IN THE HIGH COURT OF ANDHRA PRADESH : AMARAVATI

****

WRIT PETITION NO: 21941 OF 2025

Between:

1. JAYAMANGALA VENKATA RAMANA, , S/O BRAHMAIAH, AGED ABOUT 50 YEARS, R/O CHINNAKOTTADA, KAIKALURU MANDAL ELURU DISTRICT, ANDHRA PRADESH

...PETITIONER

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL SECRETARY, DEPT, OF LAW AND LEGISLATIVE AFFAIRS, A.P SECRETARIAT, VELAGAPUDI, GUNTUR DISTRICT, ANDHRA PRADESH
2. THE ANDHRA PRADESH LEGISLATIVE COUNCIL, REP BY ITS SECRETARY,ANDHRA PRADESH LEGISLATURE, VELAGAPUDI, AMARAVATI
3. THE HONBLE CHAIRMAN, , ANDHRA PRADESH LEGISLATIVE COUNCIL VELAGAPUDI, GUNTUR DISTRICT, ANDHRA PRADESH

...RESPONDENT(S):

DATE OF JUDGMENT PRONOUNCED**: 27.11.2025**

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE G. RAMAKRISHNA PRASAD

1. Whether Reporters of Local Newspapers may be allowed to see the judgment? Yes / No
2. Whether the copies of judgment may be marked to Law Reporters / Journals? Yes / No
3. Whether His Lordship wish to see the fair copy of the Judgment? Yes / No

GANNAMANENI RAMAKRISHNA PRASAD, J

*** THE HONOURABLE SRI JUSTICE GANNAMANENI RAMAKRISHNA PRASAD**

+ WRIT PETITION No.21941 of 2025

% 27.11.2025

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...RESPONDENT(S):

! Counsel for Petitioner/s	**:**	Sri K. Ajay Kumar, learned Counsel appearing on behalf of Sri N. Ashwani Kumar, learned Counsel for the Writ Petitioner.
^ Counsel for Respondent/s	**:**	Sri Dammalapati Srinivas, learned Advocate General for the Respondent No.1, Sri R. Satish Babu, learned Counsel

appearing on behalf of Sri G. SubbaRao, learned Counsel for the Respondent No.2 and Sri S. Niranjan Reddy, learned Senior Counsel appearing through online, assisted by Sri V. Venkata Saketh Roy, learned Counsel for the Respondent No.3.

< Gist:

> Head Note:

4. **? Cases referred:**

1) (2020) 2 SCC 595
2) 2024 SCC OnLine HP 2497
3) (2019) 7 SCC 463
4) (2020) 17 SCC 1
5) *(2025) 8 SCC 1*
6) (1978) 1 SCC 405
7) (1890) 24 QBD 371
8) (1980) 4 SCC 544
9) (1975) 2 SCC 81
10) (1981) 1 SCC 107
11) (2006) 10 SCC 1
12) 2019 SCC OnLine Jhar 473
13) (1991) 3 SCC 91
14) (2014) 9 SCC 1
15) (1977) 3 SCC 592
16) (2018) 8 SCC 501
17) (1965) 1 SCR 413
18) (2024) 5 SCC 629
19) 1963 (2) SCR 197
20) Principles of Administrative Law by M.P. Jain, 6th Edition, 2007
21) *Advanced Law Lexicon* by Sri P. Ramanatha Aiyar, 3rd Edition, 2005
22) *H.W.R. Wade on Administrative Law, 11th Edition*

Judgment reserved on	22.09.2025
Judgment pronounced on	27.11.2025
Judgment uploaded on	27.11.2025

APHC010426242025

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3328]
(Special Original Jurisdiction)

THURSDAY,THE TWENTY SEVENTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE GANNAMANENI RAMAKRISHNA PRASAD

WRIT PETITION NO: 21941 OF 2025

Between:

1. JAYAMANGALA VENKATA RAMANA, , S/O BRAHMAIAH, AGED ABOUT 50 YEARS, R/O CHINNAKOTTADA, KAIKALURU MANDAL ELURU DISTRICT, ANDHRA PRADESH

...PETITIONER

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL SECRETARY, DEPT, OF LAW AND LEGISLATIVE AFFAIRS, A.P SECRETARIAT, VELAGAPUDI, GUNTUR DISTRICT, ANDHRA PRADESH
2. THE ANDHRA PRADESH LEGISLATIVE COUNCIL, REP BY ITS SECRETARY,ANDHRA PRADESH LEGISLATURE, VELAGAPUDI, AMARAVATI
3. THE HONBLE CHAIRMAN, , ANDHRA PRADESH LEGISLATIVE COUNCIL VELAGAPUDI, GUNTUR DISTRICT, ANDHRA PRADESH

...RESPONDENT(S):

Counsel for the Petitioner:

1. N ASHWANI KUMAR

Counsel for the Respondent(S):

1. THE ADVOCATE GENERAL

2. VENKATA SAKETH ROY VYDYULA

The Court made the following ORDER:

Heard Sri K. Ajay Kumar, learned Counsel appearing on behalf of Sri N. Ashwani Kumar, learned Counsel for the Writ Petitioner; Sri Dammalapati Srinivas, learned Advocate General for the Respondent No.1, Sri R. Satish Babu, learned Counsel appearing on behalf of Sri G. SubbaRao, learned Counsel for the Respondent No.2 and Sri S. Niranjan Reddy, learned Senior Counsel appearing through online, assisted by Sri V. Venkata Saketh Roy, learned Counsel for the Respondent No.3.

2. The prayer sought in the present Writ Petition is as under:

> *"For the reasons stated above, it is prayed that this Hon'ble Court may be pleased to issue Writ of Mandamus or any other appropriate writ, order or direction, declaring the action of Respondent No.3 - the Hon'ble Chairman, Andhra Pradesh Legislative Council in failing to act upon and failing to either accept or reject the Resignation dated 23.11.2024 submitted by the Petitioner, as illegal, arbitrary, violative of Article 190(3)(b) of the Constitution of India and Rule 186 of the Rules of Procedure and Conduct of Business in the Andhra Pradesh Legislative Assembly, and in violation of principles of natural justice, and Consequently direct the Respondent No.3 to forthwith consider the said resignation dated 23.11.2024 in accordance with law and pass appropriate orders as this Hon'ble Court deems fit and proper to the circumstances of the case."*

3. **FACTS OF THE CASE**:

The facts emanating from the present Writ Petition, which are also submitted by the Ld. Counsel for the Writ Petitioner, are that the Writ Petitioner has served as an Executive Secretary under Telugu Desam Party (in short T.D.P) since the year 2005 and had also been elected as a 'Member' of Kaikalur Zilla Praja Parishad Territorial Constituency. Prior to the Writ Petitioner coming into public service, he was an Aqua Culture farmer and the Petitioner's livelihood was dependent on it. He came into politics since the

year 1999. It is further submitted that the Petitioner contested in the General Elections in the year 2009 and was elected as M.L.A from Kaikalur Assembly Constituency. The Petitioner has lost his election in the year 2019 with a slender margin of 4% of votes as against the candidate belonging to Yuvajana Sramkina Raithu Congress Party (hereinafter referred to as YSRCP). It is further submitted that the Writ Petitioner has joined in the YSRCP and was elected as 'Member' to the Andhra Pradesh State Legislative Council on 23.03.2023 (Ex.P.2).

4. Subsequently, the Writ Petitioner had submitted his Resignation on 23.11.2024 (Ex.P.1) as he did not want to continue as 'Member' of Andhra Pradesh State Legislative Council. The Writ Petitioner would contend against the inaction on the part of the Hon'ble Chairman of the Andhra Pradesh State Legislative Council in rendering a decision despite the fact that the resignation was submitted by the Writ Petitioner way-back on 23.11.2024.

SUBMISSIONS OF THE LD. COUNSEL FOR THE WRIT PETITIONER:

5. Sri K. Ajay Kumar, learned Counsel for the Writ Petitioner has drawn the attention of this Court to Article 190 of the Constitution of India and Rule 190 in Chapter-XXII of the Rules of Procedure and Conduct of Business in the Andhra Pradesh Legislative Council (hereinafter referred to as 'Council Rules') *(Writ Petitioner has wrongly referred to Rule 186 of the A.P State Assembly Rules, while he had to refer to Rule 190 of the A.P State Legislative Council Rules. However, for the sake of convenience, Rule 190 of the A.P. State Legislative Council Rules are referred by the Court)*. As the discussion would revolve around Article 190 of the Constitution of India and Rule 190 of the Council Rules, the said provisions are usefully extracted hereunder:

> ***"Article 190. Vacation of seats**.—(1) No person shall be a member of both Houses of the Legislature of a State and provision shall be made by the Legislature of the State by law for the vacation by a person who is chosen a member of both Houses of his seat in one House or the other.*

(2) No person shall be a member of the Legislatures of two or more States specified in the First Schedule and if a person is chosen a member of the Legislatures of two or more such States, then, at the expiration of such period as may be specified in rules made by the President, that person's seat in the Legislatures of all such States shall become vacant, unless he has previously resigned his seat in the Legislatures of all but one of the States.

