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मध्यप्रदेश राजपत्र

(असाधारण)
प्राधिकार से प्रकाशित

क्रमांक 337]

भोपाल, मंगलवार, दिनांक 10 दिसम्बर 2024—अग्रहायण 19, शक 1946

विधि और विधायी (निर्वाचन) कार्य विभाग

भोपाल, दिनांक 10 दिसम्बर 2024

फा.क्र. EP.06-07-19-2024-चार-वि.निर्वा.-246.- भारत निर्वाचन आयोग की निम्नलिखित अधिसूचनाएं सर्वसाधारण की जानकारी हेतु प्रकाशित की जाती है. :-

1. अधिसूचना क्र. 82-म.प्र.-(06-2024)-2024, दिनांक 27 नवम्बर 2024
2. अधिसूचना क्र. 82-म.प्र.-(07-2024)-2024, दिनांक 27 नवम्बर 2024
3. अधिसूचना क्र. 82-म.प्र.-लो.स.-(19-2024)-2024, दिनांक 27 नवम्बर 2024

राजेश कुमार कौल, सचिव.

भारत निर्वाचन आयोग

निर्वाचन सदन, अशोक रोड, नई दिल्ली-110 001

नई दिल्ली, तारीख 27 नवम्बर, 2024-6 अग्रहायण, 1946 (शक)

अधिसूचना

सं.-82/म.प./(06/2024)/2024- लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण में, निर्वाचन आयोग वर्ष 2024 की निर्वाचन याचिका सं. 06 में माननीय मध्य प्रदेश उच्च न्यायालय (जबलपुर बेंच) के दिनांक 22.08.2024 के निर्णय/आदेश को एतद्वारा प्रकाशित करता है (श्री रामगरीब और अन्य विरुद्ध श्री अजय अर्जुन सिंह)

आदेश से,
हस्ता./-
(अमित कुमार)
सचिव,
भारत निर्वाचन आयोग.

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110 001

New Delhi, Dated 27th November, 2024 - 6 Agrahayana, 1946 (Saka)

Notification

No. 82/MP/(06/2024)/2024 - In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the Judgment order dated 22.08.2024 of the Hon'ble High Court of Madhya Pradesh (Jabalpur Bench) in the Election Petition No. 06 of 2024 (Sh. Ramgareb & others Vs. Sh. Ajay Arjun Singh).

By order,
Sd./-
(AMIT KUMAR)
Secretary,
Election Commission of India.

IN THE HIGH COURT OF MADHYA PRADESH
PRINCIPAL SEAT AT JABALPUR

ELECTION PETITION No. 6 OF 2024

Cause Title

① ~~XXXX~~ Petitioner: 1. Ramgareeb S/o Deenbandhu
Aged about 47 years,
R/o Village Shikarganj, Post: Baghdad,
Police Station: Rampur Naikin,
DISTT. SIDHI (M.P.)

② ~~XXXX~~ 2. Rajkumar S/o Gopichand aged about
33 years R/o Village Badkhara 734,
Post: Badkhara 740, Police Station
Rampur Naikin
DISTT. SIDHI (M.P.)

③ ~~XXXX~~ Byasmuni S/o Ravinath aged about
51 years R/o Village Hanumangarh
Post Hanumangarh District Sidhi
(M.P.)

Date :- 12/1/24
Presented by Shri. R.N. Divedi
who is identified by Shri. R.N. Divedi
Advocate at 12/1/24
-It is properly filed within time and
properly stamped
It is accompanied by requisite number of
spare copies of documents, registered
address, P.F. and receipt of security deposit
of Rs. 2,000

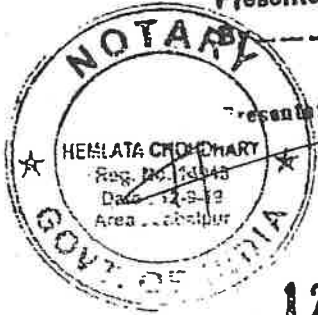
12/1/24
Registrar (Judicial II)
Versus

Respondent:

Ajay Arjun Singh S/o Late Arjun
Singh Aged about 68 years, R/o
H.No. 225, Village Sada Post Office
Sada Tehsil Churhat District
Sidhi (M.P.)

Currently residing at : C-19, Shivaji
Nagar Bhopal

Email : ajayc16@hotmail.com



12 JAN 2024

4

③ Byasmuni ④ ~~XXXX~~

② ~~XXXX~~

12/1/24
Registrar (Judicial
High Court of Madhya Pr
Jabalpur

NEUTRAL CITATION NO. 2024:MPHC-JBP:41862

1



IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

E.P. No.6 of 2024

(RAMGAREB & OTHERS Vs AJAY ARJUN SINGH)

&

E.P. No.7 of 2024

(RAKESH KUMAR PANDEY Vs AJAY ARJUN SINGH)

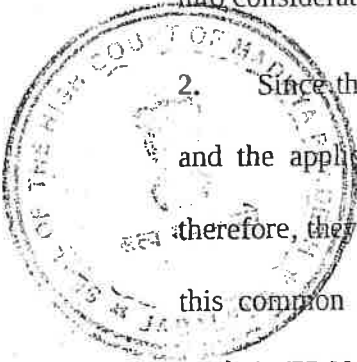
Shri Prakash Upadhyay - Advocate for petitioners in both the petitions.

Shri Sanjay Agrawal – Senior Advocate with Ms. Ankita Singh Parihar – Advocate for respondent in both the petitions.

ORDER
(22.08.2024)

I.A. No.13540/2024 and I.A. No.13541/2024 – which are the applications filed on behalf of the respondents under Order 7 Rule 11 of Code of Civil Procedure for rejection of election petitions are taken into consideration.

2. Since the issue involved in these petitions is one and the same, and the applications filed under Order 7 Rule 11 CPC are identical therefore, they are heard together and are being decided analogously by this common order. However, for the sake of convenience pleadings made in EP No.6 of 2024 is being taken as the lead case.



3. The election petition has been filed challenging the election of the respondent on the ground that the respondent has not furnished correct and complete information at the time of submission of his nomination paper as well as in the affidavit submitted in Form 26 of the Conduct of Election Rules, 1961 (hereinafter referred as 'Rules of 1961'). Thus, there is no proper acceptance of his nomination paper. It is further pleaded that there are certain blank columns left in the nomination paper. Thus, there is non-compliance of mandatory provisions of the Representation of People Act, 1951 (hereinafter referred as 'Act of 1951') and the Rules of 1961. He has failed to comply with the Rule 4A of the Rules of 1961 by not furnishing the mandatory affidavit in Form 26 along with the nomination paper. Thus, he has committed corrupt practice in terms of Section 100(1)(d)(iv) of the Act of 1951.

4. It is argued by the counsel for the respondent that all the detailed particulars which are required to be furnished with the nomination paper as well as with the affidavit which is submitted in terms of Form 26 are submitted by the respondent at the time of submission of his nomination paper. The election of a candidate can only be challenged in terms of the grounds mentioned in Section 100 of the Act of 1951 which deals with grounds for declaring the election to be void. He has

placed reliance upon Section 83 of the Act of 1951 which provides for the contents of the petition. It is argued that Section 83 of the Act of 1951 makes it mandatory for the election petitioner to give a concise statement of the material facts which he relies upon and that shall set forth full particulars of any corrupt practice that the petitioner alleges including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice. The same has not been complied with by the petitioner while filing this election petition. No detail particulars have been provided in terms of Section 83(1)(b) of the Act of 1951 to establish the corrupt practices alleged against the respondent. It argued that a plain reading of Section 100 conjointly with Section 83 of the Act of 1951 leaves no matter of doubt that where a returned candidate is alleged to be guilty of non-compliance with the provisions of the Constitution or the Act of 1951 or any rules or orders made thereunder the election is sought to be declared void on such grounds. It is essential for the election petitioner to specifically make pleadings regarding material facts to show that the election of the returned candidate have been materially affected by such breach or of non-observance thereon.

5. It is argued that if the entire election petition is seen, the same is silent about the fact that by the alleged non-compliance of the mandatory provisions or non-observation of the Rules, the election of a returned candidate is materially affected. There is not even a single word in the election petition by the petitioners who claim themselves to be the voters that how such alleged non-compliance has materially affected the election of a returned candidate. There are vague statements made in paragraph 25 of the petition with respect to non-compliance of Rule 4A of the Rules of 1961. Even the corrupt practice as defined under Section 123 of the Act of 1951 is not reflected from the pleadings. Merely bald statements have been made that the returned candidate has committed corrupt practice.

6. It is further submitted that the so-called information being furnished along with affidavit annexed with Form 26 gives detailed particulars regarding the information as required and does not amount to any violation of the mandatory provisions as provided under the Act. He has drawn attention of this Court to the nomination form submitted by respondent wherein every column he has furnished details. It is argued that the columns were small in size therefore, at the time of furnishing the details in the prescribed form, he has affixed annexures furnishing the complete particulars to comply with the mandatory

provisions. This cannot be said to be violation of the mandatory provisions. In every such column he has mentioned "refer annexure so and so" attached to, forming a part of the said affidavit. Therefore, there is virtually no non-compliance of the mandatory provisions.

7. Counsel appearing for the respondent/applicant has relied upon the judgments passed by the Hon'ble Supreme Court in Vashisht Narain Sharma v. Dev Chandra : (1954) 2 SCC 32, Kamta Prasad Upadhyaya v. Sarjoo Prasad Tiwari : (1969) 3 SCC 622, Manglani Lal Mandal v. Bishnu Deo Bhandari : (2012) 3 SCC 314, Kanimozhi Karunanidhi v. A. Santhana Kumar : 2023 SCC Online SC 573, Dasangula Pul v. Lupalum Kri : 2023 SCC Online SC 1367 and Karikho Kri v. Nuney Tayang : 2024 SCC Online SC 519.

8. He has heavily relied upon the judgment passed in the case of Karikho Kri (supra) wherein the Hon'ble Supreme Court has specifically considered the aspect that furnishing the detailed particulars by way of annexures along with affidavit will be a sufficient compliance of the mandatory provisions and does not violate any of the mandatory provisions. He has also placed reliance upon the judgment passed by the High Court of Madhya Pradesh, Bench at Indore in the case of Suresh Chandra Bhandari vs Smt. Neena Vikram Verma : E.P.

No.16 of 2024 decided on 15.07.2024 wherein at initial stage virtually on the same grounds the application under Order 7 Rule 11 CPC was allowed and the election petition was dismissed. He has prayed for a similar relief and election petitions be dismissed.

9. *Per contra*, counsel appearing for the petitioners has opposed the contentions. It is submitted that there is total non-compliance of the mandatory provisions which were required to fulfilled by the returned candidate at the time of furnishing the information. It is contended that along with the nomination form an affidavit in form of Part A Form 26 has to be submitted as mentioned under the Act and the Rules. It is argued that at Serial No.6(ii) in the table in Form 26 he has mentioned that he has been convicted in case being R.T. No.8825/2013 by the Court of XXI JMFC, Bhopal, for offence punishable under Section 500 of IPC and in column (f) he has been convicted "till the rising of the Court". However, in Part A the said information has been concealed wherein at Serial No.(11)6 he was required to furnish the information with respect to his criminal cases wherein under the heading of "Total number of cases in which convicted" he has mentioned 'Nil'. Thus, incorrect and misleading information has been provided by him.

10. Serial No.(6A) of Part A mentioned at Note No.5 clearly provides that 'Candidate is responsible for supplying all information in compliance of Hon'ble Supreme Court's judgment in W.P.(C) No.536/2011." It is contended that the said judgment being a Constitutional Bench judgment is binding on all being a law of land and the Hon'ble Supreme Court while dealing with the aspect of criminalization of politics and considering the fundamental rights of the voters to know about the antecedents of the candidates in terms of Article 19(1)(a) of the Constitution of India had made it mandatory for the candidates to disclose their criminal antecedents in bold letters and further directed to give wide publicity to such criminal antecedents. The said has not been done by the respondent. On the contrary, a misleading information has been given by showing 'NIL' under the caption 'Total number of cases in which convicted'. It is further pleaded that in page 6 of the affidavit at Serial No.7 in Form 26 a detailed particulars of the assets (movable and immovable property) of myself, my spouse and all dependents was required to be given. The same has been given in an incomplete manner.

11. Serial No.7(B) of Part A of Form 26 Affidavit Note No.2 provided that each land or building or an apartment should be mentioned separately in this format. The same has not been done by the

respondent. The approximate current market value for agricultural land, non-agricultural land, commercial building etc. was required to be furnished. The same has not been done and under the said column, it is mentioned as 'NIL'. It was further required that all columns in the nomination form should be filled and the affidavit should be filled up in the manner asked for and no column to be left blank.

12. At Serial No.8 of Part A of the affidavit under the heading 'Any other liability' he has mentioned an amount of Rs.60,00,000/- (Rs. Sixty Lakhs Only) as advanced against the Duplex, but has not provided the detailed particulars of the Duplex. He has not even given the information of the person for which he has taken the huge amount of Rs.60,00,000/-. The said amount of Rs.60 Lakhs has been reduced to Rs.40 Lakhs at Serial No.9(iii) at page 18 of the affidavit. Thus, an attempt has been made to mislead the voters by making a misleading entries.

