

CORAM:

Hon'ble Shri B.B. Tandon
Election Commissioner

Hon'ble Shri T.S. Krishna Murthy
Chief Election Commissioner

Hon'ble Shri N. Gopaldaswami
Election Commissioner

In re:

Nationalist Congress Party – Dispute relating to.

Dated : 8th March, 2004.

Present :

For the group led by Shri Sharad Pawar

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| 1. Shri Ashok Desai, Sr. Advocate | 2. Shri Amrendra Sharan, Sr. Advocate |
| 3. Shri Samir Ali Khan, Advocate | 4. Shri Tariq Anwar |
| 5. Shri T.P. Master | 6. Shri Praful Patel |
| 7. Shri Kohli | 8. Shri S.Rahman, Advocate |
| 9. Shri A.Z. Palwi | 10. Shri Chandan Bose |
| 11. Shri Vipin Dabas | 12. Shri Parmanand Sharma |
| 13. Shri Shatrughan Palai | |

For the group led by Shri P.A. Sangma

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| 1. Shri Parag Tripathi, Sr. Advocate | 2. Shri D.K. Hazarika, Sr. Advocate |
| 3. Shri Aman Sinha, Advocate | 4. Shri B.B. Dutta |
| 5. Shri Joyant Mehta | 6. Smt. Ishita Sinha |
| 7. Shri Jimmy George | |

UPON hearing the submissions made by the representatives of both the factions of the party on 13th February, 2004, and after having perused the records of the case and having carefully examined and considered all relevant facts and

circumstances and propositions of law placed before it, the Commission is pleased to make the following

ORDER

This is a case of dispute raised before the Commission under paragraph 15 of the Election Symbols (Reservation and Allotment) Order, 1968 (hereinafter referred to as 'Symbols Order'). The two rival groups are led by Shri Sharad Pawar, the President of the party, as per the Commission's record, and Shri P.A. Sangma, one of the General Secretaries.

2. The Nationalist Congress Party (hereinafter referred to as 'NCP') is a recognised National Party with the symbol "Clock" reserved for it under the provisions of the Symbols Order. The party was formed in the year 1999 following a split in the Indian National Congress and was registered with the Commission on 5.7.1999 under Section 29A of the Representation of the People Act, 1951. It was subsequently recognised as national party under the Symbols Order on the basis of its poll performance at the Lok Sabha general election of 1999. At that Parliamentary election, the party had polled 7.7% votes in Arunachal Pradesh and won one seat each in Manipur and Meghalaya and six seats in Maharashtra, thus fulfilling the recognition criteria in force then under the Symbols Order.

3. The present dispute before the Commission started with a communication dated 27th January, 2004, received from Sh. P.A.Sangma, stating that Sh. Sharad Pawar was removed from the post of party president at a national convention of the party held on 24.1.2004 and that he (shri Sangma) was elected as the party President at that convention. Simultaneously, the Commission also received a letter from Sh. Pitambaran Master, another General Secretary, stating that Sh. Sangma and five others were expelled from the party on 24.1.2004 as per the decision taken by the Central Discipline Committee. The Commission asked both the groups to file documentary evidence in support of their respective claims, and also issued notice for hearing on 13.2.2004 at 11.30 a.m.

4. The two rival groups filed their written submissions alongwith certain documents on 9.2.2004. In the written submissions on behalf of Sh. Sharad Pawar, the group refuted the claim of Sh. Sangma regarding holding of national convention on 24.1.2004, removal of Sh. Pawar from the post of party president and election of Sh. Sangma in his place. They stated that the party constitution had no provision for removal of the elected president. The question of election of a new president in an emergency national convention, as claimed by Shri Sangma, would arise only on the death or resignation of the president. They further stated that the national convention was held normally once in 3 years and that any special national convention could be held only when there

was a valid decision to that effect by the national committee, or if majority of the state committees, through resolution, requested the party president to convene the convention. They stated that none of these procedures was followed in convening the alleged national convention by Shri Sangma. They also claimed overwhelming support both in organisational and legislature wings of the party. This group filed individual affidavits of support from 7 out of 8 Lok Sabha MPs of the party, all the 57 MLAs in Maharashtra, one MLA each in Goa, Madhya Pradesh and Kerala. This group also filed individual affidavits from 16 members of working committee (out of 24 members), and from 14 office-bearers (most of the office bearers are also working committee members). They also filed individual affidavits of support from more than 400 persons who they claimed were members of the national committee out of a total of 657 members, which was the strength of the committee as per their contention.

