



Shri Vile Parle Kelavani Mandal's
Jitendra Chauhan College of Law

LAW TRYST



Law Tryst 2019 – Moot Proposition

Indasia is the world's largest democracy which gained independence from the colonial rule in the year 1947 after a long freedom struggle that was driven at large by the Indasian National Party (INP), a political party founded in the year 1885. The Constitution of Indasia came into force on 26th January 1950 and it established Indasia as a sovereign democratic republic. It set up a quasi-federal State and elections to both the Centre and State Legislatures took place in the same year. In these and future elections, the people of Indasia reposed their faith in the leadership of the INP. At the beginning of the 21st century, however, Indasia was being ruled by the People's Party of Indasia (PPI), a political party formed in the year 1980. In 2004, PPI could not regain power. The INP along with their allies formed the National Progressive Alliance (NPA) government and appointed Dr. Manpreet Ahluwalia, a leader of the INP, as the Prime Minister of Indasia and Mrs. Nadia Dwivedi, the President of INP, as the Chairperson of NPA. The electoral performance of 2004 was improved by the NPA in the elections of 2009 due to the high economic growth delivered by the NPA Government despite the global economic meltdown. In the 2014 national elections, the PPI projected Mr. Dhirendra Soni as their Prime Ministerial candidate. He was then the Chief Minister of Saurashtra and was known for his style of governance as the 'Saurashtra Model of Development'. He travelled across the length and breadth of the country and targeted the NPA Government on grounds of corruption and policy paralysis. The people of Indasia wanted change and hence, PPI along with its allies formed the United Democratic Alliance (UDA) and formed the Government backed by a massive electoral victory in 2014. Mr. Soni took over as the Prime Minister of Indasia and his tenure coincided with Mr. Rajeev Dwivedi (son of Mrs. Nadia Dwivedi) taking over as the President of the INP.

The Lok Sabha of Indasia has 545 members out of which 543 are directly elected by the People of Indasia and 2 members are nominated by the President of Indasia. Members can either align themselves to a political party or independently contest elections. Political parties can in turn form government independently or in an alliance with other political parties. The Election Commission of Indasia is a constitutional body set up under the provisions of Article 324 of the Constitution of Indasia to conduct elections in Indasia. The Election Commission of Indasia has issued guidelines called the 'Model Code of Conduct' that must be followed by the candidates and political parties contesting the elections. Elections in Indasia are governed by the Representation of People's Act, 1951. The elections to the 17th Lok Sabha were declared by the Election Commission of Indasia in the month of December 2018. Nominations and affidavits were to be filed in phases in January 2019 and elections were to be held in various phases in the month of



February 2019 and the results for the above elections were to be declared on 28th February 2019.

The results of the 17th Lok Sabha were declared on 28th February 2019. The results are as follows:

UDA		NPA		Others	
PPI	192	INP	126	HSP	36
BDU	10	BJC	20	AAC	4
SA	15	BP	10	KJD	15
RAC	9	DPU	13	MRS	17
RDI	2	TGP	12	Independents	2
KIDMK	15	DKK	25		
		JSP	20		
	<u>243</u>		<u>226</u>		<u>74</u>

As no political party or alliance secured a simple majority in these elections, the focus shifted to which political parties would form an alliance and stake claim to form the Government. Since the HSP had the largest contingent of MPs outside the UDA and the NPA, all eyes were on which national alliance would be able to get the support of HSP President Umawati. The news channels started referring to Umawati as the 'kingmaker' in the 2019 elections. A profile of the HSP leader was telecast on APC news which portrayed the political journey of the firebrand leader. She had been a 5time MP and 2time Chief Minister of the Indasian State of Uttam Pradesh. Political analysts from the State referred to her as a flambouyant and impulsive leader who had been the reason behind the fall of many governments (both at the State level and the national level). One such political analyst Ms. Soumya Roshan who had written a biography of Umawati said, "Any national coalition with Umawati in it will be unstable as she has never supported an alliance partner for a full 5 year time." Mr. Joy Choudhuri, another political analyst, said, "While Umawati will certainly be enjoying the national attention, the disproportionate assets case against her brother is certainly a factor that will weigh in her mind as she decides which way to go." In a brazen turn of events, on the 28th February, 2019 at 11pm, the Income Tax Department and the Central Bureau of Investigation (CBI) jointly conducted a raid at the residence of Umawati's brother Mr. Umang Kumar in relation to the disproportionate assets case against him. The media



questioned the timing of the raids and added two and two. However, the CBI defended its actions in a press release stating, *“There have been serious allegations against Mr. Umang Kumar regarding amassing of wealth during the past decade. The CBI is the premier investigative agency of the country and any attempt to impute political motives is only to hamper the investigation which is as per the rule of law”*.

