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2nd DRAFT

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE & CONSTITUTIONAL JURISDICTION

WRIT PETITION NO. OF 1994

DISTRICT: BOMBAY / PUNE

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

And

In the matter of Section 29A of
the Representation of the Peoples
Act, 1951 in respect of registra-
tion 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

Versus

1. UNION OF INDIA,)

having its office at Legal)

Department, Asyakar 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:

THE HONOURABLE THE CHIEF JUSTICE AND

THE OTHER HONOURABLE JUDGES OF

THE HIGH COURT OF JUDICATURE AT BOMBAY.

THE HUMBLE PETITION OF THE

PETITIONERS ABOVENAMED :-

MOST RESPECTFULLY SHOWETH :

1. The Petitioner being a political party, approach this Hon'ble Court, challenging the provision of Section 29A of the Representation of the People Act 1951, which compells the Petitioner party to change its ideology which they honestly hold since its inception and prior to 42nd Amendment to the Constitution of India. The Petitioner submits that provisions of Section 29A of the Representation of the Peoples Act 1951 are ultra vires the Constitution of India as it clearly violates the fundamental rights of the citizens of India as well as the members of Petitioner's party.
2. The Petitioner is a political party at All India level, holding its own ideology and faith in Constitution and Democracy. The Petitioner party came into existence at Preparatory Convention held at Bombay from 1st and 2nd August 1959. The Swatantra Party is pledged to Social Justice and equality of opportunity for all people without distinction of religion, caste, occupation or political affiliation. The Petitioner

party holds that progress, welfare and happiness of the people of India depends on individual initiative, enterpsise and ~~max~~ energy. The Petitioner party stands for the principle of maximum freedom for the individual and minimum interference by the State, consistent with the obligation to prevent ~~max~~ 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 Petitioner party is opposed to increasing State interference in private enterprise to be pursued. The Petitioner party holds that the policies of the Government should be founded on the faith in the people and not on State compulsion and 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 expenses of the freedom of the citizens. The Petitioners party adhere to the principle of trusteeship as enumerated by Gandhiji. Thus, the Petitioner party have faith in the constitution of India, democracy form of Government and fundamental rights of citizen, the Petitioners

party is opposed to the ideology of socialism which according to the Petitioners means the State controlled economy and nation. The Petitioner believe that socialism means that State will interfere with each and every right of an individual and his right for development of private enterprise. The Petitioner believe that socialism is opposed to the ideology of Gandhiji. The Petitioner though stand fair deal for labour whether in the field, factory and office and for correlating to wages increased productivity and for workers' rights to organise for the purpose of collective bargaining. It stands for harmonising the interest of capital and labour when they get into conflict. The Petitioner adopted the statement of policy at National convention in Patna on March 1960 declaring the very policy as "prosperity through freedom". The Petitioner party believe in free and liberalised economy and therefore state that socialistic pattern of government may not be in a ~~xxx~~ position to lead the nation as developing country in International Market. A copy of the said statement of principles is annexed herewith and marked as Exhibit "A" to this Petition.

EX-"A"

3. The Petitioner state that by an amendment to the

Representation of the People Act, 1951, namely Section 29A each and every political party is required to be registered at political party with the Election Commission of India. The Petitioner wishes to register their political party as per the provisions of law.

4. In June 1989 the Election Commission issued a notification that under section 29A of the Amended Representation of People Act, 1988, the then existing political parties were required to register within 60 days from June 15. by August 15 and any party that came ~~late~~ into existence after 15 June, should do so within 30 days from the date of its inception. The new Section i.e. 29A of the Representation of the People Act calls upon a political party, seeking registration, to ensure that their memorandum of rules and regulations contained the specific statements that they would -

(i) bear true faith and allegiance to the

Constitution of India;

(ii) the principles of socialism, secularism

and democracy, and

(iii) uphold the sovereignty, unity and integrity

of India.