13. Under the heading of 'Income Tax Dues' he has mentioned 'NIL' whereas there is a demand of Rs.56,101/- for Assessment Year 2004-05 and Rs.4,35,990/- for Assessment Year 2008-09. Therefore, the said information is incorrectly furnished. At page 14 of the affidavit, he has admitted the fact that he has been provided a government

accommodation at C-19, Shivaji Nagar, District Bhopal but he has left blank all the other details as rent, electricity charges, water charges, telephone charges etc. required to be filled up. He drawn attention of this Court to paragraph 25 wherein he has specifically mentioned that Rule 4A of Rules of 1961 has not been complied with and corrupt practices as provided under Section 100(1)(d)(iv) of the Act of 1951 has been taken up by the respondent at the time of filling up of the nomination form as he has not supplied the correct and complete information. It was also mentioned that the said acts has been committed by the returned candidate himself. Therefore, the provisions in terms of Section 100(b) of the Act of 1951 are clearly attracted.

14. It is argued that the affidavit in terms of Form 26 is required to be filled up as mentioned. There cannot be any alteration or modification in the said affidavit. But the respondent has chosen to fill the affidavit in his own format and has not adhered to the format provided therein. Therefore, the same is not acceptable. It is argued that in terms of Order 7 Rule 11 of CPC only the contents of plaint are required to be seen. No detailed enquiry is to be conducted in the matter. The Court is only required to see that whether the pleadings of the plaint make out a case and thereafter the contents of the plaint are required to be proved by

leading evidence. The disputed question of facts cannot be decided at this stage being matter of evidence.

15. In the present case, all the grounds which are being raised by the respondent are required to be proved by leading evidence, whether the non-compliance of mandatory informations as required in the nomination form as well as in the affidavit in terms of Form 26 the manner in which they are being given are sufficient to show that the same is not affecting the election of the returned candidate.

16. Learned counsel for the petitioner has placed reliance upon the judgments passed by the Hon'ble Supreme Court in the case of *Mairembam Prithiviraj @ Prithviraj Singh v. Pukhrem Sharatchandra Singh* (2017)2 SCC 487, *Madiraju Venkata Ramana Raju v. Peddireddigari Ramchandra Reddy and others* : (2018)14)SCC 1, *Kishan Shankar Kathore v. Arun Dattatraya Sawant and others* : (2014)14 SCC 162, *Krishnamoorthy v. Sivakumar and others* : (2015)3 SCC 467 and *Mohan Rawale v. Damodar Tatyaba @ Dadasaheb and others* : (1994) 2 SCC 392.

17. Heard the counsel for parties and perused the record.

18. For deciding the applications under Order 7 Rule 11 CPC, the plaint averments are essential and required to be seen.

19. This election petition has been filed by the voters pointing out several deficiencies and non-compliance of mandatory provisions by the returned candidate at the time of furnishing of nomination for deciding the State Legislative Assembly Constituency in the State of M.P. which was held on 17.11.2023 of which the results were declared on 03.12.2023.

20. Challenge to the election of the respondent is made on the ground that the nomination form submitted by the returned candidate i.e. respondent should not even be accepted because there is non-compliance of the mandatory provisions of the Act of 1951 and the Rules of 1961. The petitioner has pointed out that along with nomination paper an affidavit is required to be submitted. Several information were required to be furnished but the petitioner has not furnished the complete details as required in the petition. The affidavit in Form 26 is not being furnished in the manner as required. Rather the respondent has made his own format and furnished the detailed particulars. Several columns in the affidavit are left blank. He has pointed out that at Serial No.6 (ii) the information regarding conviction in the criminal case is being mentioned. However, for what period he has been convicted is not mentioned. In Serial No.11(6) the entry which

requires 'the total number of cases in which he has been convicted' he has mentioned 'NIL'.

21. The detailed particulars of assets i.e. movable and immovable is required to be given at Serial No.7. The same has not been furnished at a proper place and no detailed information has been furnished. Rather, the affidavit shows the details of all the assets and properties held by the petitioner and family members. The same is reflected from the affidavit. In the columns which are small and detailed particulars could not be furnished in a particular column, an attachment in the form of annexure forming a part of the affidavit was annexed giving the detailed particulars. In the description of the properties, it is mentioned that the assets of the family are not being divided till date between the legal heirs, therefore, it is not possible to reflect the detailed particulars in the affidavit. However, the details of the properties are provided as Annexure - 1 being part of affidavit. It is also contended that if the detailed particulars are being furnished at one place it could not be pointed out at another place in the affidavit Part A or Part B then such non-disclosure will not amount to non-compliance of the mandatory provisions. He has furnished the information in one part of the affidavit.

22. The Election Petition is based upon non-compliance of the provisions as provided under Section 100(1)(d)(iv) of the Act of 1951. Although an attempt is being made to point out that there are certain violations which amount to disqualification of the nomination form. But the fact remains that the allegation should be specific, it should not be vague. The election petitioner has to specifically point out that non-disclosure in *toto* will materially affect the result of the elections as far as the returned candidate is concerned. He has to specifically show that how the violations pointed out in the election petition materially affect the result of the election. Here it will be relevant to point out the observations made by the Hon'ble Supreme Court in the case of L.R. Shivaramagowda and others vs. T.M. Chandrashekhar (Dead) Through LR's and others which was considered subsequently in the recent judgment of Hon'ble Supreme Court in the case of Karikho Kri (supra).

23. The Hon'ble Supreme Court has taken note of the aspect that mere general difference in non-compliance of particular provisions and rules will not be an adequate pleading or proof to substantiate or satisfy the requirement of Section 100 (1)(d)(iv) of the Act of 1951.

24. The Hon'ble Supreme Court in the case of Karikho Kri (supra) has held as under –

“45. So far as the ground under Section 100(1)(d)(iv) of the Act of 1951 is concerned, the provision requires that the established noncompliance with the provisions of the Constitution or the Act of 1951 or any rules or orders made thereunder necessarily has to be shown to have materially affected the result of the election insofar as it concerns the returned candidate.

Significantly, the High Court linked all the non-disclosures attributed to Karikho Kri to Section 100(1)(d)(i) of the Act of 1951 but ultimately concluded that his election stood invalidated under Section 100(1)(d)(iv) thereof. Surprisingly, there is no discussion whatsoever on what were the violations which qualified as non-compliance with the provisions of either the Constitution or the Act of 1951 or the rules and orders framed thereunder, for the purposes of Section 100(1)(d)(iv), and as to how the same materially affected the result of the election.

46. In *Mangani Lal Mandal vs. Bishnu Deo Bhandari*, this Court held that where a returned candidate is alleged to be guilty of noncompliance with the provisions of the Constitution or the Act of 1951 or any rules or orders made thereunder and his election is sought to be declared void on that ground, it is essential for the election petitioner to aver, by pleading material facts, that the result of the election insofar as it concerned the returned candidate has been materially affected by such breach or non-observance.

It was further held that it is only on the basis of such pleading and proof that the Court would be in a position to form an opinion and record a finding that such breach or non-compliance has materially affected the result of the election

before election of the returned candidate could be declared void.

It was further observed that mere non-compliance or breach of the Constitution or the statutory provisions, as stated above, would not result in invalidating the election of the returned candidate under Section 100 (1)(d)(iv) as the sine qua non for declaring the election of a returned candidate to be void on that ground under clause (iv) of Section 100 (1)(d) is further proof of the fact that such breach or nonobservance has resulted in materially affecting the election of the returned candidate.

For the election petitioner to succeed on such ground, viz., Section 100 (1)(d)(iv), he has not only to plead and prove the breach but also show that the result of the election, insofar as it concerned the returned candidate, has been materially affected thereby.

47. In *L.R. Shivaramagowda and others vs. T.M. Chandrashekar (Dead) by LRs and others*, a 3-Judge Bench of this Court pointed out that in order to declare an election void under Section 100(1)(d)(iv) of the Act of 1951, it is absolutely necessary for the election petitioner to plead that the result of the election, insofar as it concerned the returned candidate, has been materially affected by the alleged non-compliance with the provisions of the Constitution or the Act of 1951 or the rules or orders made thereunder and the failure to plead such material facts would be fatal to the election petition.”

48. However, perusal of the election petition filed by Nuney Tayang reflects that the only statement made by him in this regard is in Paragraph 21 and it reads as follows:

'Hence, his nomination papers suffer from substantial and material defects. As such, the result of the election, insofar as the respondent No.1 is concerned, is materially affected by the improper acceptance of his nomination as well as by the non-compliance with the provisions of the Representation of the People Act, 1951 and the rules and orders made thereunder, including Section 33(1) of the Representation of the People Act, 1951, Rule 4A of the Conduct of Election Rules, 1961 and the orders made thereunder.'

Again, in his 'Ground No. (ii)', Nuney Tayang stated as under:

'As such, the nomination papers of the respondent Nos. 1 and 2 were improperly accepted by the Returning Officer and the result of the election in question, insofar as it concerns the respondent No.1 the return candidate, as well as the respondent No.2, has been materially affected by such improper acceptance of their nominations.'

Though there are some general references to non-compliance with particular provisions of the Act of 1951 and the rules made thereunder, we do not find adequate pleadings or proof to substantiate and satisfy the requirements of Section 100(1)(d)(iv) of the Act of 1951. Therefore, it is clear that Nuney Tayang tied up the improper acceptance of Karikho Kri's nomination, relatable to Section 100(1)(d) (i) of the Act of 1951, with the non-compliance relatable to Section 100(1)(d)(iv) thereof and he did not sufficiently plead or prove a specific breach or how it materially affected the result of the

election, in so far as it concerned the returned candidate, Karikho Kri.

It was not open to Nuney Tayang to link up separate issues and fail to plead in detail and adduce sufficient evidence in relation to the noncompliance that would attract Section 100(1)(d)(iv) of the Act of 1951.

The finding of the High Court in that regard is equally bereft of rhyme and reason and cannot be sustained.

49. As regards the failure on the part of Karikho Kri to disclose the dues of municipal/property taxes payable by him and his wife, the same cannot be held to be a non-disclosure at all, inasmuch as he did disclose the particulars of such dues in one part of his Affidavit but did not do so in another part. In any event, as Mr. Arunabh Chowdhury, learned senior counsel, fairly stated that he would not be pressing this ground, we need not labour further upon this point."

25. The other arguments raised by the other petitioners regarding non-payment of the dues, he is required to show that how non-payment of dues which are pointed out will materially affect the result of the returned candidate.

26. It is true that the Constitution Bench of this Court in the case of *Union of India v. Association of Democratic Reform* : (2002)5 SCC 294 has categorically held regarding filing of affidavits and giving detailed particulars in affidavit in Form 26. The said direction is being given just to ensure that false declarations are not being given by the

returned candidate nor the nomination forms are being submitted making false declaration. It does not mean that if the complete information is being given in the affidavit annexing an annexure to it, the same cannot be said to be the non-compliance. The judgments which are being relied upon by the petitioners are duly considered by the Hon'ble Supreme Court in the case of Karikho Kri (supra).

27. The Hon'ble Supreme Court in the case of Dasanglu Pul v. Lupalam Kri (supra) has held as under-

"18- As noted, we have indicated that the contention of the respondent in the present facts that it would amount to non-disclosure and therefore a defect of substantial character cannot be accepted and since in that circumstance it is not a case of improperly accepted nomination, it certainly has not materially affected the result of the election as contemplated in Section 100(1)(d)(i)(iv) of the RP Act, 1951. Further, even if the object with which this Court in Union of India vs. Association for Democratic Reforms (2002) 5 SCC 294 has required the disclosure of assets is kept in view, the facts involved herein would indicate that the allegation herein cannot be taken as non-disclosure though it could have been open for the appellant to indicate this aspect in the affidavit but in any event, it is not a substantial defect so as to materially affect the result of the election in the facts and circumstances herein."

28. The test which is required to maintain an election petition was considered by the Hon'ble Supreme Court in the case of Kanimozhi Karunanidhi v. A Santhana Kumar and others (supra) wherein the

Hon'ble Supreme Court has considered the requirement of Section 83(1)(A) of the EP Act, which reads as follows-

"23. The law so far developed and settled by this Court with regard to the non-compliance of the requirement of Section 83(1)(a) of the EP Act, namely - "an Election petition must contain a concise statement of material facts on which the petitioner relies", is that such non-compliance of Section 83(1)(a) read with Order VII, Rule 11, CPC, may entail dismissal of the Election Petition right at the threshold. "Material facts" are facts which if established would give the petitioner the relief asked for. The test required to be answered is whether the court could have given a direct verdict in favour of the election petitioner in case the returned candidate had not appeared to oppose the Election petition on the basis of the facts pleaded in the petition. They must be such facts as would afford a basis for the allegations made in the petition and would constitute the cause of action as understood in the Code of Civil Procedure 1908. Material facts would include positive statement of facts as also positive statement of a negative fact."

29. In the case of Ramsukh v. Dinesh Agrawal reported in (2009)10 SCC 541 and Harishankar Jain v. Sonia Gandhi reported in (2001) 8 SCC 233 wherein it has been held -

"23. Section 83(1)(a) of RPA, 1951 mandates that an election petition shall contain a concise statement of the material facts on which the petitioner relies. By a series of decisions of this Court, it is well settled that the material facts required to be stated are those facts which can be considered as materials supporting the allegations made. In other words, they must be such facts as would afford a basis for the allegations made in

the petition and would constitute the cause of action as understood in the Code of Civil Procedure, 1908. The expression "cause of action" has been compendiously defined to mean every fact which it would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of court. Omission of a single material fact leads to an incomplete cause of action and the statement of claim becomes bad. The function of the party is to present as full a picture of the cause of action with such further information in detail as to make the opposite party understand the case he will have to meet. (See Samant N. Balkrishna v. George Fernandez [(1969) 3 SCC 238 : (1969) 3 SCR 603] , Jitendra Bahadur Singh v. Krishna Behari [(1969) 2 SCC 433] .) Merely quoting the words of the section like chanting of a mantra does not amount to stating material facts. Material facts would include positive statement of facts as also positive averment of a negative fact, if necessary. In V.S. Achuthanandan v. P.J. Francis [(1999) 3 SCC 737] this Court has held, on a conspectus of a series of decisions of this Court, that material facts are such preliminary facts which must be proved at the trial by a party to establish existence of a cause of action. Failure to plead "material facts" is fatal to the election petition and no amendment of the pleadings is permissible to introduce such material facts after the time-limit prescribed for filing the election petition.

