

Draft Resolution for National Convention

Swatantra Party at Delhi

August 4 & 5, 1974

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The National Executive meeting in Delhi on April 7 and 8 reviewed the State of the Nation on the basis of which it arrived at certain conclusions and recommended a programme of action, which inter alia stated

"The Party will continue to explore all possibilities to bring about a two-party system in India with a view to remove the chaos prevailing in our political life and the confusion created in the minds of the electorate. In this connection, the Swatantra Party urges all political parties and politicians to cooperate in this endeavour and to work for the common good."

In furtherance of this, the National Executive authorised the President to pursue this objective, consulting any two senior members of the Party that happen to be present in Delhi at the time. Various negotiations were held from time to time in which the President, Mr Madhu Mehta, Mr R N Singh Deo, Mr Dandekar, Mr H M Patel, Mr Loknath Mishra and Mr D N Patodia participated. A proposal was framed and submitted to the General Council on June 9 and 10th. The General Council debated the pros and cons of the issue, and in its wisdom unanimously passed the following resolutions.

"The General Council of the Swatantra Party met in Delhi and discussed the proposal of getting together with various parties with a view to creating a National Alternative. It also discussed the draft programme prepared by the leaders of the new group.

The members of the General Council generally agreed that the present political situation in the country demands that an all out effort should be made for the formation of a National Alternative with a well-defined and clearcut alternative capable of fulfilling the urges and aspirations of the people.

In this context, while it welcomes the attempts made by various parties to come together with a view to ultimately provide a National Alternative it feels that in so far as the Swatantra Party is concerned, the final decision can only be taken at the National Convention. This could give a fair opportunity to as many members as possible to study the proposed programme and carefully examine all the pros and cons of the proposal. The General Council therefore has decided that a copy of the draft programme should be circulated to all the members of all the State Councils.

The General Council also authorises the President to fix the date and venue of the National Convention at the earliest, after giving due notice."

In pursuance of this Resolution, the National Convention of the Swatantra Party has been called to decide on the future of the Swatantra Party.

The General Council has approved of the idea of the formation of a National Alternative by the coming together of all political parties other than the ^{Liberal} Congress and the Communists. It has welcomed the efforts made in this direction by various parties to come together on a common platform.

In view of this, the Seventh National Convention resolves:

THAT this National Convention of the Swatantra Party welcomes the idea of forming a National Alternative by the amalgamation of all political forces, other than the ^{Liberal} Congress and the Communist Parties and approves the impending formation of the New Party namely Bharatiya Lok Dal (The Peoples' Party of India). And notes with gratification the fact that it has evolved a common programme acceptable to the

RESOLVED that the final declaration will be announced by the president, Mr. Piloo Mody, after the National Executive has reviewed developments if any

6. ~~Sardar Harbhajan Singh~~ - vice President, President Uttar Pradesh Unit.
7. ~~Maharawal Laxman Singh of Durgapur~~ - President Rajasthan Unit.

that the Swatantra Party will cease to exist and will merge itself with the New Party, The Bharatiya Lok Dal (The Peoples' Party of India), or whatever name the New Party may give itself, as and when it comes into being, to further the objectives of the Swatantra Party. Such of the existing members who do not wish to join the New Party, would be free to carry on such non-partisan activities, which eschew all elections as they may choose, in any name other than the "Swatantra".

RESOLVES FURTHER that the President of the Party Mr Piloo Mody is authorised to intimate to the Chief Election Commissioner about the dissolution of the Party from the date as mentioned above and request the Chief Election Commissioner to freeze the symbol of the Party to avoid its unfair exploitation.

RESOLVES FURTHER that the National Convention authorises the President of the Party Mr Piloo Mody, to take all necessary steps and decisions to implement the aforesaid resolutions.

EXPARTE:

Mr. Manubhai Amarsey.

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CASE FOR OPINION.

Brief facts necessary for the counsel to give opinion are as under:-

1. Swatantra Party was formulated by the Late Shri Rajgopalachari sometime in the year 1960. There is a General Council. Members to the General Council are elected from every State and at present the strength is about 165 members.

2. There is a National Executive of the Party which consists of the President, five vice-presidents, General Secretary and Joint Secretaries, Treasurers. The function of the National Executive is to decide day to day policy and important matters are referred to General Council. General Council meets twice a year whereas the National Executive as and when necessary. The party has National Convention which is to be held once in two years. The National Convention decides matters of importance and the matters inter alia referred by General Council. The National Executive or General Council can call for the National Convention.

3. A meeting of the National Executive held in Delhi on 7th and 8th April 1974 reviewed the state of the Nation on the basis of which it arrived at certain conclusions and recommended a programme of action which inter alia stated:-

" The Party will continue to explore all possibilities to bring about a two-party system in India with a view to remove the chaos prevailing in our political life and the confusion created in the minds of the electorate. In this connection, the Swatantra Party urges all

political parties and politicians to cooperate in this endeavour and to work for the common good".

