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NOTIFICATION

No.MAL.87/94. the 22nd November 1994. The following decision dated November 22,1994 of the Speaker, Mizoram Legislative Assembly given under para 3 of the Tenth Schedule to the Constitution of India is hereby published below for information of all concerned-

"IN THE MATTER OF

Petitions dated 9.5.94 and 16.5.94 under Sub-paragraph (1) of Paragraph 2 of the Tenth Schedule to the Constitution of India read with Sub-rule (1) and (2) of Rule 6 of the Members of Mizoram Legislative Assembly (Disqualification on Ground of Defection) Rules AND the Rejoinder to the petitions dated 9.5.94 and 16.5.94 submitted by the petitioner Pu Zoramthanga, M.L.A, on 31.5.94.

AND,

In the matter of :

Pu Zoramthanga, M.L.A.
Mizoram Legislative Assembly,
Aizawl.

....Petitioner :

AND

In the matter of :

1. Pu H.Lalruata,
2. Pu L.P.Thangzika,
3. Pu Zakhu Hlychho,
4. Pu F.Lalzuala,
5. Pu T.Hranghluta.

(All Members of Mizoram Legislative Assembly, Aizawl)

.....Opposite Parties:

1. The present proceeding arises out of the petitions filed by the petitioner before me under sub-paragraph (1) of paragraph 2 of the Xth Schedule to the Constitution of India and under sub-rule (1) and (2) of Rule 6 of the Members of Mizoram Legislative Assembly (Disqualification on Ground of Defection) Rules, 1987.

2. PETITIONER'S CASE AGAINST THE OPPOSITE PARTIES:—

On 9.5.94 a petition dated 9.5.94 signed by Pu Zoramthanga, the petitioner was submitted before me at 3:17 pm, contending, inter alia, therein that the aforesaid M.L.As i.e. the Opposite Parties contested the general election to the Mizoram Legislative Assembly held on 30.11.93 and that they were duly declared elected from the constituencies mentioned against their names in the petitions and that they were set up as candidates in the said election by the Mizo National Front Party (MNF Party). It was further contended in the said petition dated 9.5.94 that the Opposite Parties, under their signatures by a letter dated 3.5.94 addressed to the President, MNF General Headquarters, Aizawl intimated that they had given up their membership of the Mizo National Front Party (MNF) as also their membership in the MNF Legislature Party. The said letter dated 3.5.94 has been annexed as Annexure 'A' to the said petition. It has been further alleged in the petition dated 9.5.94 that the Opposite Parties had ceased to be members of the MNF Party with effect from 3.5.94 on their voluntary resignation from the Party. In paragraph 7 of the petition dated 9.5.94, it has also been stated that the aforesaid 5 MLAs before taking the extreme steps of giving up their membership of the Mizo National Front Party had in exercise of their clear conscience and faculty, made a decision to give up their membership of the MNF Party and their decision was actually reduced to writing signed and communicated to the President of the MNF party which he received the same on 3.5.94 at about 4 pm. on that day. It has also been stated in the petition that the aforesaid 5 members by voluntarily giving up their membership of the Mizo National Front Party fully met the conditions for their disqualification for being members of the Mizoram Legislative Assembly as prescribed by the provisions contained in sub-paragraph (1) (a) of paragraph 2 of the Xth Schedule to the Constitution of India for their disqualification on the Ground of this Defection.

On 16.5.94 at 2:45 pm, an additional petition was submitted by the petitioner Pu Zoramthanga under sub-paragraph (1) of paragraph 2 of the Xth Schedule to the Constitution of India and under sub-rule (1) and (2) of Rule 6 of the Members of Mizoram Legislative Assembly (Disqualification on Ground of Defection) Rules, 1987 praying for disqualification of the Opposite Parties. In the said second petition dated 16.5.94, the petitioner Pu Zoramthanga stated, inter alia, that the Mizoram Legislative Assembly Bulletin No. 41 issued on 9th May, 1994 informing all Members of the Mizoram Legislative Assembly that Sarvashri H. Lalruata, L. P. Thangzika, Zakhu Hlycho, F. Lalzuala and T. Hranghluta, all sitting Members has severed Party and formed a separate group under the name and style of MNF (R) on and from 2.5.94 could not have been possible for the following reasons:— (i) On 13.5.94 the petitioner Pu Zoramthanga as the President of the MNF Party sent a delegation of three