5. In the written submissions filed by the group of Sh. Sangma, they mainly relied on the principles and ideologies stated to have been adopted by the party at the time of its formation. Their main contention was that the party was opposed to the idea of persons of foreign origin from occupying high offices in the country, and it was this issue that led to the formation of the party after splitting from the Indian National Congress. They stated that Sh. Pawar took an arbitrary decision to align with the INC for the ensuing elections to the Lok Sabha, and this decision was opposed to the very ideology of the party, thus

leading to confusion among the party members. They contended that it was in this background that majority of State committees of the party resolved to convene an emergency national convention, which was held on 24.1.2004 at Shri Sangma's residence. According to the written statement, a large number of party cadres responded spontaneously and assembled for the emergency convention. They submitted a list containing about 400 names of persons who were stated to have attended the emergency convention on 24.1.2004. In that list, except for a small percentage of persons who were shown as holding some position in the organisational wing or in the frontal organisations of the party, the vast majority were shown as active members / members of the party. They also stated that the disciplinary action alleged to have been taken by Shri Pawar's group against Shri Sangma and others was illegal, as the prescribed procedure was not followed. They also filed individual affidavits of support from 6 members of the working committee, and from State presidents of Meghalaya, Manipur, Nagaland, Tripura, Orissa, West Bengal and Punjab. They also filed a very large number of individual affidavits from ordinary and active members of the party. However, they did not submit any individual affidavit from the MLAs or MPs (other than Shri Sangma who was himself an MP in the now dissolved Lok Sabha).

6. At the hearing on 13.2.2004, Shri Parag Tripathi, Sr. Advocate, who appeared on behalf of Shri P.A. Sangma, stated at the outset that many of

the affidavits submitted by the other group (Shri Sharad Pawar's Group) were of doubtful nature and, hence, the matter should not be decided finally on the basis of such documents. He stated that since some of the affidavits raised a suspicion, all the affidavits needed to be scrutinized carefully, an exercise which would require sufficient time. His contention was that if the affidavits of support were to be considered as relevant material to decide the issue, he should be given further opportunity to make submissions about the validity of the affidavits and until such time there could be an interim arrangement treating both the groups at par without giving either of them any undue advantage. He referred to certain alleged discrepancies in the affidavits filed by the other group, such as wrong designation of the deponent, incomplete particulars, affidavits sworn even on 23rd January, 2004, when according to him there was no dispute in the party and one affidavit sworn on 26th January, 2004, which was a national holiday. According to him, such glaring defects seen on a preliminary scrutiny should lead to the presumption that the affidavits were not reliable.

7. Coming to the merits of the case, Shri Tripathi submitted that the three vital aspects to adjudicate on rival claims of opposing splinter groups of a political party were : (i) Which group is following the ideology of the party, (ii) The relative strength of the groups in organizational side, and (iii) Their relative strength in legislature wing. On the point of ideology, Shri Tripathi contended that it was the group of Shri Sangma which was adhering to and

carrying forward the cutting edge of basic ideology propounded at the time of formation of the party. He stated that the issue of persons of foreign origin occupying high constitutional offices in the country was the primary issue on which the Indian National Congress (INC) split and the NCP came into existence in 1999. According to him, this was the only issue of difference between the NCP and the INC. Shri Tripathi referred to a joint letter dated 15.5.1999, signed by Shri Sharad Pawar, Shri Tariq Anwar and Shri P.A. Sangma, questioning the eligibility of persons of foreign origin to occupy the post of Prime Minister of the country, which subsequently led to their expulsion from the INC and the formation of the NCP and which formed the cutting edge of ideology of the party. He also stated that this was one of the issues highlighted in the manifesto of the party in the 1999 Lok Sabha election. He submitted that the other group by joining hands with the INC had given up this basic ideology and hence could not lay any claim to be representing the NCP.

