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Court Matters

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More disqualified legislators move Supreme Court

They file petitions
jointly and
separately

LEGAL CORRESPONDENT
NEW DELHI

Several more disqualified Karnataka legislators moved the Supreme Court on Thursday against their ouster from the House under the anti-defection law.

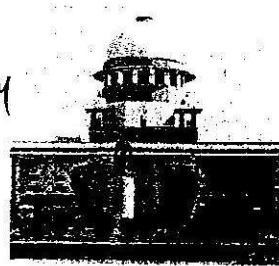
The MLAs, including Praptagouda Patil and A.H. Vishwanath, have approached the apex court jointly and separately within a few days of Ramesh Jarkiholi and Mahesh Kumathalli did so.

Their separate petitions have arraigned the Speaker, the State of Karnataka, Congress Legislature Party leader Siddaramaiah, State Congress president Dinesh Guaidu Rao, and former Chief Minister H.D. Kumaraswamy as respondents.

The petitions urged the court to set aside the Speaker's decision to disqualify them from the Karnataka Legislative Assembly.

Fundamental right

"The petitioners have a fundamental right under Article 19 to carry on any trade, business and profession. Their right to resign from



the post of MLA and carry on any vocation of their choice including public service cannot be denied by the Respondent Speaker by a completely illegal and unconstitutional order. The action of the Speaker is thus in violation of the fundamental rights of the Petitioners guaranteed under Articles 19 and 21," they argued.

Records of proceedings

They have also challenged the Speaker's conclusion that their resignations were neither voluntary nor genuine. The legislators asked the court to call for records of proceedings pertaining to their resignation and disqualification.

They argued that the disqualification order under the Tenth Schedule was not in consonance with the Rules 6 and 7 of the Karnataka Legislative Assembly (Disqualification of Mem-

bers on Ground of Defection) Rules of 1986.

'Arbitrary, unreasonable' They said the actions of the Speaker were wholly arbitrary and unreasonable and in violation of Article 14 of the Constitution.

Besides, they argued, that not only had they submitted their resignations on July 6, they repeated the act by coming in person on July 11 before the Speaker to submit their resignations.

Under Article 190 of the Constitution read with Rule 202 of the Karnataka Legislative Assembly, a member can deliver resignation signed in his own hand and the Speaker is only to satisfy himself about genuineness and voluntariness of the resignation, they contended.

The legislators further blamed the Speaker of adopting a "pick-and-choose" policy. The petitions said the Speaker slipped out of his office when the legislators went to tender their resignations on July 6. The Speaker did not comply when the Supreme Court, on July 11, asked him to decide on the resignations on the same day. The floor test, which was supposed to be held on July 18, was unduly delayed.