sitting Members of the Mizoram Legislative Assembly, namely, S/Shri R. Tlanghmingthanga, Lalsawta and F. Malsawma to enquire from the Secretary of the Mizoram Legislative Assembly, if the members of the so-called MNF (R) had submitted any document in connection with their formation of the new political party. The Members of the delegation were jointly assured by the Secretary of the Mizoram Legislative Assembly on 13.5.94 at 1430 hrs. that he (The Secretary) received only one letter from the Members of the so-called MNF (R) Party in which the Opposite Parties simply made a joint statement that they had severed their connection from their original Party (MNF) and formed a separate Group under the name MNF(R). In the said letter which is the sole proof of the formation of the party, such vital informations regarding office bearers of the new political party-MNF (R) which is clear from the letter addressed to the petitioner as President of the Mizo National Front Party dated 3.5.94; (iii) That there was no split in the Mizo National Front Party and not even a single Executive Member in the MNF General Headquarters had left the party except the 5 MNF MLAs (Opposite Parties) who were ex-officio Executive members.

Thereafter on 31. 5. 94 at 1 : 30 pm. a Rejoinder petition dated 30. 5. 94 was submitted by the petitioner Pu Zoramthanga in the office of the Secretary, Legislative Assembly. In the said third petition dated 30. 5. 94, it has been contended by Pu Zoramthanga that the aforesaid 5 members of the Legislative Assembly have joined Congress (I) Party in Mizoram following their severance from the Mizo National Front Party and that they had not formed the Mizo National Front (R) Party as on 2. 5. 94 and that the so-called formation of the Mizo National Front (R) Party is the outcome of an after-thought which is proved by the documents annexed to the petition. The petitioner, Pu Zoramthanga has also annexed a Press Release No. 1 of 1994 issued by the MNF Divisional Headquarters, Saiha justifying the joining of the Opposite Parties in the Congress (I) Party. The petitioner, Pu Zoramthanga has also annexed a daily Newspaper "LENGZEM" published from Lunglei reporting that a Press Conference convened by S/Shri H. Lalruata, F. Lalzuala and L.P. Thangzika on 15. 5. 94 at the Circuit House, Lunglei stated that they joined Congress (I) Party on 3. 5. 94. Likewise another Newspaper "VIRTHLI" dated 6. 5. 94 published from Lunglei has been annexed as Annexure 'D'. In the said issue of the Newspaper, it has been reported that S/Shri H. Lalruata, F. Lalzuala and L.P. Thangzika on 5. 5. 94 at Lunglei Circuit House convened a Press Conference and stated that they waited till 3. 5. 94 for the MNF-MJD formation of a Ministry and after losing hope for such a Ministry, they joined the Congress (I). The petitioner Pu Zoramthanga has also annexed two Press Release dated 5. 5. 94 and 6. 5. 94 issued by the Director of Information and Public Relations, Govt. of Mizoram declaring Shri Zakhu Hlychho as having stated before the general public who received him at Saiha that he had joined the Congress (I) Party leaving the Mizo National Front Party and that S/Shri H. Lalruata, L.P. Thangzika, F. Lalzuala on 5. 5. 94. stated that they had joined Congress (I) Party. Similarly the petitioner annexed two Newspapers namely, 'MIZO AW' dated 5.5.94 and 'HNEHTU' dated 5.5.94 as Annexure 'G' and 'H' to substantiate the points that the Opposite Parties joined the Congress (I) Party. The petitioner has also annexed the minutes of the MNF Legislature Party meeting held on 2.5.94 which was attended by the Opposite Parties, excepting Pu F.Lalzuala. The news Bulletin of All India Radio announced at 6:30 pm on 5.5.94, a Press Release issued by the Secretary, Mizoram Pradesh Congress Committee on 15.5.94 and ano-

ther Press Release dated 18.5.94 issued by the Political Secretary to the Chief Minister of Mizoram have been annexed as Annexure 'J' 'K' and 'L' respectively to the petition. The petitioner Pu Zoramthanga also annexed a letter dated 3.4.94 from Pu H. Lalruata addressed to the President, MNF General Headquarters, Aizawl and also a copy of the list of the Office Bearers and Executive Members of the Mizo National Front General Headquarters have been annexed as Annexure 'M' and 'N' respectively to the petition. All these Annexures have been annexed by the petitioner to show that (i) The five MNF MLAs voluntarily resigned from MNF party; (ii) the supporters