24. *It is the duty of the court to examine the petition irrespective of any written statement or denial and reject the petition if it does not disclose a cause of action. To enable a court to reject a plaint on the ground that it does not disclose*

a cause of action, it should look at the plaint and nothing else. Courts have always frowned upon vague pleadings which leave a wide scope to adduce any evidence. No amount of evidence can cure basic defect in the pleadings."

30. In case of Mahadeorao Sukaji Shivankar v. Ramratan Bapu : (2004)7 SCC 181 the Hon'ble Supreme Court had an occasion to consider the aspect that what amounts to material facts in an election petition. The said expression has not been defined under the Act or under the Code. However, the Hon'ble Supreme Court held "material facts are all basic and primary facts which must be proved at trial by the party to establish existence of cause of action or defence and must be stated in a pleading by the party. The cause of action should be specifically mentioned in the election petition.

31. The nomination form submitted by the respondent was duly considered by the returning officer. The objections which were filed were taken note of and the form was accepted on 01.11.2023. The returning officer has not found any defect in the nomination form of the respondent. Even the compilation shows that the nomination form was submitted along with affidavit in the form of Form 26 along with the annexures which forms part of affidavit giving all the detailed particulars as required in the affidavit. It cannot be said that there is non-compliance of any of the mandatory provisions as required under

the Act of 1951. Mere minor differences in the nomination form or non-disclosure of some information regarding dues, as in the present case cannot be said to be a substantial defect so as to materially affect the result of the election.

32. Under these circumstances, and after going through the entire pleadings made in the election petition, this Court is of the considered view that the grounds raised in the election petition are not made out looking to the settled provisions of law by the Hon'ble Supreme Court in the aforesaid judgments. The petitioners have not averred as to how the result of the returned candidate can be affected by minor deficiencies. Thus, the petitioners have failed to make out any cause of action. Both the applications being I.A. No.13540/2024 and I.A. No.13541/2024 filed under Order 7 Rule 11 CPC deserves to be and are hereby allowed.

33. The election petitions *sans* merit and is accordingly dismissed. No order as to costs.

Sd./-
(VISHAL MISHRA)
Judge.

By order,
Sd./-
(AMIT KUMAR)
Secretary,
Election Commission of India.

भारत निर्वाचन आयोग
निर्वाचन सदन, अशोक रोड, नई दिल्ली-110 001

नई दिल्ली, तारीख 27 नवम्बर, 2024-6 अग्रहायण, 1946 (शक)

अधिसूचना

सं०-82/म०प्र०/(07/2024)/2024- लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण में, निर्वाचन आयोग वर्ष 2024 की निर्वाचन याचिका सं० 07 में माननीय मध्य प्रदेश उच्च न्यायालय (जबलपुर बेंच) के दिनांक 22.08.2024 के निर्णय/आदेश को एतद्वारा प्रकाशित करता है (श्री राकेश कुमार पाण्डेय विरुद्ध श्री अजय अर्जुन सिंह)

आदेश से,
हस्ता. /-
(अमित कुमार)
सचिव,
भारत निर्वाचन आयोग.

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110 001

New Delhi, Dated 27th November, 2024 - 6 Agrahayana, 1946 (Saka)

Notification

No. 82/MP/(07/2024)/2023 - In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the Judgment order dated 22.08.2024 of the Hon'ble High Court of Madhya Pradesh (Jabalpur Bench) in the Election Petition No. 07 of 2024 (Sh. Rakesh Kumar Pandey Vs. Sh. Ajay Arjun Singh).

By order,
Sd./-
(AMIT KUMAR)
Secretary,
Election Commission of India.

IN THE HIGH COURT OF MADHYA PRADESH

PRINCIPAL SEAT AT JABALPUR

ELECTION PETITION No. 7 OF 2024

Cause Title

Petitioner: Rakesh Kumar Pandey S/o Shri Ganesh Mani Pandey
Aged about 54 years,
R/o Village Sagauni, Post Bharatpur,
Police Station Rampur Naikin,
DISTT. SIDHI (M.P.)

B. Dey
Date :- 12.1.24
Presented by Shri. *Rakesh Kumar Pandey*
who is identified by Shri. *Rakesh Kumar Pandey*
Advocate at *4:30 a.m./p.m. on 12.1.24*
It is properly drawn up, within time and properly stamped.
It is accompanied by requisite number of spare copies of documents, registered address, P.F. and receipt of security deposit of Rs. 2,000/-
12/1/24
Registrar (Judicial-II)

Respondents: *12/1/24*
Ajay Arjun Singh S/o Late Arjun Singh Aged about 68 years, R/o H.No. 225, Village Sada Post Office Sada Tehsil Churhat District Sidhi (M.P.)
Currently residing at : C-19, Shivaji Nagar Bhopal
Email : ajayc16@hotmail.com

ELECTION PETITION UNDER SECTION 80 READ WITH SECTION 100 of THE REPRESENTATION OF THE PEOPLE ACT, 1951



That the petitioner, above named, humbly submits as under:

That the present petitioner, by way of this election petition, is challenging the election of returned candidate (respondent no.1) from 76-Churhat Assembly Constituency to the State Legislative Assembly

12/1/24
Registrar (Judicial-II)
High Court of M.P., Jabalpur

Rakesh Kumar Pandey

19 JAN 2024



IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

E.P. No.6 of 2024

(RAMGAREB & OTHERS VS AJAY ARJUN SINGH)

&

E.P. No.7 of 2024

(RAKESH KUMAR PANDY VS AJAY ARJUN SINGH)

Shri Prakash Upadhyay - Advocate for petitioners in both the petitions.

Shri Sanjay Agrawal – Senior Advocate with Ms. Ankita Singh Parihar – Advocate for respondent in both the petitions.

ORDER
(22.08.2024)

I.A. No.13540/2024 and I.A. No.13541/2024 which are the applications filed on behalf of the respondents under Order 7 Rule 11 of Code of Civil Procedure for rejection of election petitions are taken into consideration.

2. Since the issue involved in these petitions is one and the same, and the applications filed under Order 7 Rule 11 CPC are identical therefore, they are heard together and are being decided analogously by this common order. However, for the sake of convenience pleadings made in EP No.6 of 2024 is being taken as the lead case.

3. The election petition has been filed challenging the election of the respondent on the ground that the respondent has not furnished correct and complete information at the time of submission of his nomination paper as well as in the affidavit submitted in Form 26 of the Conduct of Election Rules, 1961 (hereinafter referred as 'Rules of 1961'). Thus, there is no proper acceptance of his nomination paper. It is further pleaded that there are certain blank columns left in the nomination paper. Thus, there is non-compliance of mandatory provisions of the Representation of People Act, 1951 (hereinafter referred as 'Act of 1951') and the Rules of 1961. He has failed to comply with the Rule 4A of the Rules of 1961 by not furnishing the mandatory affidavit in Form 26 along with the nomination paper. Thus, he has committed corrupt practice in terms of Section 100(1)(d)(iv) of the Act of 1951.

4. It is argued by the counsel for the respondent that all the detailed particulars which are required to be furnished with the nomination paper as well as with the affidavit which is submitted in terms of Form 26 are submitted by the respondent at the time of submission of his nomination paper. The election of a candidate can only be challenged in terms of the grounds mentioned in Section 100 of the Act of 1951 which deals with grounds for declaring the election to be void. He has

placed reliance upon Section 83 of the Act of 1951 which provides for the contents of the petition. It is argued that Section 83 of the Act of 1951 makes it mandatory for the election petitioner to give a concise statement of the material facts which he relies upon and that shall set forth full particulars of any corrupt practice that the petitioner alleges including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice. The same has not been complied with by the petitioner while filing this election petition. No detail particulars have been provided in terms of Section 83(1)(b) of the Act of 1951 to establish the corrupt practices alleged against the respondent. It argued that a plain reading of Section 100 conjointly with Section 83 of the Act of 1951 leaves no matter of doubt that where a returned candidate is alleged to be guilty of non-compliance with the provisions of the Constitution or the Act of 1951 or any rules or orders made thereunder the election is sought to be declared void on such grounds. It is essential for the election petitioner to specifically make pleadings regarding material facts to show that the election of the returned candidate have been materially affected by such breach or of non-observance thereon.

5. It is argued that if the entire election petition is seen, the same is silent about the fact that by the alleged non-compliance of the mandatory provisions or non-observation of the Rules, the election of a returned candidate is materially affected. There is not even a single word in the election petition by the petitioners who claim themselves to be the voters that how such alleged non-compliance has materially affected the election of a returned candidate. There are vague statements made in paragraph 25 of the petition with respect to non-compliance of Rule 4A of the Rules of 1961. Even the corrupt practice as defined under Section 123 of the Act of 1951 is not reflected from the pleadings. Merely bald statements have been made that the returned candidate has committed corrupt practice.

6. It is further submitted that the so-called information being furnished along with affidavit annexed with Form 26 gives detailed particulars regarding the information as required and does not amount to any violation of the mandatory provisions as provided under the Act. He has drawn attention of this Court to the nomination form submitted by respondent wherein every column he has furnished details. It is argued that the columns were small in size therefore, at the time of furnishing the details in the prescribed form, he has affixed annexures furnishing the complete particulars to comply with the mandatory

provisions. This cannot be said to be violation of the mandatory provisions. In every such column he has mentioned "refer annexure so and so" attached to, forming a part of the said affidavit. Therefore, there is virtually no non-compliance of the mandatory provisions.

7. Counsel appearing for the respondent/applicant has relied upon the judgments passed by the Hon'ble Supreme Court in *Vashisht Narain Sharma v. Dev Chandra* : (1954) 2 SCC 32, *Kamta Prasad Upadhyaya v. Sarjoo Prasad Tiwari* : (1969) 3 SCC 622, *Manglani Lal Mandal v. Bishnu Deo Bhandari* : (2012) 3 SCC 314, *Kanimozhi Karunanidhi v. A. Santhana Kumar* : 2023 SCC Online SC 573, *Dasangula Pul v. Lupalum Kri* : 2023 SCC Online SC 1367 and *Karikho Kri v. Nuney Tayang* : 2024 SCC Online SC 519.

8. He has heavily relied upon the judgment passed in the case of *Karikho Kri (supra)* wherein the Hon'ble Supreme Court has specifically considered the aspect that furnishing the detailed particulars by way of annexures along with affidavit will be a sufficient compliance of the mandatory provisions and does not violate any of the mandatory provisions. He has also placed reliance upon the judgment passed by the High Court of Madhya Pradesh, Bench at Indore in the case of *Suresh Chandra Bhandari vs Smt. Neena Vikram Verma* : E.P.

No.16 of 2024 decided on 15.07.2024 wherein at initial stage virtually on the same grounds the application under Order 7 Rule 11 CPC was allowed and the election petition was dismissed. He has prayed for a similar relief and election petitions be dismissed.

9. *Per contra*, counsel appearing for the petitioners has opposed the contentions. It is submitted that there is total non-compliance of the mandatory provisions which were required to fulfilled by the returned candidate at the time of furnishing the information. It is contended that along with the nomination form an affidavit in form of Part A Form 26 has to be submitted as mentioned under the Act and the Rules. It is argued that at Serial No.6(ii) in the table in Form 26 he has mentioned that he has been convicted in case being R.T. No.8825/2013 by the Court of XXI JMFC, Bhopal, for offence punishable under Section 500 of IPC and in column (f) he has been convicted "till the rising of the Court". However, in Part A the said information has been concealed wherein at Serial No.(11)6 he was required to furnish the information with respect to his criminal cases wherein under the heading of 'Total number of cases in which convicted' he has mentioned 'Nil'. Thus, incorrect and misleading information has been provided by him.

10. Serial No.(6A) of Part A mentioned at Note No.5 clearly provides that 'Candidate is responsible for supplying all information in compliance of Hon'ble Supreme Court's judgment in W.P.(C) No.536/2011.'" It is contended that the said judgment being a Constitutional Bench judgment is binding on all being a law of land and the Hon'ble Supreme Court while dealing with the aspect of criminalization of politics and considering the fundamental rights of the voters to know about the antecedents of the candidates in terms of Article 19(1)(a) of the Constitution of India had made it mandatory for the candidates to disclose their criminal antecedents in bold letters and further directed to give wide publicity to such criminal antecedents. The said has not been done by the respondent. On the contrary, a misleading information has been given by showing 'NIL' under the caption 'Total number of cases in which convicted'. It is further pleaded that in page 6 of the affidavit at Serial No.7 in Form 26 a detailed particulars of the assets (movable and immovable property) of myself, my spouse and all dependents was required to be given. The same has been given in an incomplete manner.

11. Serial No.7(B) of Part A of Form 26 Affidavit Note No.2 provided that each land or building or an apartment should be mentioned separately in this format. The same has not been done by the

respondent. The approximate current market value for agricultural land, non-agricultural land, commercial building etc. was required to be furnished. The same has not been done and under the said column, it is mentioned as 'NIL'. It was further required that all columns in the nomination form should be filled and the affidavit should be filled up in the manner asked for and no column to be left blank.

12. At Serial No.8 of Part A of the affidavit under the heading 'Any other liability' he has mentioned an amount of Rs.60,00,000/- (Rs. Sixty Lakhs Only) as advanced against the Duplex, but has not provided the detailed particulars of the Duplex. He has not even given the information of the person for which he has taken the huge amount of Rs.60,00,000/-. The said amount of Rs.60 Lakhs has been reduced to Rs.40 Lakhs at Serial No.9(iii) at page 18 of the affidavit. Thus, an attempt has been made to mislead the voters by making a misleading entries.

