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**REFERENCE CASE NO. 1(G) OF 2017**

**[REFERENCE FROM THE HON'BLE GOVERNOR OF MAHARASHTRA UNDER  
ARTICLE 192(2) OF THE CONSTITUTION OF INDIA]**

*IN REF: REFERENCE CASE NO. 1(G) OF 2017 - REFERENCE FROM THE  
HON'BLE GOVERNOR OF MAHARASHTRA UNDER ARTICLE 192(2) OF  
THE CONSTITUTION OF INDIA ON A REPRESENTATION FILED BY SHRI D.  
J. MAYEKAR, RATNAGIRI, MAHARASHTRA SEEKING DISQUALIFICATION  
OF SHRI UDAY SAMANT, MEMBER OF THE LEGISLATIVE ASSEMBLY OF  
MAHARASHTRA.*

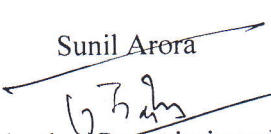
**OPINION**

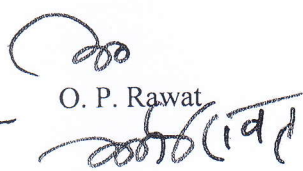
1. This is a reference seeking 'opinion' of the Election Commission of India, which has been received from the Hon'ble Governor of Maharashtra on 06.03.2017 under Article 192(2) of the Constitution of India, on the petition dated 04.12.2016 filed by Shri D.J. Mayekar, Ratnagiri, Maharashtra (hereinafter referred to as 'the Petitioner'), seeking disqualification of Shri Uday Samant, MLA from AC – 266, Ratnagiri on the following grounds in view of the Order passed in Civil Suit No 260/2007 in the Court of the Joint Civil Judge, Senior Division, Ratnagiri:

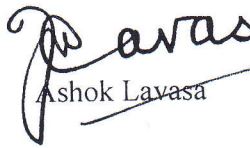
- (12)
- i) Misuse of Government Fund;
  - ii) Misuse of position as Chairman, Employment Guarantee Scheme (EGS) and MLA of executing the unsanctioned work;
  - iii) Awarding the work under EGS to private contractor instead of getting it done from local labourers;
  - iv) Executing the work without obtaining permission from the land owner.
2. The Petitioner in his representation dated 04.12.2016 laid emphasis on the fact that the Court of Joint Civil Judge, Senior Division, Ratnagiri, had approved the allegations and accordingly passed the Judgment and Order dated 12.05.2016.
3. However, it is pertinent to note that the grounds on which disqualification of Shri Uday Samant is sought by the Petitioner do not fall under any of the grounds mentioned under Article 191(1) of the Constitution or under any of the grounds mentioned in the Representation of the People Act, 1951.

#### CONCLUSION

4. In view of the above this Commission hereby opines that Shri Uday Samant, MLA from AC - 266, Ratnagiri cannot be disqualified on the grounds alleged by the Petitioner as these grounds do not constitute the grounds for disqualification mentioned either under Article 191(1) of the Constitution of India or under any of the provisions of Representation of the People Act, 1951.

  
Sunil Arora  
(Election Commissioner)

  
O. P. Rawat  
(Chief Election Commissioner)

  
Ashok Lavasa  
(Election Commissioner)

Place: New Delhi

Date: 16 .05.2018