8. About the strength of his group in the organizational and legislature wings of the NCP, Shri Tripathi stated that the recognition obtained by the party as a national party was based on its performance at the 1999 General Elections in the States of Arunachal Pradesh, Manipur, Meghalaya and Maharashtra. According to him, out of these four States, his group had the support of the organizational units in Arunachal Pradesh, Manipur and Meghalaya as was evident from the affidavits submitted by the State Presidents of these three

States (in the case of Arunachal Pradesh, the designation of the person who submitted the affidavit was given as ‘chairman of senior citizen of Nationalist Congress Party of Arunachal Pradesh’). He stated that there were at present eight MLAs in Meghalaya elected on the NCP ticket and all the eight were supporting his group. On the question of individual supporting affidavits from these MLAs, he stated that it was due to a technical difficulty, on account of the amended provisions of the Tenth Schedule, that they did not file their affidavits of support.

9. Shri Tripathi contended that in the facts and circumstances of the present case, the best course of action would be to freeze the name and symbol of the party and to allow the two groups to contest the forthcoming general election as separate national parties by granting interim recognition to both of the rival groups and to take up the matter for final disposal after the general election taking into consideration, the mandate obtained by the two groups from the electors of the country, the ultimate arbiters.

10. Shri Ashok Desai, Sr. Advocate, who appeared on behalf of the group of Shri Sharad Pawar, stated that the dispute was raised by Shri Sangma by his letter dated 27th January, 2004, and, therefore, the burden of proof lay on Shri Sangma to show that his group had the majority support to prove his claim to be recognized as the NCP. Shri Desai submitted that Shri Sangma had failed to discharge this burden, as he had not placed any material to show that he

enjoyed support of majority in the organizational or legislature wing of the party. According to him, the ideology aspect plays only a secondary role in deciding disputes in political parties, as political parties often change their ideologies with the changing times and the complex political compulsions. The primary consideration should be the relative strength of the rival groups in the legislature wing and organizational wing of the party comprising of its decision-making bodies. About the contention of the other group on the ideology issue, Shri Desai denied that his group had given up any of the ideologies or principles of the party. He referred to a resolution passed by the party on 14th January, 2004, upholding secularism as the main aspect to be projected in the present scenario. About the claims of Shri Sangma, in his letter dated 27th January, 2004, Shri Desai stated that the claim about the holding of the emergency national convention could not, by any standard of logic, be accepted as conforming to the requirements of the constitution. He referred to the statement made by Shri Sangma in his letter dated 27th January, 2004, and by the learned Sr. Counsel for Shri Sangma, about spontaneous reaction of the party cadres in holding the emergency convention and submitted that the action could at best be treated only as an emotional meeting of some individuals and not a formal convention satisfying any of the provisions of the party constitution. He referred to the provisions of the party constitution to show that there was no provision in it to remove the party president and to replace him by some one else

in the manner alleged to have been done by the other group. He contended that as per article 20(viii) of the party constitution, the question of electing any provisional/interim president would arise only in emergency situations such as death and resignation of the elected president, when the president was incapacitated from performing his duties. Citing the Supreme Court's ruling in the case of Sadiq Ali Vs. Election Commission of India (AIR 1972 SC 187), Shri Desai submitted that the relevant criteria in deciding the case would be the numerical strength of the splinter groups in the legislature and organizational wings of the party. He contended that, in both these wings, Shri Sharad Pawar enjoyed overwhelming support and, hence, the petition of Shri Sangma had to be rejected and the facts of the present case did not in any way justify or require any interim order as contented by the other group. Sh. Desai also referred to the decisions of the Commission in the dispute cases of Telugu Desam, Indian Congress (Socialist), Republican Party of India and Himachal Vikas Party, to stress the point that it is the relative numerical strength of the rival groups in the legislature and organisational wings of the party that matters in deciding cases of splits in political parties. About the alleged discrepancies in some of the affidavits pointed out by the other group, Sh. Desai submitted that even ignoring those in which some error might have occurred, his group still enjoyed a comfortable numerical superiority.