The Petitioners state that the Representation of People Act, 1951 nowhere defines the term "Socialism" or "Principles of Socialism". The term 'Principles of Socialism' is the vague i.e it is neither defined in the Constitution of India nor it is defined in Representation of People Act, 1951 (hereinafter referred to as said Act). The Petitioner states that the party bears true faith and allegiance to the Constitution of India, they also bear true faith in the principles of secularism and democracy and they believe the sovereignty, unity and integrity of India. However, the Petitioner do not believe in principles of socialism. The Petitioner therefore by their letter dated 1st August 1989 addressed to the Election Commission seeking registration without prejudice to the right to question, the Constitutional validity of section 29A, making registration mandatory on the basis of having faith in principles of socialism. The Petitioner states that Election Commission by their letter dated August 12, 1989 sent application form and other relevant papers. The Petitioner wanted to register their political party and therefore they also requested the Election Commission to clarify whether it is must for them to affirm affidavit stating that they

believe in socialism, when in fact, their ideology is to oppose the ideology of socialism. The Petitioners in fact called upon the Respondent Nos.2 and 3 to state what do they mean by term 'Principles of Socialism' Respondents, however did not gave clear answer and called upon the Petitioner to fill up application form the way it is prescribed in section 29A. The Petitioner states that the Respondents refused to clarify the position in respect of specific query of the Petitioners and refused to state that what do they mean by using the term socialism. The copies of correspondence with the respondents Nos.2 and 3 are annexed herewith and marked as Exhibit "B" (collectively) to this Petition. The Petitioner submits that by this letter the respondents nos.2 and 3 have virtually denied registration to the Petitioner as neither of the respondents clarified the term socialism in terms of the said Act as the Petitioner never wanted to affirm the affidavit showing allegiance and faith to socialistic ideology without knowing the definition created by the Respondents.

EX-"B"
(colly.)

5. The Petitioner states that the said amendment to the Representation of the People Act 1951 was enacted

as the parliament by 42nd Amendment to the Constitution adopted the following words in the Pre-ample:-

"SOVERIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC",

After the 42nd Amendment the Preamble to the Constitution reads as under:-

"WE, THE PEOPLE OF INDIA, having solemnly resolved

to constitute India into a SOVERIGN SOCIALIST

SECULAR DEMOCRATIC REPUBLIC and to secure to all

its citizens:

JUSTICE, social, economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity; and to

promote among them all;

FRATERNITY assuring the dignity of the individual

and the unity and integrity of the Nation;

IN OUR CONSTITUENT ASSEMBLY this twenty-sixth

day of November 1949 do HEREBY ADOPT, ENACT AND GIVE TO

OURSELVES THIS CONSTITUTION.

6. The words socialism and secularism were substituted by the Constitution (42nd amendment) Act 1976 which came into effect from 3rd January 1977. The Petitioner states that on the basis of amendment to the preamble a bill was moved in the year 1988 to amend the Representation of People Act, 1951 by adding Section 29A to the said Act. The Petitioner states that in section 29A sub-section (5) it is made clear that the application under sub-section 1 shall be accompanied by a copy of memorandum of rules and regulation of association or body, by whatever name called and such memorandum or rules and regulations shall contain specific provision that the association or body shall bear true faith and ~~allegiance~~ allegiance to the Constitution of India as by law established as to the principle of socialism, secularism and democracy and would uphold the sovereignty, unity and integrity of India. The Petitioner respectfully submit the preamble to the Constitution of India itself grant liberty of expression, belief, faith and worship. The Petitioner have every right to hold their own ideology, expression, belief and faith i.e. statement of policy and or political

agenda of the Petitioner party. The Petitioner further submit that article 19 protects the rights regarding freedom of speech and expression, to form association or union. The Petitioner have freedom of expression or speech to say that socialism is wrong ideology because of which a country shall not be in a position to make its own progress. The Petitioner have every right to form association or union on the basis of their ideology. The Petitioner bear full faith and allegiance to the Constitution of India with their own ideology as a political party. The Petitioner believes in principles of secularism and democracy and would uphold the sovereignty, unity and integrity of India.