4. In furtherance of the above, the National Executive authorised the President to pursue this objective consulting any two senior members of the party who may be present in Delhi at the time. Various negotiations were held. A proposal was framed and submitted to the General Council. General Council in its meeting held on 9th and 10th June 1974, debated the pro and cons of the issue and unanimously passed the following resolutions:-

"The General Council of the Swatantra Party met in Delhi and discussed the proposal of getting together with various parties with a view to creating a National Alternative. It also discussed the draft programme prepared by the leaders of the new group.

The members of the General Council generally agreed that the present political situation in the country demands that an all out effort should be made for the formation of a National Alternative with a well-defined and clearout alternative capable of fulfilling the urges and aspirations of the people.

In this context, while it welcomes the attempts made by various parties to come together with a view to ultimately provide a National Alternative it feels that in so far as the Swatantra Party is concerned, the final decision can only be taken at the National Convention. This could give a fair opportunity to as many members as possible to study the proposed programme and carefully examine all the pros and cons of the proposal. The General Council therefore

has decided that a copy of the draft programme should be circulated to all the members of all the State Councils.

The General Council also authorises the President to fix the date and venue of the National Convention at the earliest, after giving due notice."

5. In pursuance of the said resolution of the General Council, it became necessary to call a National Convention of the Party. The National Convention is to be held in Delhi on 4th and 5th August 1974.

6. The resolutions which the President desires to move at the National Convention are as under:-

"That the National Convention of the Swatantra Party be and hereby approves the formation of a National Alternative by amalgamation of political parties, other than the Congress and the Communist Parties."

7. On the other hand Mr. Minoo Masani and other members of the Party are intending to oppose the said resolutions which is evident from the two resolutions which have been circulated by the said Members which are brief posts.

8. It is apprehended by the President of the Party that even if at the National Convention by requisite majority it is resolved that the Party should dissolve, some of the members may still continue to use the symbol of the Party and to carry on political or non-political activities in the name of "Swatantra". The question also arises at the National Convention as to what will be the fate of the property which includes some cash and the tenancy rights and furniture.

9. As regards the Symbol of the Party in the parliamentary elections in the year 1971, the Election Commission had -- reserved the symbol "Star" for Swatantra Party and so was the position held in Assembly Elections held in the year 1972. The relevant rule regarding "symbol" is rule 5 of the Conduct of Election Rules 1961 framed by the Central Government pursuant to the powers vested under section 169 of the Representation of the Peoples Act, 1951. So far as the Election Commission is concerned, no sooner a party ceases to exist, the symbol of that party becomes a free symbol and can be adopted by any other candidate or party. This so happened when Praja Socialist Party whose symbol was "Hut" merged with Socialist Party whose symbol was "Tree", and was called Samyukta Socialist Party. The symbol of the new party was "Hut". Due to difference of opinion, there was a break in the Samyukta Socialist Party and the Praja Socialist Party separated. Praja Socialist Party applied for its original symbol "Hut" which was objected to by the Samyukta Socialist Party. It was held by the Supreme Court that Praja Socialist Party was entitled to retain its original symbol and -- Samyukta Socialist Party were not entitled to the said symbol "Hut". However, Swatantra Party can bring an action though it may cease to exist against another party or candidate who may attempt to use the said symbol on the ground that it seeks to exploit the party's name which has ceased to exist.

10. In view of the above, the President would like the Learned Counsel to give his opinion on the following points:-

- (a) Whether even if at the National Convention it is resolved that the party has ceased to exist, can some of the members of the erstwhile party use its flat, symbol, flag, party offices and other assets?

- (b) Whether the draft-resolutions mentioned above are in proper form and whether any other resolution or resolutions are necessary to be passed at the National Convention.
- (c) What would be the legal position of the assets belonging to the Party on its dissolution? Whether the new party Bharatiya Lok Dal will be entitled to the assets of the party?
- (d) Any other point of significance on which the Learned Cons Counsel thinks fit to give his opinion.

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RESOLVED that from such date as the President Mr Piloo Mody may declare in consultation with ~~a committee consisting of the National Executive~~

2. Mr Madhu Mehta, Vice President and Acting General Secretary, ex-President Maharashtra Unit.
3. Mr H M Patel - Immediate Past President of Swatantra Party and Gujarat State Unit.
4. Mr P K Deo - Chairman Parliamentary Group, Leader in the Lok Sabha, President Orissa Unit.
5. G. Latchanna - Vice President, President Andhra Pradesh Unit.
6. Sardar Harbhajan Singh-Vice President, President Uttar Pradesh Unit.
7. Maharewal Lakman Singh of Dungarpur - President Rajasthan Unit.

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