11. In his reply, Shri Tripathi, learned senior counsel for Shri Sangma, stated that the Commission's decision in the case of the Indian Congress (Socialist), relied upon by Shri Desai, was in the context of a final order, and that earlier there was an interim order in that matter. He reiterated his contention that in the circumstances of the present case, an interim order alone would do justice to the two groups. He referred to the Commission's decisions in the cases of splits in the Indian National Congress in 1979, the Janata Party, and the Janata Dal in 1999, to support his prayer for an interim order pending final decision which should be made only after the forthcoming Lok Sabha election, which would afford the two groups opportunity to seek the mandate of the people on equal footing. He stated that the discrepancies in the affidavits established a pattern and therefore, these papers which are yet untested should not be given credence for final disposal of the matter.

12. With regard to the request of Shri Tripathi that sufficient time should be available to them to scrutinize the individual affidavits filed on behalf of Shri Sharad Pawar, the Commission granted him time upto 19th February, 2004, and allowed him to file his written submissions and additional documents by that date. Shri Sharad Pawar's group was given time upto 20th February, 2004 to file their reply to the written submissions and additional documents that might be filed on behalf of Shri Sangma.

13. In the written submissions on behalf of Shri Sangma, filed on 19th February, 2004, the contentions and submissions made earlier about the cutting edge of ideology and principles of the NCP in the matter of people of foreign origin occupying high constitutional offices of the country were reiterated. They submitted that these principles were reflected in Article 2 of the party constitution and that it was on the basis of these principles that the party contested the 1999 Lok Sabha election and became eligible for recognition as a national party. They reiterated the claim that since it was the group of Shri Sangma that was following the said basic principles of the party, they alone were eligible to be recognised as the NCP. About the support in the legislature wing, they submitted copies of affidavits from eight MLAs of Meghalaya and from one Rajya Sabha MP affirming support to their group. They also repeated the contention about discrepancies in some of the affidavits filed on behalf of Shri Sharad Pawar and stated that these papers lacked credibility for coming to any final conclusion and, therefore, prayed that interim order may be passed freezing the party symbol, pending final decision which may be taken only after the conclusion of the forthcoming general elections.

14. In the reply on behalf of Shri Sharad Pawar, filed on 20th February, 2004, it was contended that the application of Shri Sangma did not disclose any cause of action and that group failed to discharge the burden of proof to show that they enjoyed support of majority as claimed in his original application dated

27th January, 2004. They also reiterated the earlier claims of overwhelming support in both the organizational and legislature wings of the party. They stated that Shri Sangma was not able to demonstrate that the group led by Shri Pawar had ceased to consider the issue of foreign origin as one to be debated publicly. They stated that the decision of the party at this stage was only to enter into an electoral alliance with the INC and there had been no decision as to who would lead or be the Prime Ministerial candidate of the coalition. It was also stated in the reply that the NCP was never intended to be a party with a single static agenda. It was also stated that no case was made out by Shri Sangma for interim order in this case. They also came up with some cases of discrepancies in the individual affidavits filed on behalf of Shri Sangma.