On 1st March 2019, Mr. Vikram Singh, the Home Minister of Indasia and senior leader of the PPI flew to Nawababad and met the President of HSP Umawati to seek her party's support to form the government. After the meeting, he returned to the national capital and briefed his party colleagues on the same. On the same day at 11am, a meeting of the UDA was summoned wherein Mr. Dharendra Soni was elected as the leader of the UDA. He went and met the President of Indasia at 12:30pm to stake claim to form the government. He submitted letters of support from 279 (UDA 243 + HSP 36) elected Lok Sabha Members. The President accepted the letters and asked him to take oath as the Prime Minister of Indasia on 3rd March 2019 at 10am. This was made public through an order from the President's office dated 01.03.2019 at 5pm. The political workers of the PPI rejoiced and celebrated all over the country. However, social media and news media had not taken kindly to the political developments. The INP and its sympathisers made the hashtag #BehenjiBeBrave trend on social media. In a press conference, Ajay Dixit, the national spokesperson of the INP said, *“It is clear that these letters of support have been obtained through sheer coercion and the President of Indasia should not take them into consideration. Using investigative agencies on the night of the election results to force the hand of the regional parties is not just subverting the will of the people but also a reflection of the last minute efforts of a dictatorial regime clinging on to power. The INP will continue to talk to like minded parties and win over their support in keeping with the democratic traditions of this great nation”*. It was later reported that Mrs. Nadia Dwivedi, the Chairperson of the NPA who enjoyed a good personal rapport with Umawati had given her a phone call. Shortly thereafter, the negotiations between the PPI and the HSP regarding the Cabinet portfolios broke down. Subsequently, Umawati informed the public through a press release on 1st March 2019 at 10pm that she was withdrawing her support to the UDA as she had taken the decision to support under duress. The political situation turned volatile suddenly. The INP and other like-minded parties started getting in touch with each other to reassess their chances to stake claim to form the Government. Mr. Rajeev Dwivedi, the President of the INP approached Umawati and offered her the post of Deputy Prime Minister. Umawati extended her support to the NPA. MRS also declared their support to the NPA. Mr. Rajeev Dwivedi was appointed as the Prime Ministerial nominee of the NPA. He then approached the President of Indasia with 279 letters of support (NPA 226 + HSP 36 + MRS 17) to stake claim to form the government on 2nd March 2019 at 2pm. The President of Indasia met and heard Mr. Dwivedi.



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In the meanwhile, preparations were on in full swing for the oath taking ceremony of Mr. Dhirendra Soni in the national capital. Mr. Vinay Patel, the national President of the PPI addressed a Press Conference on 2nd March 2019 at 5pm and said, *“The people of Indasia have voted for good governance and against corruption. It is true that the PPI had sought political support from the HSP to which Umawati ji agreed. However, that does not mean that there was a quid-pro-quo with the party with regard to cases against her brother. Our stand on corruption is clear and the CBI is following the rule of law. The media should instead ask the INP how one phone call from Mrs. Dwivedi made Umawati ji change her mind. What exactly did Madam ji offer Behen ji? This is not a case of coercion but political bribery. PPI is the single largest party and Dhirendra Soni would take oath as the Prime Minister on 3rd March 2019 at 10am and he shall prove his majority on the floor of the house.”*

There was no official communication from the office of the President of Indasia. It seemed that Mr. Dhirendra Soni would indeed take oath as the Prime Minister of Indasia on 3rd March, 2019 at 10am. There was furore in the country. The INP and its allies claimed that the changed circumstances warranted a reconsideration by the President of Indasia and that his order dated 01.03.2019 asking Dhirendra Soni to take oath was bad in law and therefore filed a writ petition under Article 32 of the Constitution of Indasia in the Supreme Court of Indasia on 2nd March 2019 at 9pm to seek appropriate relief and sought an urgent hearing of the same. Standing at the gates of the Supreme Court of Indasia with a battery of lawyers, Mr. P. Gopikrishnan, one of the best legal minds of the INP, explained why the decision of the President should be reviewed. He said, *“In his representation to the President of Indasia, Mr. Soni submitted 279 letters of support. It is now clearly evident that at least 36 of those letters were obtained through coercion and have no validity in the eyes of law. The President clearly had two options for government formation in front of him – one with the single largest party which didn't have the required numbers after HSP withdrew support and the other with an alliance which had the requisite numbers. Now that those letters have been withdrawn, the decision of the President to invite Mr. Soni to take oath as PM should have also been reconsidered and the INP and its allies (with the required numbers after the HSP support) should have been invited. The INP and its allies are forced to knock upon the doors of the Hon'ble Supreme Court of Indasia tonight because the President's decision is unconstitutional, illegal and arbitrary.”*

Ved Prasad, the Union Minister for Law and Justice and senior leader of the PPI, defended the decision of the President and claimed that the President of Indasia had discretionary power in this regard and his decision could not be challenged in a court of law. In addition, he stated that no one could dispute the fact that the PPI had emerged as

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the single largest party in these elections and the President is well within his powers to ask Mr. Soni to take oath as the Prime Minister and prove his majority. The Registrar of the Supreme Court considered the petition filed by the INP and the Chief Justice of Indasia (CJI) constituted a Bench to adjudicate the matter. Considering the urgency of the situation, the Bench agreed to hear the matter at midnight.

You are now arguing before the Supreme Court of Indasia.

Note:

1. All the laws in the State of Indasia are in *pari materia* with India.
2. Students are supposed to frame relevant issues for the above problem – minimum 3 issues and maximum 5 issues.