7. The Petitioner submits that Representation of People Act, 1951 ~~re~~ regulate the procedure for conducting elections for the parliament as well as legislative Assembly within the frame work of the Constitution. The Petitioner respectfully submits that no enactment can force any citizen or individual to change his or her ideology, denying the fundamental right or liberty to have faith and belief in their own ideology, which is not contrary to the Constitution of India. Similarly no enactment can compel any citizen to swear by

a particular-ism when Article 19 of the Constitution guarantees the fundamental rights to freedom of speech and expression. The Petitioner states that by provision of section 29A (5) the Respondents are compelling the Petitioner to say that they have full faith in socialism when in fact since the inception of party since 1959. The Petitioner oppose the ideology of socialism and have belief in trusteeship. The Petitioner submit that today there are number of political parties who have had their foundation on the basis of religion, cast and class. Those are communal parties or the _____ parties having no faith in socialism.

8. The Petitioner state that ruling party namely Congress-I party was never wedded to the principle of socialism when they advocate free enterprise. The petitioner submit that another party namely Bhartiya Janta Party never believed to socialism, as their ideology is based on caste system and opposition to socialism. Shivsena, which is a Regional party in Maharashtra is openly against the socialism since its inception. Jamat-E-Islami does not even have faith in Constitution of India as they have

clearly declared that they have faith only in Quran and no other document. All these parties though they have their own ideology on the basis of principles opposed to socialism, still they affirm the false affidavit saying that they have belief in principles of socialism, which is nothing but making mockery of law.

9. This shows that either the political parties at national or regional level affirmed the affidavit showing their allegiance to socialism in their own interpretation or they have affirmed false affidavit. The term socialism is too ~~vague~~ vague term and also the said term had changed its meaning at different points of time and/or different interpretation to suit its meanings. For example the Congress party either meant socialism means Free economy or B.J.P. meant their ideology as Gandhian Socialism or the Jamat-E-Islami wants to interpret Quran as origin of Socialism. The Petitioner states that if Constitution of India guarantees freedom of speech and expression (i.e. to hold as ideology which is not against the sovereignty of Country). The said freedom is taken away by provisions of section 29A of the Representation of People Act. The Petitioner therefore submit that section 29A ~~as~~ not only violates the fundamental

rights of the citizens and members of Petitioner but is also ultra-vires the Constitution of India when the said Constitution grants all the protection to the citizen have his own faith. The Petitioner states that no enactment can force a particular ideology upon a citizen of India namely to have faith in socialism. In that case there is no question of affirming affidavit as per the provision of section 29A (5) of the Representation of People Act, which would amount to denial of fundamental rights and enacting law against spirit of the Constitution. The Petitioner states that since they have full faith and ~~allegiance~~ allegiance to the Constitution of India and they believe in secularism and democracy and uphold the sovereignty, unity and integrity of India, they have every right to register themselves as registered political party having their own ideology within the frame work of the Constitution.

10. The Petitioner therefore approaches this Hon'ble Court under Article 226 of the Constitution of India, in its inherent powers for appropriate Writ, direction and/or order in the nature of writ, for the declaration that the provisions of section 29-A of the Representation

of People Act are ultra vires the Constitution and are violative of fundamental rights of the Citizen of India. The Petitioner prefers this Writ Petition on following amongst other grounds:-

(i) Section 29A (5) of the Representation of People

Act, 1951 compels the citizens of India to affirm

the fact that they believe in Socialism or

Socialist ideology, when it does not give any

definition of term Socialism or Principles of

Socialism;

(ii) It is clear from the Preamble of the Constitution

of India, that each citizen has liberty of

thought, expression, belief, faith and worship

and therefore Petitioner can very well hold the

ideology which opposes the ideology of socialism,

when they bear full faith and allegiance to the

Constitution of India and principles of Secula-

-rism and ~~democracy~~ democracy;

