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Vishwanath disqualified, can't be minister: HC

EXPRESS NEWS SERVICE
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IT's bad news for BJP MLC A H Vishwanath who wanted to become a minister. The Karnataka High Court on Monday upheld his disqualification for the present term of the assembly. Vishwanath is a nominated member of the Legislative Council.



But with the other two MLCs -R Shankar and N Nagaraj (MTB) - the court said disqualification will not operate in their case as they have got elected to the upper house. "We hold that Vishwanath ex facie (on the face of it) attracts disqualification under Articles 164 (1) (b)

and 361 (B). Thus, his disqualification will continue till the expiry of the term of the Assembly. However, after the expiry of the term, if he gets elected (not nominated),

the disqualification cannot apply. As of today, the disqualification under both the provisions are applicable," it said.

"If the Governor is asked by the CM to appoint as minister

a person who is disqualified, the Governor having due regards to the Constitution and laws is empowered to decline to appoint him and administer oath," said a division bench of Chief Justice Abhay Shreeniwas Oka and Justice S Vishwajith Shetty.

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Rebel case: MTB, Shankar can make it into cabinet: HC

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Passing the interim order on a batch of public interest litigations, the bench said, "Since Vishwanath is disqualified, we are not granting any specific injunction as prayed by the petitioners, as the Governor is bound to take into consideration Vishwanath's disqualification. Even the CM, who is also holding a constitutional post, before recommending to appoint Vishwanath as minister, will have to consider the disqualification."

As far as Shankar and Nagaraj are concerned, the bench upheld their contention that the disqualification under Articles 164(1)(b) and 361 (B) came to an end on the ground that they have been elected as Members of the State Legislative Council. "It is not even prima facie established that Shankar and Nagaraj have incurred disqualifi-

cation under Article 164 or 361. Therefore, no interim order in relation to them," the bench said on the interim prayer of stay sought for appointing them as ministers.

A S Harisha, Governing Council Member of Advocates' Association of Bangalore, G Johan Kumar and S Rukman-gada have filed the PILs.

Vishwanath, Shankar and Nagaraj were among 17 MLAs disqualified by former Assembly Speaker K R Ramesh Kumar in 2019 based on the complaint of Congress and JD(S) after their absence and resignation from the assembly during the trust vote leading to the collapse of then HD Kumaraswamy-led government. These former Congress-JD(S) rebels had petitioned the Supreme Court, seeking to quash the disqualifications. However, the apex court upheld the Speaker's move, but had stated that they could contest elections.