(3) If a member of a House of the Legislature of a State—

> *(a) becomes subject to any of the disqualifications mentioned in [clause (1) or clause (2) of Article 191]; or*
>
> ***[(b) resigns his seat by writing under his hand addressed to the Speaker or the Chairman, as the case may be, and his resignation is accepted by the Speaker or the Chairman, as the case may be,]***
>
> ***his seat shall thereupon become vacant:***
>
> ***[Provided that in the case of any resignation referred to in sub-clause (b), if from information received or otherwise and after making such inquiry as he thinks fit, the Speaker or the Chairman, as the case may be, is satisfied that such resignation is not voluntary or genuine, he shall not accept such resignation.]***

(4) If for a period of sixty days a member of a House of the Legislature of a State is without permission of the House absent from all meetings thereof, the House may declare his seat vacant:

> *Provided that in computing the said period of sixty days no account shall be taken of any period during which the House is prorogued or is adjourned for more than four consecutive days."*

***<u>Rule 190 of the A.P Legislative Council Rules</u>**:*

*"**Resignation of seats in the House**.*

190. (1) A member who desires to resign his seat in the House shall intimate in writing under his hand addressed to the Chairman, his intention to resign his seat in the

*House in the following form and shall **not** give any reason for his resignation.*

"To

The Chairman of the Council,

Sir,

I hereby tender my resignation of my seat in the House with effect from.....

Yours faithfully,

Member of the Council

Place:

Date: ."

Provided that where any member gives any reason or introduces any extraneous matter, the Chairman may, in his discretion omit such words, phrases or matter and the same shall not be read out in the House.

(2) If a member hands over the letter of resignation to the Chairman personally and inform him that the resignation is voluntary and genuine and the Chairman has no information or knowledge to the contrary, the Chairman may accept the resignation immediately.

(3) If the Chairman receives the letter of resignation either by post or through someone else, the Chairman may make such inquiry as he thinks fit to satisfy that the resignation is voluntary and genuine. If the Chairman, after making a summary inquiry either himself or through the agency of Legislature Secretariat or through such other agency, as he may deem fit, is satisfied that the resignation is not voluntary or genuine, he shall not accept the resignation.

(4) A member may withdraw his letter of resignation at any time before it is accepted by the Chairman.

> *(5) The Chairman shall, as soon as may be, after he has accepted the resignation of a member, inform the House that the member has resigned his seat In the House and he has accepted the resignation.*
>
> *Explanation.-When the House is not in session the Chairman shall inform the House immediately after the House re-assembles,*
>
> *(6) The Secretary shall, as soon as may be, after the Chairman has accepted the resignation of a member, cause the information to be published in the Andhra Pradesh Gazette and forward a copy of the notification to the Election Commission for taking steps to fill the vacancy thus caused:*
>
> *Provided that where the resignation is to take effect from a future date, the information shall not be published in the Gazette earlier than the date from which it is to take effect."*

6. Learned Counsel for the Writ Petitioner has drawn the attention of this Court to the contents of Rule 186 of the Legislative Assembly Rules, which is in verbatim the same as Rule 190 of the Rules of Procedure and Conduct of Business in the Andhra Pradesh Legislative Council. He would submit that although Rule 186 of the Legislative Assembly Rules pertains to the Legislative Assembly, the same Rules would apply in respect of the Chairman of the Andhra Pradesh State Legislative Council as well. Ld. Counsel for the Writ Petitioner would also submit that a 'Member' who intends to resign is not required to state the reasons for such resignation and that the Rule would only contemplate that the Speaker/ Chairman is required to factually verify whether the resignation was in fact tendered voluntarily by the Hon'ble Member or not; and that the Speaker/Chairman are not empowered to apply their mind to consider whether the Hon'ble Member who tendered resignation is having valid reasons or not. It is further submitted that so long as the Member informs the Speaker/Chairman as the case may be that he or she has tendered resignation upon their own volition, the Speaker/Chairman is not expected to probe any further, but to accept the resignation and publish the same in the Official Gazette in accordance with Rule 186 of Legislative Assembly Rules.

However, during the course of arguments, Ld. Senior Counsel for Respondent No.3 had produced the Rules of Procedure and Conduct of Business in the Andhra Pradesh Legislative Council (hereinafter referred to as 'Council Rules').

7. He would also submit that the 'Model Form' for tendering resignation is also provided in the Rule itself (sub-rule (1) of Rule 190 of the Council Rules) which contains only a single sentence which is once again extracted hereunder:

> "*To*
> *The Chairman of the Council,*
>
> *Sir.*
> ***I hereby tender my resignation of my seat in the House with effect from.....***
>
> *Yours faithfully,*
>
> *Member of the Council*
> *Place:*
> *Date:* ."

8. Ld. Counsel for the Writ Petitioner has drawn the attention of this Court to the Letter submitted by the Writ Petitioner on 23.11.2024 (Ex.P.1) to the Hon'ble Chairman of the Council, which reads as under:

> "*I hereby tender my resignation to my seat in the House with effect from 23-11-2024 (Saturday)"*

9. Ld. Counsel for the Writ Petitioner submits that the discretion that is conferred on the Chairman is rather very minimum to the effect that the Chairman is expected to only verify whether the resignation tendered by the Member is voluntary or not? There is no other discretion that is conferred

upon the Chairman. He would submit that when a discretion of this nature is concerned, it is only with an intent to prevent frivolous resignations (either fake or fabricated) from being accepted by the Hon'ble Chairman such as resignations fabricated by the imposters and nothing else.

10. Ld. Counsel for the Writ Petitioner has placed reliance on a Judgment of the Hon'ble Apex Court rendered by the three Judge Bench in ***Shrimanth Bala Sahib Patil v. Karnataka Legislative Assembly***: (2020) 2 SCC 595, wherein the Hon'ble Apex Court held in Para Nos. 75, 77, 79, 152 and 153 as hereunder:

> **"*75.*** *The 33rd Constitutional Amendment amended Article 190(3)(b) of the Constitution and added a proviso. The revised clause reads as follows:*
>
> > *"190. (3)(b) If a Member of a House of the legislature of a State—*
> >
> > *(a) ****
> >
> > *(b) resigns his seat by writing under his hand addressed to the Speaker or the Chairman, as the case may be, and his resignation is accepted by the Speaker or the Chairman, as the case may be, his seat shall thereupon become vacant:*
> >
> > *Provided that in the case of any resignation referred to in sub-clause (b), if from information received or otherwise and after making such inquiry as he thinks fit, the Speaker or the Chairman, as the case may be, is satisfied that such resignation is not voluntary or genuine, he shall not accept such resignation."*
>
> ***76. xxxxxx***
>
> ***77.First, as a starting principle, it has to be accepted that a Member of the Legislature has a right to resign. Nothing in the Constitution, or any statute, prevents him from resigning. A Member may choose to resign for a variety of reasons and his reasons may be good or bad, but it is his sole prerogative to resign. An elected Member cannot be compelled to continue his office if he chooses to resign. The 33rd Constitutional Amendment does not change this position. On the contrary, it***

ensures that his resignation is on account of his free will.

(emphasis supplied)

78. xxxxxx

79.*Third, the Speaker* ***can reject the resignation, if the Speaker is satisfied that resignation was "not voluntary or genuine****". Herein, our attention is drawn to the Chapter 22, Rule 202(2) of the Rules of Procedure and Conduct of Business in Karnataka Legislative Assembly […] Reading the rule in consonance with Article 190(3)(b) of the Constitution and its proviso, it is clear that the Speaker's satisfaction should be based on the information received and after making such inquiry as he thinks fit.* ***The aforesaid aspects do not require roving inquiry and with the experience of a Speaker, who is the head of the House, he is expected to conduct such inquiry as is necessary and pass an order. If a Member appears before him and gives a letter in writing, an inquiry may be a limited inquiry. But if he receives information that a Member tendered his resignation under coercion, he may choose to commence a formal inquiry to ascertain if the resignation was voluntary and genuine****.*

(emphasis supplied)

80 to 151. Xxxxxx

152. *In view of the same, we can only point out that merely taking the oath to protect and uphold the Constitution may not be sufficient, rather imbibing the constitutional values in everyday functioning is required and expected by the glorious document that is our Constitution. Having come to conclusion that the Speaker has no power under the Constitution to disqualify the members till the end of the term, we are constrained to make certain observations.*

153. *In the end we need to note that the Speaker, being a neutral person, is expected to act independently while conducting the proceedings of the House or adjudication of any petitions. The constitutional responsibility endowed upon him has to be scrupulously followed. His political affiliations cannot come in the way of adjudication. If Speaker is not able to disassociate from his political party and behaves contrary to the spirit of the neutrality and independence, such person does not deserve to be reposed with public trust and confidence."*

11. Ld. Counsel for the Writ Petitioner has referred to Para-17 of the Judgment rendered by the Division Bench of Hon'ble High Court of Himachal Pradesh at Shimla in ***Hoshyar Singh Chambyal and Others Vs. Hon'ble Speaker and Others***: 2024 SCC OnLine HP 2497***.*** This Judgment would not help the Writ Petitioner. The Hon'ble High Court of Himachal Pradesh held that the Court cannot fix any time limit to the Speaker to decide on the resignation. Therefore, the Ld. Senior Counsel for Respondent No.3 has placed reliance on this Judgment.