Congress (I) Party as had the five MNF MLAs, and not the Mizo National Front (R) Party, a Party said to be formed by the said five MNF MLAs; (iii) the five M F MLAs join

Front

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ture Party on the held on 2.5.94:

3. OPPOSITE PARTIES DEFENCE AS STATED IN THEIR WRITTEN STATEMENTS:

After issuance of notice to the Opposite Parties, the Opposite Parties entered appearance by submitting their two written statements against the aforesaid three petitions filed by Pu Zoramthanga. In the first joint written statement filed against the first two petitions dated 9.5.94 and 16.5.94, the opposite Parties have stated, inter alia, that on 2.5.94, being dissatisfied with the MNF Party and its policies in a meeting of sizeable members and office bearers of the MNF Party held at Aizawl, the failure of the MNF party in implementing its policies and coming up to the expectation of the people was discussed and upon such discussion, members, office bearers including the Opposite Parties decided to come out of the MNF Party with immediate effect. Accordingly, the Opposite Parties along with members and the Office bearers of the MNF Party to which they originally belonged. With the said split in the MNF Party on 2.5.94, the Opposite Parties immediately formed a separate Political Group under the name and style of MNF (R) and since this

Party to which they originally belonged, the Opposite Parties submitted a claim before the Hon'ble Speaker for recognizing them as a separate Group with immediate effect and also for allotment of separate seats in the Assembly. Simultaneously, the Opposite Parties intimated the aforesaid facts to Pu Zoramthanga, the President of the MNF, who

Parties on 3.5.94 accepted the split in his Party and did not immediately raise any objection before the Hon'ble Speaker. Since, no objection was raised with regard to the split in the MNF and its Legislature Party, the Hon'ble Speaker, after considering the entire facts and circumstances

the procedures laid down under the law was fully satisfied that the requirements of paragraph 3 of Schedule X were fulfilled and that the Opposite Parties being a Group of five members of the MNF Legislature Party represented the faction arising as a result of a split in their original Political Party and accordingly recognised the split in the MNF and its Legislature Party and also recognised MNF (R) as a separate Legislature Group and directed for allotment of separate seats to the Opposite Parties and the said decision of the Speaker was published in the Assembly Bulletin No. 41 dated 9.5.94. The Opposite Parties also stated in their first joint written statement that it was not necessary for them to include the information relating to office bearer of MNF (R), its aims and

objectives, its constitution and other relative matters in their claims submitted by the Opposite Parties before the Speaker. It has further been stated by the Opposite Parties that following the vertical split in the MNF Party to which the Opposite Parties originally belonged, the Opposite Parties formed MNF (R) as a separate Political Group on and from 2.5.94 and informed about the same to the Speaker of the Mizoram Legislature of the MNF Party which were received by both on 3.5.94. The Opposite Parties further stated that the Hon'ble Speaker after waiting for a sufficient period and having not received any objection whatever from any quarter including that of the MNF Political Party or its Legislature Party and on consideration of the entire facts and circumstances of the case and on being fully satisfied that there has been split in the MNF and its Legislature Party passed his order dated 9.5.94 recognising the split in the MNF and its Legislature Party sing MNF (R) consisting of more than one-third of the total members of the MNF Legislature Party as a distinct and separate Group. The Opposite Parties submitted that the aforesaid issue of recognising the split of a separate Legislature Party and formation of a separate Legislature group by the name of MNF (R) as a result thereof cannot be re-opened and re-appreciated in the form of the petitions filed by the petitioner and hence the Opposite Parties claimed that the petitions of the petitioners are not maintainable.