(iii) Article 19-1(a) and (c) protect fundamental

rights of citizen to freedom of speech and

association

expression to form ~~association~~/or union, on the

basis of their own ideology. In such a case, the Petitioner cannot be compelled to affirm the affidavit showing their allegiance to the socialism, which term is too vague in Constitution of India or said Act;

(iv) The Petitioner since 1959 are holding a particular ideology and through out opposed the ideology and principles of socialism and therefore no enactment or amendment to enactment can compel the Petitioners to change their ideology for the purpose registration as political party;

(v) The Petitioner believes in democracy and secularism, however the Petitioner do believe that the the socialistic pattern of Government or nation may not to be a nation on the path of progress. According to Petitioner the Socialism leads to State ownership and a no freedom for private and or preneurship. The ideology of socialism restricts the freedom of citizens and therefore they have every right to criticise, express or speak about

their opposition to ideology of socialism;

(vi) The Petitioner are entitled to hold ideology

in free democratic country like India which

is a great example through out the world and

therefore no Government can compel any citizen

or Petitioner to hold a particular ideology

of socialism;

(vii) The Provisions of Section 29A of the Repre-

-sentation of People Act are directly in conflict

with the provisions of the Constitution of India

more particularly to the preamble and Article

19(1)(a) and 1(c) and therefore those provisions

are ultra vires the Constitution of India;

(viii) The Petitioner submit that the provisions of

section 29A of be declared illegal, in-operative-

in-law and ultra vires to the Constitution of

India.

11. The Petitioner has not filed any other Petition
either in this Hon'ble Court or in the Supreme Court of India,
in this matter.

12. The Petitioner craves leave, to add to, to alter, to delete, to vary, to amend any of the grounds urged hereinabove, if necessity may demand or occasion may require

13. The Petitioner is in correspondence with Respondents since 1989 and till today have not clarified the position in respect of interpretation of section 29A (5) of the said Act, which is virtually a denial of rights to the Petitioner and therefore the present petition is not barred by any limitation or latches.

THE PETITIONER, THEREFORE, PRAYS THAT:-

(A) This Hon'ble Court be pleased to issue writ of mandamus and/or any other appropriate writ directing the Respondents Nos.1 to 3 to produce parliamentary debates, documents,

notifications and Bill in respect of Section 29A of Representation of People Act;

(B) This Hon'ble High Court be pleased to issue writ of ~~Qaz~~ Certiorari and/or any other appropriate writ, striking off the provisions of section 29A of the Representation of the People Act being ultra vires to the Constitution

of India and being violative of fundamental right of the citizen of India;

(C) This Hon'ble High Court be pleased to declare that the Petitioner have every right to register themselves as registered political party with their own ideology and direct the Respondents nos.1 to 3 to register the Petitioner party without filing an affidavit to affirm the fact that Petitioner believes in principle of socialism;

(D) Pending the hearing and final disposal of this Petition on its merit, this Hon'ble Court be pleased to direct Respondents Nos.1 to 3 to grant act as has registration to the petitioner party as political party to enable the petitioner to contest the forthcoming election to the Parliament as well as Legislative Assembly of Maharashtra;

(E) To grant ad-interim reliefs in terms of prayer clause (D);

(F) To pass such other and further orders as
this Hon'ble Court deem fit on the facts
and in the circumstances of the case.

AND FOR THIS ACT OF KINDNESS, The Petitioner as

in duty bound shall ever pray.

Bombay;

Dated; October 1994.

Advocate for the Petitioner.

I, L.R. SAMPAT, General Secretary of the

Petitioner abovenamed 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 9 are true to my own knowledge and information and those

contents of paras 10 onwards being grounds, legal submissions

and prayers are true to my belief and I believe the

same to be true.

Solemnly declared at Bombay,)

this day of October 1994.)

Before me;

Advocate for the Petitioner.

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CIVIL APPELLATE & CONSTITUTIONAL JURISDICTION.

Writ Petition No. of 1994.

District: Bombay/Pune

Swatantra Party
(Maharashtra).

