

2522

HIGH COURT

O.O.C.J.

Writ Petition No.14 of 1995.

1. Swatantra Party
(Maharashtra) ... Petitioners
and Another

Versus

1. Union of India
and Others ... Respondents.

RULE NISI

Dated this 12th day of January 1995.

RAJIV PATIL
Advocate for Petitioners
6-A, Krishna Kunj,
Shivaji Park,
Dr.M.B.Raut Marg,
Bombay-400 028.

*Rule Nisi
sent to
8/2/95*

DUPLICATE

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 14 OF 1995.

In the matter of Articles 14,
19 and 226 of the Constitution
of India;

and

In the matter of 42nd Amend-
-ments to the Constitution of
India;

and

In the matter of Section 29(A)
of the Representation of the
People Act 1951 in respect of
registration of Political
parties.

Swatantra Party (Maharashtra))
through its General Secretary)
Shri L.R. Sampat having their)
registered office at Sassoon)
Building, 143, M.G. Road,)
Bombay: 400 023. ..) ... Petitioners.

Shri S.V. Raju, Citizen of India)
Editor, "Freedom First" 4th flr.)
Maneckji Wadia Building, 127,)
Mahatma Gandhi Road, Bombay:)
400 001.)

Versus

1. Union of India having its)
office at Legal Department,)
Aaykar Bhavan, Maharshi Karve)
Road, Bombay.)
2. Chief Election Commissioner)
of India having its office at)
Nirvachan Sadan, Ashok Road,)
NEW DELHI: 110001.)
3. The Secretary, Election)
Commission of India having)
its office at Nirvachan Sadan)
Ashok Road, NEW DELHI: 110 001) ... Respondents.

TO

1. Union of India
2. Chief Election Commissioner of India,
3. The Secretary, Election Commission of India.

THE RESPONDENTS ABOVE NAMED.

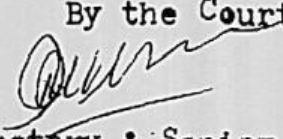
WHEREAS the Petitioners abovenamed have presented a Petition to this Hon'ble Court under articles 14, 19 and 226 of the Constitution of India, praying for reliefs as stated in the accompanying copy of the petition AND WHEREAS the same is registered in this Hon'ble Court as Writ Petition No. 14 of 1995 and this Court has on the 12th day of January 1995 Ordered Rule to issue. Hearing Expedited.

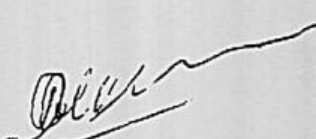
TAKE NOTICE that hearing of the said petition will take place on the 9th day of March 1995 or on any 9 subsequent day which to this Hon'ble Court may deem convenient when you may show cause (if any, you have) against such petition by filing an Affidavit in the Office of the Prothonotary and Senior Master, High Court, Bombay and by serving a copy thereof upon the petitioners or their Advocates at least four days before the returnable date mentioned above.

AND TAKE NOTICE that if no appearance is made on your behalf either in person or by an Advocate of this Court duly authorised and instructed by you, the petition will be heard and determined in your absence.

WITNESS: SHRI ANANDAMOY BHATTACHARJEE,
Chief Justice at Bombay aforesaid this 12th day of January 1995.

By the Court,


for Prothonotary & Senior Master.


Sealer

This 3rd day of February 1995.

RAJIV PATIL,
Advocate for Petitioners,
6-A, Krishna Kunj,
Shivaji Park, Dr. M.B. Raut Marg,
Bombay: 400 028.

राज्य न्याय, न्याय.

o/c.

In the High-Court of Judicature at Bombay
Ordinary Original & Constitutional Jurisdiction

Writ Petition No. of 1994

Lodging No. 2602/94.

पृ. 6, 11

SWATANTRA PARTY
(MAHARASHITRA)
AND ANOTHER

..... Petitioners

Versus

UNION OF INDIA AND OTHERS

..... Respondents

I N D E X

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**In the High-Court of Judicature at Bombay
Ordinary Original & Constitutional Jurisdiction
Writ Petition No..... of 1994**

In the matter of Articles 14, 19 and 226
of the Constitution of India

And

In the matter of 42nd Amendments to the
Constitution of India

And

In the matter of Section 29 (A) of the
Representation of the People Act 1951 in
respect of registration of political parties.

**SWATANTRA PARTY
(MAHARASHTRA)**

through its General Secretary
Shri L. R. Sampat having their
registered office at Sassoon
Building, 143. M.G. Road,
Bombay - 400 023.

..... Petitioners

SHRI. S. V. RAJU,
Citizen of India,
Editor, 'Freedom First'
4th floor, Maneckji Wadia
Building,
127, Mahatma Gandhi Road,
Bombay 400 001

Versus

1. UNION OF INDIA

having its office at Legal
Department, Aaykar
Bhavan, Maharshi Karve
Road, Bombay

2. CHIEF ELECTION COM-
MISSIONER OF INDIA

having its office at
Nirvachan Sadan, Ashok
Rd., New Delhi-110001

3. The Secretary

Election Commission of
India having its office at
Nirvachan Sadan, Ashok
Road, New Delhi-110 001

..... Respondents

To:

The Hon'ble the Chief Justice and the other Hon'ble Judges of the
High Court of Judicature at Bombay.

The Humble Petition of the Petitioners abovenamed:-

MOST RESPECTFULLY SHOWETH :

1. The petitioner No.1 is a political party which came into existence at a Preparatory Convention held at Bombay on 1st and 2nd August, 1959. A copy of the Statement of principles' adopted at the said Convention as also a copy of 'Statement of Policy' adopted at the National Convention of the party at Patna on March 19/20, 1960 are jointly annexed herewith and marked as Annex 'A' to this petition. The petitioner seeks registration as a political party under the Representation of the People Act, hereinafter called the Act for the sake of brevity. The petitioner No. 2 is a citizen of India, age 61 years, and is the Editor of a quarterly journal 'Freedom First'. He fully subscribes to the views of the Petitioner No. 1 Party and is a member thereof. The petitioners approach this Hon'ble High Court challenging the provisions of Section 29 (A) of the Act as being violative of fundamental rights and, consequently, ultra vires the Constitution of India.

2. The Respondent No.1 is the Union of India and the Respondent Nos. 2 and 3 are the responsible officers of Government of India in relation to the Elections to the Parliament and Legislative Assemblies and Legislative Councils throughout the Country. The petitioners are

seeking reliefs against all the Respondents and hence they are necessary parties to this petition.

3. The petitioners state that, though the Preamble to the Constitution of the India as enacted in 1949, the people resolved:

"... to constitute India into a Sovereign Democratic Republic..."

The 42nd amendment to the Constitution of India, imposed in 1976 upon the ideals of the people of an earlier generation by introducing three new tenets. The relevant part of the Preamble to the Constitution was consequently changed to read:

'.. to constitute India into a Sovereign Socialist Secular Democratic Republic....'

4. The petitioners state that, the amendment to the Preamble of the Constitution was subsequently reflected by the introduction in 1988 of a new Section 29 (A) in the Representation of the People Act 1951.

5. The petitioners state that, in June 1989, the Election Commission issued a notification that under Section 29 (A) of the amended the Act, requiring that the then existing political parties to register within 60 days from June 15 i.e. by August 15 and that any party that came into existence after June 15 should do so within 30 days. A copy of the press report that appeared in the Times of India, June 17, 1989 is annexed with the present petition and is marked as Annex 'B'.

annexture 'P'

annexture

6. The new Section 29 (A) of the Act as amended in 1988 calls on the political parties seeking registration to ensure that their memorandum of rules and regulations contained a specific provision that they would bear true faith and allegiance,

- a. to the Constitution of India;
- b. to the principles of socialism, secularism and democracy;
and
- c. uphold the sovereignty, unity and integrity of India.

7. The petitioners state that, on August 1, 1989, the petitioner No.1 - Swatantra Party (Maharashtra) wrote to the Election Commission seeking registration 'without prejudice to his right to question the

1/8/89

4
Constitutional validity of the amendment to the Act making registration mandatory. A copy of the said letter is annexed to the present petition and marked as Annex 'C'.

Annexure

8. By a letter dated August 12, 1989 bearing No.56/Misc/89/3439 the respondent No.3 wrote to the petitioners No.1 stating that for the registration of any organization that the memorandum or regulations of the organization should contain a specific provision - as required by Sub-Section 5 of Section 29 (A) of the Act - that the body or association shall bear true faith and allegiance, inter alia, to the principle of socialism (emphasis supplied). The said letter is annexed with the instant petition and marked as Annex 'D'.

Annexure

9. The Petitioners state that, Further, on June 28, 1994 the petitioner No. 1 wrote to the Election Commission wishing to know if his application for registration will be accepted by the Election Commission if he rejected the socialism part of Sub-Section 5 of Section 29 (A) of the Act. A copy of letter dt.28.6.1994 is annexed herewith and marked as Annex 'E' to this petition.

Annexure

10. The Respondent Election Commission replied to this by its letter dated 14-9-94 reiterating the provision i.e. Section 29 (A) (5) of the Act and demanding compliance therewith. On this occasion also, as on the previous occasion, the letter was accompanied by a copy of Sec.29(A) of the Representation of the People Act. A copy of letter dated 14.9.1994 is annexed herewith and marked as Annex 'F'.

Annexure

11. The stipulations of Section 29 (A) create problems of conscience and principles which the petitioner No. 1 party does not wish to circumvent by prevarication and falsehood as has been done by other parties in the country. For example, the extreme leftist revolutionary parties have apparently constituted themselves by a memorandum which contains a provision to the effect that they bear allegiance to the principle of democracy; crassly communal parties have sworn allegiance to secularism and the ruling party despite its declared objective of liberalisation and globalisation has pledged or at any art continues to pledge its allegiance to the principle of socialism. Section 29 (A) poses no problem that can not be overcome by recourse to pliable conscience. There is no provision for any verification of the truth of the memoranda or regulations nor is there any instance of registration being denied to or withdrawn from any party on the basis of proven

Socialist!
Democratic
Communal!
Secular
Liberal!
Socialism.

Annexure

falsehood of the provisions in the memorandum of association of any party. The petitioner No 1 party has no wish to resort to such unconscionable procedure followed quasi-universally.

Annexure

12. The petitioner No.1 has no difficulty whatsoever in confirming its allegiance to the principles of democracy and secularism as also to uphold the territorial integrity of the Republic. It encounters insurmountable difficulty in declaring allegiance to the principle of socialism. The term socialism has not been defined in the Constitution of India or in the said Act. The requirement to declare allegiance to a tenet so shrouded in vagueness can serve no possible purpose. If the provisions contained in the Constitution represent, in the view of the authors of the stipulation, the essential content of socialism, the specific requirement of the Section 29 (A) is unnecessary since the oath of allegiance to the Constitution as by law established would more than over the requirement.

Annexure

On the other hand, if the dispositions of the Constitution of India are entirely socialistic but are a little less or a little more, there would arise a contradiction between the declaration of allegiance to the Constitution and that to the principle of socialism.

