

**URGENT**

**ITEM NO.13**

**COURT NO.3  
(HEARING THROUGH VIDEO CONFERENCING)**

**SECTION XIV-A**

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

**Civil Appeal No.1666/2021**

**OKRAM HENRY SINGH**

**Appellant(s)**

**VERSUS**

**YUMKHAM ERABOT SINGH & ANR.**

**Respondent(s)**

**(IA No.57772/2021 - FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT; and, IA No.57773/2021 - FOR EX-PARTE STAY)**

**Date : 06-05-2021 This appeal was called on for hearing today.**

**CORAM :**

**HON'BLE MR. JUSTICE UDAY UMESH LALIT  
HON'BLE MS. JUSTICE INDIRA BANERJEE  
HON'BLE MR. JUSTICE K.M. JOSEPH**

**For Appellant(s)      Mr. Narender Hooda, Sr. Adv.  
                                 Mr. Shivendra Dwivedi, Adv.  
                                 Mr. Rajesh Mahale, AOR**

**For Respondent(s)    Mr. H.S. Paonam, Sr. Adv.  
                                 Mr. Gunedhor Singh, Adv.  
                                 Mr. S.K. Bhattacharya, Adv.  
                                 Ms. Diksha Rai, AOR**

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

**While allowing Election Petition No.2 of 2017 preferred by respondent no.1 herein, following directions were issued by the High Court:**

- "a) the Election petition is allowed by declaring the election of the Respondent No.1 as Member of 15-Wangkhei Assembly Constituency in the 11<sup>th</sup> Manipur Legislative Assembly as null and void.**
- b) this Court declared that the petitioner is duly elected as a member of 15-Wangkhei Assembly Constituency."**

It must be noted that:-

- A) While the Election Petition was pending consideration before the High Court and after issues were framed by the High Court for consideration, the appellant herein resigned from the concerned Assembly Constituency on 10.08.2020. The Legislative Assembly accepted the resignation on 11.08.2020.
- B) At the time of disposal of the Election Petition by the order which is presently under challenge, no relief in terms of Section 116B(1) of the Representation of the People Act, 1951 ("the Act" for short) was prayed for by the appellant.
- C) In the circumstances, by virtue of the provisions of Section 107 of the Act, the order passed by the High Court became operative as soon as it was pronounced by the High Court.

Another development which must be noted is that respondent No.1 who was declared to have been elected by virtue of second relief granted by the High Court, was sworn-in as a Member of the Legislative Assembly on 21.04.2021 (the Gazette Notification being dated 20.04.2021).

We have heard Mr. Narender Hooda, learned Senior Advocate in support of the petition and Mr. H.S. Paonam, learned Senior Advocate on behalf of respondent no.1 on caveat.

Since this is a statutory appeal, the appeal is admitted.

In normal circumstances, where the election of a returned candidate is set-aside, by virtue of an interim order, certain protection is afforded to the appellant. However, since the

appellant had resigned from the Assembly, by virtue of an interim order, the appellant cannot be representing the cause of the electorate before the House. The only scope of the interim order would, therefore, be confined to the second relief granted by the High Court.

While doing so, we must have due regard to two facts, namely, (i) no relief in terms of Section 116B(1) of the Act was prayed for; and, (ii) that by virtue of Gazette Notification dated 20.04.2021, respondent no.1 has already been sworn-in as a Member of the Assembly.

In the circumstances, we pass following interim directions which shall be operative till the present appeal is disposed of by this Court:

- a) Having been sworn-in as a Member of the Legislative Assembly, respondent no.1 shall be entitled to represent the electorate in the House and shall be entitled to participate in the debates.
- b) However, respondent no.1 shall not be entitled to cast any vote on the floor of the House or in any committee of the House.
- c) He shall also not be entitled to draw any monetary benefits in respect of the office of Member of the Assembly.

Let a copy of this order be immediately communicated to the Speaker of the Assembly.

**List this matter for final disposal on 27.07.2021.**

**The respondent no.1 may file his affidavit in response within four weeks from today.**

**Rejoinder, if any, be filed within three weeks thereafter.**

**(MUKESH NASA)  
COURT MASTER**

**(VIRENDER SINGH)  
BRANCH OFFICER**