In reply to the third petition dated 30.5.94, the Opposite Parties on 10.6.94 submitted a joint additional written statement. In the said additional written statement, the Opposite Parties have categorically denied that Congress (I) Party in Mizoram following their severance from the MNF Party. In reply to Annexure 'B' the Opposite Parties categorically denied that Pu Zakhu Hlychho joined Congress (I) Party and reiterated that Pu Zakhu Hlychho is still a member of MNF (R) Political Group which was constituted on 2.5.94. Similarly, the Opposite Parties have also categorically denied that Pu H. Lalruata, Pu F. Lalzuala and Pu L. P. Thangzika had ever stated in a Press Conference on 5.5.94 that they joined Congress (I) Party on 3.5.94. The Opposite Parties while categorically denying the correctness of the report of Annexure 'C' to the third petition of the petitioner have stated that the Opposite Parties in the Press Conference on 5.5.94 merely stated that MNF (R) as a Political Group will support Congress (I) Party in implementing its policies and the said statement has been misinterpreted as their joining the Congress (I) Party. The Opposite Parties have also categorically denied that on 5.5.94 at Lunglei Circuit House, the Opposite Parties S/Shri H. Lalruata, Lalzuala and L.P. Thangzika stated that they waited till 3.5.94 for the MNF-MJD formation of a Ministry and after losing hope for such a Ministry, they joined the Congress (I). Similarly, the Opposite Parties have also denied the correctness of the Press Release dated 5.5.94 and 6.5.94 issued by the Director of Information and Public Relations, Govt. of Mizoram and have denied that they had ever said that they joined Congress (I) Party. The Opposite Parties have stated to have said in the Press Conference that they as a Political Group would support Congress (I) Party in implementing its policies. In the additional written statement the Opposite Parties have stated that on 2.5.94 at 11 am they attended the MNF Legislature Party's meeting and in the said meeting the Opposite Parties expressed their dissatisfaction and also the dissatisfaction of the numerous other members and office bearers of the MNF Party regarding MNF Party's failure to come to the expect-

tation of the people. It is stated by the Opposite Parties that since in the meeting Pu Zoramthanga, President of the MNF Party did not agree with the views expressed by the Opposite Parties in the meeting, the Opposite Parties after having dinner in the evening, after the meeting of the MNF Legislature Party convened a separate meeting of the Members and Office bearers of the MNF Party who were in agreement with the views of the Opposite Parties and in the said the meeting the failure of the MNF Party in all respects was discussed and Opposite Parties along with a sizeable number of Members and office bearers decided to come out of the MNF Party with effect from 2. 5. 94 and accordingly they came out of the Party with effect from that date causing a split in the MNF Political Party on 2. 5. 95. With said split, in the said meeting a new Political Group was formed under the name and style of MNF (R) with effect from 2. 5. 94.

The Opposite Parties in support of the statement made in their written statements have filed two Affidavits sworn by two Secretaries of the MNF Sub-Headquarters at Lunglei who in those two Affidavits have confirmed the fact of holding a separate meeting on 2.5.94 by dissatisfied Members of the MNF Party and also the fact that in the said meeting the failure of the MNF Party was discussed and in the said meeting itself, it is stated in the Affidavit, the split was caused in the MNF Political party which led to the formation of a new Political Party under the name and style of MNF (R) which included the Opposite Parties.

4. On the basis of the aforesaid rival contentions of the Parties, I propose to summarise the facts of the case as follows :—

(i) S/Shri H.Lalruata, L.P.Thangzika, Zakhu Hlychho, F.Lalzuala and T.Hranghluta, all sitting members of the Mizoram Legislative Assembly and belonging to Mizo National Front (MNF) Legislature Party, submitted a joint petition dated 2.5.94 signed by all of them and received on 3.5.94 intimating me that following a vertical split on 2.5.94 in the MNF Political Party headed by Pu Zoramthanga to which they originally belonged, they (the five MLAs) had formed a separate Political Group under the name and style of Mizo National Front (R), for short, MNF (R), on and from 2.5.94. It was also stated in the letter that this newly formed Political Group consists of all the 5 (five) MLAs whose signatures were appended below the said letter in due declaration and authentication of the facts stated therein and that the said 5 (five) MLAs represent a group composed of more than one-third of the then existing strength of the MNF Legislature Party in the Mizoram Legislative Assembly. By the said letter submitted before me on 3.5.94, the five MLAs prayed for recognising the split in their original MNF Party and also of the formation of a new Political Group under the name and style of "MNF (R)" and further prayed for allotment of separate seats to this group in the Assembly.

(ii) From the Annexure 'A' to the petition dated 3.5.94 submitted by the petitioner, it appears that on 3.5.94 the said 5 (five) MLAs also submitted a petition to the MNF President, Pu Zoramthanga intimating the above fact of the Opposite Parties leaving the MNF Party and also the MNF Legislature Party and of taking such steps because of heavy pressure from the people of their constituencies.