Annexure

13. The petitioners submit that, it is significant that the Third Schedule to the Constitution which contains the texts of oaths to be taken by candidates to the election of Lok Sabha and of the State legislatures has not been modified following the amendment to the Preamble to the Constitution and of the amendment to the Act. The texts of oaths required to be taken by individual candidates continue to be limited to swearing true faith and allegiance to the Constitution of India as by law established without any reference to the principle of socialism. The oath of allegiance to the principle of socialism is insisted upon only in case of associations of persons wishing to be registered as a political party. The petitioners further submit that the provisions of the Act which deal with qualification and disqualification for membership to Legislature does not impose any such precondition. Nor do the provisions which lay down the requirements of a valid nomination lay down any such precondition. The effect of the relevant provisions of the Act is that whereas individual candidates i.e. those not set up by a registered political party may contest elections without having to bear any allegiance to the principles of socialism, parties which seek registration for the same purpose are required to do so. It is submitted that qua the purposes of the said Act, namely

democracy

secular

socialism.

to confer and regulate the right to contest election, there is no intelligible differentia between political parties and individual candidates. The provision i.e. Section 29 (A) which only requires political parties to bear allegiance to the principles of socialism is wholly discriminatory and void being in violation of Article 14 of the Constitution of India. That socialists have the possibility of organising themselves as political parties while those having problems of conscience in declaring adherence to socialism should be stopped from organising themselves into a political party is wholly discriminatory and hence, clearly in breach of the fundamental right of association.

14. The petitioners' grievance is not against the amendment to the Preamble incorporating therein a reference to socialism. The Constitution contains many dispositions not all of which need be uniformly acceptable to any given individual or association of individuals. What is essential is that a citizen must have the right and the possibility at par with any other citizen to act and to canvass by constitutional means, for changing the dispositions of the Constitution in accordance with his inclinations howsoever unreasonable they may look to others at a given point of time. Section 29 (A) of the Act prevents committed and sincere non-socialists from agitating as an organised force in favour of getting the Constitution modified in their favour by entering the Legislature - State Assemblies as also Parliament - and influencing the persuasions of the other members of the Parliament.

15. Thus, without going into the question of the precise definition of the term socialism, the right of a non-socialist citizen to hold his personal views and be entitled to all the privileges enjoyed by the socialist fellow-citizens can not be denied. In particular his access to the legislative body as an individual and as a party can not be hindered by denying him the privileges of registration as political party. The term socialism has been applied to a large spectrum of theories over the last two centuries. Saint Simonism based on compassion for the less fortunate and suffering fraternity, Owenism as a serious attempt at organisation of the weaker sections into economically viable units, Fabianism with its mighty intellectual prestige provided by G.B. Shaw, Sidney and Beatrice Webb, Guild Socialism advocated by G.D.H. Cole, Welfarism providing a misplaced justification for equal distribution of wealth, European type of liberal, democratic, welfarist socialism, Keynesian model entrusting the responsibility of ensuring fuller levels of employment and investment, third world

Also see
AIR 1983 SC
1404

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states resorting to planing as an instrument of accelerating growth and equality, soviet type of bolshevik growth and equality, soviet type of bolshevik scientific socialism based on dialectical materialism, historical determinism, class conflict, theory of surplus value and aimed at industrialisation, nationalization, planning and dictatorship of the proletariat and last but not the least the Maoist, Guevarist, Castroist, Royist, etc. provide only part of the spectrum of ideas that have been identified with the word socialism. By virtue of the vast expanse and the political and economic power of the erstwhile Soviet Union and the use of the word socialist in the nomenclature of the soviet block countries, the word is now understood to mean, in popular parlance, a system associated with the soviet model. Other schools of socialist thought are identified by the appendage of qualifications like democratic, Christian, liberal. The term socialism used without qualifications is interpreted to refer to the system of thought propagated by Marx, Engels supplemented by the lesser prophets like Lenin, Stalin etc.

Also see
AIR 1983 SC 130
Nafum vs. C.O.P.

16. The Concise Oxford dictionary defines the word socialism as Political and economic theory of social organization which advocates that community as a whole should own and control the means of production, distribution and exchange; policy or practice based on this theory. It is quite clear that the word socialism in its unmixed form means much more and much less than a system based on justice, liberty, equality and fraternity that is envisaged in the Constitution of India. It, therefore, follows that oath of allegiance to both the Constitution of India and to socialisms are in good party mutually contradictory.

17. The petitioners submit that, certain traits of the mainstream theory of socialism are clearly opposed if not repugnant to the basic principles and structure of the Constitution of India; for example, class-contradiction, atheism, dictatorship of the proletariat.

18. An argument may be made that the term socialism is so vague that the term socialism is so vague that no individual should have any difficulty in adhering to it or should feel any need to dissociate himself from it. The obvious corollary is that the declaration of allegiance to the principle of socialism is unnecessary. Further, the argument is far from true. The essential part of all brands of socialism is the notion of the paramountacy of society over an individual of social decision-making over individual behaviour. This concept of

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paramountacy stands in ruins today. It is now accepted quasi-universally that the mankind has, till to date, not invented anything better than the market mechanism for arriving at best decisions for the society as a whole, that holistic social decision-making is a masquerade for a few individuals hijacking the system to their advantage, that individuals are unique and hence equal, that individuals pursuing fulfillment of their unique personality interact amongst each other to produce the most desirable results and that there are no Masters neither spiritual nor economic with superior lights.

19. In most countries of the world the socialist are collapsing under the weight of their own non-viability. Even the Government of India has admitted the errors of its socialist past and professes to be pursuing the path of market oriented economies. It makes little sense in this era to deny non-socialists the possibility of organising themselves as a party in order to be able to contest political elections.

20. The position of the petitioners is thus diametrically opposed to the basic minimum of the world-view, economics, sociology and politics that is associated with the term socialist. The petitioners are, therefore, approaching this Hon'ble Court to seek relief from being forced to change his convictions or to have recourse to deceit in order to be able to exercise the basic democratic human rights embodied in the fundamental rights of being able to form a party with a view to contesting elections.

21. Section 29 (A) (5) of the Act suffers from the vice of vagueness in that it compels a association to era allegiance to the principle of socialism without any attempt to define or even indicate the meaning of the term socialism. The Section is, therefore, illegal and unconstitutional being arbitrary and, therefore, violative of article 14 of the Constitution of India.

22. Sub-Section 5 of Section 29 (A) of the Act, in as much as it compels an association or a political party to bear allegiance to the principle of socialism as a precondition to its applying for registration as political party is ultra vires Article 19 (1) (a) and (c) of the Constitution of India. The said Section has the effect of hindering and inhibiting the formation of a political party with full advantages of registration and its functioning in the political arena of the country unless it conforms to a certain point of view. The said provision is not saved by sub-clauses 2 and 4 of article 19 in that it has no bearing on the sovereignty and integrity of India or public order.

23. Section 29 (A) makes a hostile and invidious discrimination between political parties which bear allegiance to the principles of socialism and those that do not. It is submitted that qua the purpose of registration of political parties i.e. for the purpose of contesting elections and conferring certain rights and privileges and imposing certain liabilities in relation thereto, there is no intelligible differentia between the two kinds of political parties. It is further submitted that qua the election law the differences in beliefs or political philosophies which parties may hold can not become a ground for discriminating between them so as to confer certain privileges only on parties holding one set of beliefs as long as the beliefs do not contradict or adversely affect the sovereignty and integrity of India or public order. Such a difference, as is sought to be emphasized by Section 29 (A) (5) is without any basis and has no nexus with the purpose of the Act which is avowedly an Act which provides for "the conduct of elections to the Houses of Parliament and to the House or Houses of Legislature of each State, the qualifications and disqualifications for membership of those Houses, the corrupt practices and other offences at or in connection with such elections and the decisions of doubts and disputes arising out of or in connection with such elections".

24. The petitioners further submit that qua the aforesaid objective of the Act, there is no valid difference in individuals contesting elections and parties doing so. There is thus an arbitrariness and a hostile discrimination writ large in the scheme of the Act in that it enables individual candidates contesting as independents to contest elections even though they do not bear allegiance to the principles of socialism but prevents an association of such individuals from doing so as a registered political party unless it bears allegiance to the said principles. The petitioners submit that this constitutes an unreasonable and unjustified denial of the advantages of registration only because as an association the said individuals are non-socialists.

25. The petitioners submit that the restriction which Section 29 (A) imposes on political parties nullifies the very essential and basic feature of the Constitution of India namely democracy and the fundamental right of freedom of association and of thoughts and expression on citizens for the purpose of preserving the democracy.

26. It is submitted that the right to amend the Constitution so as not to change its basic structure having been upheld and socialism not being part of the basic structure of the Constitution, the restriction imposed by Section 29 (A) has the effect of virtually denying the

right to attempt an amendment of the political philosophy of the Government of the day reflected in the Constitution of India. The petitioners therefore approach this Hon'ble High Court under Article 226 of the Constitution of India for appropriate writ, direction and/or order in nature of writ for the reliefs prayed herein. The petitioners are entitled to all the reliefs prayed in the petition and this Hon'ble High Court has jurisdiction to try and entertain this petition.

27. The petitioners have not filed any other petition either in this Hon'ble Court or in the Supreme Court of India in this matter.

28. The petitioners state that the Petitioners have their offices at Bombay. The Respondents have their offices at Bombay. The cause of action arose at Bombay, and therefore, the Hon'ble High Court therefore has jurisdiction to try this Petition on its Original side.

29. The petitioners state that their rights are protected under the Constitution of India and the Petitioners are entitled for the reliefs prayed herein.

30. The petitioners crave leave to add to, to alter, to amend, to delete, to vary any of the grounds urged hereinabove if necessity may demand or occasion may require.

31. The Petitioners, therefore, pray that this Hon'ble court be pleased to:-

A) issue a writ of Mandamus, or a writ in the nature of mandamus or any other appropriate writ order or direction and thereby strike down Sub-Section 5 of Section 29 (A) of the Representation of the People Act 1951 as being ultra vires the Constitution of India to the extent it requires the memorandum and rules and regulations of the association or body desiring registration to contain a specific provision that such an association and body shall bear true faith and allegiance to the principle of socialism;

B) direct, thereupon, the Respondent No.3 to register the Petitioner No.1 as a political party under the Representation of the People Act, 1951 forthwith with law;

 C) grant interim reliefs directing the Respondent No.3 to register the Petitioner No. 1 as a political party under

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the Representation of the People act 1951 in accordance with law;

D) grant any other relief which this Hon'ble Court deems fit in the facts and circumstances of the case.

E) To award costs of the petition.

And for this Act of Kindness, The Petitioners as in Duty Bound Shall Pray.

Bombay:

Dated : 15th day of December, 1994

L. R. Sampat
R. M.
Petitioners

A. S. Gaur
Advocate for the petitioners

Verification

I, L. R. Sampat, General Secretary of the Swatantra Party (Maharashtra) of the Petitioner No. 1 above named do hereby solemnly declare that I am aware of the facts of the case and I am authorised to file this petition. I say that the contents of paras 1 to 26 are true to my own knowledge and information and the contents of paras 27 to 31 being legal submissions and prayers are true to my belief and I believe the same to be true.

Solemnly declared at

Bombay

this 15th day of Dec. 1994

Identified by me

A. S. Gaur
Advocate for the Petitioners

Sd/-
Before me

DRAFT - AMENDMENT.