12. Ld. Counsel for the Writ Petitioner has also placed reliance on the Judgment of the Hon'ble Apex Court in ***Pratap Gouda Patil and others Vs. State of Karnataka and others***: (2019) 7 SCC 463. This order of the Hon'ble Apex Court is also not useful to the Writ Petitioner inasmuch as this order has been passed only as an interim measure vide order dated 11.07.2019 and therefore, the same does not become a binding precedent. It is also noteworthy to mention that the Hon'ble Apex Court had also passed certain interim measures in the same case vide order dated 17.07.2019.

SUBMISSIONS OF THE LD. SENIOR COUNSEL FOR THE RESPONDENT No.3:

13. The Hon'ble Chairman, Andhra Pradesh State Legislative Assembly (Respondent No.3) had filed Counter-Affidavit on 16.09.2025.

14. It is contended by Sri S. Niranjan Reddy Ld. Senior Counsel for the Respondent No.3 that the Writ Petition is not maintainable inasmuch as the Writ Petitioner has relied on Rule No.186 of the Andhra Pradesh State Legislative Assembly Rules (referred to as 'Assembly Rules') and that the said Rule 186 of the Assembly Rules is inapplicable. It is contended that the Writ Petition is also not maintainable for the reason that the Court cannot interdict an ongoing inquiry under Rule 190 of the Council Rules which is the relevant Rule applicable for the Andhra Pradesh State Legislative Council. It is contended that the Hon'ble Chairman has the duty to verify whether the

resignation submitted by a Member of the Council is by coercion or inducement or improper pressure. It is also contended that until an informed decision is arrived by the Hon'ble Chairman, the resignation remains inchoate. It is submitted that the law is well settled that the Courts are required to refrain from interfering with intra-House processes and the judicial review is available only on limited ground such as jurisdictional error, malafides, patent illegality, perversity or stultifying democratic process that defeats the constitutional principles. It is further submitted that when the Hon'ble Chairman has set into motion the inquiry contemplated under the proviso to Article 190 (3)(b) read with Rule 190 of the Andhra Pradesh State Legislative Council Rules, including personal interaction with the Member and is seized of the matter, this Court shall refrain itself from interdicting the process of inquiry for the purpose of verifying whether the resignation is voluntary and genuine.

15. Sri Niranjan Reddy, Ld. Senior Counsel representing the Respondent No.3 has drawn the attention of this Court to the contents of the Counter-Affidavit which indicates that after the election results of the Legislative Assembly have been announced in the month of June-2024, several Legislative Council Members have resorted to resignations and that during the preliminary discreet enquiries, the Respondent No.3 had come across allegations made to the effect that illegal gratification may have been offered to the Members of the Legislative Council who have resigned to their Membership and more specifically the Writ Petitioner herein in relation to the resignation. It is contended by the Respondent No.3 that such allegations have a bearing upon voluntariness and genuineness of the resignations under the proviso to Article 190 (3) (b) of the Constitution of India read with Rule 190 of the Council Rules.

16. It is submitted by the Ld. Senior Counsel that inquiry into voluntariness and genuineness on the part of the Hon'ble Chairman is indispensable under Rule 190 of the Council Rules. It is further submitted that no resignation can be accepted, unless the Hon'ble Chairman has come to a satisfactory

conclusion that it is truly voluntary and genuine and that the continuation of the Member of the House is central to democratic governance and that the stability of the Council must not be imperiled by the clustered resignations proximate to political transitions. It is, therefore, submitted that a cautious inquiry into voluntariness and genuineness would safeguard the dignity of the House and ensure that the resignations are not misused as instruments of political maneuvering.

17. Ld. Senior Counsel has also drawn the attention of this Court to the documents attached to the Counter-Affidavit. One such document is a Letter addressed by one Sri Botcha Satyanarayana (former Minister) to the Hon'ble Chairman dated 07.07.2025, which contains the list of Members of the Legislative Council who have tendered their resignations on various dates. Sri Botcha Satyanaraya has pointed out certain anomalies warranting close scrutiny which are extracted herein:

> **"*Anomalies warranting close scrutiny*:**
>
> . *Resignation communications are terse, near-identical one-liners.*
>
> . *lacking context.*
>
> . *No reasons are recorded for demitting office.*
>
> . *No affirmative declaration of free will (i.e., absence of any statement that the resignation is without coercion, inducement. or promise).*
>
> . *In at least one instance, a subsequent communication appears to seek "approval/ processing" of an earlier resignation, suggestive of external handling rather than a single, self-contained act of volition.*
>
> . *The resignations cluster temporally in the immediate aftermath of recent political developments, a period typically associated with heightened risk of pressure or inducement.*
>
> *These features, taken cumulatively, raise a credible apprehension regarding voluntariness and genuineness within the meaning of Article 190(3)(b), and therefore*

warrant a personal, independent inquiry by the Hon'ble Chairman before any acceptance is considered."

(emphasis supplied)

18. Sri Botcha Satyanaraya has therefore, urged the Hon'ble Chairman (Respondent No.3) to defer the acceptance of the above resignations until completion of a personal inquiry into voluntariness and genuineness and maintain *Status quo* on Members seats during the interregnum and also to allow a reasonable 'cooling-off window' to enable withdrawal of the resignations, if the Members so desire.

19. In response to the Letter addressed by Sri Botcha Satyanarayana dated 07.07.2025, the Additional P.S to the Hon'ble Chairman vide Letter dated 08.09.2025 addressed to the Secretary General, Andhra Pradesh State Legislature had informed that the Respondent No.3 had initiated the process of interaction that is scheduled to be held on 28.11.2025 with the Members who tendered resignation and the interaction shall be held in the Chambers of the Hon'ble Chairman of Andhra Pradesh State Legislative Council on the said date i.e., on 28.11.2025.

20. Ld. Senior Counsel has also submitted that under the given facts and circumstances, this Court may not pass any orders by invoking the "*doctrine of quia timet*". He has also referred to Article 212 on the proposition that the Courts shall not interfere into the proceedings of the Legislature. He would also submit that the jurisdiction of this Court is confined to inquiry as regards the malafides. He would also submit that the Writ Petitioner has not made out any case of urgency in the present Writ Petition nor has made out any case as regards any personal prejudice being caused. He had also invoked the doctrine of separation of powers to say that the inquiry that is to be undertaken by the Hon'ble Chairman under Rule 190 is a domain that is reserved to the Legislative wing of the State and therefore, this Court may not interfere.

21. Ld. Senior Counsel has placed reliance on the Judgment of the Hon'ble Apex Court in ***Shrimanth Balasaheb Patil Vs. Speaker, Karnataka Legislative***: (2020) 2 SCC 595. He placed reliance on the Para Nos. 2, 3, 8 to 12, 57, 70 to 83, 92, 93, 107 and also the conclusions in Para No.190.

22. Ld. Senior Counsel has also placed reliance on Para Nos. 33 to 35 in ***Shivraj Singh Chouhan and others Vs. Speaker Madhya Pradesh Legislative Assembly and others***: (2020) 17 SCC 1***.***

SUBMISSIONS OF THE LD. ADVOCATE GENERAL

23. Ld. Advocate General representing the State (Respondent No.2) has placed reliance on the judgment of ***State of Tamil Nadu Vs. Governor of Tamil Nadu and another:*** (2025) 8 SCC 1. He placed reliance on Para Nos.221, 237, 240 and 251 of the said Judgment. For the sake of brevity, this Court is not extracting the portions of the above referred Judgments of the Hon'ble Apex Court.

ANALYSIS:

24. In the light of the above facts, the following are the issues that fall for consideration :

ISSUES:

i. Whether the Hon'ble Chairman is insulated by any constitutional provision in acting either under the proviso to Article 190(3)(b) or under Rule 190 (2) & (3) of The Rules of Procedure and Conduct of Business in the Andhra Pradesh Legislative Council (hereinafter referred to as 'Council Rules')?

ii. Whether the alleged inaction on the part of the Hon'ble Chairman in considering the resignation submitted by the Writ Petitioner is just and reasonable ?

iii. What is the time limit set forth by Sub-Rule (2) & (3) of Rule 190 of the Council Rules?

iv. Whether the inaction on the part of the Hon'ble Chairman in acting on resignation submitted by the Writ Petitioner dated 23.11.2024 is in violation of Wednesbury Principle of Reasonableness ?

25. Before delving upon the above mentioned issues, this Court requires to take note of *ratio decidendi* in a catena of decisions touching on the above aspects. At the outset, it must be stated that there is no 'untrammelled discretion' to the Chairman that is conferred by the Constitution and discretion conferred by the statutory regulation. Sub-clause (b) of Clause (3) of Article 190 of Constitution of India stipulates that the resignation of a Member of a Legislature comes into effect when once his resignation is accepted by the Hon'ble Speaker/Chairman, as the case may be. The Proviso to sub-clause (b) of Clause (3) of Article 190 of the Constitution of India has conferred an element of limited discretion on the Hon'ble Chairman/Speaker, that after making such inquiry as he or she thinks fit, to decide whether such resignation is voluntary or genuine. Sub-Rule (2) of Rule 190 of the Council Rules stipulates that when a Member tenders his resignation personally and informs the Hon'ble Chairman during the personal interaction that the resignation is voluntary and genuine and if the Hon'ble Chairman has no information or knowledge to the contrary, the Hon'ble Chairman may accept the resignation immediately. The import of the word 'may' will be discussed henceforth.