13. Under the heading of 'Income Tax Dues' he has mentioned 'NIL' whereas there is a demand of Rs.56,101/- for Assessment Year 2004-05 and Rs.4,35,990/- for Assessment Year 2008-09. Therefore, the said information is incorrectly furnished. At page 14 of the affidavit, he has admitted the fact that he has been provided a government

accommodation at C-19, Shivaji Nagar, District Bhopal but he has left blank all the other details as rent, electricity charges, water charges, telephone charges etc. required to be filled up. He drawn attention of this Court to paragraph 25 wherein he has specifically mentioned that Rule 4A of Rules of 1961 has not been complied with and corrupt practices as provided under Section 100(1)(d)(iv) of the Act of 1951 has been taken up by the respondent at the time of filling up of the nomination form as he has not supplied the correct and complete information. It was also mentioned that the said acts has been committed by the returned candidate himself. Therefore, the provisions in terms of Section 100(b) of the Act of 1951 are clearly attracted.

14. It is argued that the affidavit in terms of Form 26 is required to be filled up as mentioned. There cannot be any alteration or modification in the said affidavit. But the respondent has chosen to fill the affidavit in his own format and has not adhered to the format provided therein. Therefore, the same is not acceptable. It is argued that in terms of Order 7 Rule 11 of CPC only the contents of plaint are required to be seen. No detailed enquiry is to be conducted in the matter. The Court is only required to see that whether the pleadings of the plaint make out a case, and thereafter the contents of the plaint are required to be proved by

leading evidence. The disputed question of facts cannot be decided at this stage being matter of evidence.

15. In the present case, all the grounds which are being raised by the respondent are required to be proved by leading evidence, whether the non-compliance of mandatory informations as required in the nomination form as well as in the affidavit in terms of Form 26 the manner in which they are being given are sufficient to show that the same is not affecting the election of the returned candidate.

16. Learned counsel for the petitioner has placed reliance upon the judgments passed by the Hon'ble Supreme Court in the case of *Mairembam Prithviraj @ Prithviraj Singh v. Pukhrem Sharatchandra Singh* (2017)2 SCC 487, *Madiraju Venkata Ramana Raju v. Peddireddigari Ramchandra Reddy and others* : (2018)14SCC 1, *Kishan Shankar Kathore v. Arun Dattatraya Sawant and others* : (2014)14 SCC 162, *Krishnamoorthy v. Sivakumar and others* : (2015)3 SCC 467 and *Mohan Rawale v. Damodar Tatyaba @ Dadasaheb and others* : (1994) 2 SCC 392.

17. Heard the counsel for parties and perused the record.

18. For deciding the applications under Order 7 Rule 11 CPC, the plaint averments are essential and required to be seen.

19. This election petition has been filed by the voters pointing out several deficiencies and non-compliance of mandatory provisions by the returned candidate at the time of furnishing of nomination for deciding the State Legislative Assembly Constituency in the State of M.P. which was held on 17.11.2023 of which the results were declared on 03.12.2023.

20. Challenge to the election of the respondent is made on the ground that the nomination form submitted by the returned candidate i.e. respondent should not even be accepted because there is non-compliance of the mandatory provisions of the Act of 1951 and the Rules of 1961. The petitioner has pointed out that along with nomination paper an affidavit is required to be submitted. Several information were required to be furnished but the petitioner has not furnished the complete details as required in the petition. The affidavit in Form 26 is not being furnished in the manner as required. Rather the respondent has made his own format and furnished the detailed particulars. Several columns in the affidavit are left blank. He has pointed out that at Serial No.6 (ii) the information regarding conviction in the criminal case is being mentioned. However, for what period he has been convicted is not mentioned. In Serial No.11(6) the entry which

requires 'the total number of cases in which he has been convicted' he has mentioned 'NIL'.

21. The detailed particulars of assets i.e. movable and immovable is required to be given at Serial No.7. The same has not been furnished at a proper place and no detailed information has been furnished. Rather, the affidavit shows the details of all the assets and properties held by the petitioner and family members. The same is reflected from the affidavit. In the columns which are small and detailed particulars could not be furnished in a particular column, an attachment in the form of annexure forming a part of the affidavit was annexed giving the detailed particulars. In the description of the properties, it is mentioned that the assets of the family are not being divided till date between the legal heirs, therefore, it is not possible to reflect the detailed particulars in the affidavit. However, the details of the properties are provided as Annexure - 1 being part of affidavit. It is also contended that if the detailed particulars are being furnished at one place it could not be pointed out at another place in the affidavit Part A or Part B then such non-disclosure will not amount to non-compliance of the mandatory provisions. He has furnished the information in one part of the affidavit.

22. The Election Petition is based upon non-compliance of the provisions as provided under Section 100(1)(d)(iv) of the Act of 1951. Although an attempt is being made to point out that there are certain violations which amount to disqualification of the nomination form. But the fact remains that the allegation should be specific, it should not be vague. The election petitioner has to specifically point out that non-disclosure in toto will materially affect the result of the elections as far as the returned candidate is concerned. He has to specifically show that how the violations pointed out in the election petition materially affect the result of the election. Here it will be relevant to point out the observations made by the Hon'ble Supreme Court in the case of L.R. Shivaramagowda and others vs. T.M. Chandrashekhar (Dead) Through LR's and others which was considered subsequently in the recent judgment of Hon'ble Supreme Court in the case of Karikho Kri (supra).

23. The Hon'ble Supreme Court has taken note of the aspect that mere general difference in non-compliance of particular provisions and rules will not be an adequate pleading or proof to substantiate or satisfy the requirement of Section 100 (1)(d)(iv) of the Act of 1951.

24. The Hon'ble Supreme Court in the case of Karikho Kri (supra) has held as under –

“45. So far as the ground under Section 100(1)(d)(iv) of the Act of 1951 is concerned, the provision requires that the established noncompliance with the provisions of the Constitution or the Act of 1951 or any rules or orders made thereunder necessarily has to be shown to have materially affected the result of the election insofar as it concerns the returned candidate.

Significantly, the High Court linked all the non-disclosures attributed to Karikho Kri to Section 100(1)(d)(i) of the Act of 1951 but ultimately concluded that his election stood invalidated under Section 100(1)(d)(iv) thereof. Surprisingly, there is no discussion whatsoever on what were the violations which qualified as non-compliance with the provisions of either the Constitution or the Act of 1951 or the rules and orders framed thereunder, for the purposes of Section 100(1)(d)(iv), and as to how the same materially affected the result of the election.

46. In *Mangani Lal Mandal vs. Bishnu Deo Bhandari*, this Court held that where a returned candidate is alleged to be guilty of noncompliance with the provisions of the Constitution or the Act of 1951 or any rules or orders made thereunder and his election is sought to be declared void on that ground, it is essential for the election petitioner to aver, by pleading material facts, that the result of the election insofar as it concerned the returned candidate has been materially affected by such breach or non-observance.

It was further held that it is only on the basis of such pleading and proof that the Court would be in a position to form an opinion and record a finding that such breach or non-compliance has materially affected the result of the election

before election of the returned candidate could be declared void.

It was further observed that mere non-compliance or breach of the Constitution or the statutory provisions, as stated above, would not result in invalidating the election of the returned candidate under Section 100 (1)(d)(iv) as the sine qua non for declaring the election of a returned candidate to be void on that ground under clause (iv) of Section 100 (1)(d) is further proof of the fact that such breach or nonobservance has resulted in materially affecting the election of the returned candidate.

For the election petitioner to succeed on such ground, viz., Section 100 (1)(d)(iv), he has not only to plead and prove the breach but also show that the result of the election, insofar as it concerned the returned candidate, has been materially affected thereby.

47. In *L.R. Shivaramagowda and others vs. T.M. Chandrashekar (Dead) by LRs and others*, a 3-Judge Bench of this Court pointed out that in order to declare an election void under Section 100(1)(d) (iv) of the Act of 1951, it is absolutely necessary for the election petitioner to plead that the result of the election, insofar as it concerned the returned candidate, has been materially affected by the alleged non-compliance with the provisions of the Constitution or the Act of 1951 or the rules or orders made thereunder and the failure to plead such material facts would be fatal to the election petition."

48. However, perusal of the election petition filed by Nuney Tayang reflects that the only statement made by him in this regard is in Paragraph 21 and it reads as follows:

'Hence, his nomination papers suffer from substantial and material defects. As such, the result of the election, insofar as the respondent No.1 is concerned, is materially affected by the improper acceptance of his nomination as well as by the non-compliance with the provisions of the Representation of the People Act, 1951 and the rules and orders made thereunder, including Section 33(1) of the Representation of the People Act, 1951, Rule 4A of the Conduct of Election Rules, 1961 and the orders made thereunder.'

Again, in his 'Ground No. (ii)', Nuney Tayang stated as under:

'As such, the nomination papers of the respondent Nos. 1 and 2 were improperly accepted by the Returning Officer and the result of the election in question, insofar as it concerns the respondent No.1 the return candidate, as well as the respondent No.2, has been materially affected by such improper acceptance of their nominations.'

Though there are some general references to non-compliance with particular provisions of the Act of 1951 and the rules made thereunder, we do not find adequate pleadings or proof to substantiate and satisfy the requirements of Section 100(1)(d)(iv) of the Act of 1951. Therefore, it is clear that Nuney Tayang tied up the improper acceptance of Karikho Kri's nomination, relatable to Section 100(1)(d) (i) of the Act of 1951, with the non-compliance relatable to Section 100(1)(d)(iv) thereof and he did not sufficiently plead or prove a specific breach or how it materially affected the result of the

election, in so far as it concerned the returned candidate, Karikho Kri.

It was not open to Nuney Tayang to link up separate issues and fail to plead in detail and adduce sufficient evidence in relation to the noncompliance that would attract Section 100(1)(d)(iv) of the Act of 1951.

The finding of the High Court in that regard is equally bereft of rhyme and reason and cannot be sustained.

49. As regards the failure on the part of Karikho Kri to disclose the dues of municipal/property taxes payable by him and his wife, the same cannot be held to be a non-disclosure at all, inasmuch as he did disclose the particulars of such dues in one part of his Affidavit but did not do so in another part. In any event, as Mr. Arunabh Chowdhury, learned senior counsel, fairly stated that he would not be pressing this ground, we need not labour further upon this point."

25. The other arguments raised by the other petitioners regarding non-payment of the dues, he is required to show that how non-payment of dues which are pointed out will materially affect the result of the returned candidate.

26. It is true that the Constitution Bench of this Court in the case of Union of India v. Association of Democratic Reform : (2002)5 SCC 294 has categorically held regarding filing of affidavits and giving detailed particulars in affidavit in Form 26. The said direction is being given just to ensure that false declarations are not being given by the

returned candidate nor the nomination forms are being submitted making false declaration. It does not mean that if the complete information is being given in the affidavit annexing an annexure to it, the same cannot be said to be the non-compliance. The judgments which are being relied upon by the petitioners are duly considered by the Hon'ble Supreme Court in the case of Karikho Kri (supra).

27. The Hon'ble Supreme Court in the case of Dasanglu Pul v. Lupalam Kri (supra) has held as under-

"18- As noted, we have indicated that the contention of the respondent in the present facts that it would amount to non-disclosure and therefore a defect of substantial character cannot be accepted and since in that circumstance it is not a case of improperly accepted nomination, it certainly has not materially affected the result of the election as contemplated in Section 100(1)(d)(i)(iv) of the RP Act, 1951. Further, even if the object with which this Court in Union of India vs. Association for Democratic Reforms (2002) 5 SCC 294 has required the disclosure of assets is kept in view, the facts involved herein would indicate that the allegation herein cannot be taken as non-disclosure though it could have been open for the appellant to indicate this aspect in the affidavit but in any event, it is not a substantial defect so as to materially affect the result of the election in the facts and circumstances herein."

28. The test which is required to maintain an election petition was considered by the Hon'ble Supreme Court in the case of Kanimozhi Karunanidhi v. A Santhana Kumar and others (supra) wherein the

Hon'ble Supreme Court has considered the requirement of Section 83(1)(A) of the EP Act, which reads as follows-

"23. The law so far developed and settled by this Court with regard to the non-compliance of the requirement of Section 83(1)(a) of the EP Act, namely - "an Election petition must contain a concise statement of material facts on which the petitioner relies". is that such non-compliance of Section 83(1)(a) read with Order VII, Rule 11, CPC, may entail dismissal of the Election Petition right at the threshold. "Material facts" are facts which if established would give the petitioner the relief asked for. The test required to be answered is whether the court could have given a direct verdict in favour of the election petitioner in case the returned candidate had not appeared to oppose the Election petition on the basis of the facts pleaded in the petition. They must be such facts as would afford a basis for the allegations made in the petition and would constitute the cause of action as understood in the Code of Civil Procedure 1908. Material facts would include positive statement of facts as also positive statement of a negative fact."