A. The Petitioners state that they are contesting ~~at~~ forthcoming elections of ~~the~~ Legislative Assembly of Maharashtra and they are holding candidates in all the 288 constituencies ^{in Maharashtra}. The Petitioners state that ~~as all~~ the candidates of Petitioners require common symbol to contest the election, they being the ~~members~~ ^{candidates} of Petitioners No. 1. The Petitioners state that if the candidates are not granted common symbol for elections they will be at disadvantage and therefore the Petitioners are entitled for Interim Relief, as prayed.

Pending the hearing and final disposal of ^{the matter}
C-1) This Hon'ble Court be pleased to
grant interim relief directing the
Respondents Nos. 2 and 3 to
grant common symbol to the
candidates of the Petitioners No. 1
contesting elections to Legislative
Assembly of Maharashtra commencing
from 10.1.1995

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Member of Advocates Welfare Fund
Welfare Fund Stamp Affixed.

In the High-Court of Judicature at Bombay
Ordinary Original & Constitutional Jurisdiction
Writ Petition No. of 1994
(District : Bombay)

1. Swatantra Party (Maharashtra) through its General Secretary, Shri L. R. Sampat, having their registered office at Sassoon Building, 143, Mahatma Gandhi Road, Bombay 400 023.
2. Shri S. V. Raju, Citizen of India, Editor, "Freedom First", 4th floor, Maneckji Wadia Building, 127, Mahatma Gandhi Road, Bombay 400 001.

..... Petitioners

Versus

1. Union of India having its Legal Department at Ayakar Bhavan, Maharshi Karve Road, Bombay.
2. The Chief Election Commissioner of India, Nirvachan Sadan, Ashok Road, New Delhi.
3. The Secretary, Election Commission of India, Nirvachan Sadan, Ashok Road, New Delhi.

..... Respondents

To,

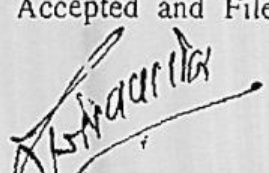
The Prothonotary & Senior Master
High Court, Bombay.

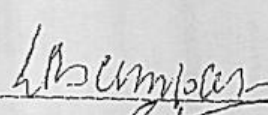
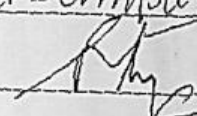
Respected Sir,

We, the Petitioners abovenamed do hereby appoint and authorise Mr. Rajiv Patil, Advocate, High Court to act, appear and plead for us in the above said matter.

In witness whereof we set our hands to this writing this 14th day of December 1994.

Accepted and Filed.


RAJIV PATIL
Advocate, High Court,
6-A, Krishna Kunj,
Shivaji Park,
Dr. M. B. Raut Marg,
Bombay 400 028.

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In the High-Court of Judicature at Bombay
Ordinary Original & Constitutional Jurisdiction
Writ Petition No. of 1994

SWATANTRA PARTY
(MAHARASHTRA)
AND ANOTHER

..... Petitioners

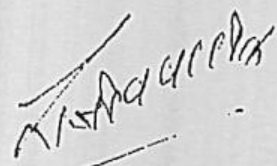
Versus

UNION OF INDIA AND OTHERS

..... Respondents

Memorandum of Address:

C/o. Rajiv Patil
6-A, Krishna Kunj,
36, Shivaji Park,
Dr. M. B. Raut Road,
Bombay 400 028.


Advocate for Petitioners.

14.

In the High-Court of Judicature at Bombay
Ordinary Original & Constitutional Jurisdiction
Writ Petition No. of 1994

SWATANTRA PARTY
(MAHARASHTRA)
AND ANOTHER

]

..... Petitioners

Versus

UNION OF INDIA AND OTHERS

..... Respondents

List of Documents on which Petitioners will rely :

1. Statement of Policy dated 19/20th March, 1960 of the Petitioner No.1 (Exhibit 'A')
2. Press Report dated 17th June, 1989, appeared in The Times of India (Exhibit 'B')
3. Notification issued under Section 29A of the Representation of People Act, by the Election Commission in June 1989.
4. Letter dated 1st August, 1989 by the Petitioners to the Election Commission (Exhibit 'C')
5. Letter dated 12th August, 1989 from the Secretary, Election Commission, to the Petitioners (Exhibit 'D')
6. Letter dated 28th June, 1994 by the Petitioners to the Election Commission (Exhibit 'E')
7. Letter dated 14th August, 1994 from the Election Commission to the Petitioners (Exhibit 'F')
8. Any other correspondence prior to the Petition.

Al-Aqurbi

Advocate for Petitioners.

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To Prosperity Through Freedom

The Swatantra Party's

Statement of Policy

Adopted at the National Convention in Patna on March 19 & 20, 1960

TO PROSPERITY THROUGH FREEDOM

INDIA is a great country. Its people are a great people. We believe that it has a great future. In order that this greatness may be effectively and fully realised, the country must have a government capable of evoking the best that is in the people.

Today, twelve years after the attainment of national independence, the lot of the common man has scarcely improved. Our people still lack a sufficiency of food, of shelter and of clothing. Poverty is the lot of far too many. Prices are soaring. Cities are overcrowded; slums abound; people sleep on the pavements. The position of the middle class is more precarious than ever. A sense of frustration is becoming universal.

These past twelve years have seen a steady deterioration of the national fibre, due to the placing at a discount of the inherent qualities of fortitude, courage and industry and a subordination of these to the decrees of a small group of politicians who have been able to exercise an excessive authority irresponsive to public opinion by banking on the past services of the Indian National Congress.

The people, who keenly desired to have good government, have watched with resentment the growing maladministration, partisanship and corruption in the country, the manoeuvres and intrigues of those in power, their indifference to grievances, the destruction of social bonds by thoughtless social legislation and the neglect of the religious spirit which inspires selfless conduct, the increase in crime and the deterio-

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ration of law and order in various parts of the country. At the same time, they have heard with growing cynicism the incessant preaching of austerity and selfless service by those who disregard them in the administration, resulting in general demoralisation. To this sapping of the national moral fibre must be added the recent humiliation of submission to foreign occupation of part of our soil.

The members of the ruling party, many of whom are conscious of the failure of their government's basic policies and of the need for a change, are unable to give expression to their feelings due to misguided loyalty, careerism and hero-worship. Parties that adhere to various Statist programmes in the field of socio-economic policy, playing on the same theme with slight variations, have in effect become mere satellites of the ruling party.

The time has come for India to face the challenge of this unfortunate situation. It is in this context that the Swatantra Party has come forward to provide the nation with a clear-cut alternative way of life and government.

II

Common Aspirations

Certain objectives and aspirations are common to all of us who loyally accept the Constitution of the Republic and the processes of parliamentary democracy. This area of agreement covers the aim of a fuller and richer life for the people through the development of agricultural and industrial production. It also covers the equitable sharing of the benefits of this increased production. A further point of agreement is the need speedily to improve the lot of our people consistent with the maintenance of basic human freedoms. Inherent in this is also the need for a measure of planning on the part of public authorities and economic institutions without taking away the rights inherent in parliamentary democracy and in the concept of individual liberty.

It is agreed that there should be equality of opportunity for all without distinction of religion, caste, occupation or political affiliation, while those who are working under handicaps, such as Harijans, Adivasis and other Backward Classes should be protected and helped so that they may speedily raise themselves to a better condition.

The Swatantra Party shares in these aspirations and is wedded to the pursuit of these objectives as much as any other party. Where we part company from the party now in office is over the method of achieving these accepted goals.

III

The Current Pattern

Judging from the policies and pronouncements of the ruling party, its basic philosophy is a fundamentalist belief that the State or Government is the main instrument of economic and social advance; that, in consequence, basic industries should be owned by, and strategic points of economic vantage must be in the occupation of the State; that the State sector of the economic must constantly grow until, in the end, the free sector is reduced to inconsequential proportions; that the peasantry must somehow be persuaded to extinguish themselves in big "cooperative" or collective farms; that the lion's share of capital investment must go into heavy industries; that, while this process is in train, the people must be denied their reasonable consumption needs; and that, to secure these ends, Parliament should be subordinated to the party in power and the party itself to the decisions taken by a coterie of planners directed by a group of powerful party bosses.

While it is probably true that large number of members of the ruling party do not subscribe to this philosophy, the fact of the matter remains that their opposition is not expressed or is ineffective and the aims which are actually being furthered are those outlined above. It is because of this that the establishment of the Swatantra Party became inevitable.

The Swatantra Party rejects the approach outlined above which has been taken from the methodology of totalitarian planning. It is not in accordance with the national genius of our people and the aspirations which they have deeply cherished. The Swatantra Party believes that totalitarian planning and democratic ways are incompatible and that to sacrifice the free way of life is to adopt psychologically and socially wrong means to serve an end very doubtful of being attained.

Every developing economy has a basic choice to make whether it will develop through a regimented system or through a free one. That choice cannot be postponed nor can it be evaded. A collectivised economy cannot coexist for long with political democracy.

Totalitarian economies rely for increasing capital investment on crippling taxation and savings forced out of the people by the ruthless cutting down of the daily necessities of life. In a free economy, the State does not usurp total control over raw materials, manufacture, distribution and consumption to impose its will. Regimented economies lead to the flogging of machinery and equipment and the reluctance of individuals to work for long periods under conditions of stress devoid of human dignity. The overhead expenditures for constant supervision

are uneconomic and increase considerably the cost of production. Further, totalitarian production, not being responsive to consumer demand, is inferior in its quality. The increase in national production brought about in this manner in no way improves the standard of living.

In India, where the ruling party has foresworn on the one hand a free market economy and on the other hand is not qualified for a totalitarian dictatorship, there is the danger of falling between two stools. The government has not adequate control over the allocation of resources. Government has, therefore, little control over savings, yet it aims to operate Soviet type planning. In the grip of such a dilemma arising out of its own confused thinking, the government has launched on a policy of extensive borrowing at home and abroad, of excessive taxation, and, through sheer desperation, of misuse of its currency printing presses. In its efforts at pursuing pseudo-socialist policies, the government has had to expand controls and increase non-productive expenditure. It has gone on an orgy of borrowing, mortgaging the country's future. It has taken over business concerns in spite of its inability to manage them efficiently and economically in order to exploit them for revenue purposes regardless of the consequent rise in the cost of living.

These measures have acted as deterrents to saving, investment and production, whether in agriculture or in industry. The availability of credit to agriculture has been impaired, efficient and thrifty farmers have been deterred from sinking capital in their land and have, on the contrary, been impelled to resort to precautionary fragmentation of larger holdings to escape the threatened legislation for "ceilings". As a result, agricultural output has been retarded instead of being increased.

Industry has been subjected to a wide range of governmental interference and regulation. If, despite governmental policies, industrial output has somewhat risen, it is due to the vitality of the productive forces of the Indian people. In conditions of import restrictions and a large protected market, almost any output would sell and bring returns, regardless of economy and of the interests of the consumer. Figures of *per capita* income during the past three years present a picture of virtual stagnation.

Equally unfortunate have been the social effects of governmental policies. Owing to the rise in prices, agriculturists, wage earners and fixed income groups are adversely affected. Inflation inevitably produces a regressive and an anti-social shift in the distribution of the national income. Social injustice also results from controls, particularly from exchange controls and import restrictions which have resulted in undisclosed monopolies and have been rightly described as the worst form of disorder.

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The benefits of the price gaps resulting from controls accrues to people in the upper income groups, persons with political influence, unscrupulous officials and others obtaining illegal payments for procuring the issue of import licences, traffickers in licences and smugglers. The resources of the State are directed into futile administrative and policing expenditure, while the law of diminishing returns is set in motion by excessive taxation.

