



56/02/2015/PPS-II

**In Re: Karnataka Jantha Paksha, a State party in the State of Karnataka –
Merger with Bharatiya Janata Party, a recognized National Party**

ORDER

This order relates to the reported merger of the Karnataka Janata Paksha (hereinafter '**the Party**'), a recognized party in the State of Karnataka, with the Bharatiya Janata Party (hereinafter '**BJP**'), a recognized national party.

2. The Party was registered as a political party under Section 29A of the Representation of the People Act, 1951 with effect from 28.04.2011. At the time of registration of the Party, Shri Padmanabha Prasanna Kumar was its President. In fact, the application for registration was submitted under the signature of Shri Prasanna Kumar in his capacity as Party President. A letter dated 14.12.2012 was received in the Commission from the Party, signed by Shri Prasanna Kumar informing about the election of a new Party President. It was stated in the said letter that Shri B.S. Yeddyurappa was elected as the President of the Party on 11.12.2012.

3. A letter dated 09.01.2014 was received from Shri B.S. Yeddyurappa in which he informed the Commission that the Party had merged with the BJP. He mentioned that a meeting of the State Office Bearers (Core Committee) of the Party was held on 27.12.2013 in which the resolution to merge the Party with

the BJP was unanimously accepted. Copies of the resolution passed on 27.12.2013 and letters of the District Presidents as well as proceedings of the Legislature Party meeting on 03.01.2014, in which the resolution of merger was approved, were also attached.

4. The Commission also received a communication dated 03.01.2014 from Shri Prasanna Kumar, opposing the merger. Shri Kumar stated that he was the founder-president of the Party and alleged that the claim of merger made by Shri Yeddyurappa was false and should not be accepted. He submitted that the party continued to exist and function. However, Shri Prasanna Kumar did not submit any documents to support his claim. The Commission vide its letter dated 05.03.2014 intimated Shri Kumar that no action had been taken on his application as his claim was not supported by any documentary evidence to show that the Party continued to exist.

5. The Commission wrote to Shri B.S. Yeddyurappa on 05.03.2014 asking him to show that the reported merger had been carried out in consonance with the principles laid down by the Hon'ble Supreme Court in *All Party Hill Leaders' Conference v. Capt. William Sangma* (AIR 1977 SC 2055) case. He was also asked to confirm that no litigation challenging the merger was pending in any court of law.

6. Shri Yeddyurappa failed to respond to the Commission's letter dated 05.03.2014, upon which the Commission issued a reminder on 12.02.2015 asking him to furnish his comments on the matter. Shri Yeddyurappa replied in

his letter dated 26.03.2015, in which he reiterated that a meeting of the State Executive was held on 09.12.2013 authorizing him to take appropriate decision regarding the merger. Subsequently in a meeting of the State Office Bearers on 27.12.2013, the request of District Committees to merge the Party with the BJP was accepted and a decision to merge the two parties was taken. A meeting of the Legislature Party was held on 03.01.2014 in which the merger proposal was accepted. In his letter, Shri Yeddyurappa also confirmed that there was no litigation challenging the merger pending before any court. He mentioned that a writ petition (W.P. No 30108/2013) was filed by Shri G.R. Rajendra Prasad but claimed that no notice from the High Court had been received in this regard. He also stated that the merger was in accordance with the law and the guidelines laid down in the APHLC case (supra). He also submitted some documents with his letter: copy of the minutes of the meetings held on 9.12.2013, 27.12.2013 and 03.01.2014 as well as copies of resolutions passed by District Committees of the Party in support of the merger. However, these documents were in Kannada language and were accordingly forwarded to the Chief Electoral Officer of Karnataka (hereinafter, '**CEO Karnataka**') on 07.05.2015 to obtain English translations of the same.

7. On 04.03.2014, a letter dated 24.02.2014 was received by the Commission from the Party, signed by Shri Prasanna Kumar, informing that Shri B.S. Yeddyurappa and 12 other members of the Party were disqualified from party membership. On the same day, another letter dated 04.03.2014, was received from Shri Prasanna Kumar, in which he intimated that a general body

meeting of the Party was held on 26.01.2014 in which he was re-elected as party President.