26. In the present case, it is submitted during the course of hearing that the Writ Petitioner has submitted that he has resigned to the membership of the APSLC and had gone to the Chamber of the Hon'ble Chairman to tender the same personally on 23.11.2024. As the Hon'ble Chairman was unavailable, the resignation letter was submitted by the Writ Petitioner to the Personal Secretary of the Hon'ble Chairman. The present Writ Petition has been filed challenging the 'inaction' on the part of the Hon'ble Chairman in deciding on

the resignation tendered by the Writ Petitioner one way or the other. Writ Petition was filed on 13.08.2025. After filing of the Writ Petition, the Personal Secretary to the Hon'ble Chairman had addressed a letter to the Writ Petitioner on 08.09.2025 conveying the direction of the Hon'ble Chairman that the Writ Petitioner shall attend on 28.11.2025 in his Chamber for personal interaction.

27. Therefore, as regards the alleged inaction on the part of the Hon'ble Chairman on the resignation submitted by the Writ Petitioner on 23.11.2024, the only question that falls for consideration is whether the Hon'ble Chairman (Respondent No.3) is justified in not rendering a decision within a reasonable time.

REASONABLE TIME:

28. In the *Advanced Law Lexicon* by Sri P. Ramanatha Aiyar, 3rd Edition, 2005 '*reasonable time'* is defined as under :

> i. ***"That is a reasonable time that preserves to each party the rights and advantages he possesses and protects each party from losses that he ought not to suffer".***
>
> ii. *"The reasonable time which a passenger is entitled to alighting from a train is such time as is usually required by passengers in getting off and on the train in safety at the particular station in question".*
>
> *(emphasis supplied)*

DISCRETION:

29. The proviso to Article 190 (3) (b) has conferred an element of discretion about the nature of inquiry to be undertaken by the Hon'ble Chairman, it is required to examine the nature of inquiry that can be conducted in terms of the discretionary power that is conferred on him. The concept of discretion has been dealt with in the *Principles of Administrative Law by M.P Jain, 6th Edition, 2007 in Page – 927*, wherein the learned Author has extracted the words of Justice DOUGLAS of the U.S. Supreme Court as under:

> *"Where discretion is absolute, man has always suffered …..Absolute discretion …. is more destructive of freedom than any of man's other inventions. And further : 'Absolute discretion, like corruption, marks the beginning of the end of liberty" (**New York Vs. United States : 342 US 882, 884 (1951)**.*

30. It is settled law that either the provisions of the Constitution or the statute does not confer absolute discretion on any one, for, absolute discretion is the anathema to Rule of Law and fairplay in action. In the Principles of Administrative Law by M.P. Jain, 6th Edition, 2007, in Page No.1054, it is stated as under :

> *"one basic principle is that power can never be absolute; it is always subject to some limitations which the courts can imply; even when the law seeks to confer 'absolute discretion', it can never mean that the discretion is absolute, in the real sense of the term'."*

31. In the case of ***Mohinder Singh Gill Vs. Chief Election Commissioner*** **:** (1978) 1 SCC 405, the Hon'ble Apex Court held that *"wide discretion is fraught with tyrannical potential even in high personages, absent legal norms and institutional checks".*

32. It is also stated in the Principles of Administrative Law by M.P. Jain, 6th Edition, 2007, Page No.953 that "*Uncontrolled power is apt to be misused, for 'absolute power corrupt absolutely'***"**.

33. In ***Richard Waste Brook v. Verstry of St. Pancras*** **:** (1890) 24 QBD 371, *Lord ESHER MR (Master of Rolls)*, had held as under:

> *"if the people who have to exercise public duty by exercising their discretion take into account matters which the Courts consider not to be proper for the guidance of their discretion then, in the eye of law they have not exercised their discretion".*

34. The Hon'ble Supreme Court in ***Shalini Soni Vs. Union of India*** **:** (1980) 4 SCC 544 held in Para No.7 as under :

> *"7……..It is an unwritten rule of the law, constitutional and administrative, that whenever a decision making*

> *function is entrusted to the subjective satisfaction of a statutory functionary, there is an implicit obligation to apply his mind to pertinent and proximate matters only, eschewing the irrelevant and the remote……"*

35. It is the settled law that untrammeled discretionary power is incompatible with the Rule of Law. In this context, it is appropriate to refer the text of *H.W.R. Wade on Administrative Law, 11th Edition, in Page No.286*. It is stated as under:

> *"What the Rule of Law demands is not that wide discretionary power should be eliminated, but that the law should control its exercise. Modern Government demands discretionary powers which are as wide as they are numerous. Parliamentary draftsmen strives to find new forms of words which will make discretion even wider, and Parliament all too readily enacts them. It is the attitude of the Courts by finding limits to such seemingly unbounded powers which is perhaps the most revealing feature of a system of administrative law."*

36. The learned Author has also stated in Page No.295, as under :

> *"The Common theme…… in a system based on the rule of law, unfettered Governmental discretion is a contradiction in terms. The real question is whether the discretion is wide or narrow, and where the legal line is to be drawn. ……..empowering Act"*

37. In Para No.11 of the Judgment of Hon'ble Apex Court in ***Khudiram Das Vs. The State of West Bengal and Others*** **:** (1975) 2 SCC 81, it is held as under :

> ***"11.*** *This discussion is sufficient to show that there is nothing like unfettered discretion immune from judicial reviewability. The truth is that in a Government under law, there can be no such thing as unreviewable discretion. "Law has reached its finest moments", said Justice Douglas, "when it has freed man from the unlimited discretion of some ruler, some ... official, some bureaucrat.... Absolute discretion is a ruthless master. It is more destructive of freedom than any of man's other inventions". United States v. Wunderlick [(1951) 342 US 98] . And this is much more so in a case where personal liberty is involved. That is why the courts have devised various methods of judicial control so that power in the*

hands of an individual officer or authority is not misused or abused or exercised arbitrarily or without any justifiable grounds."

38. The Constitution Bench of the Hon'ble Supreme Court had dealt with similar situation on the limitation of discretionary power vested even with the high constitutional functionaries. The Hon'ble Supreme Court held in ***Maru Ram Vs. Union of India*** **:** (1981) 1 SCC 107 (Para Nos.62 to 64 & 69) as under :

"62. *An issue of deeper import demands our consideration at this stage of the discussion. Wide as the power of pardon, commutation and release (Articles 72 and 161) is, it cannot run riot; for no legal power can run unruly like John Gilpin on the horse but must keep sensibly to a steady course. Here, we come upon the second constitutional fundamental which underlies the submissions of counsel. It is that all public power, including constitutional power, shall never be exercisable arbitrarily or mala fide and, ordinarily, guidelines for fair and equal execution are guarantors of the valid play of power. We proceed on the basis that these axioms are valid in our constitutional order.*

63. *The jurisprudence of constitutionally canalised power as spelt out in the second proposition also did not meet with serious resistance from the learned Solicitor-General and, if we may say so rightly. Article 14 is an expression of the egalitarian spirit of the Constitution and is a clear pointer that arbitrariness is anathema under our system. It necessarily follows that the power to pardon, grant remission and commutation, being of the greatest moment for the liberty of the citizen, cannot be a law unto itself but must be informed by the finer canons of constitutionalism.*

It is indeed unthinkable that in a democracy governed by the rule of law the executive Government or any of its officers should possess arbitrary power over the interests of the individual. Every action of the executive Government must be informed with reason and should be free from arbitrariness. That is the very essence of the rule of law and its bare minimal requirement. And to the application of this principle it makes no difference whether the exercise of the power involves affectation of some right or denial of some privilege.

> *... The discretion of the government has been held to be not unlimited in that the government cannot give or withhold largesse in its arbitrary discretion or at its sweet will. It is insisted, as pointed out by Prof Reich in an especially stimulating article on The New Property in 73 Yale Law Journal 733, "that government action be based on standards that are not arbitrary or unauthorised". The government cannot be permitted to say that it will give jobs or enter into contracts or issue quotas or licences only in favour of those having grey hair or belonging to a particular political party or professing a particular religious faith. The government is still the government when it acts in the matter of granting largesse and it cannot act arbitrarily. It does not stand in the same position as a private individual."*

It is the pride of our constitutional order that all power, whatever its source, must, in its exercise, anathematise arbitrariness and obey standards and guidelines intelligible and intelligent and integrated with the manifest purpose of the power. From this angle even the power to pardon, commute or remit is subject to the wholesome creed that guidelines should govern the exercise even of presidential power.