The misguided activities of the government in the field of finance, currency, import restrictions, international payments and controls result in a pattern of distribution of the national income which is worse than before Independence.

The grinding effect of these combined pressures of stagnant income, rise in prices and excessive taxation has been particularly heavy on the middle classes which depend predominantly on fixed incomes. The middle classes, the backbone of society, are being victimised in the process.

The concentration of economic and political power in the hands of the State proceeds apace. This concentration is more dangerous than any other. The tyranny of the State, which is a total tyranny, is the biggest single threat to freedom.

The moral standards of the nation are simultaneously being undermined. Controls create scarcity in the market and give rise to corruption. Respect for law is being undermined.

The record of State Corporations and enterprises in India is evidence of the failure of the policy of nationalisation and of the incompetence of the government to run business and industrial undertakings. Such enterprises have, with exceptions, been marked by a wasteful use of resources, an unwillingness to take risks and quick decisions, red tape, a disregard of costs, and rigidity of action.

The cumulative effect of these policies has been to create an all pervading sense of uncertainty leading to the drying up of initiative and enterprise in farms, shops and factories alike.

Statism is threatening many other spheres of life. In matters of education, independent experiments are being stifled by rigid educational codes. Text books are sought to be nationalised, introducing an element of indoctrination. Universities are losing academic independence.

In the name of secularism and by refusing grants in aid, institutions, despite the Fundamental Rights, are discouraged from giving religious education. Gifts to religious institutions are taxed. Attempts

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are made to convert religious orders into official parasites. Trust funds or funds appertaining to religious trusts are diverted to secular uses. In the name of saving religious institutions from maladministration, they are being placed under the control and direction of government.

All India Radio, which is State monopoly, and the official censorship of films tend to permit only conformist talks and monitored expression, whether political or other. Documentaries, officially sponsored, focus attention on ministers and encourage hero-worship. Official patronage or fear of government is sought to be used to influence the Press which, it must be said to its credit, has so far preserved its independence with commendable tenacity.

Thus Statism is seeking directly or indirectly to absorb many activities which in a free society should be the concern of the people.

IV

Our Way

The Swatantra Party places faith in the Indian people - in their intelligence, initiative and enterprise. It has faith in the God-given strength in each individual. It believes that, by harnessing these attributes and combining them with the aspirations of the people, a fuller and richer life can result more quickly and without the tensions and strains that other methods involve. The initiative, enlightened self-interest and urge to self-expression of the individual citizen should be mobilised for the good of the community. "We cannot help men permanently by doing for them what they can do for themselves". The Party believes that, in a free society, those moral and material values which are the basis of a good life can best be produced by the people themselves.

Increased production is the result of sustained individual effort and economic surpluses derived from savings where individuals produce more than they consume. This process is dependent on the individual being encouraged to pursue his vocation urged by his own talent and interest.

The Party considers self-employed citizens to be most valuable members of the community and will therefore do all it can to safeguard the rights and freedoms of the peasant-proprietor, the artisan, the shop-keeper and the professional man.

No system has yet been devised which gives a nation an opportunity to improve its material environment without detriment to the sense of liberty as fully as do the laws of a free society, where the

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consumer is the arbiter of the pattern of production, the worker has the right to choose his job and, when dissatisfied, to deny his labour, the investor is entitled to consume or to save and determine the field of his investment, and the producer to choose his vocation. This way of life was guaranteed to the citizen by the Constitution in the Fundamental Rights which include the three human freedoms, namely the freedom to choose one's occupation; secondly, to pursue it without restraint within the limits of the Rule of Law; and lastly, to dispose of one's income between spending and saving.

A basic human trait is the sense of property. On this, along with its corollaries of competition, natural rewards for effort and natural penalties for sloth, and the tremendous incentive that goes with the assurance that the citizen is guaranteed the full enjoyment of the results of his exertions must necessarily be based our economic system.

The Party does not stand for what is known as *laissez faire*. It stands for free endeavour regulated by such State action as may be necessary for preventing and punishing anti-social activities and for the protection of the weaker but useful elements of society. The role of the State is a vital one of creating and sustaining an environment which the genius of the people can fulfil itself. In pursuit of this end, the Party stands for maximum freedom for the individual and minimum interference by the State.

It is a role of the State to foster a sense of moral obligation and to encourage the pride satisfaction and fulfilment felt by individuals in serving others - a heritage of our social and religious traditions - without taking over the management of their lives. The business of the State is not business, but government.

Energy results from differentials in level as much in the moral and economic fields as in the field of physical dynamics. We must, at the lower levels, strengthen the urge to improve one's lot, and at the other, encourage the sentiment of solidarity and the readiness to share one's possessions. These two urges are a feature of a healthy society. While there should be a constant movement upwards and downwards as a result of free will, State compulsion towards levelling tends to atrophy the spirit of enterprise at one end and to freeze that of compassion at the other. The Party, therefore, adheres to the principle of Trusteeship enunciated by Mahatma Gandhi. It stands for a system of free enterprise restrained as well as enriched and reinforced by a sense of social obligation.

While the Swatantra Party rejects out-right the current pattern of centralised and top-heavy planning based on totalitarian programmes, it is not opposed to planning as such. Planning must, however, be carried

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on within the limits of the Constitution without relaxing the care for freedom guaranteed in it. Above all, it must know where to stop.

The party is opposed to the domination of purely materialistic philosophy of life which thinks only in terms of economic standards without reference to the content or quality of man's life. The Party believes, that, while every step should be taken to achieve material advance, equal or not greater attention is necessary to develop those spiritual values which have been the source of the vitality of our people. It will do all it can to foster and strengthen those spiritual values which are part of our culture and tradition.

In pursuance of its fundamental principles, the Swatantra Party will make no discrimination against benefactions and charitable endowments made by donors and testators for the benefit of any community or communities of their choice but will encourage the spirit of giving for the benefit of the less privileged when the giving is either in general terms or for particular communities or for particular purposes. The Party hopes that ultimately all the underprivileged will thus be covered of free choice is given rather than by insistence on all or nothing.

v

Needs of the Common Man

The Swatantra Party holds that the first duty of a government is to meet the common man's needs of food, clothing, housing and water in adequate measure.

The Swatantra Party holds that self-sufficiency in food and raw materials is the first condition of the economy of a country like ours. Food being the principal item in the common man's budget, the production of food should be the first concern of the State. The ruling party has completely failed in this primary duty. Self-sufficiency in food production has been sacrificed to spectacular attempts to achieve long-term projects. Essential needs like fertiliser, seed and water have not been made available to the peasant in adequate measure.

Our per capita consumption of cloth, which was 16.2 yards for 1958, dropped to 15.8 for 1959 as against 16.96 yards for 1938-39. The necessary steps to stimulate production in the textile and handloom industry have not been pursued with the vigour they demand.

The handloom, which plays a significant and sizable part in the supply of cloth and in national employment, has not been as adequately and effectively protected as it should be. The Swatantra Party will, in

pursuance of its policy of protecting the weaker but productive sections of society, take all steps necessary effectively to protect the handloom as well as the stimulate production in textile mills.

The policy of imposing harassing restrictions pursued by the government retards the normal growth of house-building in both urban and rural areas. The Swatantra Party will initiate a big house-building scheme both in rural and suburban areas.

The ruling party has failed to provide adequate water supply. Minor irrigation works, which would provide adequate water supply for drinking, sanitation and agriculture in the rural areas, have been subordinated to a policy of putting up huge irrigation projects. At the beginning of the first Five Year Plan, only a small proportion of the urban population was served by protected water supply. In spite of the two Plans, very little has been done to secure additional supply. The position in the rural areas is much worse. The Swatantra Party will seek to remedy this.

VI

Agriculture

The paramount need for increasing food production can best be attained through the self-employed peasant proprietor who is interested in obtaining, and equipped to obtain, the highest yield from his land.

The Party will take all steps necessary to prevent waterlogging as well as erosion, the depletion of essential organic elements and the stripping of millions of acres of forest contributing to the violence of floods. This situation calls for capital investment and for the application of modern techniques.

Collectivisation cannot solve the problem posed by the increase in population. The Indian farmer is perfectly competent to do his job. While the average size of the Indian farm is unfortunately small, it is not as small as that of the farms in Japan which produce almost the highest yield of rice per acre in the whole world. The primary problem is therefore not that of the size of the farm but of giving the peasant the facilities and assistance he needs to undertake intensive cultivation of his land. The Swatantra Party stands for giving every kind of help to the agriculturist in the form of water, fertiliser, seeds and tools.

Alongside of this, the peasant must be provided with material and psychological inducements for greater production, in particular by making it possible for him to obtain cheap credit and a remunerative

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and steady price for agricultural produce in parity with the price of the goods that he has to buy. The Swatantra Party takes note of the dissatisfaction amongst the rural population that adequate attention has not been paid to their needs and will endeavour to remove all impediments that stand in the way.

In the field of taxation as in that of prices the Swatantra Party stands for a fair deal to the agriculturist. Today the bulk of India's indirect taxation has to be borne by the agriculturist. He has also to pay Land Revenue, whether or not he is able to make a profit from his land. The Swatantra Party stands for a reform of the Land Revenue system and the diverse laws relating to irrigation in order to reduce the burden on the peasant and provide for suitable changes with reference to the conditions prevailing in various States including the earmarking of a part of land revenue for meeting expenditure in connection with insurance against crop failure due to uncontrollable causes. It is opposed to new levies on the peasant in the way of surcharges and 'betterment' taxes.

The ruling party, which has failed singularly to deal with the food problem, is seeking, in an effort to divert attention from the real issues, to advocate Marxist policies embodied in its Nagpur Resolution recently confirmed at its Bangalore Session. The problem of yield is not a problem to be solved by changing ownership, and the Swatantra Party is convinced that the Nagpur policies will, if carried out, decrease food production and reduce peasant proprietors to landless serfs labouring on collective farms like those in communist countries.

The Party believes that the cooperative movement can only serve its objective to the extent that it remains a voluntary and non-official one. The Party will therefore work for freeing cooperative societies from the present practice of official control and political exploitation. Decentralisation of political power can become a reality only if such organisations as cooperative societies and village panchayats are freed from governmental control and political influences.

9 | The Swatantra Party believes in consumer cooperative societies, cooperative banks, industrial cooperatives and multi-purpose cooperatives for the agriculturist. The Swatantra Party considers the use of the phrase 'Joint Cooperative Farming' in the Nagpur Resolution of the Congress to be calculated to mislead the people. The Nagpur Resolution envisages the pooling of land which is repugnant to the peasant's inherent sense of ownership. It will not be possible for our farmers to give up the family system and democratically and cooperatively to manage joint farms. Once the agriculturist loses his individual ownership, possession and utilisation of his farm, the free and self-respecting peasantry which is the bulwark of democracy will have gone

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and bureaucrats will have acquired a stranglehold on the economic, social and political life of the rural areas. The so-called right to "property" mentioned in the Resolution will become meaningless and worth no more than the scrap of paper on which it is inscribed. In point of fact, the Nagpur Resolution will replace the old zamindar with one big super zamindar, namely, the government.

