



SIKKIM DEMOCRATIC FRONT

Reg. No. : 56|42|93|JS|11|2911 • Date : 13|05|1993

Head Office

Indira Bypass, Gangtok, East Sikkim

Ph : (03592)281586, Fax: (03592) 280595, Email: sdf.sikkim@gmail.com
Website: www.sikkimdemocraticfront.org | www.smilingsikkim.org



Ref No.:

Ref. No. 6(1)pub/sdf/430



Date:

Date: 02/02/2019

Press Release

In the recent press conference held by the Sikkim Krantikari Morcha party they have expressed the view that Shri P.S. Golay, the president of the party is eligible to contest the coming elections. They have based their arguments on the ground that in view of the publication of the "Repealing and Amending Act, 2015", dated: 13th May, 2015 issued by the Ministry of Law and Justice, (Legislative Department) he stands qualified to contest. Such issues involve the correct understanding and interpretation of the relevant provisions of the law in question. As a matter of fact and principle, the SDF party is not concerned whether Shri P.S. Golay can contest or not in the coming elections as the party is fully prepared to fight the elections based on the vibrant leadership of Shri Pawan Chamling and the pro-people policies and programs of the party. However, since this matter remains as a point of debate and discussion amongst the public domain it becomes relevant for the SDF party to place forth the correct information to the people based on the proper understanding and interpretation of the law.

It is a fact that Shri P.S. Golay was convicted by the court of law under Section 403/406 read with Section 120B (2) of Indian Penal Code 1960 and Section 13 (2) read with Section 13 (1) (d) (ii) of Prevention of Corruption Act, 1988 and had under gone imprisonment for a period of one year. The conviction order passed by the Ld. Sessions Trial Court was also upheld by the Hon'ble Supreme Court of India with the observation; "We do not find any legal and valid ground for interference. The special leave petition is dismissed."

Section 8 (1) (m) (ii) of the Representation of the People Act, 1951 clearly states that, a person convicted of an offence punishable under the Prevention of Corruption Act, 1988 (49 of 1988) shall be disqualified if sentenced to imprisonment, from the date of such conviction and shall continue to be disqualified for a further period of six years since his release. As per the compliance of the prevailing law Shri P.S. Golay who was then a member of the Sikkim Legislative Assembly was disqualified from the membership after the conviction order and continues to be disqualified for a period of six years from the date of release from the judicial custody.



SIKKIM DEMOCRATIC FRONT

Reg. No. : 56|42|93|JS|11|2911 • Date : 13|05|1993

Head Office

Indira Bypass, Gangtok, East Sikkim

Ph : (03592)281586, Fax: (03592) 280595, Email: sdf.sikkim@gmail.com
Website: www.sikkimdemocraticfront.org | www.smilingsikkim.org



2

Ref No.:

Date:

Referring to the interpretation of the Repealing and Amending Act, 2015 one must understand with all clarity that the provisions of this Act provides for repealing the *amending Acts* but under no circumstances one can assume or imply that by doing so the Principal Act thereby gets repealed. As a matter of fact the said Act of 2015 itself makes it clear as reflected in paragraph 4 which states that; "The repeal by this Act of any enactment shall not affect any Act in which such enactment has been applied, incorporated or referred to;nor shall this Act affect any principle or rule of law,...." Therefore, Section 8 (1) (m) (ii) which is very much a part of the principal Act which is the Representation of the People Act, 1951 does not stand repealed by virtue of the provisions of the Repealing and Amending Act, 2015. It simply appears that such issues are raised by the opposition party to mislead and misguide the people and divert their minds on issues which do not benefit the people or the State.

The SDF party is also aware of the fact that in this particular matter the Election Commission of India has rightly observed and stated that; "Any person convicted under the prevention of corruption Act, 1988 (49 of 1988) is disqualified for a period of six years since his release." Further, referring to the offences falling under the Prevention of Corruption Act several land mark decisions have been passed by the Hon'ble Supreme Court wherein, they have expressed the spirit of the law on the point that those who break the law should not make the law. Generally speaking, the purpose sought to be achieved by enacting disqualification on conviction for certain offences is to prevent persons with criminal background from entering into politics and the House, a powerful wing of governance. In view of these facts and understanding of the principles of criminal jurisprudence Shri P.S. Golay stands disqualified to contest the elections for a period of six years which means 2019 and 2024. It also implies that he stands equally disqualified from being nominated to hold any Constitutional post or position for the said period.




K.T. Gyaltsen
Spokesperson, SDF
Spokesperson
Sikkim Democratic Front