64. *Speaking generally, Lord Acton's dictum deserves attention : [Letter to Mandell (later, Bishop) Creighton, April 5, 1987 HISTORICAL ESSAYS AND STUDIES, 1907]*

> *"I cannot accept your canon that we are to judge Pope and King unlike other men, with a favourable presumption that they did no wrong. If there is any presumption it is the other way, against the holders of power, increasing as the power increases."*
>
> *Likewise, Edmund Burke, the great British statesman gave correct counsel when he said : [REFLECTIONS ON THE REVOLUTION IN FRANCE 7019]*
>
> *"All persons possessing a portion of power ought to be strongly and awfully impressed with an idea that they act in trust, and that they are to account for their conduct in that trust to the one great Master, Author and Founder of society."*

69. *The rule of law, under our constitutional order, transforms all public power into responsible, responsive, regulated exercise informed by high purposes and geared*

> *to people's welfare. But the wisdom and experience of the past have found expression in remission rules and short-sentencing laws. No new discovery by Parliament in 1978 about the futility or folly of these special and local experiences, spread over several decades, is discernible."*

39. The Contours of discretionary power vested with the constitutional functionaries have been defined by the Hon'ble Apex Court in ***Reliance Airport Developers (P) Ltd., Vs. Airport Authority of India and Others*** : (2006) 10 SCC 1. The Hon'ble Supreme Court held in Para Nos.28 to 31 as under:

> ***"28. "Discretion" when applied to a court of justice, means sound discretion guided by law. It must be governed by rule, not by humour; it must not be arbitrary, vague and fanciful but legal and regular.***
>
> ***29.*** *Though the word, "discretion" literally means and denotes an uncontrolled power of disposal yet in law, the meaning given to this word appears to be a power to decide within the limits allowed by positive rules of law as to the punishments, remedies or costs. This would mean that even if a person has a discretion to do something the said discretion has to be exercised within the limits allowed by positive rules of law. The literal (sic legal) meaning of the word "discretion" therefore, unmistakably avoids untrammelled or uncontrolled choice and more positively points out at there being a positive control of some judicial principles.*
>
> ***30.*** *Discretion, in general, is the discernment of what is right and proper. It denotes knowledge and prudence, that discernment which enables a person to judge critically of what is correct and proper united with caution; nice discernment, and judgment directed by circumspection : deliberate judgment; soundness of judgment; a science or understanding to discern between falsity and truth, between wrong and right, between shadow and substance, between equity and colourable glosses and pretences, and not to do according to the will and private affections of persons.*
>
> ***31.*** *The word "discretion" standing single and unsupported by circumstances signifies exercise of judgment, skill or wisdom as distinguished from folly, unthinking or haste; evidently therefore a discretion cannot be arbitrary but must be a result of judicial thinking. The word in itself*

> *implies vigilant circumspection and care, therefore, where the legislature concedes discretion it also imposes a heavy responsibility."*
>
> *(emphasis supplied)*

40. Not exercising the powers vested which results in deprivation is also an abuse of power, (vide ***Surthi Devi Vs. Central Coal Field Limited, through its Chairman-cum-Managing Director and Others*** **:** 2019 SCC OnLine Jhar 473).

REASONABLENESS IN EXERCISING DISCRETION:

41. In ***G.B. Mahajan and Others Vs. Jalgaon Municipal Council and Others*** **:** (1991) 3 SCC 91, the Hon'ble Supreme Court, held in Para Nos.41, 43 & 44 as under :

> ***"41.*** *The administrative law test of reasonableness is not by the standards of the "reasonable man" of the torts law. Prof. Wade says: [Supra note 8 at 407]*
>
> *"This is not therefore the standard of 'the man on the Clapham omnibus'. It is the standard indicated by a true construction of the Act which distinguishes between what the statutory authority may or may not be authorised to do. It distinguishes between proper use and improper abuse of power. It is often expressed by saying that the decision is unlawful if it is one to which no reasonable authority could have come. This is the essence of what is now commonly called 'Wednesbury unreasonableness', after the now famous case in which Lord Greene, M.R. expounded it."*
>
> *42. xxxxxx*
>
> ***43.*** *The 'reasonableness' in administrative law must, therefore, distinguish between proper use and improper abuse of power. Nor is the test the court's own standard of 'reasonableness' as it might conceive it in a given situation. This is the essence of Lord Greene's dictum now familiar as the 'Wednesbury unreasonableness' in Associated Provincial Picture Houses Ltd. v. Wednesbury Corporation [(1948) 1 KB 223 : (1947) 2 All ER 680] . It was observed [Supra note 8 at 407] :*
>
> > *"It is true that discretion must be exercised reasonably. Now what does that mean? Lawyers familiar with the phraseology used in relation to*

> *exercise of statutory discretions often use the word 'unreasonable' in a rather comprehensive sense. It has frequently been used and is frequently used as a general description of the things that must not be done. For instance, a person entrusted with a discretion must, so to speak, direct himself properly in law. He must call his own attention to the matters which he is bound to consider. He must exclude from his consideration matters which are irrelevant to what he has to consider. If he does not obey those rules, he may truly be said, and often is said, to be acting 'unreasonably'. Similarly, there may be something so absurd that no sensible person could ever dream that it lay within the powers of the authority. Warrington L.J. in Short v. Poole Corporation [1926 Ch 66] gave the example of the red-haired teacher, dismissed because she had red hair. This is unreasonable in one sense. In another it is taking into consideration extraneous matters. It is so unreasonable that it might almost be described as being done in bad faith; and, in fact, all these things run into one another."*

44. *Referring to the doctrine, Prof. Wade says [Supra note 8 at 408] :*

"This has become the most frequently cited passage (though most commonly cited only by its nickname) in administrative law. It explains how 'unreasonableness', in its classic formulation, covers a multitude of sins. These various errors commonly result from paying too much attention to the mere words of the Act and too little to its general scheme and purpose, and from the fallacy that unrestricted language naturally confers unfettered discretion.

Unreasonableness has thus become a generalised rubric covering not only sheer absurdity or caprice, but merging into illegitimate motives and purposes, a wide category of errors commonly described as 'irrelevant considerations', and mistakes and misunderstandings which can be classed as self-misdirection, or addressing oneself to the wrong question …."

(emphasis supplied)

The point to note is that a thing is not unreasonable in the legal sense merely because the court thinks it is unwise. Some observations of Lord Scarman in Nottinghamshire

> *County Council v. Secretary of State for Environment [1986 AC 240, 247] might usefully be recalled:*
>
> > *"… But I cannot accept that it is constitutionally appropriate, save in very exceptional circumstances, for the courts to intervene on the ground of "unreasonableness" to quash guidance framed by the Secretary of State and by necessary implication approved by the House of Commons, the guidance being concerned with the limits of public expenditure by local authorities and the incidence of the tax burden as between taxpayers and ratepayers. Unless and until a statute provides otherwise, or it is established that the Secretary of State has abused his power, these are matters of political judgment for him and for the House of Commons. They are not for the judges or your Lordships' House in its judicial capacity."*
> >
> > *"For myself, I refuse in this case to examine the detail of the guidance or its consequences. My reasons are these. Such an examination by a court would be justified only if a prima facie case were to be shown for holding that the Secretary of State had acted in bad faith, or for an improper motive, or that the consequences of his guidance were so absurd that he must have taken leave of his senses …."*

42. In ***Manoj Narula Vs. Union of India*** **:** (2014) 9 SCC 1, the Constitutional Bench of the Hon'ble Apex Court had stated that the Constitution of India is a living instrument with capabilities of enormous dynamism. The Hon'ble Apex Court has also dealt with constitutional morality, thereby indicating the unwritten but indispensable application on the part of the constitutional functionaries. Para Nos.74 & 75 of the Judgment are usefully extracted hereunder:

> ***"74.*** *The Constitution of India is a living instrument with capabilities of enormous dynamism. It is a Constitution made for a progressive society. Working of such a Constitution depends upon the prevalent atmosphere and conditions. Dr Ambedkar had, throughout the debate, felt that the Constitution can live and grow on the bedrock of constitutional morality. Speaking on the same, he said:*
>
> > *"Constitutional morality is not a natural sentiment. It has to be cultivated. We must*

> *realise that our people have yet to learn it. Democracy in India is only a top-dressing on an Indian soil, which is essentially undemocratic." [Constituent Assembly Debates, 1948, Vol. VII, 38.]*

> ***75.** The principle of constitutional morality basically means to bow down to the norms of the Constitution and not to act in a manner which would become violative of the rule of law or reflectible of action in an arbitrary manner. It actually works at the fulcrum and guides as a laser beam in institution building. The traditions and conventions have to grow to sustain the value of such a morality. **The democratic values survive and become successful where the people at large and the persons in charge of the institution are strictly guided by the constitutional parameters without paving the path of deviancy and reflecting in action the primary concern to maintain institutional integrity and the requisite constitutional restraints**. Commitment to the Constitution is a facet of constitutional morality. In this context, the following passage would be apt to be reproduced:*

> > ***"If men were angels, no Government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary**. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself. A dependence on the people is, no doubt, the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions. [James Madison as Publius, Federalist 51] " "*

(emphasis supplied)

43. In ***State of Rajasthan Vs. Union of India*** : (1977) 3 SCC 592, the Hon'ble Apex Court had sounded a caution on the Court not to adopt 'Judicial Hands off' policy merely because a question has a political complexion. Para No.149 is usefully extracted hereunder:

> *"149……..But merely because a question has a political complexion, that by itself is no ground why the Court should shrink from performing its duty under the*