The Swatantra Party holds that the claim of the ruling party that joint farming can be introduced on a voluntary basis is impracticable. The history of the world provides no example of peasants who own land having parted with it willingly. The Prime Minister's assurance on the floor of the Lok Sabha that no legislation will be introduced in connection with joint farming has already been violated by provisions in measures introduced in certain States by governments manned by the Congress Party. The Prime Minister's statement in Parliament that he would not scruple to discriminate against the farmer who is not willing to pool his land and use every form of administrative, legislative and economic pressure show only of turning off the supply of water to his farm shows that no reliance can be placed on these academic promises not to coerce the peasantry. The Swatantra Party warns the peasants of India against this danger to their ownership and possession of land which has come down to them from their forefathers from time immemorial or has been acquired from their hard earned savings. The Party stands by the peasants of India in this matter and will protect them against any attempt to filch the land away from them under the beguiling slogan of 'Joint Cooperative Farming'.

The party deplores the attempt to misuse the concept of cooperation for advancing a system of collective farming with multiple ownership and bureaucratic management because it is calculated to confuse the minds of the people and hinder the spread of the principles of genuine cooperation. The Swatantra Party proposes to educate the people on the distinction between genuine cooperation and State-sponsored and state-controlled projects which are being presented to the people in the name of cooperation.

The Swatantra Party rejects the scheme of ceilings on land holdings as likely further to injure efficient farming and the maximisation of the movement of food grains to industrial and urban centres. This proposal is incapable of providing land to the bulk of the landless. On the contrary, the ridiculously low ceilings proposed without reference to the laws of succession threaten to reduce the rural population permanently to the status of hewers of wood and drawers of water.

Ceilings are a device calculated to weaken the political power and capacity of the peasantry. This move will soon aggravate the problem

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of uneconomic farms so as to prepare the ground for compulsory collectivisation.

The attempt at setting up a State monopoly of the Foodgrains Trade enunciated at Nagpur has already failed. If persisted in, it will create yet another attack not only on lakhs of shopkeepers and dealers throughout the country who are engaged in the business of warehousing and distribution but also on millions of peasants. The establishment of a State monopoly in the Foodgrains Trade would mean that the peasant will have no freedom of choice in regard to negotiating the price of his crop and will be forced to submit to the arbitrary fixing of prices by the government monopoly under political pressure and influenced by considerations of their own.

Joint Farming, State Monopoly of the Foodgrains Trade and Ceilings will accentuate rural unemployment. There is need for special efforts to rectify the increasing pressure of population on the land by providing those who are unemployed or underemployed with other gainful employment. Such employment can only be found in industry, big and small, spread over the country and manufacturing goods to meet the people's wants.

VII

Industry and Trade

As opposed to the obsession with gigantism that dominates current governmental thinking and planning, the Swatantra Party holds with Gandhiji that a great part of the process of industrialisation must take place in a decentralised distribution of industry throughout the countryside. While a certain amount of urbanisation and organised industry is essential, equally important is the taking of industry to the villages of India where it can operate increasingly with the aid of electric power. The Party stands for the preservation of the freedom of the small and self-employed artisans, craftsmen and traders and will work for a decentralised distribution of industry. The Swatantra Party therefore stands for a programme of all round rapid industrialisation with a view to develop national resource and provide employment. It believes in a balanced development of capital goods industries, organised consumer goods industries and rural industries that afford supplementary employment in the processing of the products of agriculture.

While not opposed to the development of heavy and basic industries commensurate with the availability of resources, the Swatantra Party rejects the false and lopsided priority given to heavy industry to the neglect of cottage, organised and light industries producing consumer goods.

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The Party believes that the free choice of the producer, the investor, the worker and the consumer must be given due place and importance. The Party believes in the incentives for higher production and expansion inherent in competitive enterprise, with adequate safeguards for the protection of labour and against unreasonable profits, prices and dividends in these cases where there is no competition or where competition is not adequate to secure the necessary corrective.

While the Party believes in a mixed economy where State and free enterprise work side by side in the service of community, it stands for the restriction of State enterprise to such heavy industries as are necessary to supplement private enterprise in that field, such national services as railways, and the starting of new enterprises which are difficult for private capital and initiative to establish. The Party is opposed to the State entering the field of trade and disturbing free distribution and introducing controls and official management and monopoly which lead to the inefficiency, waste and corruption of an ever-expanding official army.

Wherever the State enters the field of industry or business, the Swatantra Party is of the view that it should not be given a monopolistic position but should show results facing competition on equal terms.

The Party would regard such government ownership of industry as has been undertaken as only a transitional and limited device and it would not hesitate, wherever necessary, to undo such harmful measures.

In particular, the Swatantra Party will aim at reducing taxes and loans by giving up many State enterprises which are neither essential nor remunerative. This will also have the effect of reducing the present high prices which are inflated by government levies and loans. To the extent private enterprise relieves State enterprise, the burden of finance will be properly transferred from the common people who are not qualified to bear it to the enterprising rich who are willing to bear it.

The Party is gratified to note that, even in the few months that have passed since its establishment in August 1959, trends of thought in this country and throughout the world are vindicating the policies set out in its Statement of Principles adopted on August 2 at the Preparatory Convention in Bombay. The results of the British General Election last October and the general feeling that the slogan of nationalisation had caused the socialist defeat, the breaking away of democratic elements from the Socialist Party in Japan and the jettisoning of State Socialism by the German Social Democratic Party at its special Convention during November 1959, are only some of the indications of a worldwide trend against centralised, bureaucratic State Capitalism

and towards the restoration of the primacy of the laws of the free market. In particular, the Party is gratified to note in the new German Socialist Manifesto the following echo of its own thinking: "Free choice of consumer goods and services, free choice of working place, freedom for employers to exercise their initiative and free competition are essential conditions of a Social Democratic economic policy. The autonomy of trade unions and employers associations in collective bargaining is an important feature of a free society. Totalitarian control of the economy destroys freedom. The Social Democratic Party therefore favours a free market wherever free competition really exists. Where a market is dominated by individuals or groups, however, all manner of steps must be taken to protect freedom in the economic sphere. As much competition as possible - as much planning as necessary."

VIII

Labour

The Swatantra Party will insist on securing for the labouring classes a voice in the determination of national policies. The Swatantra Party will strive for the economic progress, social betterment and cultural advance of agricultural, industrial and office workers. The Swatantra Party will pay particular attention to a programme of workers' education which will instill in them a wider outlook, make them conscious of their responsibilities as well as their rights and help them to realise that they are interested not only in questions of wages and allowances, but in all matters of affecting the well-being of society.

The Swatantra Party accepts the workers' right to organise themselves and through these organisations to improve the conditions of life and work. Strong and responsible trade unions are an integral part of a democratic industrial order. Workers must be encouraged and helped to build their own unions and through them to bargain collectively with their employers regarding the terms and conditions of their employment. The Swatantra Party is not satisfied with the present state of trade unions. Most of them are managed by outsiders and many of them are playthings in the hands of political parties. The Party is keen that trade unions should grow as independent organisations of workers controlled and managed by themselves. Being opposed to the domination of trade unions by political parties, the Swatantra Party will not join the race to establish control over trade unions, though its members will be always ready to help in all possible ways.

The Swatantra Party stands for consultation and closer association between the workers and the management of industrial concerns. The

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Party believes that what is important in this matter is the spirit of mutual trust and cooperation and not any particular machinery. What needs to be developed is the spirit of partnership between workers and employers.

The Swatantra Party will lay emphasis on the internal settlement of disputes and will seek to reduce external interference to the barest minimum. The State should not normally interfere in industrial disputes, but should develop and keep ready machinery for conciliation and mediation to which parties in a dispute can turn in case of need. The State may also, whenever necessary, appoint courts of inquiry into the facts and merits of any dispute so that informed public opinion may exert its influence on the parties to the dispute.

Collective bargaining connotes the right to strike; if bargaining does not end in settlement, both parties must be free within the law to adopt any course of action that they think is necessary and desirable. In a free society, workers cannot be compelled to work for employers on terms and conditions that are not acceptable to them. They must have the right of individual as well as collective withdrawal of labour. It is, however, desirable in the larger interests of society to minimise, as far as possible, the resort to strikes by workers and to lock-outs by employers. That objective can be achieved through the development of collective bargaining and through the acceptance of the method of voluntary arbitration for the settlement of disputes. The Swatantra Party will strive for the acceptance of these procedures by employers and employees.

The Swatantra Party stands for a good wage for a good day's work. Both the wage as well as the work should be rightly determined and provision should be made for the increase in wage along with the increase of productivity and the prosperity of industry. Workers must be also assured safe, sanitary and pleasant conditions of work and an adequate measure of social security through provision for sickness, unemployment and old age. It is also necessary to attend to the workers' need for housing.

One of the fundamental problems before the country is that of unemployment. The Swatantra Party will devote particular attention to the opening up of new avenues of employment. The Party will endeavour to find work for all unemployed and able bodied persons seeking it in State projects of road-making, afforestation and construction of buildings and reservoirs, as well as in private projects of housing and small industries subsidised to the extent necessary to facilitate absorption of unemployed manpower. The Party does not favour the use of machines where time is not of essence and human labour can be employed instead.

The Party is particularly concerned about the conditions of agricultural labourers which are deplorable and it will strive to improve these conditions. The Party also believes that cultivable land still in the possession of the government awaiting development should not be reserved for joint farming but should be allowed in sizeable holdings to as many agricultural workers as possible to enable them to become self-employed peasant proprietors. The problem of the landless labourer is in many cases an aspect of the problem of unemployment. The Swatantra Party will try to help the opening of new avenues of employment.

In accordance with the economic policies for which the Swatantra Party stands, namely, the employment of the bulk of available resources in agriculture and light industries, in both of which vast scope for expansion exists, the Indian national income should increase at a much faster rate. Maximisation of output would overcome both poverty and unemployment simultaneously. It is the Party's conviction that, if the economic policy it has put forward are accepted and vigorously pursued, they will bring prosperity and employment no other policies can. In the last analysis, the welfare and advancement of workers are dependent upon the progress and prosperity of society as a whole.

IX

The Constitution and the Rule of Law

The Swatantra Party holds that the foundations of a true and prosperous society were well and truly laid by the 'Fathers of the Constitution'. The Party will work to restore to the citizen the Fundamental Rights in the form in which they were guaranteed by the Constitution as it was originally adopted. They were later whittled down by the ruling party to suit its totalitarian approach.

The Constituent Assembly while laying down the form of government made it clear that free India would be a Union of States vested with a large measure of autonomy. Contrary to this plain intention, the ruling party has steadily drawn to the Centre increasing authority so that the State have little more than the power of Local Boards, depending upon the Centre for almost everything. The Swatantra Party will seek to correct this and restore to the States the measure of autonomy provided by the Constitution. In such a large country as ours, decentralisation of authority, which could give scope for self-government of regions without disturbing national harmony or hindering the central authority in its functions, should be the guiding principle. The Swatantra Party will seek to emphasize and spread the principles and practice of federalism

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and decentralizations in all spheres of public life, consistent with the Constitution.

The Swatantra Party is of the view that the ruling party has made an unconscionable use of its power to destroy or cripple property rights in the country, more particularly in regard to rural areas where the interest of small man is concerned. The Swatantra Party will seek to rectify this misuse of power, particularly in regard to discriminatory expropriation and the fixing and payment of compensation.