..Petitioners

vs

1. Union of India and Ors. ..Respondents

P E T I T I O N

Dated this day of October 1994.

SHRI RAJIV PATIL,
Advocate for Petitioners,
Krishna Kunj,
36, Shivaji Park,
Dr.M.B.Raut Road,
Dadar, Bombay 400028.

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In the matter of Articles 14,
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SWATANTRA PARTY (MAHARASHTRA),)
through its General Secretary)
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MOST RESPECTFULLY SHOWETH :

1. The Petitioner being a political party, approached this Hon'ble Court, challenging the provision of Section 29A of the Representation of the People Act 1951, which compells the Petitioner party to change its ideology which they honestly hold since its inception and prior to 42nd Amendment to the Constitution of India. The Petitioner submits that provisions of Section 29A of the Representation of the Peoples Act 1951 are ultra vires the Constitution of India as it clearly violates the fundamental rights of the citizens of India as well as the members of Petitioner's party.

2. The Petitioner is a political party at All India level, holding its own ideology and faith in Constitution and Democracy. The Petitioner party came into existence at Preparatory Convention held at Bombay from 1st and 2nd August 1959. The Swatantra Party is pledged to Social Justice and equality of opportunity for all people without distinction of religion, caste, occupation or political affiliation. The Petitioner

party holds that progress, welfare and happiness of the people of India depends on individual initiative, enterprised and ~~man~~ energy. The Petitioner party stands for the principle of maximum freedom for the individual and minimum interference by the State, consistent with the obligation to prevent ~~and~~ 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 Petitioner party is opposed to increasing State interference in private enterprise to be pursued. The Petitioner party holds that the policies of the Government should be founded on the faith in the people and not on State compulsion and 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 expenses of the freedom of the citizens. The Petitioners party adhere to the principle of trusteeship as enumerated by Gandhiji. Thus, the Petitioner party have faith in the constitution of India, democracy form of Government and fundamental rights of citizen, the Petitioners

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EX-"A"

3. The Petitioner state that by an amendment to the

Representation of the People Act, 1951, namely Section 29A each and every political party is required to be registered at political party with the Election Commission of India. The Petitioner wishes to register their political party as per the provisions of law.

4. In June 1989 the Election Commission issued a notification that under section 29A of the Amended Representation of People Act, 1988, the then existing political parties were required to register within 60 days from June 15. by August 15 and any party that came into existence after 15 June, should do so within 30 days from the date of its inception. The new Section i.e. 29A of the Representation of the People Act calls upon a political party, seeking registration, to ensure that their memorandum of rules and regulations contained the specific statements that they would -

(i) bear true faith and allegiance to the

Constitution of India;

(ii) the principles of socialism, secularism

and democracy, and

(iii) uphold the sovereignty, unity and integrity of India.

The Petitioners state that the Representation of People Act, 1957 nowhere defines the term "Socialism" or "Principles of Socialism". The term 'Principles of Socialism' is the vague i.e it is neither defined in the Constitution of India nor it is defined in Representation of People Act, 1957 (hereinafter referred to as said Act). The Petitioner states that the party bears true faith and allegiance to the Constitution of India, they also bear true faith in the principles of secularism and democracy and they believe the sovereignty, unity and integrity of India. However, the Petitioner do not believe in principles of socialism. The Petitioner therefore by their letter dated 1st August 1989, addressed to the Election Commission seeking registration without prejudice to the right to question, the Constitutional validity of section 29A, making registration mandatory on the basis of having faith in principles of socialism. The Petitioner states that Election Commission by their letter dated August 12, 1989 sent application form and other relevant papers. The Petitioner wanted to register their political party and therefore they also requested the Election Commission to clarify whether it is must for them to affirm affidavit stating that they

believe in socialism, when in fact, their ideology is to oppose the ideology of socialism. The Petitioners in fact called upon the Respondent Nos.2 and 3 to state what do they mean by term 'Principles of Socialism'. Respondents, however did not gave clear answer and called upon the Petitioner to fill up application form the way it is prescribed in section 29A. The Petitioner states that the Respondents refused to clarify the position in respect of specific query of the Petitioners and refused to state that what do they mean by using the term socialism. The copies of correspondence with the respondents Nos.2 and 3 are annexed herewith and marked as Exhibit "B" (collectively) to this Petition. The Petitioner submits that by this letter the respondents nos.2 and 3 have virtually denied registration to the Petitioner as neither of the respondents clarified the term socialism in terms of the said Act as the Petitioner never wanted to affirm the affidavit showing allegiance and faith to socialistic ideology without knowing the definition created by the Respondents.