Constitution if it raises an issue of constitutional determination. Every constitutional question concerns the allocation and exercise of governmental power and no constitutional question can, therefore, fail to be political. A constitution is a matter of purest politics, a structure of power and as pointed out by Charles Black in 'Perspectives in Constitutional Law' "constitutional law symbolizes an intersection of law and politics, wherein issues of political power are acted on by persons trained in the legal tradition, working in judicial institutions, following the procedures of law thinking as lawyers think". It was pointed out by Mr Justice Brennan in the Opinion of the Court delivered by him in Baker v. Carr [(1962) 369 US 186] an epoch making decision in American constitutional history, that "the mere fact that the suit seeks protection of a political right does not mean that it presents a political question". This was put in more emphatic terms in Nixon v. Harndon [(1926) 273 US 536] by saying that such an objection "is little more than a play upon words". The decision in Baker v. Carr was indeed a striking advance in the field of constitutional law in the United States. Even before Baker v. Carr the courts in the United States were dealing with a host of questions "political" in ordinary comprehension. Even the desegregation decision of the Supreme Court in Brown v. Board of Education [(1953) 347 US 483] had a clearly political complexion. The Supreme Court also entertained questions in regard to the political right of voting and felt no hesitation about relieving against racial discrimination in voting and in Gomillion v. Lightfoot [(1960) 364 US 339] it did this even when the racial discrimination was covert, being achieved by so redrawing a municipal boundary as to exclude virtually all Negros, and no whites, from the city franchise. It is true that in Colegrove v. Green [(1945) 328 US 549] the Supreme Court refused relief against Congressional districting inequities in Illinois, but only three out of seven Justices who sat in that case based their decision on the ground that the question presented before them was political and non-justiciable and this view was in effect and substance reversed by the Supreme Court in Baker v. Carr. The Supreme Court in Baker v. Carr held that it was within the competence of the federal Courts to entertain an action challenging a statute apportioning legislative districts as contrary to the equal protection clause. This case clearly decided a controversy which was political in character, namely, apportioning of legislative districts, but it did so because a constitutional question of violation of the equal protection clause was directly involved and that question was plainly

*and indubitably within the jurisdiction of the Court to decide. It will, therefore, be seen that merely because a question has a political colour, the Court cannot fold its hands in despair and declare "Judicial hands off". So long as a question arises whether an authority under the Constitution has acted within the limits of its power or exceeded it, it can certainly be decided by the Court. Indeed it would be its constitutional obligation to do so. It is necessary to assert in the clearest terms, particularly in the context of recent history, that the Constitution is supreme lex, the paramount law of the land, and there is no department or branch of Government above or beyond it. Every organ of Government, be it the executive or the legislature or the judiciary, derives its authority from the Constitution and it has to act within the limits of its authority. No one howsoever highly placed and no authority howsoever lofty can claim that it shall be the sole judge of the extent of its power under the Constitution or whether its action is within the confines of such power laid down by the Constitution. This Court is the ultimate interpreter of the Constitution and to this Court is assigned the delicate task of determining what is the power conferred on each branch of Government, whether it is limited, and if so, what are the limits and whether any action of that branch transgresses such limits. It is for this Court to uphold the constitutional values and to enforce the constitutional limitations. That is the essence of the rule of law. To quote the words of Mr Justice Brennan in Baker v. Carr. "Deciding whether a matter has in any measure been committed by the Constitution to another branch of Government or whether the action of that branch exceeds whatever authority has been committed, is itself a delicate exercise in constitutional interpretation and is a responsibility of this Court as ultimate interpreter of the Constitution". Where there is manifestly unauthorised exercise of power under the Constitution, it is the duty of the Court to intervene. Let it not be forgotten, that to this Court as much as to other branches of Government, is committed the conservation and furtherance of democratic values. The Court's task is to identify those values in the constitutional plan and to work them into life in the cases that reach the Court. "Tact and wise restraint ought to temper any power but courage and the acceptance of responsibility have their place too." **The Court cannot and should not shirk this responsibility, because it has sworn the oath of allegiance to the Constitution and is also accountable to the people of this Country. There are indeed numerous decisions of this Court where constitutional issues have been adjudicated upon though enmeshed in questions of***

religious tenets, social practices, economic doctrines or educational policies. The Court has in these cases adjudicated not upon the social, religious, economic or other issues, but solely on the constitutional questions brought before it and in doing so, the Court has not been deterred by the fact that these constitutional questions may have such other overtones or facets. We cannot, therefore, decline to examine whether there is any constitutional violation involved in the President doing that he threatens to do, merely on the facile ground that the question is political in tone, colour or complexion*."*

(emphasis supplied)

44. In ***State (NCT of Delhi) Vs. Union of India and Another*** : (2018) 8 SCC 501. The Constitutional Bench of Hon'ble Supreme Court has conceptually dealt with 'Constitutional Objectivity' and 'Constitutional Governance' and the '**Conception of Legitimate Constitutional Trust**'. Para Nos.66 & 67 are usefully extracted hereunder:

"E. Constitutional objectivity

64. *xxxx*

65.xxxx

66. *It can be said without inviting any controversy that the concept of constitutional objectivity has to be equally followed by the Executive and the Legislature as it is the Constitution from which they derive their power and, in turn, the Constitution expects them to be just and reasonable in the exercise of such power. The decisions taken by constitutional functionaries, in the discharge of their duties, must be based on normative acceptability. Such decisions, thus, have to be in accord with the principles of constitutional objectivity which, as a lighthouse, will guide the authorities to take a constitutionally right decision. This action, needless to say, would be in the spirit of the Constitution. It may be further noted here that it is not only the decision itself but also the process adopted in such decision-making which should be in tune with constitutional objectivity. A decision by a constitutional functionary may, in the ultimate analysis, withstand scrutiny but unless the process adopted for arriving at such a decision is in tandem with the idea of constitutional objectivity, it invites criticism.*

> *Therefore, the decision-making process should never by-pass the established norms and conventions which are time tested and should affirm to the idea of constitutionalism.*
>
> ***F. Constitutional governance and the conception of legitimate constitutional trust***
>
> ***67.*** *The concept of constitutional governance in a body polity like ours, where the Constitution is the supreme fundamental law, is neither hypothetical nor an abstraction but is real, concrete and grounded. The word "governance" encapsulates the idea of an administration, a governing body or organisation whereas the word "constitutional" means something sanctioned by or consistent with or operating under the fundamental organic law i.e. the Constitution. Thus, the word "governance" when qualified by the term "constitutional" conveys a form of governance/government which adheres to the concept of constitutionalism. The said form of governance is sanctioned by the Constitution itself, its functions are consistent with the Constitution and it operates under the aegis of the Constitution."*
>
> *(emphasis supplied)*

45. In the ***Special Reference No.1 of 1964*** : (1965) 1 SCR 413. The Constitution Bench of the Hon‟ble Apex Court, speaking through Hon'ble Sri Justice A.K. Sarkar, had held in the last paragraph in Page No.541 as under :

> *"I wish to add that I am not one of those who feel that a Legislative Assembly cannot be trusted with an absolute power of committing for con-tempt. The legislatures have by the Constitution been expressly entrusted with much more important things. During the fourteen years that the Constitution has been in operation, the legislatures have not done anything to justify the view that they do not deserve to be trusted with power. I would point out that though Article 211 is not enforceable, the legislatures have shown an admirable spirit of restraint and have not even once in all these years discussed the conduct of Judges. We must not lose faith in our people, we must not think that the legislatures would misuse the powers given to them by the Constitution or that safety lay only in judicial correction. Such correction may produce friction and cause more harm than good. In a modern State it is often necessary for the good of the country that parallel powers should exist in different authorities. It is not inevitable that such powers will clash. It would be*

> *defeatism to take the view that in our country men would not be available to work these powers smoothly and in the best interests of the people and without producing friction. I sincerely hope that what has happened will never happen again and our Constitution will be worked by the different organs of the State amicably, wisely, courageously and in the spirit in which the makers of the Constitution expected them to act."*

46. The Hon'ble Supreme Court has expressed absolute confidence in the wisdom of the Legislature in the 14th year of its Republic that is reflected from the above extract. As we are now passing through 76th year of Republic, this opinion expressed by the Hon'ble Apex Court must be considered in the light of the recent incidents and events and to see whether the Legislatures and Constitutional Institutions do enjoy the same confidence in the eye of public.

47. In ***Sita Soren Vs. Union of India (Coram-7)*** : (2024) 5 SCC 629, the Hon'ble Supreme Court had held in Para No.95 of the Judgment that the law makers are subject to the same law that the law-making body enacts for the people it governs and claims to represent.

48. In the light of the decisions referred hereinabove, this Court now requires to examine whether the alleged inaction on the part of Hon'ble Chairman of the A.P State Legislative Council is legally sustainable or not.