Under the present regime, the Rule of Law is being undermined by a tendency among politicians in power to interfere in the judicial and administrative processes. Such interference in the normal judicial processes takes the shape of either withdrawing prosecutions or, even after the offenders are convicted, of remitting the sentences under party or group pressure. The Rule of Law should not be interfered with by the politicians or by parties in power.

The concept of the socialist pattern the content and implications of which vary from time to time as it suits the ruling party, is also having a deleterious effect on the judiciary which is sometimes persuaded to accept a 'welfare' motive behind the otherwise unjustifiable actions of the government.

The Party stands for the Rule of Law and an independent judiciary. It will work for the full restoration of the powers of judicial review essential for the maintenance of the Rule of Law and it deprecates the trend in current legislation of excluding the jurisdiction of the Courts and of giving vast discretionary powers to administrative authorities and tribunals.

The Swatantra Party will also restore the supremacy of the people and Parliament by disbanding the National Planning Commission which has tended to bring into being a non-responsible super-government, and will free Cabinet Ministers and members of the Union and State governments from the extra-Constitutional intervention of the National Planning Commission.

The Party believes that the appropriate organisation for planning the affairs of the nation and submitting the annual programme is the Cabinet responsible to Parliament and the people and that, while the Government may resort to such expert assistance as it desires, there should be no other body which can influence the making of policy affecting the life of the nation.

X

Public Administration

The Swatantra Party will work for providing the country with the clean and good government which today is its most vital need. The Party stands for efficiency and integrity in the Services. It believes that the public services in India can be as good as in any other country. If, inspite of their hard work and loyalty, the administration is inefficient, it is because they are prevented from performing their functions in the most efficient manner by the unreasonable and politically-motivated interference in their day-to-day work by the Ministers of the Union Government and State Governments and other members of the ruling party. The Swatantra Party is opposed to any form of political pressure being put on officials in the course of the fair and just discharge of their duties.

The Party believes that it is in the interest of the public services that recruitment should be restricted in the way of quantum and quality. The Congress Government's indiscriminate recruitment of a horde of six million government servants has resulted in debasing the value of official, lowering his status and increasing public expenditure.

The Party is against the expansion of the bureaucratic machinery with a hierarchy of officials asked to do work which is best done by citizens and private agencies, resulting in unproductive waste of national resources. The Party reminds the people of what the Father of the Nation firmly held that "that government is best which governs the least".

The Party is of the view that, while efficiency of administration is necessary, its integrity is the very essence of good government. It will therefore endeavour to set up a supreme authority to whom an appeal can be made by individuals who suffer injustice as a result of administrative action such as cannot be remedied otherwise. There is necessity for such an authority where Party government prevails. There is precedent for it in the countries of Scandinavia where the Ombudsman is a non-Party man elected by Parliament and invested with wide powers of investigation and access to official papers. He is an officer of very high status and acts on the complaint of any citizen who has a grievance and seeks justice.

XI

Education

The Party believes that every citizen has the fundamental right to educate his children according to his choice in a free atmosphere

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untrammelled by official directives. The Party will work for full facilities for such education without discrimination such as by refusing grants or putting restrictions and handicaps where religious education suitable to various denominations is given.

The Swatantra Party will encourage efficient private schools which will not only relieve the government of expenditure but set up competitive standards.

The Solution of the problem of unemployment concerning the educated youth is not to reduce him to the dull and unremunerative life of an under-worked clerk in a government office, but to ensure that the quality of education he receives facilitates his absorption in industry or trade or the professions, all of which could employ more persons than they do today if allowed to expand and prosper.

The Party takes note of the great interest shown by young persons in colleges and universities in the politics of the country in particular in the Swatantra Party's programme. The Party is of the view that in free India, while students even before graduation should acquire some knowledge of the various trends in political thought, they should, while engaged in college life, abstain from active participation in the furtherance of any political party. Whatever other parties may be doing, the Swatantra Party is of the view that there should be no encouragement given to the division of students into groups related to the political parties of the country although they may be free to express and discuss their views in their own College Unions. Students above the prescribed age are no doubt eligible for membership of the Party and we welcome if they seek it. Students may form study circles for the appreciation of political and economic problems but, in the interest of discipline, the Party is of the view that it should not encourage the formation of political groups inside the universities and colleges.

XII

National Defence

While the Party has yet to formulate its policy in regard to the various aspects of India's international relations, the aggression committed by Communist China against our country and the occupation of thousands of square miles of Indian territory by a foreign power create a crisis in the field of national defence. The Swatantra Party urges that a firm and vigilant policy should be followed at least from now on in dealing with the Chinese Communist aggression against India. When our territorial integrity has been violated and our soil occupied by a communist power, the concept of non-alignment has little meaning.

Our policy therefore now needs to be reviewed and brought into closer relation to the realities of the international situation. In the Party's view, this is not the time for ideological adventures in domestic policy. The measures necessary for ensuring the country's security and defence include: the settlement of outstanding issues with Pakistan and serious considerations of the offer made by Pakistan for collaboration in the defence of the sub-continent; collaboration with the countries of South and South-East Asia with a view to concerted measures for the security of the region; and vigilance against infiltration and fifth column activities.

The maintenance of high morale among the officers and men of the country's Defence Services, who are a fine body of patriotic men, will be a matter of special concern to the Party. To this end, the Party will press for providing conditions which will attract the right kind of men in adequate numbers. Further, we would like to see the fighting forces equipped suitably to perform the tasks they may be entrusted to them. Finally, we recognise the importance of keeping the Services free from political influence and manipulation.

XIII

The Party with a Difference

The Swatantra Party is a Party with a difference. It believes that the present trend followed in India and elsewhere by which political parties dominate more and more the thoughts, activities and lives of their members is one that needs to be reversed. The Party holds that democracy is best served if every political party allows freedom of expression to its members on matters falling outside the fundamental principles of the Party. The Swatantra Party therefore gives its members, whether in Parliament, legislatures or elsewhere, the fullest liberty on all questions not falling within the scope of its principles and Statement of Policy. In particular, members of the Party will, in contrast to the way in which dissenting members of certain other parties are treated, be given an opportunity to express themselves in regard to the formulation of the Party's policies.

XIV

Our Goal

And so the Swatantra Party sets out on its mission of winning for the individual citizen freedom in the context of democratic life which

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the struggle for national independence won for the nation. It will complete the work of training the people in and for freedom which Mahatma Gandhi had begun and which continued until the Congress became a mere political party contrary to Gandhiji's advice. The Swatantra Party is a Party that the country needs in order to fulfil its destiny - the Party of ordered progress in and through freedom.

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SWATANTRA PARTY

STATEMENT OF PRINCIPLES

Adopted at the Preparatory Convention held at Bombay
on August 1 and 2, 1959.

1. The Swatantra Party is pledged to Social Justice and equality of opportunity for all people without distinction of religion, caste, occupation, or political affiliation.
2. The Party holds that the progress, welfare, and happiness of the people depend on individual initiative, enterprise and energy. The party stands for the principle of maximum freedom for the individual and minimum interference by the State, consistent with the obligation to prevent and punish anti social activities, to protect the weaker elements of society, and to create the conditions in which individual initiative will thrive and be fruitful. The party is, therefore, opposed to increasing State interference of the kind now being pursued.
3. The Party holds that the State should foster and utilise the sense of moral obligation, the pride, satisfaction, and fulfilment felt by individuals in serving others, which are inherent in our tradition, instead of adopting legislative or other forms of compulsion which commence with want of faith in the people and are consummated in the serfdom of the governed under the official machine, in an omnipotent State, controlled by a political party voted to power. The Party, therefore, adheres to the principle of Trusteeship adumbrated by Gandhiji.
4. The Party holds that the policies of the Government should be founded on faith in the people and not on State compulsion and the encouragement of hatred and conflict between class and class, expropriation, repudiation of obligations and the conferment of more and more powers on the officials of Government at the expense of the freedom of the citizens.
5. The Party stands for every effort being made to foster and maintain spiritual values and preserve what is good in our culture

and tradition, and avoid the dominance of a purely materialist philosophy of life which thinks only in terms of the standard of life without any reference to its content or quality.

6. The Party holds that steps should be taken to remove the pervading sense of uncertainty that has been created by the present policies of the Government and its varying forecast of future plans, leading to the drying up of initiative and enterprise in land, shop and factory alike. The Party holds that a sense of stability and incentive for individual effort can be restored only by strict adherence to the Fundamental Rights and Guarantees specified in the Constitution, as originally adopted in respect of freedom of property, trade and occupation, and just compensation for any property compulsorily acquired by the State for public purposes.
7. The Party holds that in the policies adopted for national development, priority must be assigned to the basic needs of the people, namely, food, water, housing and clothing.
8. The Party believes that every citizen has a fundamental right to educate his children according to his choice and in a free atmosphere untrammelled by official directives and that the State should afford facilities for such education without discrimination.
9. The Party holds that the paramount need is for increasing food production and that this is best attained through the self-employed peasant-proprietor who is interested in obtaining the highest yield from his land.

The Party believes in an intensive programme of agricultural improvement by promoting the material and psychological inducements for greater production without disturbing the harmony of rural life. The Party holds that there should be no disturbance of ownership, management and cultivation of land, but believes in a more effective programme than is being followed at present in respect of irrigation and the supply of material, implements, credit and marketing facilities.

The Party believes in the need for giving every kind of help to agriculture but is opposed to cultivation through organisations which reduce price ownership to an empty paper-title and which bring into being a loose kind of multiple ownership which is certain to sap the incentive of the farmer and his family, reduce output, and take us to a collective economy with official management. It is firmly opposed to collectivisation and bureaucratic management of the rural economy.

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The Party takes note of the dissatisfaction amongst the rural population that adequate attention has not been paid to their needs. It holds that the level of life of the rural people should be improved by removing all such impediments as are likely to stand in the way of their attaining a high standard of life and by taking all steps necessary for the purpose in particular for maintaining a reasonable and steady price for agricultural produce, which is in parity with other prices.

10. In Industry, the Party believes in the incentives for higher production and expansion inherent in competitive enterprise with adequate safeguards for the protection of labour and against unreasonable profits, prices and dividends, where there is no competition or where competition does not secure the necessary corrective.

The Party stands for the restriction of State enterprise to heavy industries such as are necessary to supplement private enterprise in that field, such national services as Railways, and the starting of new enterprises which are difficult for private initiative.

The Party is opposed to the State entering the field of trade and disturbing free distribution, and introducing controls and official management with all its wastefulness and inefficiency.

The Party believes that in the field of production, the free choice of the producer and the consumer must be given basic place and importance.

11. The Party stands for the preservation of the freedom of small and self-employed artisans, craftsmen and traders who are in danger of losing their occupational opportunities by reason of the policy of Statism. These persons perform a great widespread, and inexpensive function in our society, and their gradual extinction will be a national misfortune and add to our unemployment problem.
12. The Party stand for greater thrift in public expenditure. It holds that taxation should be kept at such levels as will not interfere with a reasonable living standard for the people, both rural and urban and which, while being necessary and sufficient for the carrying on of administration and such social and economic services as are taken up by the State, is yet not so high and exacting or so ubiquitous as to prevent capital formation and private investment.

