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Vishwanath disqualified for being appointed Minister, says High Court

Governor is bound to consider this aspect even if CM recommends him

SPECIAL CORRESPONDENT
BENGALURU

While holding that MLC A.H. Vishwanath is ex-facie disqualified for being appointed as a Minister, the Karnataka High Court has said that both the Chief Minister and the Governor will have to consider this aspect as per the constitutional mandate if he is being considered to be inducted into the Council of Ministers.

However, the court said that no such disqualification is operating against two other MLCs - R. Shankar and N.

Nagaraju (MTB) - for considering them for the post of Ministers as they were duly elected to the Legislative Council in the elections held from the Legislative Assembly in June 2020 subsequent to their disqualification under the anti-defection law in July 2018.

A Division Bench comprising Chief Justice Abhay Shreeniwas Oka and Justice S. Vishwajith Shetty passed the interim order on separate PIL petitions, filed by Harisha A.S., a city-based advocate, G. Mohan Kumar,

and S. Rukmangada, both residents of Bengaluru.

"Honourable Chief Minister, while making recommendation to Honourable Governor on nominating Ministers will have to take into consideration the issue of disqualification incurred by Mr. Vishwanath. Similarly, even if recommendation is made by the Honourable CM, the Honourable Governor is bound to consider the disqualification incurred by him under Article 164 (1) (b) and the Article 361 B of the Constitution of India," the court

observed without issuing specific directions to them.

Noticing that Mr. Vishwanath was nominated to the Council in July 2020 from the field of literature and was not elected as per constitutional provisions, the Bench said that he attracted disqualification from being considered for the post of Minister or politically remunerative post in July 2018 and the disqualification will operate till 2013, when the term of the Assembly ends.

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