49. In order to understand the contours of Article 190 of Constitution of India, it is required to examine the Parliamentary Debates (in Lok Sabha), when the 33rd Constitutional Amendment Bill was introduced in the year 1974. Proviso to Sub-clause (b) was added to Clause (3) of Article 190. Sub-clause (b) deals with the situation where a Member resigns to a seat in writing by addressing to the Hon'ble Chairman/Speaker, as the case may be, and if his/her resignation is accepted, whereupon the seat shall become vacant. The proviso which was introduced by the 33rd Constitutional Amendment states that in the case of resignation referred to in Sub-clause (b) of Clause 3 of Article 190, if from the information received or otherwise and after making such inquiry as the Hon'ble Chairman/Speaker thinks fit, the Hon'ble

Chairman/Speaker, as the case may be is satisfied that such resignation is not voluntary or genuine, he shall not accept such resignation.

50. Learned Senior Counsel for Respondent No.3 has laid much emphasis on the inquiry that is sought to be conducted under the proviso to sub-clause (b) of clause (3) of Article 190. Learned Senior Counsel for Respondent No.3 has submitted that for the purpose of conducting inquiry, the Hon'ble Chairman may decide the time within which he wants to call upon the Member of the Council for personal interaction. He would submit that 'cooling-off' period is allowed by the Hon'ble Chairman and the 'cooling-off' period is within the plenary power of the Hon'ble Chairman. In other words, it is stated that the Hon'ble Chairman has got the untrammeled power to decide the period within which he or she would embark upon an inquiry to find out the genuineness and voluntariness of a Member's resignation. It is submitted that, it is within the domain of the Hon'ble Chairman to interact with the Member of the Council to explore the reasons and circumstances that led to a Member's resignation. It is stated in Para No.5.2 of the Counter Affidavit as under:

> *"5.2. It is further submitted that this function carries with it the requirement of institutional neutrality: the Presiding Officer acts as a neutral and independent constitutional authority. In practical terms, neutrality warrants a measured, transparent verification proportionate to the circumstances - e.g., personal interaction with the Member, and consideration of any credible inputs bearing on free will particularly where multiple resignations cluster around politically sensitive transitions. While the scope of the inquiry is narrow (voluntariness/genuineness only), the holding of the inquiry is indispensable; hurried acceptance in charged contexts risks eroding the integrity and dignity of the House, whereas a careful verification assures that no resignation is accepted unless truly voluntary."*
>
> *(emphasis supplied)*

51. During the course of hearing, Learned Senior Counsel for Respondent No.3 has also submitted that, it is within the domain of the Hon'ble Chairman

to call upon the Member of the House who had tendered the resignation to ascertain the voluntariness and genuineness indicating that such process is a laborious process and it is also time taking. He would justify the commencement of process for finding out the voluntariness even after the said process has been commenced only on 08.09.2025 while the resignation was submitted way back on 23.11.2024. It is to be noted that even in the communication addressed by the Additional Personal Secretary to the Hon'ble Chairman dated 08.09.2025, it has been stated that personal interaction has been scheduled for 28.11.2025, which falls beyond the period of one year from the date of resignation.

52. At this juncture, it is abundantly clarified that this Court is not embarking upon an inquiry whether the resignation tendered by the Writ Petitioner is voluntary and genuine or not inasmuch as the same would fall within the domain of the Hon'ble Chairman. The grievance of the Writ Petitioner before this Court is only about the abnormal delay on the part of the Hon'ble Chairman in initiating the process of inquiry and also rendering decision one way or the other.

53. The submission of the Learned Senior Counsel for Respondent No.3 as regards the absolute discretionary power that is purported to be vested in the Hon'ble Chairman in initiating the process of inquiry and rendering decision one way or the other must be seen in the light of the Debates in the Parliament during the 33rd Constitutional Amendment. The Bill was introduced by the then Hon'ble Law Minister Shri H.R. Gokhale as regards 33rd Constitutional Amendment. During the debates, one of the issue that was debated was regarding the time, within which the inquiry must be completed by the Speaker/Chairman. The Hon'ble Member speaking in support of the Bill – Shri B.K. Daschowdury had stated as under :

> *"If the hon. Speaker desires that the information should be so direct, he may call for this particular Member concerned to come and appear before him,* ***may be after a fortnight or may be after a month****. For some reasons*

> *or other, he may directly call for the information or he may on his own information, feel satisfied himself about the information. I do not think there is anything objectionable in this."*
>
> *(emphasis supplied)*

54. The Hon'ble Member had also added as under:

> *"At that time, they forgot that it was essentially necessary to have this sort of protection.* ***By this Bill, what is simply intended is that in illegal matters, either to dissuade any person or to compel any person to resign from this House or from the legislature or as the case may be****, it is not voluntary, then, those resignations are not to be treated as proper resignations."*
>
> *(emphasis supplied)*

55. The above two extracts would clearly indicate that the inquiry may be initiated within a fortnight or it may be stretched up to a month and thereafter the Hon'ble Chairman/Speaker is bound to render a decision one way or the other. This discretion to render a decision one way or the other is not dealt with by this Court at the present. As stated earlier, this Court is only considering the issue of inaction on the part of the Hon'ble Chairman in not initiating the process of inquiry for a period of nine months and also with regard to fixing of date for personal interaction beyond one year from the date of resignation.

56. Having considered the decisions, which are cited hereinabove, *qua* the time taken by the Hon'ble Chairman in issuing notice (on 08.09.2025) for personal interaction on 28.11.2025, this Court is of the opinion that the inaction on the part of the Hon'ble Chairman is arbitrary, unjust and unreasonable, inasmuch as the inaction for the said period offends the Wednesbury Principle of Reasonableness, and therefore, hit by Article 14 of the Constitution of India. This apart, having considered the Parliamentary Debates during the 33rd Constitutional Amendment, it must be held that the inaction on the part of the Hon'ble Chairman is contrary to the spirit of the 33rd Constitutional Amendment. As indicated in catena of decisions that the Law

Makers are not above the law and that the discretion that is conferred on a constitutional functionary is for the furtherance of the Constitutional Principles and any action/inaction which goes contrary to the Constitutional spirit and Principles would become questionable. The position of Hon'ble Chairman/Speaker is placed at an exalted position in our constitutional framework, inasmuch as the Constitution of India has reposed unbridled trust and confidence in the neutrality of the Hon'ble Speaker/Chairman. It would therefore be the duty and the responsibility on the part of the constitutional functionaries to constantly ensure that the constitutional spirit is always upheld. In other words, it must be stated that the discretion is not a one way traffic but a two way obligation where the constitutional functionary who exercises this discretionary power shall endeavour to prevent sufferance on the part of the citizen.

'Time' that can be taken by the Hon'ble Chairman:

57. At this juncture, one of the submission made by the Learned Senior Counsel for Respondent No.3 is that the inquiry that is sought to be undertaken by the Hon'ble Chairman would be a roving one that may consume substantial time. However, Sri H.R. Gokhale, the then Law Minister has clarified even in this respect in the Parliamentary Debates (Lok Sabha) during the 33rd Constitutional Amendment as regards the nature of inquiry that is required to be undertaken. It has been clearly stated that the inquiry that is to be undertaken is neither a judicial inquiry nor a quasi-judicial inquiry. The relevant Parliamentary Debate (in Lok Sabha), wherein the then Hon'ble Law Minister has made a statement is usefully extracted hereunder:

> *"Another argument that may made was concerning the language employed in the Bill, that is, that the Speaker on such information or otherwise which he has received or on such inquiry as he thinks fit comes to the conclusion that the resignation is not genuine or is not voluntary may refuse to accept the resignation. I was surprised when an argument came from a lawyer who is an experienced lawyer asking "What is this 'otherwise'? Every lawyer of*

some experience knows that this is a phrase well known to law.

SHRI A. K. M. ISHAQUE: Safeguard clause.

***SHRI H. R GOKHALE**: It is used even in the Constitution in art. 356 apart from other ordinary law where it has been used. The connotation of this phrase has been very clearly interpreted several times by courts of law. Somebody said that when you say 'as he thinks fit', the Speaker or the Presiding Officer will be capricious or arbitrary in his judgment. **When you say that an inquiry is contemplated the words used are 'inquiry as he thinks fit'-it is inherent in the word 'inquiry' that it is in consonance with fair play and justice. That has also been interpreted several several times by courts and although it might not be a full fledged judicial or quasi-judicial inquiry, it means an inquiry not violative of the ordinary principles of fair play and justice. Therefore it is wrong to suppose that merely because the words used are 'as he thinks fit' or 'on information which he has received or otherwise', the Speaker has power to say that the resignation will not be accepted or that the resignation will be accepted arbitrarily or capriciously is something I want to repudiate because the amendment in terms says that there is an inquiry contemplated**. And I cannot think of any authority better than the Speaker in whom the House of Legislature, whether here or in the States, can repose greater confidence and greater trust in this matter. As one hon. Member said of the Speaker is the eyes and ears of the House, quite rightly and therefore in the matter of the right of a member to continue, despite pressure, despite duress, in regard to coming to the conclusion whether he should continue or the resignation is under pressure and is not genuine which other authority is more appropriate to decide whether the resignation is genuine or not?*

(emphasis supplied)

We have always proceeded on the basis that when the Speaker assume his office, he is looked upon as a persons who acts impartially, who does not take political sides. That is how the parliamentary system functions here and elsewhere in the country".