8. The Commission wrote to Shri Prasanna Kumar on 07.05.2015 asking him to furnish his comments on the representations of Shri Yeddyurappa regarding the alleged merger between the Party and the BJP. He was also asked to submit documents to show that his election as party President as claimed, was carried out as per the provisions of the party constitution and that the persons who elected him were bona-fide members of the party. The letter issued to Shri Prasanna Kumar came back undelivered, subsequent to which an attempt was made to have the letter delivered to Shri Prasanna Kumar through CEO, Karnataka. However, the CEO informed the Commission vide letter dated 18.06.2015 that Shri Prasanna Kumar was not available at the address mentioned by him and hence the letter could not be delivered to him.

9. Copies of the communication received from Shri Prasanna Kumar dated 24.02.2014 and 04.03.2014 were forwarded to Shri Yeddyurappa for his reference. Shri Yeddyurappa responded vide a letter dated 04.08.2015 stating that Shri Prasanna Kumar had no authority to oppose the merger as he had himself resigned from the post of Party President on 09.11.2012 and his resignation was accepted by the State General Council. Shri Yeddyurappa also claimed that thereafter, Shri Dhananjay Kumar was appointed as Party President on 09.11.2012 and subsequently, Shri Yeddyurappa himself was elected as State President on 09.12.2012. Accordingly, he requested that the claim of Shri Prasanna Kumar as Party President be rejected.

10. Translated copies of the documents submitted by Shri Yeddyurappa with his letter dated 26.03.2015 to the Commission, was provided by the CEO, Karnataka on 26.06.2015. The documents contained copies of minutes of various meetings in which decisions of the party members, pledging support to Shri Yeddyurappa and resolutions supporting the merger, were allegedly made. As per the documents submitted, a State Executive meeting was held on 09.12.2013 wherein the party members expressed their support to Shri Yeddyurappa and agreed to abide by his decision. Subsequently, a meeting of state office bearers was held on 27.12.2013, in which a resolution supporting the merger of KJP with BJP was passed unanimously. On 03.01.2014, a meeting of KJP Legislative Unit was held, in which the proposal of merger of KJP with BJP was accepted by 4 out of the 6 MLAs elected as candidates set up by the KJP in the Assembly General Election held in 2013. Some other letters signed by various district and state representatives in favour of the merger of the Party with the BJP, were also submitted therewith.

11. The Commission then wrote to the CEO, Karnataka, on 11.07.2016, asking him to provide information on the following queries:

- i. Whether there was any record in the CEO's office showing the Party still in existence as a political party after the reported merger with BJP, or whether any group still claimed to be the Party.
- ii. Was there any member in the Karnataka Legislative Assembly still being shown as belonging to the KJP.

- iii. Whether there was any information about any pending litigation in court on the issue of the merger of the Party with BJP.

The replies furnished by the CEO, Karnataka on 08.03.2017, to the above-mentioned questions respectively, are as follows:

- i. Shri Prasanna Kumar was claiming to be the president of KJP and that the KJP was still in existence after the reported merger. However, he had not made any written appeal in support of his claim.
- ii. According to the report of the Secretary of Karnataka Legislative Assembly, there were 6 MLAs belonging to KJP, of which 4 members have gone along with the decision of merger with the BJP and have since been shown as MLAs belonging to the BJP. The remaining two members are still members of KJP.
- iii. It was confirmed that two writ petitions bearing No. 38108/2013 and 667/2014 filed in the Karnataka High Court by Shri G.R. Rajendra Prasad challenging the registration of KJP, were still pending before the court.

12. In the meantime, Shri Prasanna Kumar wrote to the Commission on 08.02.2018 claiming that his party as a state recognized party, had not been allotted a permanent symbol and requested that it be allotted the 'coconut' as its election symbol. He also furnished copies of the minutes of various meetings held from 27.02.2014 to 09.12.2017 regarding various activities and

developments within the Party, including documents describing himself as Party President. He also conveyed the new address of the party.

13. The relevant records of the case and the documentary evidence that has been placed on record by the parties concerned have been carefully examined. Further, the contentions raised by both sides in their various communications have been carefully analyzed.