15. The Commission has carefully considered the material brought on record by the two rival groups and the submissions and contentions made by them. The main contention on behalf of Shri Sangma was about the so called cutting edge ideology of the party of opposing a person of foreign origin from occupying the office of Prime Minister of the country. This was the main ground urged in the letter of 27th January, 2004 of Shri Sangma and again in the oral submissions made by the learned counsel on behalf of his group at the hearing on 13th February, 2004, and also in the written submissions filed subsequently. According to them, this was the core issue on which the dissenting group of the INC led by Shri Sharad Pawar and Shri P.A. Sangma

came out of the INC in 1999 and formed the NCP. They contend that Shri Pawar having decided to align with the INC, had given up the basic principle of the party and, therefore, forfeited his right to continue as the party President and the group led by him could not claim to represent the NCP. In the context of this argument, it is to be noted that the issue of people of foreign origin becoming the Prime Minister is not incorporated in the constitution of the party submitted to the Commission in connection with registration of the NCP under section 29A of the Representation of the People Act, 1951, or in the copies submitted subsequently. As a basic document laying down the aims and objectives of the party and governing its functioning and internal administration, the Commission is primarily concerned with this party constitution. The party constitution does not say that the party's very existence is inextricably dependent upon upholding the principle of opposing persons of foreign origin from being Prime Minister of the country. Article 2 of the party constitution on which reliance was placed by the learned counsel for Shri Sangma, does not have any express or explicit provision in this regard. Denying the contention of Shri Sangma's group that Shri Sharad Pawar's group has given up the core issue, Shri Pawar's group has asserted before the Commission that they still stand by the principle that the said issue needs to be debated publicly. Their case is that the party is not a single static agenda party. In this context, they have placed on record a copy of the political resolution of the party passed at the

national convention on 30th May, 2003 declaring the party's resolve to dislodge the BJP from power. Shri Sangma was a party to that resolution. Shri Pawar's group also rely on the proceedings of the working committee meeting on 14th January, 2004 at which majority of members spoke in favour of alliance with the INC to achieve its aforesaid resolve. The undisputed fact that the INC and the NCP are already in league with each other and are running a coalition government in the State of Maharashtra for more than four years counters any contentions or argument that an electoral alliance with the INC tantamounts to giving up the sacrosanct fundamental principle of the party. These factors, on the other hand, do show that the party is not wedded to just one point agenda or ideology of opposing people of foreign origin from becoming Prime Minister. Therefore, the Commission does not see any merit in the contention of Shri Sangma that the group of Shri Pawar by merely deciding to enter into an electoral alliance with the INC had abandoned the pivotal ideology of the party and that his (Shri Sangma's) group being the crusader of the basic ideology is alone entitled to represent the party.

16. Coming to the special national convention held by Sh. Sangma on 24th January, an examination of the facts and circumstances vis-à-vis the relevant provisions of the provisions of the party constitution shows that the alleged convention could not be treated as a valid convention. As per the provisions of Article 18 of the party constitution, a national convention is to be

ordinarily held once in 3 years. Article 19 of the party constitution deals with special national convention. The said article is quoted below:

“ Article 19 : Special National Convention:

- (i) A special National Convention of the Party shall be held in case the NC so decides or if majority of the SCs through their resolutions request the President of the Party to convene such a Convention.
- (ii) Such a Convention shall be organised by the SC selected for holding the same.”

The above article is unambiguously clear that a special national convention of the party can be held either on a decision to that effect by the national committee or if majority of the state committees request the party president to convene such a convention. The request should be through resolutions of the state committees. The claim in the original application of Shri Sangma (dated 27.1.2004) was that the members of the party, representing an overwhelming majority of the rank and file of the party from all over the country, met in a convention on an emergency footing. There was no mention in the said application about requests from state committees for calling a special convention. In the subsequent statement submitted on 9.2.2004, it was stated that there were requests from majority of the state committees for calling a special convention. However, no document relating to any such request was produced on that occasion. These documents were not produced even during the