58. '**<u>May' is capable of meaning 'must' or 'shall'</u>**

In State of ***Uttar Pradesh Vs. Jogendra Singh*** : 1963 (2) SCR 197, the Hon'ble Apex Court held as under :

> *"**8.** ……..There is no doubt that the word "may" generally does not mean "must" or "shall". **But it is well settled that the word "may" is capable of meaning "must" or "shall" in the light of the context.** It is also clear that where a discretion is conferred upon a public authority coupled with an obligation, the word "may" which denotes discretion should be construed to mean a command. **Sometimes, the legislature uses the word "may" out of deference to the high status of the authority on whom the power and the obligation are intended to be conferred and imposed……"***
>
> *(emphasis supplied)*

59. This is in the context of understanding the purport of word 'may' occurring in Sub-rule (2) of Rule 190 (Chapter-XXII – Resignation and Vacation of Seats in the House) of the Council Rules.

60. There is no doubt that the Speaker/Chairman holds high office for the purpose of conducting legislative affairs in both the Houses. The word 'may' referred to in Sub-rule (2) is indicative of the fact that the word 'may' is intended to mean 'must' or 'shall'.

From the above discussion, the issues are answered as under.

Issue No.1:

Whether the Hon'ble Chairman is insulated by any constitutional provision in acting either under the proviso to Article 190(3)(b) or under Rule 190 (2) & (3) of The Rules of Procedure and Conduct of Business in the Andhra Pradesh Legislative Council (hereinafter referred to as 'Council Rules')?

61. On an analysis of various Judgments rendered by the Hon'ble Supreme Court, this Court is of the considered view that the Hon'ble Chairman is not insulated with any constitutional immunity or absolute discretion. Having deference to the high office the word 'may' had been employed in Sub-rule (2) of Rule 190 which, shall only mean 'must' or 'shall' in the context (***Uttar Pradesh Vs. Jogendra Singh*** : 1963 (2) SCR 197 (referred supra)). Even when this is considered with reference to the Parliamentary debate during the course of the 33rd Amendment to the Constitution, Shri B.K. Daschowdury,

speaking in support of the bill, had clearly indicated that the time that can be taken to undertake and complete the inquiry is a fortnight that may stretched to one month.

Issue No.2:

Whether the alleged inaction on the part of the Hon'ble Chairman in considering the resignation submitted by the Writ Petitioner is just and reasonable ?

62. In the light of the discussion with regard to the Issue No.1, it must be held that the alleged inaction on the part of the Hon'ble Chairman in considering the resignation submitted by the Writ Petitioner is neither just nor reasonable. In the light of the settled law which had been discussed hitherto as regards the permissible method in exercising discretion, it must be held that the time taken by the Hon'ble Chairman in initiating the process of inquiry (vide letter dated 08.09.2025) and the date given for personal interaction, which is in itself beyond the period of one year from the date of tendering resignation has travelled on the time line from exercising discretion within a reasonable time towards the abuse of process.

Issue No.3:

What is the time limit set forth by Sub-Rule (2) & (3) of Rule 190 of the Council Rules?

63. The time limit that is contemplated for completing the inquiry, if any, as contemplated under Sub-rule (2), in the backdrop of the opinion expressed by the law makers in the Parliamentary debates during the 33rd Constitutional Amendment can be about a fortnight that may be stretched upto a month within which time the Hon'ble Chairman is constitutionally obligated to render his decision one way or the other. At the cost of repetition, it is being clarified once again that this Court has not decided whether resignation is voluntary and genuine or otherwise, for, it is the domain that is reserved to the Hon'ble Speaker/Chairman and that this Court is only examining the aspect of alleged inaction/alleged delay in rendering a decision one way or the other.

Issue No.4:

Whether the inaction on the part of the Hon'ble Chairman in acting on resignation submitted by the Writ Petitioner dated 23.11.2024 is in violation of Wednesbury Principle of Reasonableness ?

64. In the light of the above discussion, the time line taken by the Hon'ble Chairman in initiating the process of inquiry (vide letter dated 08.09.2025) and calling for personal interaction after morethan 2 ½ months is held to be violative of Article 14 of the Constitution of India and as a necessary corollary has also offended the Wednesbury Principle of Reasonableness. The provisions of the Constitution as well as the Rules do not contemplate that the Hon'ble Chairman is obligated to undertake a pathological diagnosis for ascertaining casual factors that had led the Member to voluntarily tender his resignation. Caution is indicated by the law makers during the 33rd Constitutional Amendment debates that the Speakers/Chairmen are expected to exhibit the exemplary characters of fairplay, neutrality and impartiality besides being apolitical.

65. The Hon'ble Supreme Court in the case of ***Shivaraj Singh Chouhan Vs. M.P. Legislative Assembly*** : (2020) 17 SCC 1, having considered the ratio in a thread-bear manner in the case of ***Shrimanth Balasaheb Patil Vs. Karnataka Legislative Assembly*** : (2020) 2 SCC 595, had laid down the following principles in Para No.36, which is usefully extracted hereunder:

> *"**36.** The role of the Speaker in accepting resignations and determining disqualifications was the subject of a three-Judge Bench decision of this Court in Shrimanth Balasaheb Patil v. Karnataka Legislative Assembly [Shrimanth Balasaheb Patil v. Karnataka Legislative Assembly, (2020) 2 SCC 595] . While elaborating on the provisions of Article 190(3)(b) as amended, the judgment lays down the following principles:*
>
> ***36.1.** A Member of the Legislature is vested with the sole prerogative to determine whether or not to continue in office.*

> ***36.2.*** *A Member who seeks to resign cannot be compelled to continue in office.*
>
> ***36.3.*** *A resignation is required to be accepted by the Speaker or the Chairman, as the case may be.*
>
> ***36.4.*** *The seat occupied by the Member falls vacant only upon acceptance of the resignation.*
>
> ***36.5.*** *The role of the Speaker is to determine whether a resignation is "voluntary or genuine".*
>
> ***36.6.*** *The satisfaction of the Speaker should be based on the information received or otherwise and upon making such inquiry as is considered to be fit.*
>
> ***36.7.*** *Though, the term "genuine" has not been defined, what is meant is the authenticity of the letter of resignation.*
>
> ***36.8.*** *Though, the expression "voluntary" has not been defined, it would mean that a resignation should not be a result of threat of force or coercion."*

66. It is also useful to refer Para No.83 in *Shrimanth Balasaheb Patil's case*, which is extracted hereunder:

> *"**83.** In view of our above discussion we hold that the Speaker can reject a resignation only if the inquiry demonstrates that it is not "voluntary" or "genuine". The inquiry should be limited to ascertaining if the Member intends to relinquish his membership out of his free will. Once it is demonstrated that a Member is willing to resign out of his free will, the Speaker has no option but to accept the resignation. It is constitutionally impermissible for the Speaker to take into account any other extraneous factors while considering the resignation. The satisfaction of the Speaker is subject to judicial review."*

67. In this context, it would be useful to extract Para No.39 & 40 of the Judgment rendered in *Shivaraj Singh Chouhan's case* as under :

> *"**39.** It is in the above context that the inquiry by the Speaker or Chairman (as the case may be) has to be understood. The Court cannot fetter the discretion of the*

> *Speaker to conduct an inquiry into whether a resignation is "voluntary" or "genuine". However, neither can the Speaker exceed the terms of the mandate and conduct an overbroad inquiry into the underlying motives of the Member. It is sufficient that the Speaker is satisfied that the Member's resignation is "voluntary" and "genuine".*
>
> ***40.*** *The Court further held that both a resignation as well as a disqualification arising on account of the defection under a Tenth Schedule results in a vacancy of the seat held by the Member in the Legislature, but the consequences which emanate are distinct. As a result of Article 164(1-B) a Member who is disqualified by the Speaker on account of defection is barred from being appointed as a Minister or from holding any remunerative political post from the date of disqualification till the date on which the term of their office would expire or until re-election to the Legislature, whichever is earlier. The Court held that under the Tenth Schedule, the Speaker does not have an explicit power either to specify the period of disqualification or to bar a Member from contesting elections after disqualification until the end of the term of the Legislative Assembly."*

68. In the light of the above discussion, this Court holds that the inaction for the prolonged period on the part of the Hon'ble Chairman of the Andhra Pradesh Legislative Council is illegal and arbitrary and therefore is violative of Article 14 of the Constitution of India. The inquiry that is contemplated is required to be completed and to render the decision on the resignation of a Member within a reasonable time, preferably within a fortnight that may be stretched to a month at the most as contemplated in the Parliamentary Debates during the 33rd Constitutional Amendment. Accordingly, there shall be a direction to the Hon'ble Chairman to complete the inquiry process and render a decision within four weeks from today, in accordance with law and communicate the same to the Writ Petitioner forthwith by taking into consideration the above discussion.

69. Accordingly, the Writ Petition is allowed to the extent indicated above. No order as to costs.

70. Interlocutory Applications, if any, stand closed in terms of this order.

GANNAMANENI RAMAKRISHNA PRASAD, J

Dt: 27.11.2025
L.R. Copy to be marked.
B/O : MNR/JKS

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HON'BLE SRI JUSTICE GANNAMANENI RAMAKRISHNA PRASAD

WRIT PETITION No.21941 OF 2025

Dt: 27.11.2025
L.R. Copy to be marked.
B/O : MNR/JKS