

**ASCENT (NATIONAL) MOOT PROBLEM**

Nathuakhan is a province in the union of Nadarat. Since the assembly elections of March 2015 it was ruled by the Digress party which had secured a 47 seat majority in the 60 member house. The rest, 11 and 2, were bagged by the Suppress party and independents respectively. Chief Minister Sukhia Balm and his government had had a mostly unremarkable stint thus far well, at least up till now.

The events that led up to the yet referred episode are fairly unequivocally traceable to the phenomenal rise of the Suppress party at the centre. The 2014 general election saw the Suppress party accomplish results unprecedented in recent electoral history. It commandeered Parliament with a majority that threw the once mighty Digress party thick into an existential crisis. A prominent section of the press speculated how the Digress party was but a spent force now. In subsequent assembly elections too, the Suppress party emerged the overwhelming favourite, trouncing all in its wake. The Suppress party, under the steerage of its Prime Ministerial candidate had avowedly promised the electorate a Digress-free Nadarat. They well near made it happen.

The leader of the Suppress party and Prime Minister, Mr. Mannhimann, was hailed as Nadarat's saviour, what with temples being dedicated to him. The support he enjoyed bordered on a fervent religiosity; hence any opposition to him was met with unmatched virulence. Dissent and dissatisfaction were to be expressed at the cost of life-threats – given the spate of murders of free-thinking liberal activists. All of whom were conveniently tagged with the anti-national trope. Even the so called free-press actively furthered the confounding of government with nation and person with office. Mr. Mannhimann, meanwhile, basked in his new-found cult-status glory, self-assured to the point of being smug occasionally, however, he did deign to rebuke his supporters/followers for their excesses; which, incidentally, had become all too frequent.

That said, lately, the sheen seemed to be wearing off. In two recently concluded state assembly elections the Digress party, despite Mr. Mannhimann spearheading the party's campaign, was served rather shocking losses. Mr. Mannhimann also came in for some criticism for his negative campaign tactics. All in all, it appeared that the public was slowly coming around to see the supposed incipient ferment of the Suppress party's ascension as being mostly hype. None of it, but obviously, to the liking of the Suppress party or Mr. Mannhimann for that matter.

Having failed electorally in Nathuakhan, the Suppress party hit upon a wholly machiavellian ploy to usurp power. It all began with the seduction of 14 of the state's Digress party MLAs. The rebel MLAs wrote the Governor apprising of their switch of allegiance and consequent withdrawal of support to Chief Minister Sukhia Balm's government. Given their actions were contrary to express directions issued by the Digress party high command the Speaker, himself a Digress party legislator, in a meeting convened on November, 2016, promptly, and not surprisingly so, disqualified the 14 rebels: of the 14 so expelled one happened to be the Deputy Speaker. The rebels, however, refused to abide by the Speaker's decision and continued to forcibly attend the assembly. Their evictions led to ugly scenes outside the assembly precincts, with the Speaker calling off the session and ordering the precincts locked up and cordoned-off till further notice. The controversy further escalated when the disqualified MLAs alongside 11 Suppress party MLAs sought gubernatorial intervention on grounds of a supposed floor-test. For reasons wholly unfathomable the Governor summoned

the House for 16 December, while also notifying that its composition shall remain unchanged – thereby nullifying the disqualification of the 14 defectors. The Chief Minister through a missive let it be known that a meeting on the 16<sup>th</sup> of December was wholly unwarranted as no question of him having lost majority arose: it could only lead to more ‘tamasha’ and a consequent loss of dignity for the legislature in the public eye; for the disqualified MLAs along with members of the Suppress party were bent upon unruliness. The Governor, however, insisted the session take place. The Chief Minister, the Speaker and other Digress party members, owing to an express directive issued by the Digress party high command, let it be known that they shall abstain. And abstain they did.

Meanwhile the Suppress party, given its almost absolute numbers in Parliament, pushed through a constitutional amendment by which it substituted Article 356 clause 5 with the following clause 5:

**“Notwithstanding anything in this Constitution, the satisfaction of the President mentioned in clause (1) shall be final and conclusive and shall not be questioned in any court on any ground.”**

Following which amendment, there is, on the appointed date, held a meeting of the 14 disqualified MLAs, 11 Suppress party legislators and the independents at the Hotel “Dirty Linen”; with the disqualified Deputy Speaker presiding. Resolutions were passed removing the Speaker by a unanimous vote, as well as regards formation of an alternative government.

The Chief Minister moved on the 17<sup>th</sup> of December the High Court of Nathuakhan for holding the December 16<sup>th</sup> meeting *non-est*. The High Court ruled that all the disputed decisions be put in abeyance. Right after, on the 18<sup>th</sup> of December, with the High Court ruling as stated, the Governor sent along a missive announcing the prevalence of political chaos in the state to the President.

The President, on the 19<sup>th</sup> of December, proclaims emergency under Article 356 clause (1).

The Digress party challenges the proclamation under Article 226 in the High Court of Nathuakhan; only to be denied. They go in appeal under Article 136. Also, Sukhia Balm, the ousted Chief Minister, takes recourse to Article 131 to impugn the Proclamation.

The laws of Nathuakhan are *pari-materia* with laws of India.

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