hearing when a pointed question was put to the learned counsel of Sh. Sangma. It was only with the written submissions filed on 19.2.2004, that copies of certain letters signed by persons claiming to hold different offices in the State units, alongwith copies of resolutions stated to have been passed for convening special national convention, were submitted. It is seen that some of these papers were addressed to the Delhi unit of the party. Other than the papers relating to Andhra Pradesh, Manipur and Uttar Pradesh, which mention the names of 15, 16 and 8 persons respectively, the other documents do not even mention the names of the state committee members who attended the meeting at which the resolutions, as claimed, were passed and adopted. Another relevant factor is that the requirement of the abovementioned Article 19 is that the state committees are to request the president of the party to convene the session. The documents submitted show that the request was made either to Shri Sangma or to the Delhi unit. It cannot be disputed that atleast until 24th January, 2004, Shri Pawar was the president of the party before his alleged expulsion from that office in the convention on that day. It might have been a different case if the party president did not respond in spite of requests made to him, and therefore, the state committees were forced to approach other office bearers of the party. Here, there is no such claim. Furthermore, no notice or agenda for the said convention has been brought on record. In fact, even a bare assertion that any such notice was issued for the convention has not been made either by Shri Sangma or by his

learned counsel. Considering all these aspects, the so called national convention claimed to have been held by the group of Shri Sangma on 24th January, could at best be treated as a private meeting of some likeminded persons at the residence of Shri Sangma, and not the national convention of a recognised political party governed by a written constitution and which convention could take decision of such far-reaching repercussions as the expulsion of the duly elected president of the party. Consequently, any decision or action taken by the said convention could not be treated as valid or binding on any organ, body or member of the party, much less the Election Commission.

17. In an ordinary case or suit of civil nature, the conclusions arrived at by the Commission as aforesaid would have been sufficient for rejecting the claims of Shri Sangma made in his letter of 24th January, 2004. But in a dispute of political nature where two or more rival sections or splinter groups of a recognised political party claim to be that party, the Commission has been deciding such disputes under para 15 of the Symbols Order by applying the test of majority in the organizational and legislature wings of the party. In the above-referred case of Sadiq Ali (*supra*), the Supreme Court upheld the principle of deciding disputes relating to splits in political parties on the basis of relative strength of the splinter groups in the organizational and legislature wings of the party. The Supreme Court held in that matter in 1971 that the test of majority applied by the Commission in the case of split in the INC which was the subject

matter of that case, was a valid and relevant test. The Commission has since then been following and applying this test of numerical majority in the legislature wings and in the organisational wings of the party in all cases of splits. Obviously, it is not possible for the Commission to embark on a head count of general/ primary members supporting one or the other group in such cases, and the test of numerical strength has necessarily to be restricted to the representative bodies of the party-legislature wing comprising elected members of the party in Parliament and State Legislatures and the Organisational wing consisting of decision-making bodies.

18. As per the party constitution of the NCP, the party has, on the organisational side, a national committee consisting of members elected by the state committee members of the party at the rate of 1/10th of the strength of the state committee members from each State and a few other members in ex-officio capacity. The state committee members are elected from the constituency/block committees. The national convention is the largest assembly of the party, attended by all members of state committees as delegates, which normally meets once in three years. The president of the party is elected at such national convention under the supervision of the chairman of the election authority of the party. The procedure for election of the president is that 10 delegates should jointly propose candidates and the proposals should reach the returning officer before the date specified for the purpose. Thereafter, the returning officer

publishes the names of all persons proposed for presidential election and after 7 days after the withdrawal of candidatures, the voting takes place.

19. The party has a working committee, the apex executive body, consisting of 23 members besides the party president and the leader of the party in Parliament. Out of the 23 members, 12 are elected by the national committee and the rest are nominated by the party president. The president also appoints the general secretaries, secretaries, joint secretaries and treasurer from amongst the members of the working committee.