EX-"B"
(colly.)

5. The Petitioner states that the said amendment to the Representation of the People Act 1951 was enacted

as the parliament by 42nd Amendment to the Constitution adopted the following words in the Pre-ample:-

"SOVERIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC",

After the 42nd Amendment the Preamble to the Constitution reads as under:-

"WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVERIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens:

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LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity; and to promote among them all;

FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation;

IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November 1949 do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.

6. The words socialism and secularism were substituted by the Constitution (42nd amendment) Act 1976 which came into effect from 3rd January 1977. The Petitioner states that on the basis of amendment to the preamble a bill was moved in the year 1988 to amend the Representation of People Act, 1951 by adding Section 29A to the said Act. The Petitioner states that in section 29A sub-section (5) it is made clear that the application under sub-section 1 shall be accompanied by a copy of memorandum of rules and regulation of association or body, by whatever name called and such memorandum or rules and regulations shall contain specific provision that the association or body shall bear true faith and ~~allegiance~~ allegiance to the Constitution of India as by law established as to the principle of socialism, secularism and democracy and would uphold the sovereignty, unity and integrity of India. The Petitioner respectfully submit the preamble to the Constitution of India itself grant liberty of expression, belief, faith and worship. The Petitioner have every right to hold their own ideology, expression, belief and faith i.e. statement of policy and or political

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7. The Petitioner submits that Representation of People Act, 1951 ~~is~~ regulate the procedure for conducting elections for the parliament as well as legislative Assembly within the frame work of the Constitution. The Petitioner respectfully submits that no enactment can force any citizen or individual to change his or her ideology, denying the fundamental right or liberty to have faith and belief in their own ideology, which is not contrary to the Constitution of India. Similarly no enactment can compel any citizen to swear by

a particular-ism when Article 19 of the Constitution guarantees the fundamental rights to freedom of speech and expression. The Petitioner states that by provision of section 29A (5) the Respondents are compelling the Petitioner to say that they have full faith in socialism when in fact since the inception of party since 1959. The Petitioner oppose the ideology of socialism and have belief in trusteeship. The Petitioner submit that today there are number of political parties who have had their foundation on the basis of religion, cast and class. Those are communal parties or the _____ parties having no faith in socialism.

8. The Petitioner state that ruling party namely Congress-I party was never wedded to the principle of socialism when they advocate free enterprise. The petitioner submit that another party namely Bhartiya Janta Party never believed to socialism, as their ideology is based on caste system and opposition to socialism. Shivsena, which is a Regional party in Maharashtra is openly against the socialism since its inception. Jamat-E-Islami does not even have faith in Constitution of India as they have

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rights of the citizens and members of Petitioner but is also ultra-vires the Constitution of India when the said Constitution grants all the protection to the citizen have his own faith. The Petitioner states that no enactment can force a particular ideology upon a citizen of India namely to have faith in socialism. In that case there is no question of affirming affidavit as per the provision of section 29A (5) of the Representation of People Act, which would amount to denial of fundamental rights and enacting law against spirit of the Constitution. The Petitioner states that since they have full faith and ~~allegiance~~ allegiance to the Constitution of India and they believe in secularism and democracy and uphold the sovereignty, unity and integrity of India, they have every right to register themselves as registered political party having their own ideology within the frame work of the Constitution.

