

SUPREME COURT OF INDIA

Swaraj Abhiyan & Ors.

Vs.

Union of India & Ors.

WP(Civil)No.720/2016

(Dipak Mirsa and Amitava Roy,JJ.,)

02.12.2016

ORDER

1. Heard Mr. Shanti Bhushan, learned senior counsel along with Mr. Prashant Bhushan for the petitioners and Mr. Mukul Rohatgi, learned Attorney General for India along with Ms. V. Mohana, learned senior counsel for the respondents.

2. On 11.11.2016, this Court had passed the following order:

"Ms. V. Mohana, learned senior counsel being assisted by Mr. Mukul Singh, learned counsel appearing for the respondents has received a copy of the petition from the petitioner and undertakes to obtain instructions within two weeks. Let the matter be listed after two weeks."

3. It is submitted by Mr. Mukul Rohatgi, learned Attorney General for India that a writ petition by Swaraj Abhiyan, an unregistered organization, is not maintainable. Additionally, it is urged by him that the people behind the said unregistered organization have filed an application seeking registration as a political party called 'Swaraj India' before the Election Commission.

4. As far as Writ Petition No.753 of 2016 by Mr. T.S. Singhdeo is concerned, it is contended by Mr. Rohatgi that Mr. T.S. Singhdeo is a leader of opposition in the Legislative Assembly and, therefore, a petition of the present nature at his instance is not maintainable.

5. Learned Attorney General for India would further contend that assuming these people have the locus to maintain the writ petition, the lis that is presented before this Court will not come within the ambit and sweep of Article 32 of the Constitution of India. Elaborating the first part, it is canvassed by Mr. Rohatgi that when an issue takes the colour of political nature or a political protagonist approaches the Court in the guise of a public interest litigation to settle political scores, it loses the character of public interest litigation.

6. Be that as it may, as advised, at present we would like to hear the maintainability of the petitions on this score as well as other grounds raised by Mr. Rohatgi for the aforesaid purpose.

7. Learned parties are at liberty to file the written notes of submissions.

8. Let the matter be listed on 10.01.2017.