20. The last organisational elections of the party were held last year,(in May ,2003) at which Sh. Sharad Pawar was elected as the party president. The party had submitted to the Commission in June 2003, the list of 23 members of the working committee after the elections. As already stated, the apex executive body of the party is the working committee with a strength of 24 members. In this committee, the group of Shri Sharad Pawar has submitted individual affidavits of support from 16 members, whereas the group of Shri Sangma has submitted affidavits from 6 members. Regarding the national committee of the party, Shri Sharad Pawar has claimed that there were 657 members and, of them 438 members are supporting him. To substantiate his claimed, he has filed individual affidavits of these 438 members. Although, the group of Shri Sangma made a statement that the strength of the national committee as claimed by Sh. Pawar's group was disputed by them and they also disputed some of the

individual affidavits (not more than 12 in number) filed by these members, that group neither came up with any figure regarding the strength of the national committee nor did they make any claim of majority support in the national committee. Therefore, there is no reason to summarily discard all these affidavits, except those which have been specifically disputed. Both the groups have submitted individual affidavits from certain persons claiming to be the presidents of the State/Pradesh units of the party. Shri Pawar's group has filed affidavits from 19 such persons, and Shri Sangma's group initially filed affidavits of support from 7 such persons and from one Dr. Hardat Shukla, claiming to be the acting president of a pradesh committee (without, however, mentioning the name of the pradesh). Later, alongwith the written statement filed on 19.2.2004, that group has annexed copies of certain letters from 18 State units supporting Shri Sangma. Among these affidavits and letters of support, it is seen that both the groups have submitted affidavits/letters of support from Bihar, Delhi, Madhya Pradesh, Tamil Nadu, Punjab and Uttar Pradesh. The affidavits/letters from these States submitted by the two groups are from different persons claiming to be the head of the State unit. In some cases, these documents are signed by persons giving their designation as convener, working president, vice-president, etc. In respect of Punjab, both the groups have filed affidavits (from different persons) claiming to be president of the State unit. In view of the above, it is not safe to rely on these affidavits as the names of the

Pradesh/State presidents were not submitted to the Commission after their election/appointment, and there are conflicting claims in relation to the presidents of the State units. Furthermore, the affidavit of support from a State president cannot be treated as pledging the support of the whole State unit of the party to one or the other group. The group of Shri Sangma had claimed the wholehearted support of the State units of Arunachal Pradesh, Meghalaya and Manipur, three of the States where the party had polled the required percentage of votes or won seats at the Lok Sabha general election of 1999 as required for recognition as per the criteria for recognition in force then. However, Sh. Holkhomang, the party's lone candidate elected to the Lok Sabha from Manipur in 1999, has supported Sh. Sharad Pawar's group by filing individual affidavit on the basis of above analysis, the obvious inference is that Sh. Pawar's group enjoys far superior numerical support in the decision making bodies of the organisational wing of the party by filing an individual affidavit.

21. On the basis of the above analysis, the obvious inference is that Shri Pawar's group enjoys far superior numerical support in the decision making bodies of the organizational wing of the party. In the legislature wing of the party, Shri Sharad Pawar's group has submitted individual affidavits of support from 7 out of the 8 MPs (8th being Shri Sangma) of the party in the now dissolved Lok Sabha, 57 MLAs in Maharashtra, and one MLA each in the Legislative Assemblies of Goa, Madhya Pradesh and Kerala (where the party

has only one MLA each). The party has also filed affidavits of support from 2 out of the 3 Rajya Sabha MPs of the party and all the 18 MLCs of the party in the Maharashtra Legislative Council. The group of Shri Sangma has, on the other hand, filed affidavits from all the 8 MLAs of the party in the Meghalaya Legislative Assembly. These figures clearly demonstrate the overwhelming superiority of the group of Shri Pawar in the legislature wing of the party also.

