

Harsharan Verma

Vs

Charan Singh and Others

Civil Appeal No. 3491 of 1979

(CJI Y. V. Chandrachud, E. S. Venkataramiah JJ)

19.11.1984

ORDER

1. 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 offices 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 offices 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.

2. 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 not longer live and it is not the practice of this court to decide questions of mere 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 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. 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 offices of Shri Charan Singh and his ministers was not unconstitutional.

3. For these reasons, the appeal is dismissed.

</html