

IN THE HIGH COURT FOR THE STATE OF TELANGANA
HYDERABAD

* * * *

+ **I.A. No.02 of 2024**
IN/AND
ELECTION PETITION Nos.27 & 28 OF 2024

I.A. No.02 of 2024
IN
ELECTION PETITION No.27 OF 2024

Between:

Kalvakuntla Taraka Rama Rao (K.T.R.)
...Petitioner/Respondent No.1
AND

Kondam Karuna Mahender Reddy
...Respondent/Election Petitioner
Pittala Bhumeswari and others
.. Respondents/Respondents

I.A. No.02 of 2024
IN
ELECTION PETITION No.28 OF 2024

Between:

Kalvakuntla Taraka Rama Rao (K.T.R.)
...Petitioner
AND

Lagisetty Srinivas
...Respondent/Election Petitioner
Pittala Bhumeswari and others
.. Respondents/Respondents

COMMON ORDER PRONOUNCED ON: 04.08.2026

THE HON'BLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO

1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? : Yes
2. Whether the copies of judgment may be
Marked to Law Reporters/Journals? : Yes
3. Whether His Lordship wishes to
see the fair copy of the Judgment? : Yes

NAMAVARAPU RAJESHWAR RAO, J

*** THE HON'BLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO**

+ I.A. No.02 of 2024

IN/AND

ELECTION PETITION Nos.27 & 28 OF 2024

I.A. No.02 of 2024

IN

ELECTION PETITION No.27 OF 2024

Between:

Kalvakuntla Taraka Rama Rao (K.T.R.)

...Petitioner/Respondent No.1

AND

Kondam Karuna Mahender Reddy

...Respondent/Election Petitioner

Pittala Bhumesh and others

.. Respondents/Respondents

I.A. No.02 of 2024

IN

ELECTION PETITION No.28 OF 2024

Between:

Kalvakuntla Taraka Rama Rao (K.T.R.)

...Petitioner

AND

Lagiseti Srinivas

...Respondent/Election Petitioner

Pittala Bhumesh and others

.. Respondents/Respondents

% 04-08-2026

!Counsel for the Petitioner: Sri G. Vidyasagar, Learned Senior Counsel representing Sri T.V. Ramana Rao, learned counsel for the petitioner / respondent No.1 in both cases

^Counsel for Respondents: Sri D. Prakash Reddy, learned Senior Counsel representing Sri Prabhakar, learned counsel for the respondent / election petitioner

Sri Mohammed Omer Farooq,
learned counsel appearing for
respondent No.21 in both cases

Gist :

>Head Note :

? Cases referred

1. (2000) 2 SCC 294
2. (2024) 18 SCC 592
3. (2024) 15 SCC 112
4. 2025 SCC OnLine Bom 4503
5. (2024) 4 SCC 299
6. (2023) 17 SCC 500
7. (2023) 18 SCC 231
8. (2012) 7 SCC 788
9. (2026) 3 SCC 373

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

THE HON'BLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO

Dated this the 4th day of August, 2026

**I.A. No.02 of 2024
IN/AND
ELECTION PETITION Nos.27 & 28 OF 2024**

**I.A. No.02 of 2024
IN
ELECTION PETITION No.27 OF 2024**

Between:

Kalvakuntla Taraka Rama Rao (K.T.R.)
...Petitioner/Respondent No.1
AND

Kondam Karuna Mahender Reddy
...Respondent/Election Petitioner
Pittala Bhumesw and others
.. Respondents/Respondents

**I.A. No.02 of 2024
IN
ELECTION PETITION No.28 OF 2024**

Between:

Kalvakuntla Taraka Rama Rao (K.T.R.)
...Petitioner
AND

Lagiseti Srinivas
...Respondent/Election Petitioner
Pittala Bhumesw and others
.. Respondents/Respondents

COMMON ORDER

Both these applications are filed to reject the election petitions No.27 and 28 of 2024 under the provisions of Order VII Rule 11 of the Code of Civil Procedure read with Section 86 of the Representation of the People Act, 1951 (for short "R.P. Act") and dismiss the election petitions No.27 & 28 of 2024.

2. Heard Sri G. Vidyasagar, learned Senior Counsel representing Sri T.V. Ramana Rao, learned counsel for the petitioner/respondent No.1, and Sri D. Prakash Reddy, learned Senior Counsel representing Sri Peri Prabhakar, learned counsel for the respondent/election petitioner, and Sri Mohammed Omer Farooq, learned counsel appearing for respondent No.21 in both the cases. Perused the record.

3. For convenience, this Court is inclined to discuss the facts stated in I.A. No.02 of 2024 in E.P. No.27 of 2024. Brief facts of the case are as follows:

Respondent No.1/Election petitioner has filed the present election petition praying for:

- (a) To declare the election of the respondent No.1 (in the election petition) as a returned candidate from 29-Sircilla Assembly Constituency, Rajanna-

Sircilla District in the Telangana Legislative Assembly, State of Telangana, in the General Elections held on 30.11.2023 and the declared result on 03.12.2023 as illegal, null and void and set aside the same; and

(b) For a further declaration that the election petitioner is entitled to be declared as duly elected from 29-Sircillar Constituency, Rajanna-Sircilla District, Telangana Legislative Assembly, State of Telangana, in the General Elections held on 30.11.2023 and the declared result on 03.12.2023.

4. The election petition has been filed under Sections 80, 80 (A), 81, 83, 84, 100 (1)(b)(d), 101, 123(1) of the R.P. Act and the rules made thereunder. The rules to regulate the trial of election petitions under the R.P. Act. Section 100(1)(b) of the R.P. Act deals with the power of High Court to declare the election of a Returned candidate to be void, if in the opinion of the High Court, any corrupt practice has been committed by the Returned candidate or, his election agent or by any other person with the consent of the Returned candidate or the Returned candidate's agent. "Corrupt Practice" has been defined under Section 123 of the R.P. Act.