10. The Petitioner therefore approaches this Hon'ble Court under Article 226 of the Constitution of India, in its inherent powers for appropriate Writ, direction and/or order in the nature of writ, for the declaration that the provisions of section 29-A of the Representation

of People Act are ultra vires the Constitution and are violative of fundamental rights of the Citizen of India. The Petitioner prefers this writ Petition on following amongst other grounds:-

(i) Section 29A (5) of the Representation of People

Act, 1951 compels the citizens of India to affirm

the fact that they believe in Socialism or

Socialist ideology, when it does not give any

definition of term Socialism or Principles of

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(ii) It is clear from the Preamble of the Constitution

of India, that each citizen has liberty of

thought, expression, belief, faith and worship

and therefore Petitioner can very well hold the

ideology which opposes the ideology of socialism,

when they bear full faith and allegiance to the

Constitution of India and principles of Secula-

-rism and damage democracy;

(iii) Article 19-1(a) and (c) protect fundamental

rights of citizen to freedom of speech and

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basis of their own ideology. In such a case,
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 Socialism leads to State ownership and a no
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 right to criticise, express or speak about

their opposition to ideology of socialism;

(vi) The Petitioner are entitled to hold ideology

in free democratic country like India which

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or Petitioner to hold a particular ideology

of socialism;

(vii) The Provisions of Section 29A of the Repre-

-sentation of People Act are directly in conflict

with the provisions of the Constitution of India

more particularly to the preamble and Article

19(1)(a) and 1(c) and therefore those provisions

are ultra vires the Constitution of India;

(viii) The Petitioner submit that the provisions of

section 29A ~~of~~ be declared illegal, in-operative-

in-law and ultra vires to the Constitution of

India.

11. The Petitioner has not filed any other Petition

either in this Hon'ble Court or in the Supreme Court of India,

in this matter.

12. The Petitioner craves leave, to add to, to alter, to delete, to vary, to amend any of the grounds urged hereinabove, if necessity may demand or occasion may require

13. The Petitioner is in correspondence with Respondents since 1989 and till today have not clarified the position in respect of interpretation of section 29A (5) of the said Act, which is virtually a denial of rights to the Petitioner and therefore the present petition is not barred by any limitation or latches.

THE PETITIONER, THEREFORE, PRAYS THAT:-

(A) This Hon'ble Court be pleased to issue writ of mandamus and/or any other appropriate writ directing the Respondents Nos.1 to 3 to pro-

duce parliamentary debates, documents,

notifications and Bill in respect of Section

29A of Representation of People Act;

(B) This Hon'ble High Court be pleased to issue

writ of ~~Ex~~ Certiorari and/or any other

appropriate writ, striking off the provisions

of section 29A of the Representation of the

People Act being ultra vires to the Constitution

of India and being violative of fundamental right of the citizen of India;

(C) This Hon'ble High Court be pleased to declare that the Petitioner have every right to register themselves as registered political party with their own ideology and direct the Respondents nos.1 to 3 to register the Petitioner party without filing an affidavit to affirm the fact that Petitioner believes in principle of socialism;

(D) Pending the hearing and final disposal of this Petition on its merit, this Hon'ble Court be pleased to direct Respondents Nos.1 to 3 to grant act as has registration to the petitioner party as political party to enable the petitioner to contest the forthcoming election to the Parliament as well as Legislative Assembly of Maharashtra;

(E) To grant ad-interim reliefs in terms of prayer clause (D);

(F) To pass such other and further orders as

this Hon'ble Court deem fit on the facts

and in the circumstances of the case.

AND FOR THIS ACT OF KINDNESS, The Petitioner as

in duty bound shall ever pray.

Bombay;

Dated; 10 October 1994.

Advocate for the Petitioner.

I, L.R. SAMPAT, General Secretary of the

Petitioner abovesigned 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 9 are true to my own knowledge and information and those

contents of paras 10 onwards being grounds, legal submi-

ssions and prayers are true to my belief and I believe the

same to be true.

Solemnly declared at Bombay,)

this day of October 1994.)

Before me;

Advocate for the Petitioner.