29. In the case of Ramsukh v. Dinesh Agrawal reported in (2009)10 SCC 541 and Harishankar Jain v. Sonia Gandhi reported in (2001) 8 SCC 233 wherein it has been held -

"23. Section 83(1)(a) of RPA, 1951 mandates that an election petition shall contain a concise statement of the material facts on which the petitioner relies. By a series of decisions of this Court, it is well settled that the material facts required to be stated are those facts which can be considered as materials supporting the allegations made. In other words, they must be such facts as would afford a basis for the allegations made in

the petition and would constitute the cause of action as understood in the Code of Civil Procedure, 1908. The expression "cause of action" has been compendiously defined to mean every fact which it would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of court. Omission of a single material fact leads to an incomplete cause of action and the statement of claim becomes bad. The function of the party is to present as full a picture of the cause of action with such further information in detail as to make the opposite party understand the case he will have to meet. (See *Samant N. Balkrishna v. George Fernandez* [(1969) 3 SCC 238 : (1969) 3 SCR 603] , *Jitendra Bahadur Singh v. Krishna Behari* [(1969) 2 SCC 433] .) Merely quoting the words of the section like chanting of a mantra does not amount to stating material facts. Material facts would include positive statement of facts as also positive averment of a negative fact, if necessary. In *V.S. Achuthanandan v. P.J. Francis* [(1999) 3 SCC 737] this Court has held, on a conspectus of a series of decisions of this Court, that material facts are such preliminary facts which must be proved at the trial by a party to establish existence of a cause of action. Failure to plead "material facts" is fatal to the election petition and no amendment of the pleadings is permissible to introduce such material facts after the time-limit prescribed for filing the election petition.

24. It is the duty of the court to examine the petition irrespective of any written statement or denial and reject the petition if it does not disclose a cause of action. To enable a court to reject a plaint on the ground that it does not disclose

a cause of action, it should look at the plaint and nothing else. Courts have always frowned upon vague pleadings which leave a wide scope to adduce any evidence. No amount of evidence can cure basic defect in the pleadings."

30. In case of Mahadeorao Sukaji Shivankar v. Ramratan Bapu : (2004)7 SCC 181 the Hon'ble Supreme Court had an occasion to consider the aspect that what amounts to material facts in an election petition. The said expression has not been defined under the Act or under the Code. However, the Hon'ble Supreme Court held "material facts are all basic and primary facts which must be proved at trial by the party to establish existence of cause of action or defence and must be stated in a pleading by the party. The cause of action should be specifically mentioned in the election petition.

31. The nomination form submitted by the respondent was duly considered by the returning officer. The objections which were filed were taken note of and the form was accepted on 01.11.2023. The returning officer has not found any defect in the nomination form of the respondent. Even the compilation shows that the nomination form was submitted along with affidavit in the form of Form 26 along with the annexures which forms part of affidavit giving all the detailed particulars as required in the affidavit. It cannot be said that there is non-compliance of any of the mandatory provisions as required under

the Act of 1951. Mere minor differences in the nomination form or non-disclosure of some information regarding dues, as in the present case cannot be said to be a substantial defect so as to materially affect the result of the election.

32. Under these circumstances, and after going through the entire pleadings made in the election petition, this Court is of the considered view that the grounds raised in the election petition are not made out looking to the settled provisions of law by the Hon'ble Supreme Court in the aforesaid judgments. The petitioners have not averred as to how the result of the returned candidate can be affected by minor deficiencies. Thus, the petitioners have failed to make out any cause of action. Both the applications being I.A. No.13540/2024 and I.A. No.13541/2024 filed under Order 7 Rule 11 CPC deserves to be and are hereby allowed.

33. The election petitions *sans* merit and is accordingly dismissed.
No order as to costs.

Sd./-
(VISHAL MISHRA)
Judge.

By order,
Sd./-
(AMIT KUMAR)
Secretary,
Election Commission of India.

भारत निर्वाचन आयोग

निर्वाचन सदन, अशोक रोड, नई दिल्ली-110 001

नई दिल्ली, तारीख 27 नवम्बर, 2024-6 अग्रहायण, 1946 (शक)

अधिसूचना

सं०- 82/म०प्र०-लोक सभा/(19/2024)/2024 - लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण में, निर्वाचन आयोग, 2024 की निर्वाचन याचिका सं० 19 में माननीय मध्य प्रदेश उच्च न्यायालय (जबलपुर बेंच) के दिनांक 18.10.2024 के निर्णय/आदेश को एतद्वारा प्रकाशित करता है (श्री मनोज कुमार अग्रवाल विरुद्ध मध्य प्रदेश राज्य और अन्य)।

आदेश से,
हस्ता./-
(अमित कुमार)
सचिव,
भारत निर्वाचन आयोग.

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110 001

New Delhi, Dated 27th November, 2024 - 6 Agrahayana, 1946 (Saka)

Notification

No. 82/MP-HP/(19/ 2024)/2024 - In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the Judgment Order dated 18.10.2024 of the Hon'ble High Court of Madhya Pradesh (Jabalpur Bench) in the Election Petition No. 19 of 2024 (Sh. Manoj Kumar Agrawal Vs. The State of Madhya Pradesh and others).

By order,
Sd./-
(AMIT KUMAR)
Secretary,
Election Commission of India.

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

BEFORE

HON'BLE SHRI JUSTICE VIVEK JAIN

ELECTION PETITION NO.19 of 2024

MANOJ KUMAR AGRAWAL

Versus

THE STATE OF MADHYA PRADESH AND OTHERS.

.....
Appearance:

Shri Manoj Agrawal- petitioner is present in person.

Shri Kamal Nath Nayak - Panel Lawyer for the respondent No.1 - State.

Shri Prakash Upadhyay- Advocate for respondent No.3.

Shri Abhishek Arjaria - Advocate for the respondent No.4.

None for respondents No. 5 & 10.

Respondents No. 2, 6, 7, 8,9,11 &12 are proceeded ex-parte.

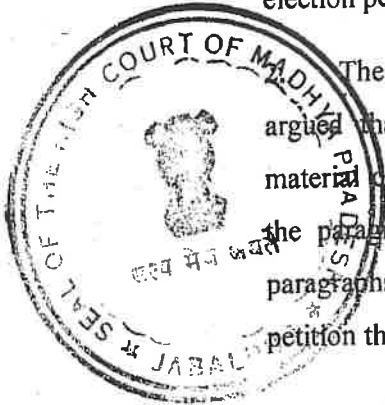
.....

ORDER

(Reserved on :30.09.2024)

(Pronounced on : 18.10.2024)

Heard on IA No. 19877/2024 which is an application for rejection of election petition under Order 7 Rule 11 C.P.C.



The learned counsel for the returned candidate-respondent No.3 has argued that the petition and affidavit attached therewith suffers from material defect inasmuch the verification does not mention that which of the paragraphs are true to the knowledge of the petitioner and which paragraphs are true to the information of the petitioner and in election petition the said fact is material because the returned candidate must know

that which allegations are to be cross-examined from the election petitioner and which are to be cross-examined from his witnesses.

3. The learned counsel for the respondent No.3 further submits that the vote difference was 2.69 Lakhs between the returned candidate and first runner-up and therefore, with such a huge vote difference the process of election petition should not be set into motion on a mere apprehension or mere apprehension of the election petitioner. It is not pleaded in the election petition that how the result of the election was materially affected as vote difference was 2.69 Lakhs. It is further argued that no certificate was sought from the Election Commission of India in terms of Section 9 (2) of the Act of 1951 and therefore, in the absence of certificate of Election Commission of India in terms of Section 9 (2) the nomination form could not have been rejected by the returning officer and therefore, the nomination form of the petitioner was properly accepted.

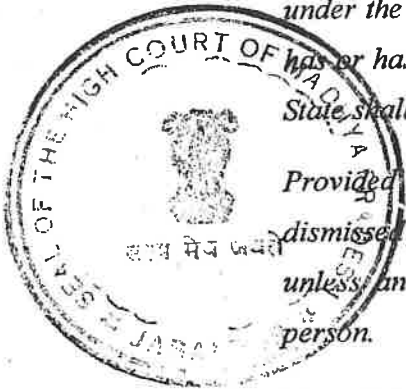
4. It was further argued that the petition suffers from non-disclosure and non-pleading of material facts to justify a valid cause of action and that in absence of a valid pleading which if as made in the election petition are taken to be correct in their entirety, an order cannot be passed allowing the election petition. Therefore, the election petition suffers from non-disclosure of a valid cause of action. Only a vague pleading has been made to submit that the petitioner was removed from the office of Director of a cooperative society on account of being a defaulter, but that does not satisfy the test of dismissal for corruption and disloyalty and therefore, even if the pleadings as supported by the documents are taken to be true and documents are taken to be proved, no order can be passed against the returned candidate.

5. *Per Contra*, it is contended by learned counsel for the election petitioner who argued in person that the petitioner was disqualified in terms of Section 9 of Act of 1951 because he was a person who has been dismissed for corruption or disloyalty to the State and that dismissal took place in the year 2020 more particularly by order dated 03.03.2020 and this disqualification would be removed only in March, 2025 whereas the nomination in question took place in April, 2024 i.e. within the disqualification period. The election petitioner relies on Section 9(1) of The Representation of People Act, 1951 which reads as under:-

9. Disqualification for dismissal for corruption or disloyalty.—(1) *A person who having held an office under the Government of India or under the Government of any State has been dismissed for corruption or for disloyalty to the State shall be disqualified for a period of five years from the date of such dismissal.*

(2) *For the purposes of sub-section (1), a certificate issued by the Election Commission to the effect that a person having held office under the Government of India or under the Government of a State, has or has not been dismissed for corruption or for disloyalty to the State shall be conclusive proof of that fact:*

Provided that no certificate to the effect that a person has been dismissed for corruption or for disloyalty to the State shall be issued unless an opportunity of being heard has been given to the said person.



6. Thus, it is contended by learned counsel for the election petitioner that nomination paper of the returned candidate was improperly accepted by the returning officer. It was further argued that as the returned candidate

was having prior disqualification in terms of Section 9 of the Act of 1951, therefore, the returning officer ought to have rejected the nomination which he failed to do. The petitioner submits that he has not sought any disqualification on the ground that returned candidate being disqualified in terms of Act of 1951. It was further argued that the Assistant Returning Officer decided the objections which are placed on record as (Annexure P-5) to election petition No.18/2024 who was incompetent to decide the objection as to nomination and only returning officer could have decided the objection.

7. In rejoinder submissions the counsel for the respondent No.3 argued that the corrupt practice must be pleaded within four corners of Section 123 of Act of 1951 which has not been done in the present case and that the assistant returning officer also falls within the definition of returning officer in terms of Section 22 (2) of Act of 1951 and therefore, the acceptance of the nomination was proper.

8. Heard.

9. This Court first proceeds to examine whether there are necessary pleadings of material facts disclosing a valid cause of action, and whether the election petition can be allowed if the pleadings as made are taken to be true and the documents so filed are taken to be proved.

10. The present petition is filed on the following grounds:

A. Because, the respondent no. 3 (Shri Gyaneshwar Patil- a candidate of "Bhartiya Janta Party") was not qualified or was disqualified on the date of submission of his nomination form ie. 18-04-2024 or 20-04-2024 and/or on the date. of 7

scrutiny of his nomination form i.e. 26-04- 2024, as he was dismissed /terminated for the allegation of defaulter/embezzlement of lacs of loan amount/public money/ disloyalty /corruption, from the post of President/Director, M.P. Rajya Powerloom -Bunkar Sahakari Sangh Maryadit Burhanpur by the Commissioner/Senior authority of State Govt. of M.P. vide order dated 03-03-2020/06-03-2020.

B. Because, the mandatory period of 5 years of disqualification w.e.f. 03-03-2020/06-03-2020 was not over on the date of submission of nomination paper i.e. 18-04-2024/20-04-2024 or on the date of scrutiny of nomination papers i.e. 26-04- 2024, hence the respondent no. 3 (Gyaneshwar Patil) was not qualified or was disqualified therefore his nomination form was to be rejected by the Returning Officer/respondent no. 2.

C. Because, all 4 of the nomination forms of the respondent no. 3 (Gyaneshwar Patil) dated 18-04-2022/20-04-2022 ought to have been decided and rejected by the respondent no. 2/Returning Officer.



Because, all the 4 nomination forms of the candidate of Bharatiya Janta Party / respondent no. 3 (Gyaneshwar Patil) have been illegally accepted, as on the date of scrutiny of nomination i.e. on 26-04-2024, he was disqualified or was not qualified to be chosen to fill the seat under the Constitution and the provision of R.P. Act 1951, therefore the declaration of respondent no. 3/returned candidate (Gyaneshwar Patil) to fill

the seat of Parliamentary Constituency no. 28 Khandwa dated 04-06-2024 (Annexure-P/8) as an elected candidate, by the Returning Officer/respondent no. 2 is liable to be quashed.

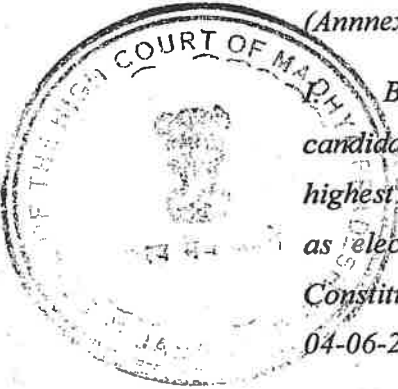
E. Because, the Returning Officer /respondent no. 2 is guilty of breach of his official duty, who has intentionally and deliberately did not comply it's duty while taking no note on the written objection dated 24-04-2024 (served on 25-04-2024) of one Shri Luv Joshi for rejection of nomination form of respondent no. 3 (Gyaneshwar Patil) while scrutiny of - nomination forms on 26-04-2024.

F. Because, under the provision of the R.P. Act 1951 it was incumbent upon and the lawful duty of the returning officer/respondent no. 2 to take note of objection of Shri Luv Joshi dated 24-04-2024 (served on 25-04-2024) while scrutiny of nomination form of respondent no. 3 (Gyaneshwar Patil) on 26-04-2024, and the false information filled/given by the said candidate respondent no. - 3 (Gyaneshwar Patil) in clause 6 of part 3- "ka" at page 4 of the nomination form, in the light of order of state Govt. of M.P. dated 03-03-2020/06-03-2020 terminating the said candidate respondent no. 3 (Gyaneshwar Patil) from the post of President /Director, M.P. Rajya Paverloom Bunkar Sahakari Sangh Maryadit Burhanpur, copy of which was already on record, despite thereto the returning officer/respondent no. 2 has completely failed to take note of disqualification of respondent no. 3 (Gyaneshwar Patil) for 5 years expiring on 03-03-2025/06-03-2025 in future w.e.f. the date of order i.e. 03-03-2020/06-03-2020.

