

A

HARSHARAN VERMA

v.

CHARAN SINGH AND ORS.

B

November 19, 1984

[Y. V. CHANDRACHUD, C.J. AND E.S. VENKATARAMIAH, J.]

C

Constitution of India 1950, Article 75.—Prime Minister—Continuance in office as head of Caretaker Government—Fresh oath—Taking of—Whether necessary.

Practice and Procedure—Academic importance—Question of—Not to be decided by Supreme Court.

D

The appellant in his writ petition to the High Court challenged the continuance in office of Shri Charan Singh as the Prime Minister contending that Shri Charan Singh failed to seek the mandate of the Lok Sabha within three weeks after assuming the office of the Prime Minister as directed by the President of India, that instead of "facing the House" he submitted the resignation of his Government on August 20, 1979, and that his continuation in office thereafter as a caretaker Prime Minister without taking a fresh oath of office was unconstitutional.

E

The High Court dismissed the writ petition, but granted a certificate of fitness to appeal to this Court.

Dismissing the Appeal,

F

HELD : 1. The continuation in office of Shri Charan Singh and his ministers was not unconstitutional. [71 G]

2. It is not the practice of this Court to decide questions of mere academic importance. The issues raised by the appellant are no longer live. [71 E]

G

3. Our Constitution knows no such hybrid thing as a "Prime Minister subject to a condition of defeasance". Conditions imposed by the President may create considerations of political morality or conventional propriety but not of constitutional validity. [71 F]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3491 of 1979.

H

On appeal by Certificate from the Judgment and Order dated 10.12.79 of the Allahabad High Court in W.P. No. 2402 of 1979.

Appellant in person.

Girish Chandra and R.N. Poddar for the respondents.

The Order of the Court was delivered by

The appellant had filed a writ petition in the High Court of Allahabad challenging the continuance in office of Shri Charan Singh as the Prime Minister and Shri S.N. Kacker as Minister of Law, Justice and Company Affairs. Stated briefly, the contention of the appellant is that Shri Charan Singh failed to seek the mandate of the Lok Sabha within three weeks after assuming the office of the Prime Minister as directed by the President of India, that instead of "facing the House" he submitted the resignation of his Government on August 20, 1979 and that his continuation in office therefore as a caretaker Prime Minister without taking a fresh oath of office was unconstitutional. The writ petition was dismissed by the High Court by a judgment dated December 10, 1979 but it has granted a Certificate of fitness to the appellant to file this appeal.

It is a well-known fact of history that the Government of Shri Charan Singh was in office for a very brief spell. It fell soon after it assumed office, indeed, too soon the issues raised by the appellant are no longer live and it is not the practice of this Court to decide questions of more academic importance. We must, however, hasten to add that the High Court is right in its view that Shri Charan Singh's appointment as the Prime Minister could not be said to be conditional upon his seeking a mandate of the Lok Sabha. Our Constitution knows no such hybrid thing as a "Prime Minister subjected to a condition of defeasance". Conditions imposed by the President may create considerations of political morality or conventional propriety but not of constitutional validity. The High Court is also right that it was not necessary for Shri Charan Singh and his ministers to take a fresh oath after being called upon by the President to continue in office as a caretaker Government. Thus, the continuation in office of Shri Charan Singh and his ministers was not unconstitutional.

For these reasons, the appeal is dismissed.