(iii) Thereafter, the aforesaid 5 (five) Members insisted for an order on their claim made on 2.5.94. The 5 (five) MLAs also informed me about their intimation to the MNF President regarding the split in the MNF Political Party and their formation of a new Political/Legislature Group under the name and style of MNF (R). I have been waiting for nearly a week, and since no objection was made by Pu Zoramthanga as against the claim made by the five MLAs, I examined the aforesaid claim of the five Legislators in the light of the provisions contained in the Xth Schedule to the Constitution of India. After considering the prayer made by the said five MLAs, I was satisfied that the five applicants appeared to have formed one-third of the then MNF Legislature Party's strength in the Assembly and that there appeared to be a vertical split in the MNF party and its Legislature Party within the meaning of paragraph 3 of the Tenth Schedule to the Constitution of India. I, accordingly, on 9.5.94 recognized the split in the MNF and its Legislature Party and also the formation of a new Legislature Group under the name and style of MNF(R) consisting of the said five MLAs. Accordingly, I directed that separate seats be allotted to the new Legislature Group as per their claim for the time being and until anything contrary is proved and a bulletin was also issued on the same date communicating the gist of my decision as per the procedure of the Assembly.

(iv) Subsequently however, a petition dated 9.5.94 signed by Pu Zoramthanga was submitted before me at 3:17 pm contending, inter alia, therein that the aforesaid five MLAs had ceased to be members of MNF Party with effect their Voluntary Resignation from their Party and that there was no split whatsoever in the MNF Party and by their act of voluntarily giving up of their membership, the five MLAs have become subject to disqualification for being members of Mizoram Legislative Assembly. Another petition was filed thereafter on 16.5.94 before me by Pu Zoramthanga stating, inter alia, therein that severance of the aforesaid five MLAs from their original Political Party, i.e., MNF, appears to have taken place after the so-called formation of the MNF (R) and that there being no split in the MNF Party till 16.5.94, the aforesaid five MLAs have become subject to disqualification. Both the aforesaid two petitions were filed before me under the provisions of sub-paragraph (1) of paragraph 2 of the Tenth Schedule to the constitution of India and under Sub-Rule (1) and (2) of Rule 6 of the aforesaid Rules. On being satisfied that the said two petitions were in order and form, notice dated 23.5.94 was also issued to all the aforesaid five MLAs along with copies of the petitions submitted against them. A copy of the notice was also sent to the petitioner and the President of MNF Party and asking them to remain present on the date fixed for hearing, i.e., 10.6.94. By the notice dated 23.5.94, the aforesaid five MLAs were directed to submit their written statements/comments within 7 days from the date of receipt of the notice. On receipt of the aforesaid notice, the five MLAs shown as Respondents on 30.5.94 filed an application praying for extension of time to file their Written Statement/Comments by another six weeks. In view of the nature and subject matter of the proceeding requiring speedy disposal, I decided not to extend the time as prayed for and directed them to submit their Written Statements positively on or before 10th of June, 1994 so that the matter could be heard on the date fixed earlier. Thereafter, on 31.5.94, the petitioner Pu Zoramthanga filed another rejoinder petition and the copy of the said petition was forwarded to the Opposite Parties by the Secretary of the

Assembly on 8.6.94. In pursuance to the notice dated 23.5.94, the five MLAs/ Opposite Parties on 9.6.94 submitted their joint Written Statement along with two separate Affidavits sworn by Pu Lianchama Chhangte and Pu Lallianzuala Khenglawt who were both Secretaries in the MNF Sub-Headquarters in support of the split in the MNF Party on 2.5.94 and the formation of a new Legislature Group consisting of the five MLAs mentioned above. However, on 10.6.94, i.e. on the date of hearing the Opposite Parties filed another application praying for sometime to file an additional Written Statement against the petitioner's third rejoinder petition served on them on 8.6.94. I declined to entertain the prayer of the opposite parties with a view to dispose of the matter as early as possible and proceeded to hear the matter. During the course of hearing of the matter, the Opposite Parties, however, filed an additional Written Statement to the rejoinder filed by the petitioner on 31.5.94 which was served on the Opposite Parties on 8.6.94.

5. On the basis of the averments made in the petitions and in the rejoinder submitted by the petitioner, the joint written statement and the additional written statement filed by the Opposite Parties and the Affidavits submitted in support of the written statement filed, I find that the following points in the present matter arise for my consideration and decision :-

(I) Whether there was any split in the MNF Party resulting in a split in the MNF Legislature Party and if so, whether the Opposite Parties, namely, the five MLAs have incurred any disqualification under the provisions of the Tenth Schedule to the Constitution of India as contended by the petitioner?