G Because, the respondent no. 3 (Gyaneshwar Patil) has committed corrupt practice by giving/filing completely false information in clause 6 of part 3- at page 4 of all the 4 nomination forms (Annexure-P/4 & P/5).

H. Because, respondent no. 3 (Gyaneshwar Patil) instead of furnishing the true and correct information in respect of his disqualification in clause 6 of part 3- "ka" at page 4 of all the 4 nomination forms, the respondent no. 3 (Gyaneshwar Patil) filled/given completely false information as "NO" and "NOT APPLICABLE" which is not only false but such an answer (wordings) has even been restricted by the Constitution Bench of Hon'ble Supreme Court in the precedent laid down in case of Public interest foundation & ors, V/S. U.O.I. & Anr. [reported in AIR 2018 SC 4550 : (2019)3 SCC 224] in para 114 (29.6). Therefore, the election of respondent no. 3 (Gyaneshwar Patil) to fill the seat of Parliamentary Constituency no. 28 Khandwa dated 04-06-2024 as an elected candidate declared by the Returning Officer/respondent no. 2 (Annexure-P/8) is liable to be quashed.

Because, the respondent no. 4/Shri Narendra Patel (a candidate of Indian National Congress Party) has got second highest number of votes, therefore he his liable to be declared as elected to fill the seat of House of Parliamentary a Constituency no. 28 Khandwa, after the impugned result dated 04-06-2024 is declared to be quashed.



11. The petition, thus is filed on the three grounds that the returned candidate is disqualified under Section 9 of the Act 1951 being person who having held an office under the Government of India or under the Government of any State has been dismissed for corruption or for disloyalty to the State and thus, was disqualified for a period of five years from the date of such dismissal. Further, that the said disqualification was suppressed by him in the nomination form and the affidavit. Thirdly, that the Asstt. Returning Officer despite being incompetent to do so, wrongfully rejected the objections of a third person, namely Shri Luv Joshi.

12. All the aforesaid allegations are founded on Section 9 (1) of the Act of 1951 that states as under :-

9. Disqualification for dismissal for corruption or disloyalty.—(1) A person who having held an office under the Government of India or under the Government of any State has been dismissed for corruption or for disloyalty to the State shall be disqualified for a period of five years from the date of such dismissal.

13. There is a vague assertion in the petition that the returned candidate was removed from the office of Director of a Cooperative Society on account of default/embezzlement of funds. The petitioner himself has not made any specific pleadings because merely being a defaulter is one thing and having indulged in corruption/disloyalty is another thing. In Ground para-A, sweeping vague allegations are made as under :-

“.....he was dismissed/terminated for the allegation of defaulter/embezzlement of lacs of loan amount/public money/ disloyalty /corruption, from the post of President/Director, M.P. Rajya Powerloom-Bunkar Sahakari Sangh Maryadit

Burhanpur by the Commissioner/Senior authority of State Govt. of M.P. vide order dated 03-03-2020/06-03-2020.”

14. To buttress the assertion, in para-6 of the petition (factual para), the following pleading has been made :-

That, the aforesaid statement/answer filled -by the respondent no. 3 (Shri Gyaneshwar Patil) in the nomination form for the said query no. 6 of part 3 & at page no. 4 (in all of the 4 nomination forms i.e. Annexure-P/4 & P/5) is/was completely false even in the knowledge of respondent no. 3 (Shri Gyaneshwar Patil), because the respondent no. 3 (Shri Gyaneshwar Patil) was terminated (“*padchyut*”) due to **defaulter of payment** of Rs. 71,85,517 / Rs. 19,16,577 individually & Rs. 1,56,85,242 / Rs. 51,73,774 through his firm) from the post of President/Director, “M.P. RAJYA POWERLOOM BUNKAR SAHKARI SANGH MARYADIT, BURHANPUR (EARLIER NAME-THE POWERLOOM CO-OPERATIVE MARKETING FEDERATION LIMITED BURHANPUR- REGD. NO. DR/KWA/42 DATED 01-03-1973)” which is said to be “FEDERATION” by the office of the State Government/Commissioner Bhopal vide order dated 03-03- 2020 under the provision of “M.P. Co-Operative Society Act 1960”. A Copy of said order dated 03-03-2020 forwarded to Dy. Commissioner vide order dated 06-03-2020 certified copy of which issued by Public Information Officer General Election 2024, Distt. Khandwa is annexed as ANNEXUREP/6.



(emphasis supplied)

15. As noted above, the pleadings in para-6 state that the elected candidate was a defaulter, while in the grounds, the allegation of embezzlement has also been inserted. Therefore, the pleadings are self-contradictory and do not seem to contain material particulars. The petitioner relies on removal order annexure P-6 to make all the allegations.

16. Even if at this stage, the document annexure P-6 is taken to be true at its face value, it reads as under :-

कार्यालय आयुक्त सहकारिता एवं पंजीयक सहकारी संस्थायें म.प्र. भोपाल

::आदेश::

(म.प्र. सहकारी सोसायटी अधियिम 1960 की धारा 50-ए/क(2) के अंतर्गत)

मध्यप्रदेश राज्य पावरलूम बुनकर सहकारी संघ मर्या. जिला बुरहानपुर म.प्र. के अध्यक्ष श्री ज्ञानेश्वर पाटिल के विरुद्ध प्राप्त शिकायत की जांच उपयुक्त सहकारिता जिला खण्डवा द्वारा की जाकर जांच प्रतिवेदन क्रमांका/शिका. 453, दिनांक 29.05.2019 के द्वारा प्रस्तुत किया गया। उपायुक्त सहकारिता जिला खण्डवा द्वारा प्रस्तुत जांच प्रतिवेदन के परीक्षण से स्पष्ट हुआ है कि श्री ज्ञानेश्वर पाटिल म.प्र. पावरलूम बुनकर संघ मर्या. बुरहानपुर के संचालक पद पर दिनांक 18.02.2017 को निर्वाचित हुये थे, तत्पश्चात संघ के अध्यक्ष पद पर निर्वाचित हुए। श्री ज्ञानेश्वर पाटिल सिटीजन को-ऑपरेटिव बैंक बुरहानपुर के दिनांक 10.02.2017 की स्थिति में राशि रु. 71,85,517/- के बकायादार थे। एकमुश्त समझौता योजना की गणना के अनुसार बकाया राशि रु. 71,85,517/- में से रु. 46,03,081/ की छूट दी जाकर वसूली अयोग्य राशि रु. 25,55,436/ दिनांक 10.02.2017 को चार समान किस्तों में से एक वर्ष में जमा करने हेतु समझौता किया गया था। उक्त राशि में से दिनांक 10.02.2017 को प्रथम किस्त राशि रु. 6,38,859 जमा की गई। अतः श्री ज्ञानेश्वर पाटिल दिनांक 10.02.2017 की स्थिति पर शेष राशि रु. 19,16,577.00 के लिये डिफाल्टर थे। श्री ज्ञानेश्वर पाटिल मेसर्स प्रियम केला सप्लायर्स बुरहानपुर प्रोप्रायटर हैं यह फर्म सिटीजन को-ऑपरेटिव बैंक लिमिटेड बुरहानपुर की दिनांक 10.02.2017 की स्थिति पर कुल राशि रु. 1,56,85,242.83 की बकायादार थी। एकमुश्त समझौता योजना की गणना अनुसार बकाया राशि रु. 1,56,85,242.83 में से रु. 87,86,878/- की छूट दी जाकर वसूली योग्य राशि रु.

68,98,365/- दिनांक 10.02.2017 को चार समान किशतों में एक वर्ष में जमा करने हेतु समझौता किया गया था। उक्त राशि में से दिनांक 10.02.2017 को प्रथम किशत राशि रु. 17,24,591/- जमा की गई। अतः मेसर्स प्रियम केला सप्लायर्स बुरहानपुर, जिसके प्रोप्रायटर श्री जानेश्वर पाटिल हैं दिनांक 10.02.2017 की स्थिति पर शेष राशि रु. 51,73,774.00 के लिये डिफॉल्टर थी। उक्त से स्पष्ट है कि श्री जानेश्वर पाटिल म.प्र. राज्य पावरलूम बुनकर सहकारी संघ मर्या. बुरहानपुर के निर्वाचन हेतु सहकारी अधिनियम की धारा 50-एक (1) के अंतर्गत संचालक मंडल के सदस्य के निर्वाचन के लिये अभ्यर्थी होने के लिये अभ्यर्थी होने के लिये अर्हित नहीं थे।

म.प्र. सहकारी सोसायटी अधिनियम 1960 की धारा 50-ए/क (2) में निम्नानुसार प्रावधान है:- "किसी सोसायटी के किसी पद पर निर्वाचित किया गया कोई व्यक्ति ऐसा पद धारण करने से प्रविरत हो जाएगा यदि वह उस सोसायटी या किसी अन्य सोसायटी के प्रति 12 माह से अधिक की कालावधि के लिये उसके द्वारा लिये गए किसी उधार या अग्रीम के लिये व्यतिक्रमी रहता है और रजिस्ट्रार उसके स्थान को रिक्त घोषित करेगा।" संचालक मंडल द्वारा श्री पाटिल को अध्यक्ष संचालक पद से निर्हरता अर्जित करने के पश्चात भी संघ के संचालक/अध्यक्ष पद से पृथक नहीं किया गया है।

उक्त धारा 50-ए/क (2) के अंतर्गत श्री जानेश्वर पाटिल अध्यक्ष, म.प्र. राज्य पावरलूम बुनकर सहकारी संघ मर्या., बुरहानपुर को कार्यालयीन कारण बताओ सूचना पत्र क्रमांक/विविध/02/2019/105 दिनांक 27.08.2019 जारी किया जाकर इस संबंध में अपना पक्ष रखने हेतु लेख किया जाकर कि क्यों न आपको संस्था म.प्र. राज्य पावरलूम बुनकर सहकारी संघ मर्या., बुरहानपुर के अध्यक्ष एवं संचालक पद से पृथक कर दिया जाये, सुनवाई हेतु दिनांक 03.09.2019 नियत की गई थी। दिनांक 03.09.2019 को श्री पाटिल ने उपस्थित होकर आवेदन प्रस्तुत कर अपना जवाब प्रस्तुत करने हेतु 25 दिवस का समय दिये जाने का निवेदन किया गया जिसे आंशिक रूप से स्वीकार करते हुये 15 दिवस का समय दिया जाकर आगामी तिथि दिनांक 17.09.2019 नियत की गई। दिनांक 17.09.2019 को भी श्री पाटिल ने उपस्थित होकर आवेदन प्रस्तुत कर अपना जवाब प्रस्तुत करने हेतु 60 दिवस का समय दिये जाने का निवेदन किया गया, जिसे अमान्य करते हुए अंतिम रूप से 7 दिवस का समय दिया जाकर आगामी तिथि दिनांक 24.09.2019 नियत की गई। दिनांक 24.09.2019 को श्री जानेश्वर पाटिल ने उपस्थित होकर आवेदन प्रस्तुत किया गया जिसमें लेख किया गया कि धारा 50-ए/क/उन पर लागू नहीं होती साथ ही अपना जवाब प्रस्तुत करने हेतु भी समय चाहा गया। उनके आवेदन का परीक्षण करने के उद्देश्य से आगामी तिथि दिनांक 15.10.2019 नियत की गई। दिनांक 16.10.2019 को श्री पाटिल की ओर से अधिवक्ता श्रीमती सोनिया सक्सेना द्वारा उपस्थित होकर उत्तर प्रस्तुत करने हेतु समय चाहा गया,



जिसे स्वीकार किया जाकर आगामी तिथि दिनांक 22.10.2019 नियत की गई। दिनांक 22.10.2019 को श्री पाटील की ओर अधिवक्ता श्रीमती सोनिया सक्सना एवं शिकायतकर्ता श्री राकेश साईवाल, लखेरवाडी, बुरहानपुर अधिवक्ता के साथ उपस्थित हुए दोनों अधिवक्ताओं के तर्क श्रवण किये गये।"

प्रकरण में संलग्न अभिलेखों एवं अधिवक्ताओं के तर्कों के अनुशीलन के उपरांत स्पष्ट है कि श्री पाटील का तर्क, कि धारा 50-ए/क के प्रावधान उन पर लागू न होकर धारा 48-कक के प्रावधान ही लागू होते हैं क्योंकि निर्वाचित संचालकों के लिये धारा 48-कक के प्रावधान लागू होते हैं, मान्य योग्य नहीं है क्योंकि धारा 50-ए/क में ही जब यह स्पष्ट प्रावधान है कि "किसी सोसायटी के किसी पद पर निर्वाचित किया गया व्यक्ति, ऐसा पद धारण करने से प्रविरत हो जाएगा यदि वह उस सोसायटी या किसी अन्य सोसायटी के प्रति 12 माह से अधिक की कालावधि के लिये उसके द्वारा लिये गए किसी उधार या अग्रीम के लिये व्यतिक्रमी रहता है।" यहां 'निर्वाचित किया गया व्यक्ति' से स्पष्ट आशय है कि यदि कोई व्यक्ति निर्वाचित किया जा चुका है, भी यदि व्यतिक्रमी पाया जाता है तो पद धारण करने से प्रविरत हो जायेगा।

अतएव मुझे इस तथ्य का पूर्ण समाधान हो जाने से, कि श्री ज्ञानेश्वर पाटील अपने निर्वाचन के समय व्यतिक्रमी थे तथा ऐसी स्थिति में उनके पद से प्रविरत होने की ही वैधानिक स्थिति निर्मित होती है। अतः मैं, डॉ. एम. के. अग्रवाल पंजीयक सहकारी संस्थायें म.प्र., म.प्र. सहकारी सोसायटी अधिनियम, 1960 की धारा 50- एक (2) के प्रावधान अंतर्गत श्री ज्ञानेश्वर पाटील द्वारा धारित पद (अध्यक्ष/संचालक, म.प्र. राज्य पावरलूम बुनकर सहकारी संघ मर्या., बुरहानपुर) को रिक्त घोषित करता हूँ। उक्त रिक्त पद से संबंधित आवश्यक कार्यवाहियां की जावें।

यह आदेश आज दिनांक 03.03.2020 को मेरे हस्ताक्षर एवं कार्यालयीन पद मुद्रा से जारी किया गया।

(डॉ. एम. के. अग्रवाल)

आयुक्त सहकारिता एवं पंजीयक

सहकारी संस्थायें, म.प्र.