Answer 1)
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13. The Party is opposed to a programme of development based on crippling taxation, abnormal deficit financing, and foreign loans which are beyond the capacity of the country to repay.
14. The Party is opposed to all policies that lead to excessive inflation, high prices that reduce the value of savings, endowments, and fixed incomes, and which create undue hardship for the present generation in the hope of a distant gain.
15. The Party believes that the cost of Public Administration should be reduced considerably. It stands for integrity and efficiency in the services. It is against the expansion of the bureaucratic machine, with a hierarchy of officials asked to do work which is best done by citizens and private agencies, resulting in unproductive waste of national resources.
16. The Party believes that the State will best serve the nation by encouraging and affording facilities for a decentralised distribution of industry and by limiting its own regulatory function to the prevention and punishment of anti-social activities wherever called for.
17. The Party stands for the creation of opportunities for full and lasting employment in all sectors of life. It stands for a programme of all round industrialisation with a view to developing national resources and reducing unemployment. It believes in a balanced development of capital-goods industries, organised consumer-goods industries, and rural industries that afford supplementary employment in the small-scale processing of the products of agriculture.
18. The Party stands for a fair deal for labour, whether in the field, factory or office and for correlating to wages, increased productivity and for the workers' right to organise for the purpose of collective bargaining. It stands for harmonising the interests of capital and labour when they get into conflict.
19. The Party is opposed to any form of political pressure being put on officials to deflect them from the course of fair and just discharge of duties without discrimination. It stands for the rule of law, an independent judiciary, and for the full play of the powers of judicial review given to the Court by the Constitution.
20. The Party shall in all matters, keep before itself the cardinal teaching of Gandhiji, maintaining faith in the people and in the efficacy of truth and non-violence.

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21. The Swatantra Party holds that democracy is best served if every political Party allows freedom of opinion to its members on all matters outside the Fundamental Principles of the Party. It, therefore, gives its members, full liberty on all questions not falling within the scope of the Principles stated above.

Annex. 'B'

Times of India dated 17-6-1989

Aug. 15 date for parties' listing

NEW DELHI, JUNE 16
(PTI).

All political parties should register themselves with the election commission before August 14 under a new provision of the Representation of the People (Amendment) Act, 1988, brought into force from yesterday.

Under section 29A of the amended R.P. Act, the existing political parties should make the application for registration within 60 days from yesterday and any party coming into existence after June 15 should do so within 30 days.

The Central Government yesterday brought into force the new provision for mandatory registration of political parties. The election commission simultaneously amended its election symbols (reservation and allotment) order to provide for registration of political parties under the R.P. Act and not under the symbols order as was hitherto done.

The election commission said in a press note that under the symbols order it has made a transitional provision under which every political party which was a national party or a state party or registered unrecognised party before June 15 (yesterday), shall continue to be so until August 14 which was the last date before which they should apply for registration.

If the parties apply for registration their present status would continue until their application for registration was disposed of by the election commission.

The commission said after an existing political party, which complied with the requirement of the new law under the new section 29A, was registered by the commission it would have, subject to the provisions of the symbols order, the same status (that is, national party or state party or unrecognised party as the case may be) as it had at present.

The commission has already drawn the attention of all political parties to the requirements of the new section 29A on three occasions. The commission has again written to them yesterday also.

The note said the application of parties for registration should contain a specific provision that they would bear true faith and allegiance to the constitution of India and the principles of socialism, secularism and democracy and would uphold the sovereignty, unity and integrity of India.

No party would be registered unless its memorandum of rules and regulations contained this specific allegiance provisions, it added.

The note said every application must be signed by the chief executive officer of the party and presented to the commission's secretary.

After a party is registered any change in its name, head office, office bearers, address or any other material matters should be communicated to the commission without delay.

Swatantra Party

MAHARASHTRA

Phones : 271578 / 270610

J. Venkiteswaran - President
L. R. Sampath - General Secretary

Sasson Building,
143, Mahatma Gandhi Road,
Bombay - 400 023.

August 1, 1989

By Registered A.D.

The Secretary
Election Commission of India
Nirvachan Sadan,
Ashok Road,
New Delhi - 110 001.

Dear Sir,

This refers to the reports in the press that political parties should register with the Election Commission of India.

We, the Swatantra Party, Maharashtra in existence since August 1959, though not quite sure about the validity of the law calling for registration of political parties, hereby ask to register us. We do so without prejudice to our right to question the Constitutional validity of the amendment to the Representation of the People's Act making registration mandatory.

While seeking registration under the existing law of the land the Swatantra Party, Maharashtra reaffirms its loyalty to the Constitution of India a fact affirmed in our Statement of Policy - "To Prosperity Through Freedom" as far back as March 1960 (copy attached).

We also reiterate our loyalty to the principles of secularism and democracy.

Though we were part of the national Swatantra Party we decide not to merge with the Lok Dal in August 1974. A copy of the Resolution adopted by the State Council of the Swatantra Party, Maharashtra at its meeting held on 6th July, 1974 is enclosed.

We therefore seek registration as a State party confined to Maharashtra until such time as we revert to you for a change of status.

We are enclosing a copy of our Constitution and Statement of Principles as desired by you.

Thanking you,

Yours very truly,
FOR SWATANTRA PARTY, MAHARASHTRA

Sd/-

(J. Venkiteswaran)
PRESIDENT

- Encl: 1. Statement of Policy
2. Constitution
3. Statement of Principles
4. Copy of Resolution.

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SWATANTRA PARTY, MAHARASHTRA
BOMBAY.

6th July, 1974.

Copy of Resolution adopted by the State Council
of the Swatantra Party, Maharashtra
at its meeting held on 6th July, 1974 at Bombay.

"This meeting of the State Council of the Swatantra Party, Maharashtra, has carefully considered the proposal placed before it that the Swatantra Party be dissolved along with the similar dissolution of six other parties as to facilitate the formation of a new Party.

The State Council notes that of the seven parties that are expected to dissolve to enable the formation of new Party, Swatantra Party is the only National Party, the others being confined to particular States or parts of a State.

The State Council is firmly convinced that the Party's principles and policies continue to be valid and that had the policies of Government been formulated on the basis of the said principles, the country would not be in the present critical situation.

The Council is equally convinced that the new Party will mark no advance in the search for a truly national alternative comprising as it does that who, though for the present have consented to get together on a general programme are bound to disagree in regard to the interpretation of a vague and general statement of policy.

Moreover, with opposition parties like the Congress (O) and the Jan Sangh continuing their individual existence, the objective of a two-party system and its electoral benefits will continue to elude us. On the other hand, there is real danger of the ruling Congress on the one side and the Jan Sangh on the other being the direct beneficiaries of such a development.

The State Council of the Swatantra Party, Maharashtra, does not consider the time or occasion propitious for the disappearance of the Swatantra Party from the Indian political scene, and is, therefore, opposed to the proposal to dissolve the Party.

The Maharashtra State Council therefore requests the office bearers of the Party to convene another meeting of the General Council on the eve of the National Convention to enable this matter to be reviewed once again before it is brought up at the Convention.

In the event of a resolution to dissolve the Party being carried in the National Convention, the Maharashtra State Swatantra Party will continue to retain its identity as Swatantra Party and carry on the message and flag of the Party."

Proposed by Mr. Parmanand Kejriwal
Recorded by : Mr. K. K. Subramaniam

Passed by one dissenting vote from Mr. N. K. Jagtap.

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(1 of 6)

Registered A.D.

ELECTION COMMISSION OF INDIA

Nirvachan Sadan,
Ashok Road,
New Delhi - 110 001.
Fax No. 011-3713412

No. 56/Misc./89/3439

Dated:- 12th August, 1989.

To
The President,
Swatantra Party
Sassoon Building,
143, Mahatma Gandhi Road,
Bombay - 400 023.

*Subject:- Registration of political parties under
section 29A - regarding.*

Sir,

I am directed to refer to your letter dated 1-8-1989 on the subject cited and to state that for the purpose of registration of any organisation as a political party, the organisation is required to

1. Make an application giving therein the full particulars under sub-section (4) of section 29A and additional particulars under paragraph of the Election Symbols (Reservation and Allotment) (Amendment) Order, 1989; and
2. A copy of the constitution of the party with a specific provision under sub-section (5) of said section 29A shall also be forwarded with the application.

For your information and guidance for making an application, following documents are forwarded herewith:-

- (a) Copy of section 29A of the R.P. Act, 1951
- (b) Copy of Election Symbols (Reservation and Allotment) (Amendment) Order, 1989 dated 15.6.1989; and
- (c) Copy of an application.

You may go through the above documents and submit an application form with all particulars and a constitution of your organisation so as to reach the Commission within 30 days of the formation of your organisation.

Yours faithfully,

(K.P.G. KUTTY)
Research Officer

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Extract of Section 29A of Representation of the People Act, 1951

IVA

"Part IVA

Registration of Political Parties

Registration with
the Commission
of associations
and bodies as po-
litical parties

29(A). (1) Any association or body of individual citizens of India calling itself a political party and intending to avail itself of the provisions of this Part shall make an application to the Election Commission for its registration as a political party for the purposes of this Act.

(2) Every such application shall be made:-

(a) if the association or body is in existence at the commencement of the Representation of the People (Amendment) Act, 1989, within sixty days next following such commencement;

(b) if the association or body is formed after such commencement, within thirty days next following the date of its formation.

(3) Every application under sub-section (1) shall be signed by the chief executive officer of the association or body (whether such chief executive officer is known as Secretary or by any other designation) and presented to the Secretary to the Commission or sent to such Secretary by registered post.

(4) Every such application shall contain the following particulars, namely:-

(a) the name of the association or body;

(b) the State in which its head office is situate;

(c) the address to which letters and other communications meant for it should be sent;

(d) the names of its president, secretary, treasurer and other office-bearers;

(e) the numerical strength of its members, and if there are categories of its members, the numerical strength in each category;

(f) whether it has any local units: if so, at what levels;

(g) whether it is represented by any member or members in either House of Parliament or of any State Legislature if so, the number of such member or members.

(5) The application under sub-section (1) shall be accompanied by a copy of the memorandum or rules and regulations of the association or body, by whatever named called, and such memorandum or rules and regulations shall contain a specific provision that the association or body shall bear true faith and allegiance to the Constitution of India as by law established, and to the principles of socialism, secularism and democracy; and would uphold the sovereignty, unity and integrity of India.

(6) The Commission may call for such other particulars as it may deem fit from the association or body.

(7) After considering all the particulars as aforesaid in its possession and any other necessary and relevant factors and after giving the representatives of the association or body reasonable opportunity of being heard, the Commission shall decide either to register the association or body as a political party for the purposes of this Part, or not so to register it; and the Commission shall communicate its decision to the association or body:

Provided that no association or body shall be registered as a political party under this sub-section unless the memorandum or rules and regulations of such association or body conform to the provisions of sub-section (5).

(8) The decision of the Commission shall be final.

(9) After an association or body has been registered as a political party as aforesaid, any change in its name, head office, office-bearers, address or in any other material matters shall be communicated to the Commission without delay.

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Application for Registration under Section 29A of the Representation of the People Act, 1951 read with paragraph 3 of the Election Symbols (Reservation and Allotment) order, 1968 - Particulars to be furnished.

.....