(II) Whether the case of the Opposite Parties Paragraph 3 of the Tenth Schedule of the Constitution of India as contended by them?

6. As the two points formulated by me in paragraph 5 above are interconnected, I propose to consider and decide the said two points together on the basis of the records of the proceedings before me. I find that a meeting was held on 2.5.94 in the MLAs Hostel at Aizawl attended by the Opposite Parties and other members and office bearers of sub-headquarters of the MNF Party. In the said meeting and coming upto the the expectations of the people was discussed and upon such discussion Members, Office bearers including the Opposite Parties decided to come out of the MNF Party with immediate effect. Accordingly, the Opposite Parties along with members and Office bearers of sub-headquarters of MNF Party left the MNF Party with effect from 2.5.94 causing a split in the MNF Party to which they originally belonged and immediately thereafter in the said meeting a separate Political and Legislature Group under the name and style of MNF (R) was formed. I also found that the MNF (R) Legislature Group consist of five MLAs, i.e. the Opposite Parties which is more than one-third of the then existing strength of the MNF Legislature Party numbering 14 (fourteen) and therefore, the Opposite Parties submitted a claim before me for recognising them as a separate Group with immediate effect and also for allotment of separate seats in the Assembly. I further found that although Pu Zoramthanga was aware of the facts of the Opposite

parties' coming out of his party on 3.5.94, he did not raise any objection immediately and remained silent till forenoon of 9.5.1994 and I accordingly caused issuance of Bulletin No.41 of 9.5.1994. In view of the aforesaid facts and circumstances and on the basis of the claim made by the Opposite Parties and also on consideration of the facts that no objection by the petitioner or any member of his party with regard to the split in the Party was raised, I was fully satisfied that the requirement of Para 3 of the Tenth Schedule to the Constitution of India are fulfilled in the instant case and that with the coming out of the Opposite Parties from the MNF Party, there was a split in the MNF Party and the Opposite Parties being a group of five Members representing more than one-third of the then total strength of the MNF Legislature Party i.e. 14 represent a faction in the name and style of the MNF (R) arising as a result of split in MNF Party. The said decision was based on materials on record.

7. However, since petitions have been filed by the petitioner contending that no split had taken place within the MNF Party and that the Opposite Parties are liable to be disqualified, I decided to issue notice to the concerned parties including the President, MNF Party and Leader of the MNF Legislature Party. Accordingly, I propose to consider and dispose off the points raised before me in the light of the averments made in the petitions and the rejoinder submitted by the petitioner and the averments made in the Written Statements and additional written statements filed by the Opposite Parties and the materials produced before me by both the parties.

8. On the materials on record before me, I am satisfied that the meeting was held on 2.5.94 in the MLA Hostel at Aizawl attended by the Opposite Parties and other members of the original political party namely, the MNF wherein the policies and functioning of the MNF party came up for discussion and criticism by the persons attending the said meeting, and in that meeting it was decided by the members of the MNF Party including the Opposite Parties that they would leave the MNF Party with immediate effect and form a new Legislature Group in the Mizoram Legislative Assembly consisting of the Opposite Parties numbering five and accordingly they left the MNF Party with effect from 2.5.94 and formed a new Legislature Group in the Assembly as MNF (R). Thus, there was a split in the MNF with effect before me two affidavits sworn by Pu Lianchama Chhangte and Pu Lianzuala Kheinglawt which clearly support the fact of split in the MNF Party and formation of a new Legislature Group consisting of the Opposite Parties. The petitioner has not produced any material witness before me in support of the claim that there was no such split in the MNF Party as stated in the Affidavits filed and averments made in the written statement and the additional written statement filed. The copies of the Press Releases and the Press Reports filed by the Petitioner with the rejoinder submitted on 31.5.94 and served on the Opposite Parties on 8.6.94 do not in any way take away the truth of the fact that in the meeting held on 2.5.94 there was a split in the MNF Party and as a result there was a formation of a new Legislature Group consisting of the five MLAs, i.e. the Opposite Parties. The allegations in Press Releases and the Press Reports that the Opposite Parties joined the Congress (I) Party in Mizoram cannot be accepted as true and correct in as much as the five Opposite Parties still continue to be members of

the new Legislature Group namely, MNF(R). The allegations and statements in the Press Releases and the Press reports to my mind are not credible and acceptable by me in the absence of any other materials in support of the allegation and statements placed by the petitioner. The petitioner has also not called any witness to prove the documents annexed to his third petition. The petitioner also has not called any witness to prove and establish his allegations made in the petitions against the Opposite Parties. I therefore, find it unsave to rely on such allegation and statements made in the Press reports and the Press releases without any corroborative materials more particularly when such allegations and statements have been denied by the Opposite parties in their written statements and additional written statements filed. It is not possible on my part to decide the extent of split in the MNF Party on the materials on record before me. But the facts, however, remains established on materials before me that there was a split in the MNF Party i.e. the original Political Party on 2.5.94 and as a result thereof there was a formation of a new Legislature Group consisting of five members of the MNF Legislature Party which is more than one-third of the total members of the then MNF Party.

