

[2012] 2 S.C.R. 327

D. SUDHAKAR & ORS.

v.

D.N. JEEVARAJU & ORS.

(Civil Appeal Nos. 4510-4514 of 2011)

MAY 13, 2011

[ALTAMAS KABIR AND CYRIAC JOSEPH, JJ.]

Legislature – Independent legislators extending support to Chief Minister in the formation of the Bharatiya Janata Party led Government and also joining his Council of Ministers – Status of such independent legislators – Held: It cannot be said that such independent legislators had sacrificed their independent identity.

The question which arose for consideration in these appeals is whether by extending support to ‘Y’-Chief Minister in the formation of the Bharatiya Janata Party led Government, the appellants-independent legislators had sacrificed their independent identity.

Allowing the appeals, the Court

HELD: The submission that by extending support to ‘Y’ in the formation of the Bharatiya Janata Party led Government the appellants had sacrificed their independent identity cannot be accepted. The fact that the said appellants also joined the Council of Ministers does not also point to such an eventuality. An independent legislator does not always have to express his intention to join a party in writing, but the mere extension of support to ‘Y’ and the decision to join his Cabinet, was not sufficient to indicate that the appellants had decided to join and/or had actually joined the Bharatiya Janata Party, particularly on account of the subsequent conduct in which they were treated

A differently from the Members of the Bharatiya Janata Party. Therefore, the decision of the Speaker as upheld by the High Court is not sustainable. The orders passed by the Speaker and by the Full Bench of the High Court are set aside. The detailed judgment would follow. [Paras
B 2, 3 and 5] [328-G-H; 329-A-D]

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 4510-4514 of 2011.

C From the Judgment & Order dated 14.2.2011 of the High Court of Karnataka at Bangalore in Writ Petition No. 32674-32678 of 2010 (GM-RES).

WITH

D C.A. No. 4517-4521 of 2011.

E P.P. Rao, K.K. Venugopal, Satpal Jain, P.S. Narsimha, Dinesh Dwivedi, Jaideep Gupta, Soli J. Sorabji, Prashant Kumar Mahalakshmi Pavani, Bimola Devi, Triveni Potekar, Ustav Sidhu, Apeksha Sharan, Filza Moonis, Amarjit Singh,
F Bedi, Prashant Kumar, Pooja Dhar, Gopal, Chandra Bhushan Prasad, Bhupender Yadav, Ruchi Kohli, Saurabh Shamsherty, Anish Kumar Gupta, M.B. Nargan, Deep Shikha Bharati, P.V. Yogeshwaran, Vikramjeet Banerjee, M.B. Nargund, Prasanna Deshmukh, Rajeev Kr. Singh, Vikramjeet, Pritish Kapoor, Jyotika Kalra for the appearing parties.

The Judgment of the Court was delivered by

ALTAMAS KABIR, J. 1. Leave granted.

G 2. We are unable to accept the submission made on behalf of the respondents that by extending support to Shri Yeddyurappa in the formation of the Bharatiya Janata Party led Government the appellants had sacrificed their independent identity. The fact that the said appellants also joined the Council
H of Ministers does not also point to such an eventuality. It is no

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doubt true that an independent legislator does not always have to express his intention to join a party in writing, but the mere extension of support to Shri Yeddyurappa and the decision to join his Cabinet, in our view, was not sufficient to indicate that the appellants had decided to join and/or had actually joined the Bharatiya Janata Party, particularly on account of the subsequent conduct in which they were treated differently from the Members of the Bharatiya Janata Party.

3. We are, therefore, unable to sustain the decision of the Speaker as affirmed by the High Court and we, accordingly, allow the appeals and set aside the orders passed by the Speaker on 11.10.2010 and by the Full Bench of the High Court on 14.2.2011.

4. There will, however, be no order as to costs.

5. Detailed judgment will follow.

N.J.

Appeals allowed.