Each application form for registration under section 29A read with Paragraph 3 of the Symbols Order, 1968 Shall Contain following particulars:

I - Particulars under sub-section (4) of section 29A :

(4) Every such application shall contain the following particulars, namely :-

- (a) the name of the association or body;
- (b) the State in which its head office is situated;
- (c) the address to which letters and other communications meant for it should be sent;
- (d) the names of its president, secretary, treasurer and other office-bearers;
- (e) the numerical strength of its members, and if there are categories of its members, the numerical strength in each category;
- (f) whether it has any local units; if so, at what levels;
- (g) whether it is represented by any member or members in either House of Parliament or of any State Legislature, if so, the number of such member or members.

II - Additional Particulars under paragraph 3 of Symbols Order, 1968 :

- (a) The political principles on which the association or body is based;
- (b) The policies, aims and objects it pursues or seeks to pursue;
- (c) Its programmes, functions and activities for the purpose of carrying out its political principles, policies, aim and objects;
- (d) The names of the main organs (by whatever name called) of the association or body, their functions and the names of the Chairman (by whatever name called), and other members of such organs; and
- (e) The relationship of the association or body with the electors and the popular support it enjoys, and tangible proof, if any, of such relationship and support.

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- III - Each application shall be accompanied by a copy of the memorandum or rules and regulations of the association or body, by whatever name called, and such memorandum or rules and regulations shall contain a specific provision that the association or body shall bear true faith and allegiance to the Constitution of India as by law established, and to the principles of socialism, secularism and democracy, and would uphold the sovereignty unity and integrity of India.
- IV - Each application shall be signed by the chief executive officer of the association or body (whether such chief executive officer is known as Secretary or by any other designation).
-

To be Published in the
Gazette of India, Ex-
traordinary, Part II, Sec-
tion 3(iii), Dated 15th
June, 1989.

ELECTION COMMISSION OF INDIA

New Delhi

Dated the 15th June, 1989

Jyaishta 25, 1911(S).

THE ELECTION SYMBOLS
(RESERVATION AND ALLOTMENT)
(AMENDMENT) ORDER, 1989.

No. 56/89.- In exercise of the powers conferred by article 324 of the Constitution, read with section 29A of the Representation of the People Act, 1951, and rules 5 and 10 of the Conduct of Elections Rules, 1961, and all other powers enabling it in this behalf, the Election Commission of India hereby makes the following Order further to amend the Election Symbols (Reservation and Allotment) Order, 1968:

1. Short title and commencement.-

(1) This Order may be called the Election Symbols (Reservation and Allotment) (Amendment) Order, 1989.

(2) It shall come into force on the date of its publication in the Gazette of India.

2. Amendment of preamble.- In the preamble to the Election Symbols (Reservation and Allotment) Order, 1968 (hereinafter referred to as the 'Symbols Order') for the words and figures "read with rule 5 and rule 10", the words, figures, letter and brackets "read with section 29A of the Representation of the People Act, 1951 (43 of 1951) and rules 5 and 10" shall be substituted.

(b) the policies, aim and objects it pursues or seeks to pursue;

(c) its programmes, functions and activities for the purpose of carrying out its political principles, policies, aims and objects;

(d) the names of the main organs (by whatever name called) of the association or body, their functions and the names of the Chairman (by whatever name called), and other members of such organs; and

(e) the relationship of the association or body with the electors and the popular support it enjoys, and tangible proof, if any, of such relationship and support."

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(6 of 6)

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5. Substitution of new paragraph for paragraph 19.-

For paragraph 19 of the Symbols Order, the following new paragraph shall be substituted, namely:-

"19. Special transitional provision.- (1) Every political party, which, immediately before the 15th day of June, 1989, (being the date appointed by the Central Government under sub-section (2) of section 1 of the Representation of the People (Amendment) Act, 1988 (1 of 1989) as the date on which sections 3 and 6 of that Act shall come into force) is a National Party under this Order, shall continue to be so, for a period of sixty days from that date and if such party makes an application to the Commission for its registration as a political party under section 29A of the Representation of the People Act, 1951 within the said period of sixty days, till the disposal of such application by the Commission.

(2) Every political party, which, immediately before the 15th day of June, 1989, is a State party under this Order, shall continue to be so, for a period of sixty days from that date and if such party makes an application to the Commission for its registration as a political party under section 29A of the Representation of the People Act, 1951 within the said period of sixty days, till the disposal of such application by the Commission.

(3) Every political party, which, immediately before the 15th day of June, 1989, is an unrecognised political party under this Order, shall continue to be so, for a period of sixty days from that date and if such party makes an application to the Commission for its registration as a political party under section 29A of the Representation of the People Act, 1951 within the said period of sixty days, till the disposal of such application by the Commission."

By order,

Sd/-

(K.C. SAHA)

SECRETARY

ELECTION COMMISSION OF INDIA.

Swata
MAH

Phones :

J. Venkitesh
L. R. Sam

June 28, 1

By Register

The Secret
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New Delh

Dear Sir,

Mr. K.P.

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(5) of s

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Annex. 'E'

Swatantra Party

MAHARASHTRA

Phones : 271578 / 270610

J. Venkiteswaran - President
L. R. Sampath - General Secretary

Sasson Building,
143, Mahatma Gandhi Road,
Bombay - 400 023.

June 28, 1994.

By Registered Post A.D.

The Secretary
Election Commission of India
Nirvachan Sadan,
Ashok Road,
New Delhi 110 001.

Dear Sir,

Sub : Registration of political parties under Section 29A - regarding.

We refer to our letter to you of August 1, 1989 and the reply of your Research Officer
1 Mr. K.P. G. Kutty, vide no. 56/Misc./89/34339 of 12 August, 1989.

Your Research Officer has forwarded to us a form for application for the registration of our organisation along with a copy of section 29A of the R.P. Act, 1951 and a copy of Election Symbols (Reservation and Allotment) (Amendment) Order, 1989 dated 15.6.1989.

You have, in your letter asked us to make an application giving full particulars about our organisation and a copy of the constitution of our party with a specific provision under sub-section (5) of said section 29A to be forwarded with our application.

... 2/-

Annex 'E'

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Our difficulty lies in the stipulation under sub-section (5) of section 29A which states inter alia:

"The application under sub-section (1) shall be accompanied by a copy of the memorandum of rules and regulations ... (which) shall contain a specific provision that the association or body shall bear true faith and allegiance to the Constitution of India as by law established and to the principles of socialism, secularism and democracy...."

We are a party wedded to secularism and democracy but are sworn to oppose socialism. We regret therefore it will not be possible for us to swear "true faith and allegiance to the " principles of socialism".

In view of the fact that our very political purpose is the repudiation of socialism in all its forms, variations and manifestations we would like to know, before we complete your application form for registration if our application for registration as a political party will be accepted by the Election Commission of India if we reject the "socialism" part of sub-section 5 of 29A.

An early reply will be much appreciated.

Yours faithfully,

For SWATANTRA PARTY, MAHARASHTRA

Sd/-

(J. Venkiteswaran)
PRESIDENT

56/116/93/

To
SHRI
Sasson
143, M
Bombay

Sir,

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Im : Eleccom
New Delhi

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Annex. 'F'
(1 of 3)

Telex : ND 31-61312
Fax : 3713412

**SECRETARIAT OF
ELECTION COMMISSION OF INDIA**

NIRVACHAN SADAN
ASHOKA ROAD, NEW DELHI-110001

56/116/93/J.S.II/6462

Dated 14-9-94.

To
SHRI VENKITESWARAN,
Sasson Building,
143, Mahatma Gandhi Road,
Bombay - 400 023.

Sub : Registration under Section 29-A of
Representation of the People Act, 1951 - regarding.

Sir,

I am directed to refer to your letters dated 28-6-94, 30-8-94 & telegram dated 8-9-94 on the subject cited, and to invite your attention to the provisions of Section 29-A (5) and 29(A) (7) of Representation of the People Act, 1951. An extract of Section 29-A is enclosed herewith for ready reference.

Yours faithfully,

Sd/-

(SOHAN LAL)
UNDER SECRETARY (LEGAL)

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Annex. 'F'
(2 of 3)

EXTRACT FROM REPRESENTATION OF THE PEOPLE ACT, 1951

Part IV-A

Registration of Political Parties

SECTION 29-A.

Registration with the Election Commission of associations and bodies as political parties:-

- 1) Any association or body of individual citizens of India calling itself a political party and intending to avail itself of the provisions of this Part shall make an application to the Election Commission for its registration as a political party for the purposes of this Act.
- 2) Every such application shall be made, -
 - (a) if the association body is in existence at the commencement of the Representation of People (Amendment) Act, 1988 (1 of 1989), within sixty days next following such commencement;
 - (b) if the association or body is formed after such commencement within thirty days next following the date of its formation.
- 3) Every application under sub-section (1) shall be signed by the Chief Executive Officer of the association or body (whether such Chief Executive Officer is known as Secretary or by any other designation) and presented to the Secretary to the Commission to be sent to such Secretary by registered post.
- 4) Every such application shall contain the following particulars, namely :
 - (a) the name of the association or body;
 - (b) the State in which its head office is situated;
 - (c) the address to which letters and other communications meant for it should be sent;
 - (d) the names of its President, Secretary, treasurer and other office-bearers;
 - (e) the numerical strength of its members, and if there are categories of its members, the numerical strength in each category;
 - (f) whether it has any local units; if so, at what levels;
 - (g) whether it is represented by any member or members in either House of Parliament or of any State Legislature; if so, the number of such member or members.

Contd.. P. 2

Annex F

(3 & 3)

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- (5) The application under sub-section (1) shall be accompanied by a copy of the memorandum or rules and regulations of the association or body, by whatever name called, and such a memorandum or rules and regulations shall contain a specific provision that the association or body shall bear true faith and allegiance to the Constitution of India as by law established, and to the principles of socialism, secularism and democracy, and would uphold the sovereignty, unity and integrity of India.
- (6) The Commission may call for such other particulars as it may deem fit from the association or body.
- (7) After considering all the particulars as aforesaid in its possession and any other necessary and relevant factors and after giving representatives of the association or body reasonable opportunity of being heard, the Commission shall decide either to register the association or body as a political party for the purposes of this Part, or not so to register it; and the Commission shall communicate its decision to the association or body:

Provided that no association or body shall be registered as a political party under the sub-section unless the memorandum or rules and regulations of such association or body conform to the provisions of sub-section (5).
- (8) The decision of the Commission shall be final.
- (9) After an association or body has been registered as a political party as aforesaid, any change in its name, head office, office-bearers, address or in any other material matters shall be communicated to the Commission without delay.

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In the High-Court of Judicature at Bombay
Ordinary Original & Constitutional Jurisdiction
Writ Petition No. of 1994

SWATÁNTRA PARTY
(MAHARASHTRA)
AND ANOTHER

..... Petitioners

Versus

UNION OF INDIA AND OTHERS

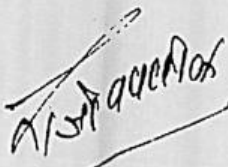
..... Respondents

I, L. R. Sampat, the General Secretary of the Petitioner No.1,
do hereby state on solemn affirmation as under:

That I am authorised and competent to affirm the Petition
as well as this Affidavit. I say that I am conversant with the facts
of the case and I repeat and reiterate the contents of the Petition
here that is in the Affidavit in support. I say that the Petitioners
are entitled for reliefs prayed in the Petition and therefore, I submit
that the Petition be allowed with costs.

Solemnly affirmed
at Bombay
this 15th day
of December, 1994.

Before me


Advocate for Petitioners.