

ITEM NO.1 Court 7 (Video Conferencing)

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(s)(Civil) No(s). 1328/2019

LOK PRAHARI

THROUGH ITS GENERAL SECRETARY S.N.SHUKLA

Petitioner(s)

VERSUS

UNION OF INDIA & ANR.

Respondent(s)

(FOR ADMISSION

IA No. 147978/2019 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 147980/2019 - PERMISSION TO APPEAR AND ARGUE IN PERSON

IA No. 30879/2020 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

Date : 16-11-2020 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE L. NAGESWARA RAO

HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MR. JUSTICE AJAY RASTOGI

For Petitioner(s) Mr. S.N. Shukla,
Petitioner-in-person

For Respondent(s) Mr. Arvind Kumar Sharma, AOR

UPON hearing the counsel the Court made the following
O R D E R

Permission to appear and argue in person is granted.

The petitioner has filed this writ petition seeking the
following reliefs :

"1. issue a writ, order or direction in the nature of Mandamus to the Secretary, Legislative Department, Government of India to bring up before the Parliament within the stipulated time a Bill in terms of the recommendations/observations of this Hon'ble Court in paras 108, 117, 118 and 119 of the judgment dated 25.9.2018 of the Constitution Bench in PIL WP (C) No. 536 of 2011.

2. declare that, pending enactment of law in this regard, since Rule of Law and free and fair election are basic features of the Constitution, election of persons charge sheeted by a Court of Law more than a year ago for an offence punishable with imprisonment for five years or more as a member of Parliament/State Legislature shall be liable to be declared null and void on the grounds mentioned in Section 100(1) (a) (b) and (d) (iv) of the RP Act, 1951 due to violation of the provisions of Articles 14, 21, 51-A(a) and (I), lack of meaningful compliance of Articles 84(a)/173(a) and 99/188 on account of apparent falsity of the oaths taken by them as a candidate and after election, and the provision in Section 123(2) of the RP Act, 1951.

3. issue such other writ, order or direction as may be deemed fit in the circumstances of the case for implementation of the 1997 unanimous resolution of the Parliament and to restore and maintain purity of our legislatures as envisaged by the founding fathers of the Constitution and framers of the RP Act, 1951."

Mr. S.N. Shukla appearing in person referred to the observations made in para 118 of the Constitution Bench judgment of this Court in *Public Interest Foundation & Ors. versus Union of India & Anr.* reported in [(2019) 3 SCC 224] to submit that no steps have been taken by the Parliament to make any law to ensure that persons facing serious criminal cases would not enter the political stream. The crux of the argument of Mr. Shukla is that this Court should declare that a person who has been charge sheeted for more than a year for an offence punishable with imprisonment for five years is not qualified for contesting in the election and his election should be declared as null and void on the grounds mentioned in Section 100(1)(a),(b) & (d)(iv) of the Representation of People Act, 1951. He sought support from Article 84 of the

Constitution of India to state that a person shall not be qualified to be chosen to fill a seat in the Parliament unless he is a citizen of India, and subscribes before some person authorised in that behalf by the Election Commission on oath or affirmation according to the form set out for the purpose in the First Schedule. He contended that a person with criminal antecedents or is involved in a criminal case for serious charges cannot act in accordance with the Constitution. The contention of the petitioner is that the number of persons who are involved in the criminal cases of serious nature being elected to the Legislature has been increasing multi-fold. The grievance of the petitioner is that in spite of the recommendations made by the Law Commission of India and the Parliamentary Committee and the repeated observations made by this Court in several cases, no law has been brought into effect by the Parliament.

After hearing Mr. Shukla at length, we are not inclined to grant any relief. However, we leave it open to the petitioner to pursue any remedy available to him to get the observations made by this Court in *Public Interest Foundation & Ors. versus Union of India & Anr.* and other judgments of this Court implemented.

The writ petition stands disposed of. Pending application(s), if any, shall also stand disposed of.

(ASHWANI KUMAR)
ASTT. REGISTRAR-cum-PS

(ANAND PRAKASH)
BRANCH OFFICER