भोपाल

It is clear from a perusal of the aforesaid document, that the returned candidate has been removed from the elected office of Director of a Cooperative Society under Section 50-A of the M.P. Cooperative Societies Act, 1960 which creates a disqualification for being an elected office bearer

if the candidate is a defaulter of the society concerned or of any other society. The returned candidate was held to be defaulter of Citizen Cooperative Bank Ltd., Burhanpur (MP) in respect of certain loans taken by him as businessman from the said Bank as on 10.2.2017 which was the date of nomination for election to Director of some different society (M.P. Rajya Powerloom Bunkar Sahkari Sangh Maryadit, Burhanpur). Section 50-A (1) and (2) reads as under:-

50-A. Disqualification for being candidate or voter for election to Board of Director or representative or delegate of society. -

(1) No person shall be qualified to be a candidate for election as member of the Board of Directors, representative or delegate of the society if he is in default for a period exceeding 12 months to the society or any other society for any loan or advance taken by him.

(2) A person elected to an office of a society shall cease to hold such office, if he is in default for a period exceeding 12 months to the society or any other society for any loan or advance taken by him, and the Registrar shall declare his seat vacant: Provided that a person elected to an office of a co-operative bank from a society other than co-operative credit structure, shall cease to hold such office, if such society commits default for any loan or advance for a period exceeding three months, and the Registrar shall declare his seat vacant.



17. It becomes clear that even as per the contents of the document Annexure P-6, the returned candidate was held to be defaulter of a loan taken from Citizen Cooperative Bank (as a independent businessman) as on 10.2.2017 when he was nominated for election to the office of Director of another society, namely M.P. Rajya Powerloom Bunkar Sahkari Sangh Maryadit, Burhanpur (EARLIER NAME-THE POWERLOOM CO-OPERATIVE MARKETING FEDERATION LIMITED BURHANPUR). This document annexure P-6, even if taken to be proved, does not indicate that the returned candidate was removed from any office under the State or Central Government for any charges of corruption and disloyalty.

18. Apart from relying on the order Annexure P-6, no averments are made, nor any instances of any removal on allegations of corruption or disloyalty have been narrated in terms of Section-9 of the Act of 1951.

19. In the case of *Eldeco Housing and Industries Limited Versus Ashok Vidyarthi and Others*, reported in 2023 SCC Online SC 1612, the Supreme Court has held as under :-

19. The law applicable for deciding an application under Order VII Rule 11 CPC was summed up by this Court in Dahiben v. Arvinbhai Kalyanji Bhanusali (Gajra) dead through legal representatives¹⁸. Relevant parts of paragraph 23 thereof are extracted below:

“23 to 23.1 x x x

23.2. The remedy under Order 7 Rule 11 is an independent and special remedy, wherein the court is empowered to summarily dismiss a suit at the threshold, without proceeding to record evidence, and conducting a trial, on the basis of the evidence

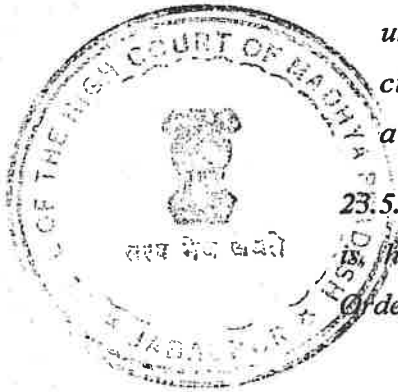
adduced, if it is satisfied that the action should be terminated on any of the grounds contained in this provision.

23.3. The underlying object of Order 7 Rule 11(a) is that if in a suit, no cause of action is disclosed, or the suit is barred by limitation under Rule 11(d), the court would not permit the plaintiff to unnecessarily protract the proceedings in the suit. In such a case, it would be necessary to put an end to the sham litigation, so that further judicial time is not wasted.

23.4. In Azhar Hussain v. Rajiv Gandhi, 1986 Supp SCC 315, this Court held that the whole purpose of conferment of powers under this provision is to ensure that a litigation which is meaningless, and bound to prove abortive, should not be permitted to waste judicial time of the court, in the following words:

"12. ... The whole purpose of conferment of such powers is to ensure that a litigation which is meaningless, and bound to prove abortive should not be permitted to occupy the time of the court, and exercise the mind of the respondent. The sword of Damocles need not be kept hanging over his head unnecessarily without point or purpose. Even in an ordinary civil litigation, the court readily exercises the power to reject a plaint, if it does not disclose any cause of action."

23.5. The power conferred on the court to terminate a civil action is, however, a drastic one, and the conditions enumerated in Order 7 Rule 11 are required to be strictly adhered to.



23.6. Under Order 7 Rule 11, a duty is cast on the court to determine whether the plaint discloses a cause of action by scrutinising the averments in the plaint [Liverpool & London S.P. & I Assn. Ltd. v. M.V. Sea Success I, (2004) 9 SCC 512], read in conjunction with the documents relied upon, or whether the suit is barred by any law.

xxxxxxxxxx

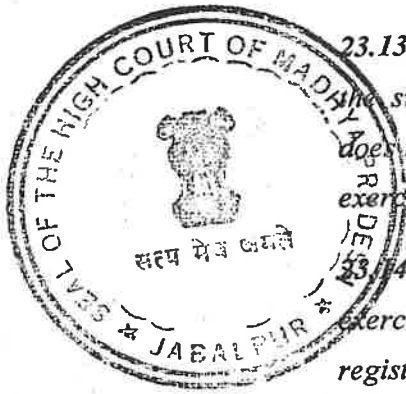
23.9. In exercise of power under this provision, the court would determine if the assertions made in the plaint are contrary to statutory law, or judicial dicta, for deciding whether a case for rejecting the plaint at the threshold is made out.

23.10. At this stage, the pleas taken by the defendant in the written statement and application for rejection of the plaint on the merits, would be irrelevant, and cannot be adverted to, or taken into consideration. [Sopan Sukhdeo Sable v. Charity Commr., (2004) 3 SCC 137]

23.11. The test for exercising the power under Order 7 Rule 11 is that if the averments made in the plaint are taken in entirety, in conjunction with the documents relied upon, would the same result in a decree being passed. This test was laid down in Liverpool & London S.P. & I Assn. Ltd. v. M.V. Sea Success I [Liverpool & London S.P. & I Assn. Ltd. v. M.V. Sea Success I, (2004) 9 SCC 512] which reads as : (SCC p. 562, para 139)

“139. Whether a plaint discloses a cause of action or not is essentially a question of fact. But whether it does or does not must be found out from reading the plaint itself. For the said purpose, the averments made in the plaint in their entirety must be held to be correct. The test is as to whether if the averments made in the plaint are taken to be correct in their entirety, a decree would be passed.”

23.12. In *Hardesh Ores (P) Ltd. v. Hede & Co.* [*Hardesh Ores (P) Ltd. v. Hede & Co.*, (2007) 5 SCC 614] the Court further held that it is not permissible to cull out a sentence or a passage, and to read it in isolation. It is the substance, and not merely the form, which has to be looked into. The plaint has to be construed as it stands, without addition or subtraction of words. If the allegations in the plaint prima facie show a cause of action, the court cannot embark upon an enquiry whether the allegations are true in fact. *D. Ramachandran v. R.V. Janakiraman*, (1999) 3 SCC 267; See also *Vijay Pratap Singh v. Dukh Haran Nath Singh*, AIR 1962 SC 941].



23.13. If on a meaningful reading of the plaint, it is found that the suit is manifestly vexatious and without any merit, and does not disclose a right to sue, the court would be justified in exercising the power under Order 7 Rule 11 CPC.

23.14. The power under Order 7 Rule 11 CPC may be exercised by the court at any stage of the suit, either before registering the plaint, or after issuing summons to the

defendant, or before conclusion of the trial, as held by this Court in the judgment of Saleem Bhai v. State of Maharashtra, (2003) 1 SCC 557. The plea that once issues are framed, the matter must necessarily go to trial was repelled by this Court in Azhar Hussain v. Rajiv Gandhi, 1986 Supp SCC 315. Followed in Manvendrasinhji Ranjitsinhji Jadeja v. Vijaykunverba, 1998 SCC OnLine Guj 281 : (1998) 2 GLH 823.

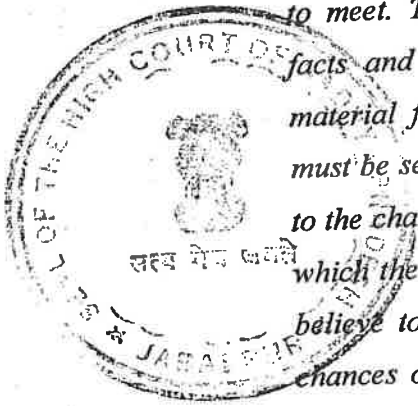
23.15. The provision of Order 7 Rule 11 is mandatory in nature. It states that the plaint "shall" be rejected if any of the grounds specified in clauses (a) to (e) are made out. If the court finds that the plaint does not disclose a cause of action, or that the suit is barred by any law, the court has no option, but to reject the plaint."

(Emphasis supplied)

20. In *Samant N. Balkrishna v. George Fernandez, (1969) 3 SCC 238*, Supreme Court has delineated the distinction between material facts and material particulars so far as election petitions are concerned, and has held as under :-

29. Having dealt with the substantive law on the subject of election petitions we may now turn to the procedural provisions in the Representation of Peoples Act. Here we have to consider Sections 81, 83 and 84 of the Act. The first provides the procedure for the presentation of election petitions. The proviso to sub-section alone is material here. It provides that an election petition may be presented on one or

more of the grounds specified in sub-section (1) of Section 100 and Section 101. That as we have shown above creates the substantive right. Section 83 then provides that the election-petition must contain a concise statement of the material facts on which the petitioner relies and further that he must also set forth full particulars of any corrupt practice that the petitioner alleges including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice. The section is mandatory and requires first a concise statement of material facts and then requires the fullest possible particulars. What is the difference between material facts and particulars? The word "material" shows that the facts necessary to formulate a complete cause of action must be stated. Omission of a single material fact leads to an incomplete cause of action and the statement of claim becomes bad. The function of particulars is to present as full a picture of the cause of action with such further information in detail as to make the opposite party understand the case he will have to meet. There may be some overlapping between material facts and particulars but the two are quite distinct. Thus material facts will mention that a statement of fact (which must be set out) was made and it must be alleged that it refers to the character and conduct of the candidate that it is false or which the returned candidate believes to be false or does not believe to be true and that it is calculated to prejudice the chances of the petitioner. In the particulars the name of the person making the statement, with the date, time and place

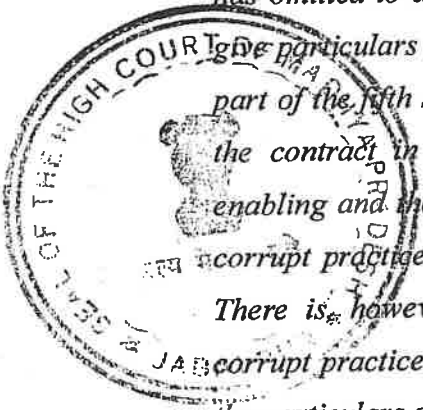


will be mentioned. The material facts thus will show the ground of corrupt practice and the complete cause of action and the particulars will give the necessary information to present a full picture of the cause of action. In stating the material facts it will not do merely to quote the words of the section because then the efficiency of the words "material facts" will be lost. The fact which constitutes the corrupt practice must be stated and the fact must be co-related to one of the heads of corrupt practice. Just as a plaint without disclosing a proper cause of action cannot be said to be a good plaint, so also an election petition without the material facts relating to a corrupt practice is no election petition at all. A petition which merely cites the sections cannot be said to disclose a cause of action where the allegation is the making of a false statement. That statement must appear and the particulars must be full as to the person making the statement and the necessary information. Formerly the petition used to be in two parts. The material facts had to be included in the petition and the particulars in a schedule. It is inconceivable that a petition could be filed without the material facts and the schedule by merely citing the corrupt practice from the statute. Indeed the penalty of dismissal summarily was enjoined for petitions which did not comply with the requirement. Today the particulars need not be separately included in a schedule but the distinction remains. The entire and complete cause of action must be in the petition in the shape of material facts, the particulars being the further information to complete the picture. This distinction is brought out by the provisions of

Section 86 although the penalty of dismissal is taken away. Sub-section (5) of that section provides:

“(5) The High Court may, upon such terms as to costs and otherwise as it may deem fit, allow the particulars of any corrupt practice alleged in the petition to be amended or amplified in such manner as may in its opinion be necessary for ensuring a fair and effective trial of the petition, but shall not allow any amendment of the petition which will have the effect of introducing particulars of a corrupt practice not previously alleged in the petition.”

