra party, and policies and programmes adopted from time to time. So one of the functions of the National Convention can be to speak about principles of the party.

(2) The State or Regional Convention is empowered to discuss and decide about policies to be adopted appertaining to the State or Region. So, on the same analogy the National Convention can discuss and decide about policies at the National level i.e. for the whole country.

(3) One specific function reserved for the National Convention in clause 19 is amendment of the Constitution according to ~~the~~ prescribed procedure.

Dissolution which means death blow, can neither be regarded as question of policy or programme or to be in pursuance or in furtherance of any policy or programme and by no stretch of imagination can be brought within the ambits of the powers of the National Convention. It is a distinct subject and ~~the~~ has to be distinctly provided for in the constitution. So, in the absence of this provision in the party constitution the National Convention cannot arrogate these powers to itself.

PRESS STATEMENT

My attention has been drawn to a statement of Sri P.K. Deo to the Press to the effect that I supported the merger and dissolution of Swatantra party in the Orissa State Council meeting and now only I am changing my opinion which is surprising to him.

In the State Council meeting first of all I made the point that there should have been a definite resolution to deliberate upon and in the absence of one, one has only to guess about the purpose of the meeting and speak.

Then I said that multiplicity of parties ~~is~~ is not helpful for healthy growth of democracy, no doubt, and efforts towards bringing about a National alternative is welcome; but it has to emerge and does not necessarily require extinction of parties as pre-condition. It does not also necessarily mean that there will be only two parties from the very beginning. Parties may come together in the first instance and then decide about the process of emergence. Even in case of full merger dissolution is only subsequent affair according to proper procedure. And in the case of Swatantra party, apart from the undesirability of dissolving it for good reasons, I pointed out that the party constitution does not provide for dissolution and any decision to that effect by any body without first amending the Constitution will only be incompetent, invalid and inoperative. After dwelling upon it at some length I concluded saying again that the efforts for National Alternative I welcome, but vehemently oppose any proposal for dissolution of the Swatantra party if there be any at this stage as unwarranted, improper and unauthorised. In fact many other speakers also spoke in the same strain.

I cannot think that Sri P.K. Deo did not understand all that I said at the Orissa State Council meeting of the Swatantra party on 27.7.74 at Bhubaneswar and therefore, regard his statement as deliberate attempt by him to misrepresent me before the public.

"The General Council of the Swatantra Party" according to its own resolution "met in Delhi and discussed the getting together with various parties with a view to creating National Alternative". This was in the month of June, 1974.

Speaking about the General Council's Resolution to the National Convention it was said -

"The General Council has approved of the idea of the formation of a National Alternative by coming together of all political parties other than the Ruling Congress and the Communists".

But when the National Convention was called upon to resolve the words used were "forming a National Alternative by the amalgamation of all political forces, other than the Ruling Congress and the Communists".

What actually the words used on different occasions mean it is for the experts to interpret; but I hope, one will admit that even 'amalgamation' admits co-existence of diverse elements or constituents and cannot by any implication warrant dissolution or extinction of parties for amalgamation. Thus, dissolution of the Swatantra party, apart from being unconstitutional and therefore inoperative, has also been arbitrary.

I had not been able to attend the National Executive meeting and National Convention held on 4th and 5th of August and had sent a letter and my notes to Sri Madhu Mehta Vice-President & Acting General Secretary, copy of which is attached for perusal.

I could not go to attend the National Executive meeting that was held on 28th of August, 1974 and had sent a letter to Mr. Pileo Mody, copy of which is attached for perusal.

It is gross misrepresentation of me to say that I supported merger and dissolution in the Orissa State Council meeting of the Swatantra party and am changing my opinion only. The resolution of the State Council was perhaps moved and adopted at the fag end of the meeting when only about 10 or 15 members were present and others had left. The resolution as adopted also only says that the Council approved the proposal for National Alternative, which ~~an~~ by no stretch of imagination mean dissolution. Over and above, I have already explained that any such decision is unauthorized by the Swatantra party constitution and therefore incompetent and inoperative.

8.9.1974.

(Harihar Patel)