14. The first issue for consideration is whether after the reported merger of the Party with the BJP, the Party still survives and continues to exist and function as a separate party. If the Party is found to still exist as a separate entity, the next question for consideration is whether the Party is eligible to be a State recognized party or should gain the status of a registered, unrecognized Party.

15. It is apparent from the factual record laid out above, that from the time the decision of merger was taken by Shri Yeddyurappa, there had been opposition to the merger, led by Shri Prasanna Kumar who was President of the Party at the time of its registration. Furthermore, out of the 6 MLAs elected to the Karnataka Legislative Assembly, as candidates of the Party in 2013, 2 MLAs had not joined the BJP and continued as members of the KJP. It is therefore clear that the Party cannot be said to have fully merged with BJP. In addition, two Writ Petitions, namely W.P. No. 38108/2013 and W.P. No. 667/2014, filed by one G.R. Rajendra Prasad are still pending before the Karnataka High Court against the registration of the Party under section 29A of the R.P. Act, 1951.

16. In the *All Party Hill Leaders' Conference* case, the Supreme Court held that even after the majority of one party had joined with another party, if those who continued under the banner and symbol of the first party, resolved to continue as that party, then there was no reason for them not to do so.

17. It is pertinent to take note of the Party's constitutional provisions relating to merger/dissolution. The provision lays down the procedure for putting a proposal for merger or dissolution into effect. A proposal for merger or dissolution must first be approved by the Taluk General Council to which the proposer belongs and then passed by the District and State General Councils by two-third majority before it is forwarded to the State Executive Committee and ratified by two-third majority. In the present case, the papers submitted by Shri. Yeddyurappa were proceedings of the State Executive Council and communications from some District Presidents of the Party stating that the District Executive Committee expressed concurrence with the decision of the merger. There was no documentation to show that the provisions of the party constitution relating to merger were complied with in all respects.

18. In several cases in the past, when there were disputes in the matter of merger of any party with another and where it was not clearly established that all procedural requirements were strictly followed as per the relevant provisions in the Constitution of the party, the Commission has permitted the remnant group of the party, to continue as the original party. In the case of Kerala Congress, a recognized state party which merged with another recognized state party in the

State of Kerala, Kerala Congress (M), the Commission concluded that the Kerala Congress had not fully merged or integrated with the Kerala Congress (M) en bloc and therefore, continued to exist and function as a separate party. However, the Kerala Congress in its reduced form did not satisfy the criteria laid down for its continued recognition as a recognized State party in the State of Kerala, in the Legislative Assembly elections, which was contested by the two parties separately after the merger. Accordingly, the Commission was satisfied that the Kerala Congress was no longer entitled to recognition as a State party under paragraphs 6A and 6C of the Election Symbols (Reservation and Allotment) Order, 1968 and ordered that it would thereafter be a registered unrecognized political party for the purposes of the Symbols Order. Similar was the decision in the case of reported merger of Samata Party, a recognized State party with Janata Dal (United), another recognized State Party and in some other cases.

19. In the present case it is evident that the Party has not fully merged with the BJP. Thus, this is a case of merger of a group of the Party which apparently constitutes a major faction of the Party together with four out of six MLAs of the Party merging with the BJP. Therefore, the Party cannot be said to have ceased to exist. A group of members including Shri Prasanna Kumar, the founder, continues to represent the Party.

20. At the last general election to the Karnataka Legislative Assembly in 2013, the Party secured 10.82% of votes and 6 MLAs, thus fulfilling the criteria for recognition and earning the status of a State recognized party. However, the

present situation is that there are only 2 MLAs left in the Party and the remnant group has not produced any documents to show other candidates who contested election as candidates of the Party, continue as members of the Party now.

21. In view of the foregoing, the Commission has directed that the Karnataka Jantha Paksha shall continue as a registered unrecognized political party in terms of Section 29A of the Representation of People Act, 1951.

22. The Party is directed to submit the list of its office-bearers. As regards the request for allotment of symbol to the Party, it would be open to the Party to submit application for allotment of common symbol in terms of Paragraph 10B of the Symbols Order, 1961 and such application must be made at least 5 days before the date of notification of election.

By Order,


(Pramod Kumar Sharma)

Secretary

New Delhi

Dated: 11th April, 2018