The power of amendment is given in respect of particulars but there is a prohibition against an amendment “which will have the effect of introducing particulars of a corrupt practice not previously alleged in the petition.” One alleges the corrupt practice in the material facts and they must show a complete cause of action. If a petitioner has omitted to allege a corrupt practice, he cannot be permitted to introduce particulars of the corrupt practice. The argument that the latter part of the fifth sub-section is directory only cannot stand in view of the contract in the language of the two parts. The first part is enabling and the second part creates a positive bar. Therefore, if a corrupt practice is not alleged, the particulars cannot be supplied. There is, however, a difference of approach between the several corrupt practices. If for example the charge is bribery of voters and the particulars give a few instances, other instances can be added; if the charge is use of vehicles for free carriage of voters, the particulars of the cars employed may be amplified. But if the charge



is that an agent did something, it cannot be amplified by giving particulars of acts on the part of the candidate or vice versa. In the scheme of election law there are separate corrupt practices which cannot be said to grow out of the material facts related to another person. Publication of false statements by an agent is one cause of action, publication of false statements by the candidate is quite a different cause of action. Such a cause of action must be alleged in the material facts before particulars may be given. One cannot under the cover of particulars of one corrupt practice give particulars of a new corrupt practice. They constitute different causes of action.

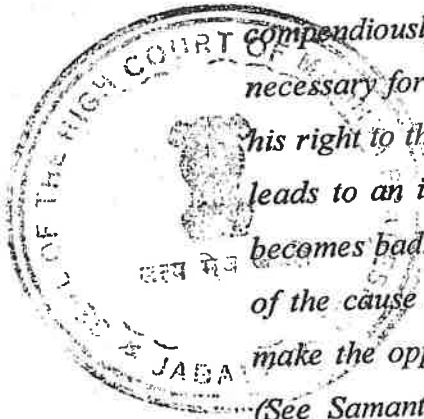
21. The test which is required to maintain an election petition was considered by the Hon'ble Supreme Court in the case of **Kanimozhi Karunanidhi v. A Santhana Kumar and others (2023 SCC Online SC 573)** wherein the Hon'ble Supreme Court has considered the requirement of Section 83(1)(a) of the Act of 1951, which reads as follows-

"23. The law so far developed and settled by this Court with regard to the non-compliance of the requirement of Section 83(1)(a) of the EP Act, namely - "an Election petition must contain a concise statement of material facts on which the petitioner relies", is that such non-compliance of Section 83(1)(a) read with Order VII, Rule 11, CPC, may entail dismissal of the Election Petition right at the threshold. "Material facts" are facts which if established would give the petitioner the relief asked for. The test required to be answered is whether the court could have given a direct verdict in favour of the election petitioner in case the returned candidate had not appeared to oppose the Election petition on the basis of the facts pleaded in the petition. They must be such facts as would afford a basis for the

allegations made in the petition and would constitute the cause of action as understood in the Code of Civil Procedure 1908. Material facts would include positive statement of facts as also positive statement of a negative fact."

22. In the case of **Ramsukh v. Dinesh Agrawal** reported in (2009)10 SCC 541 and **Harishankar Jain v. Sonia Gandhi** reported in (2001) 8 SCC 233 wherein it has been held –

*"23. Section 83(1)(a) of RPA, 1951 mandates that an election petition shall contain a concise statement of the material facts on which the petitioner relies. By a series of decisions of this Court, it is well settled that the material facts required to be stated are those facts which can be considered as materials supporting the allegations made. In other words, they must be such facts as would afford a basis for the allegations made in the petition and would constitute the cause of action as understood in the Code of Civil Procedure, 1908. The expression "cause of action" has been compendiously defined to mean every fact which it would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of court. Omission of a single material fact leads to an incomplete cause of action and the statement of claim becomes bad. The function of the party is to present as full a picture of the cause of action with such further information in detail as to make the opposite party understand the case he will have to meet. (See **Samant N. Balkrishna v. George Fernandez** [(1969) 3 SCC 238 : (1969) 3 SCR 603], **Jitendra Bahadur Singh v. Krishna Behari** [(1969) 2 SCC 433] .) Merely quoting the words of the section like chanting of a mantra does not amount to stating material facts.*



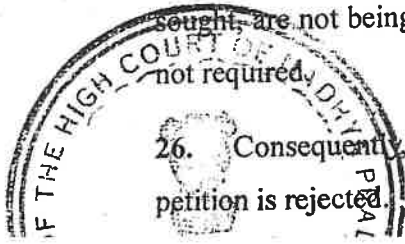
Material facts would include positive statement of facts as also positive averment of a negative fact, if necessary. In V.S. Achuthanandan v. P.J. Francis [(1999) 3 SCC 737] this Court has held, on a conspectus of a series of decisions of this Court, that material facts are such preliminary facts which must be proved at the trial by a party to establish existence of a cause of action. Failure to plead "material facts" is fatal to the election petition and no amendment of the pleadings is permissible to introduce such material facts after the timelimit prescribed for filing the election petition. 24. It is the duty of the court to examine the petition irrespective of any written statement or denial and reject the petition if it does not disclose a cause of action. To enable a court to reject a plaint on the ground that it does not disclose 21 a cause of action, it should look at the plaint and nothing else. Courts have always frowned upon vague pleadings which leave a wide scope to adduce any evidence. No amount of evidence can cure basic defect in the pleadings."

23. In case of Mahadeorao Sukaji Shivankar v. Ramratan Babu : (2004) 7 SCC 181 the Hon'ble Supreme Court had an occasion to consider the aspect that what amounts to material facts in an election petition. The said expression has not been defined under the Act or under the Code. However, the Hon'ble Supreme Court held "material facts are all basic and primary facts which must be proved at trial by the party to establish existence of cause of action or defence and must be stated in a pleading by the party. The cause of action should be specifically mentioned in the election petition.

24. In view of the aforesaid factual position in the case and the legal position as culled out from statutory provisions and the judgments of the Supreme Court, it can safely be said that the facts pleaded do not constitute a cause of action to set into motion, extra-ordinary jurisdiction vested in the High Court in an election petition. The petition cannot be allowed even if the pleadings and documents as made available with the petition are accepted and treated to be true at their face value. No material fact has been pleaded with the petition alleging dismissal of the returned candidate from office under the State or Central Government for allegations of disloyalty or corruption. No fact has been pleaded that the dues to the Bank as standing on 10.2.2017 in capacity of businessman were on account of corruption and disloyalty towards any office held under the Government. All other grounds like suppression of fact of dismissal for charges of corruption and disloyalty, improper acceptance of a disqualified candidate's nomination, etc. revolve on the ground of disqualification, for which the election petition miserably suffers from lack of material facts.

25. In view of the above finding, other grounds on which rejection was sought, are not being taken in consideration as consideration of the same is not required.

26. Consequently, IA No. 19877/2024 is allowed and the election petition is rejected.



Sd./-
(VIVEK JAIN JUDGE)
Judge.

By order,
Sd./-
(AMIT KUMAR)
Secretary,
Election Commission of India.

IN THE HIGH COURT OF MADHYA PRADESH
PRINCIPAL SEAT AT JABALPUR

ELECTION PETITION NO. 19 OF 2024

PETITIONER :

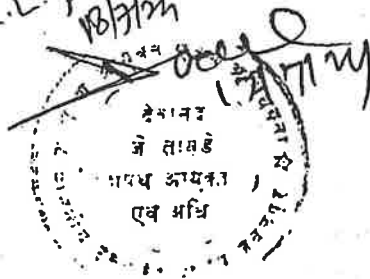
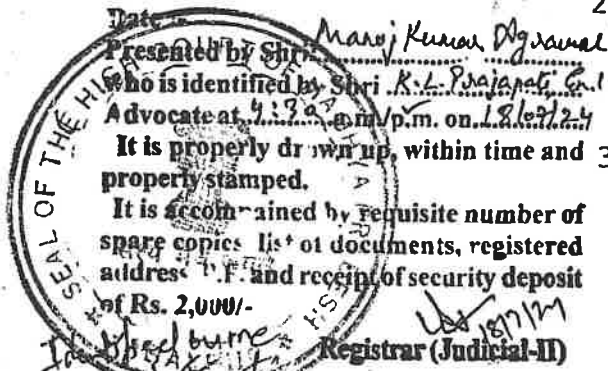
Manoj Kumar Agrawal, aged about 59
 Years S/o late Vishwambharnath
 Agrawal, Occupation- Advocate,
 (Independent Candidate)
 R/o G. Ratan Palace, Kila Road,
 Burhanpur - 450331,
 Distt. - Burhanpur (M.P.)

Presented on 19/12/24
 D. B. Sharma
 Presentation Assessor

VERSUS

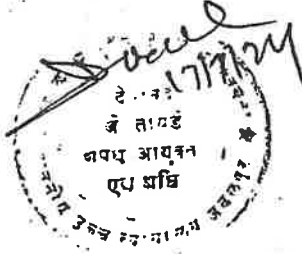
RESPONDENTS:

1. The State of Madhya Pradesh,
 Through Principal Secretary,
 Department of Home affairs,
 Vallabh Bhawan, Bhopal (M.P.)
2. District Election Officer/Returning
 Officer, Khandwa- 450001,
 District- Khandwa M.P.
3. Shri Gyaneshwar Patil S/o Late
 Natthu Patil, Aged about 55 Years,
 Occupation- Farming,
 (Returned Candidate of Bhartiya
 Janta Party) R/o- B-5, Sanjay Nagar,
 Burhanpur-450331, (M.P.)
4. Shri Narendra Patel S/o Pyarelal
 Patel, Aged about 62 years,
 Occupation- Farming,
 (Candidate of Indian National
 Congress Party) R/o- 51, Molana
 Azad road, Sanawad- 451111,
 Distt. & Teh. Khargone (M.P.)



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5. Shri Munnalal S/o Dhannalal Teji,
Aged about 65 Years, Occupation-
Farming, (Candidate of Bahujan
Samaj Party) R/o- Gram- Mitaval,
Teh.- Jhirnya, Distt.- Khargone-
451332, Distt. Khargone (M.P.)
6. Shri Abhinesh Baljnath Singh
Aged about 48 years,
Occupation- Patrakarita,
(Candidate of Rashtiya Jan Awaj
Party), R/o M-37, kishor Nagar,
Khandwa- 450001 (M.P.)
7. Shri Narayan S/o Sukhdev Pal
Aged about 62 years,
Occupation- Labour,
(Candidate of Bhartiya Yuva Jan Ekta
Party), H. no. 21, Thakur Raghudev
Singh Marg, Burhanpur- 450331
(M.P.)
8. Shri Prakash S/o Ramchadra Rathore
Barjara, Aged about 39 years,
Occupation- Scrap Business,
[Candidate of Aam Janta Party
(India)], Gram- Ambajhar Post-
Goradia kala, Distt. Dewas - 455227
(M.P.)
9. Shri Mahesh S/o Brajlal Pawar,
Aged about 47 years,
Occupation- Bima Agent,
[Candidate of Peoples Party Of India
(Democratic)], H. no. 150,

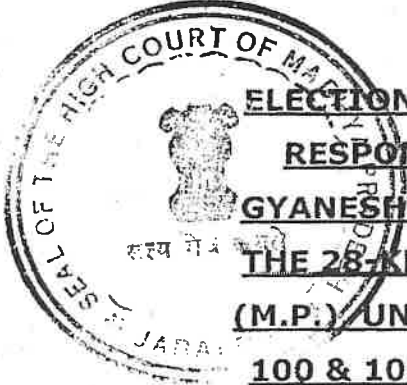
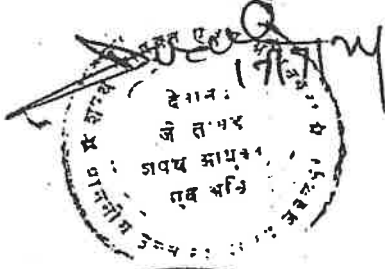


17/12/24
Registrar (Judl.-II)
High Court of Madhya Pradesh
Jabalpur (M.P.)

17/12/24

Ramnagar, Housing Board Colony
Khadwa- 450001(M.P.)

10. Shri Ravindra S/o Budha Sonvane,
Aged about 47 years,
Occupation- Farming,
(Independent Candidate),
H. no. 10, ward no. 01,
Mahajana Peth,
Burhanpur- 450331 (M.P.)
11. Shri Laxminarayan S/o Babulal
Katara, Aged about 54 years,
Occupation- Auto Sanchalan,
(Independent Candidate),
D N Mehta Marg Gali No. 01, Mata
Chowk, Jaswadi Road,
Khandwa- 450001 (M.P.)
12. Shri Shivam S/o Omprakash Sen,
Aged about 30 years,
Occupation- Shopkeeper,
(Independent Candidate),
M. NO. 210, Shivaji Ward 12,
Omkareshwar, The. Punasa Jial
Khandwa - 450114 (M.P.)



**ELECTION PETITION CHALLENGING THE ELECTION OF
RESPONDENT NO. 3 RETURNED CANDIDATE SHRI
GYANESHWAR PATIL TO THE HOUSE OF PEOPLE FROM
THE 28-KHANDWA PARLIAMENTARY CONSTITUENCY
(M.P.) UNDER SECTION 80-A/81 READ WITH SECTION
100 & 101 OF THE REPRESENTATION OF THE PEOPLE**

[Signature]
Registrar (Judl.-II)
High Court of Madhya Pradesh
Jabalpur (M.P.)

ACT, 1951

[Signature]