9. The contention of the petitioner in the rejoinder petition submitted on 31.5.94 that there could not have been any meeting as contended by the Opposite Parties on 2.5.94 in as much as there was a meeting of the MNF Legislature Party on 2.5.94 at 11 AM which continued till dinner in the evening appears to be not at all sound. I find from the materials on record that such a meeting of the Opposite Parties after they attended the MNF Legislature Party meeting, in fact, was held on 2.5.94 in the MLA Hostel at Aizawl as contended by the Opposite Parties after the dinner time on that date namely 2. 5. 94.

10. That for the purpose of proper adjudication of contentions of both the Parties, I called for and perused three decisions of the Hon'ble Supreme Court of India namely, Luis versus Union of India reported in AIR 1992 Supreme Court page 1812 and decision rendered in Kihota versus Union of India AIR 1982 Supreme Court page 412 and the decision rendered in the State of Rajasthan versus Union of India reported in AIR 1977 Supreme Court page 1361. In the aforesaid three decisions, Hon'ble Supreme Court of India have laid down that the Speaker's decision shall be subject to judicial review by the courts only on the grounds of jurisdictional errors e.g. (i) If the decision of the Speaker becomes ultra vires to the Constitution of India or (ii) if the decision is vitiated by malafides or (iii) if the decision is perverse or (iv) if there is violation of the rules of natural justice. Under this circumstances, I took all care to give maximum possible opportunity of hearing to the parties and I carefully perused the records produced by the parties. The Speaker is concerned only with the House and the Legislature parties, it is not his function to enquire into what happens in the political party outside. It is not for him to pronounce upon whether or not there has been a valid split in the Party outside. Thus, the only matter that the Speaker has to look into and satisfied himself is in regard to the Group claiming to be the result of a split being not less than one-third. If this requirement of one third is made, the Speaker is bound to hold that no disqualification is incurred. On perusal of the aforesaid decisions rendered by the Hon'ble Supreme Court

of India and also on going through the relevant provisions of the Xth Schedule of the Constitution of India and in view of the above findings of facts, I am clearly of the view that the case of the Opposite Parties fall within the ambit of Paragraph 3 of the Tenth Schedule to the Constitution of India in as much as there was a split in the Political Party namely, MNF Political Party on 2.5.94 and consequently there was a formation of a new Legislature Group MNF (R) consisting of more than one third of the then total strength of the MNF Legislature Party. Therefore, I decide that there was a split in the MNF Political Party leading to split in the MNF Legislature Party consisting of the five Opposite Parties and hence the five MLAs i.e. the Opposite Parties have not incurred any disqualification under the provisions of the Xth Schedule and thus the issue No. (I) as mentioned in the foregoing paragraph 5 is accordingly answered. I also in the light of my aforesaid discussions answer the issue No. (II) in the positive.

11. On an independent consideration of the materials on record produced before me in the proceedings initiated on the basis of the petitions filed by the petitioner, I do not find any ground whatsoever to revise my views expressed in the order dated 9. 5. 94 and direct for continuation of my order for allotment of separate seats to the new Legislature Group under the name and style of MNF (R).

12. As a result, the petitions filed by the petitioner praying for disqualification of the Opposite Parties for being the Members of the Mizoram Legislative Assembly are liable to be dismissed, which I accordingly do.

13. Steps may be taken by the Secretary immediately for issue of copies of the above decisions and order to the petitioner Pu Zoramthanga, the five MLAs/ Opposite Parties. Immediately steps may also be taken for issue of a bulletin communicating the gist of my above decision and order for information of all concerned as per procedure of the Assembly, and all other necessary steps as required.

Vaivenga,
Speaker,
Mizoram Legislative Assembly,
Aizawl.

H.L. Chunga,
Secretary,