

MOOT PROBLEM

The State of Vedhalam

1. The State of Vedhalam is one of the States of Union of India, carved through the State Re-organisation Act of 1956. State of Vedhalam is a Unicameral State. *Desiya Jananayaga Party ("DJP")* is a National Party and the single largest Party that has formed the Union government after the 2014 general elections with an absolute majority defeating the *Congruent India Party ("CIP")*, a Party originally formed at the time of Independence which has consistently been part of the Union Government. *Ravi Change Democratic Party ("RCD")* led by its leader *Ravi Jejasvi* has historically been the largest party in the state of Vedhalam, RCD was originally founded by Ravi Jejasvi's father Lolu Jejasvi, who had to step down for allegations of large scale corruption. *Jananayaga Desiya Vedhalam ("JDV")* is a regional Party in the state of Vedhalam lead by a strong, straight forward leader *Vedha Kumar* without any communal or caste inclination respected by people for his corruption free politics.

Elections to the State of Vedhalam

2. Considering the massive victory achieved by the DJP in the general elections of 2014, the CIP, RCD and JDV formed a Grand Coalition to defeat the DJP in the 2016 elections to the state legislature. The Grand Coalition won with a huge majority and formed a government. The state legislature has a total of 239 MLAs, of which, DJP secured only 63, JDV, RCD and CI won 79, 58 and 39 respectively. The arrangement was such that Vedha Kumar will be the Chief Minister, Ravi Jejasvi the deputy chief minister and a senior member of CI, Cheta the Speaker of the Assembly.

Developments in the State of Vedhalam post Elections

- 3.** One year of government had successfully run in the state of Vedhalam. A new Governor Smt. Priya was appointed to the State by the President on the advice of the Union Council of Ministers. Priya was a former Parliamentarian and member of DJP. At about the same time, Vikram a journalist uncovered a huge land scam involving govt. lands earmarked for building public schools and rural hospitals allegedly misappropriated by the deputy Chief Minister. Vikram conducted a Prime Time show that telecasted details of the scam on the night of 21.07.2017 that created a huge uproar in the state of Vedhalam.
- 4.** The CM to show his clean credentials set up an inquiry committee lead by a retired Supreme Court Judge and the former Director of CBI with the assistance of the state police and Criminal Investigation Department (CID) on 26.07.2017. The report was prepared and submitted to the CM and the Governor on **05.08.2017**. No immediate action was taken and neither was the report made public. The Governor called upon the CM within 24 hours of the report being submitted and advised him to take necessary action immediately and if else, she would have to step in and take action.
- 5.** There was mounting pressure on the CM in the form of soft protests held by MLAs of DJP on the floor of the Assembly during the Monsoon session until its conclusion on 07.08.2017. Some members within JDV, who were not happy with such a position, expressed their distrust. Further to these developments, 26 MLAs of JDV gave their in principle resignations to the CM Vedha Kumar on the condition to not continue in govt. with the tainted Deputy CM.
- 6.** The Governor allegedly under advice from the Union Government on 09.08.2017 instructed the State Police to take cognisance and necessary action based on the report submitted. There was uncertainty as to if the coalition would break and/or the unhappy members of JDV would break away from a new Party.
- 7.** The Governor further instructed the Speaker of the house by way of a letter to conduct a Floor Test immediately after Independence Day. DJP and JDV were in discussions to form an alliance and form a new

Government rather than have mid-term elections. In this scenario, on the night of 14.08.2017 the Speaker suspended 21 MLAs of DJP on Disciplinary Charges for alleged violence inside the Assembly and causing disruption of the proceedings.

Proceedings before the Hon'ble High Court of Vedhalam

- 8.** One of the suspended MLAs Mr. Madhavan by way of *Writ Petition* challenged the Suspension before the High Court of Vedhalam which came up for hearing for the first time on 17.08.2017. The matter was adjourned on the request of the Counsels representing the State to seek instruction and prepare their reply by one week to 24.08.2017 and the Hon'ble High Court was pleased to Order the same but granted Stay of the Order of suspension of the MLAs. The Governor, on 18.08.2017 by way of a notification called for a floor test to be held on 23.08.2017.

Proceedings before the Hon'ble Supreme Court of India

- 9.** Now the Speaker, Chetta as the Speaker of the Assembly filed a Special Leave Petition before the Hon'ble Supreme Court of India at Delhi appealing against the Stay granted in the Hon'ble High Court. An NGO *Yaanji* founded and headed by Papdi Jejasvi, mother of Ravi and wife of Lolu, the NGO works to promote good governance and provide leadership training to youngsters filed a Writ Petition in the form of a PIL before the Hon'ble Supreme Court challenging the notification for floor test issued by the Governor and the power of the Governor to convene the Assembly without the aid of the Speaker and/or the Government.
- 10.** The Supreme Court took up the matter for Admission and posted the case before a division bench consisting of the CJI on 21.08.2017. At the time of hearing the Apex court was briefed of the events that have transpired in the state in the recent past and the sense of urgency in the matter.
- 11.** Considering all of the submissions made, the Hon'ble CJI without Admitting the matters, Ordered for the both the Writ Petitions before

the Supreme Court to be tagged together, the matter pending before the High Court of Vedhalam regarding the suspension and action on the report to be transferred and posted along with the above tagged matters before a Five judge Constitution Bench for all parties to make submissions on:

- (i) Maintainability of SLP filed by the Secretary against the Order of injunction passed by the Hon'ble. High Court of Vedhalam,
- (ii) Maintainability of PIL filed by *yaanji*,
- (iii) Whether the Governor has the Power to convene the Assembly session without the aid and advice of the Government?
- (iv) Maintainability of Transferred matter before the Apex Court and whether the Speaker was right in suspending the protesting MLAs?

Note:

1. The above moot problem is intended to be fictitious. References to recent happenings are to make the issues relatable and realistic.
2. Though the issues of reference before a Constitutional Bench are generally specific in nature, in view of encouraging participants to identify new issues and take new line of arguments, the issues are only indicated and the participants are encouraged to elaborate and argue new issues also, if relevant to the case. It is also left open to the participants to raise and argue any issues *of locus standi or maintainability*, if applicable.
3. The Petitioner side argues for ***The Speaker, the state of Vedhalam and Yaanji*** and the Respondent side argues for ***The Governor and the suspended MLAs.***
4. The participants are refrained from contacting the authors regarding the moot preposition.