22. The learned counsel for Shri Sangma had pleaded for an interim order in the matter till after the forthcoming general elections to the Lok Sabha and some of the State Legislative Assemblies, by freezing the name and symbol of the party and letting the two rival groups contest the elections on equal footing. He referred to the decision of the Commission in the dispute cases of Indian National Congress in 1979, the split in Janata Party in 1980, and the much recent case of split in the Janata Dal in 1999. Here, at the outset, it has to be noted that those were cases where the rival factions were more or less equally balanced in terms of the support enjoyed by them in the organisational and legislature wings on the basis of the material made available to the Commission at the relevant time and the Commission was not a position to decide the matter finally. In the Commission's order of 7th August, 1999, in the case of split in the Janata Dal, the Commission had observed:

“... Whatever undisputed evidence remains on record shows that the party has split vertically and both the groups are more or less

evenly poised. On the basis of such evidence, it cannot be straightaway said that one or the other group enjoys such overwhelming majority in the organisational and legislature wings of the party, that it may be recognised as ‘the Janata Dal’.”

In the present case, as already seen, the group of Shri Sharad Pawar has unambiguously demonstrated the overwhelming majority it enjoys in the organisational and legislature wings of the party. The main ground urged by the group of Shri Sangma, in the submissions made by its learned counsel at the hearing, and in the written submissions filed on 19.2.2004, in favour of an interim order was that some of the individual affidavits filed by it were of doubtful nature. They referred to the affidavits of Shri Tariq Anwar, Shri Praful Patel, Shri Peethambaran Master, Dr. Jagannath Mishra and Shri Amarendra Sharan, members of the working committee, in which discrepancies between the date of signing the affidavit and the date of attestation by the Notary were pointed out. Out of these, in the case of the affidavit of Shri Praful Patel, there does not appear to be any discrepancy of dates as both the dates given are 27th January, 2004. In the case of the other four, there is a slight discrepancy in the dates. But it has to be noted that these four deponents, three deponents namely, Shri Tarik Anwer, Shri Peethambarm Master and Shri Amarendra Sharan were personally present before the Commission at the hearing on 13.2.2004 representing Shri Pawar’s group. The contention on behalf of Shri Sangma was

that the pattern of errors in the affidavits raised a doubt about the documents filed by the other group. Here also, it has to be noted that at the hearing on 13.2.2004 Shri Sangma's group was granted time upto 19.2.2003 to examine these affidavits and that group in its written submissions filed on 19.2.2004 pointed out discrepancies only in respect of 12 affidavits. Therefore, in the facts and circumstances of the case, the Commission does not see that these discrepancies have material bearing on the overall position of support enjoyed by the group of Shri Pawar. The Commission would have been justified in making an interim arrangement if Shri Sangma was able to demonstrate matching support in the organisational and legislature wings of the party and the Commission was not in a position to conclusively decide the issue. Here as already seen above, Shri Pawar's group has filed affidavits from 16 members of the working committee as against 6 affidavits filed by Shri Sangma's group. The position regarding the national committee, the largest representative body has already been discussed in paragraph 20 above. Shri Pawar has claimed support of 438 out of 657 members of that committee. Shri Sangma has not made any claim of majority in this committee. The position with regard to the state presidents has also been discussed in paragraph 20. Taking into account the totality of all these facts and circumstances, the Commission does not see any merit in the prayer of Shri Sangma for an interim order in this matter, when the

documents placed before it show that the matter can be disposed of finally at this stage itself.

In the case of Sadiq Ali (supra), the Supreme Court had observed:

“The Commission in deciding that matter under paragraph 15 has to act with a certain measure of promptitude and it has to see that the enquiry does not get bogged down in a quagmire”

In the present case, the Commission is satisfied beyond any doubt that the group led by Shri Pawar has far superior numerical support in the organisational and legislature wings of the party, and it sees no reason at all for any interim order, allowing the matter to linger on.

Having regard to the above, and to the totality of facts and circumstances, the Commission hereby decides, in terms of paragraph 15 of the Symbols Order, that the group led by Shri Sharad Pawar is the Nationalist Congress Party, and is entitled to the use of its reserved symbol ‘Clock’, as a recognised National Party.

ORDERED ACCORDINGLY

Sd/-
(B.B. Tandon)
Election Commissioner

Sd/-
(T.S. Krishna Murthy)
Chief Election Commissioner

Sd/-
(N. Gopaldaswami)
Election Commissioner