5. The election petitioner has alleged that “there is a possibility” of undue influence on the Electorate on account of suppression of material facts in relation to the assets and the details in the affidavit filed by the petitioner/respondent No.1 in Form 26 and that the same is a “Corrupt Practice” under Section 123 of the R.P. Act. The election petitioner in the affidavit appended to the election petition at page No.27-A has sworn on oath that the statements made in paragraph No.III.1 to III.19 and para III sub-paras of the election petition constitute corrupt practice of false statement. The election petitioner has miserably failed to plead what is the corrupt practice alleged in the election petition and that there is no pleading in relation to any corrupt practice as defined in section 123 of the R.P. Act.

6. The election petition is casually filed without there being any allegation of “corrupt practice” under section 123 of the R.P. Act and merely states at para III sub-para 15 at page 14 of the election petition that by quoting Hon’ble Apex Court’s judgment there is every possibility of there being undue influence on the Electoral system.

7. Learned counsel for the petitioner/respondent No.1 submits that the paragraphs mentioned in Form-25 filed in compliance of Rule 94(A) at page No.27-A of the election petition do not constitute material facts of alleged corrupt practice to give rise to a cause of action for corrupt practice with a triable issue. In fact, vide Form-25, the election petitioner states that the alleged corrupt practice is a false statement. The election petitioner has very vaguely and casually mentioned that there is an alleged corrupt practice under section 123 of the R.P.Act. Such a vague allegation without detailing the precise allegation qua section 123 of the R.P. Act, disentitles the election petitioner from maintaining the present election petition.

8. Learned counsel for the petitioner/respondent No.1 further submits that nowhere in the entire election petition has the election petitioner mentioned as to which clause of section 123 applies to the present facts of the case. In para III sub-para 15 of the election petition, the election petitioner has very feebly contended that there is a possibility of “undue influence” on account of suppression of information submitted in Form-26 of the petitioner/respondent No.1 as per the judgments of the

Hon'ble Supreme Court of India, but has not pleaded precisely as to what is the basis to arrive at such a conclusion, in fact, by not mentioning what is the exact case of the election petitioner in relation to the provisions of the Section 123 of the R.P. Act. The election petitioner has miserably failed to lay the foundation for the election petition qua the relief sought for. Therefore, there is no cause of action for the election petitioner to file the present election petition.

9. Learned counsel for the petitioner/respondent No.1 further submits that the election petitioner has alleged suppression of movable assets of the son of the petitioner/respondent No.1 as disclosed in his affidavit in Form No.26 under the conduct of Election Rules, 1961.

10. The election petition is liable to be rejected on two grounds under Order VII Rule 11 of the Code of Civil Procedure, 1908. Firstly, for non-disclosure of essential material facts, giving rise to a cause of action with any triable issues, and Secondly, the election petition, as it appears from the pleadings made therein, is barred under different provisions of the R.P. Act read with the Conduct of Election Rules, 1961 framed under the Act.

11. Learned counsel for the petitioner/respondent No.1 further submits that in para No.III of the election petition, the election petitioner has alleged that there was suppression of information about the assets of the son of the petitioner/respondent No.1 by name Kalvakuntla Himanshu Rao, since the returned candidate while submitting information in the affidavit in Form-26 of the Rules, did not declare the immovable assets of his son. In support of this contention, the election petitioner at page No.98 of the election petition has annexed a copy of the affidavit executed by the petitioner/respondent No.1, while filing his nomination. The election petitioner contends that the petitioner/respondent No.1 has filed the Form-26 giving the details of his income tax, criminal cases pending against him, details of the movable and immovable assets and that he has also stated that his wife Kalvakuntla Shailima and his daughter Kalvakuntla Alekya are his only dependents.

12. Learned counsel for the petitioner/respondent No.1 further submits that the election petitioner contends that as per Aadhar card of the petitioner/respondent No.1's son, he was born on 12.07.2005 and as such attained 18

years of age only on 12.07.2023, and also stated that immediately after 12.07.2023 on 19.07.2023 certain agricultural lands were purchased in the name of petitioner/respondent No.1's son from M/s Telangana Publications Private Ltd., and that the consideration amount of Rs.10,50,000/- and Rs.88,15,500/- is shown to have been paid from the account No.18090100019288 of Bank of Baroda, Banjara Hills Branch, Hyderabad, through cheques dated 20.07.2023.

13. As per Section 75(A)(5)(V) vide para III sub-para of the R.P. Act, that "dependent children" means sons and daughters who have no separate means of earning or are wholly dependent on the elected candidate for their livelihood and that petitioner/respondent No.1's son attained majority only on 12.07.2023. It is on this premise and assumption that though petitioner/respondent No.1's son attained majority, he is to be treated as a dependent as per the above said section. The said foundation laid on the provisions of Section 75(A)(5)(V) is absolutely fragile. It is bound to fall since the definition of "dependent children" found in Section 75(A)(5)(V) is a post-election declaration applicable to the members of both the houses of the

Parliament of India and is found in the explanation clause of that section, which restricts its application to that particular section only. Therefore, in the absence of any other provision, the reliance placed by the election petitioner on Section 75(A)(5)(V) is without a proper reading of the same.

14. Learned counsel for the petitioner/respondent No.1 further submits that the election petitioner has contended that the son of the petitioner/respondent No.1 is still a student pursuing his education in the USA. It is not known as to how the said petitioner/respondent No.1's son had earned such a huge amount from independent sources without there being any link to the petitioner/respondent No.1 for the purpose of purchasing the said valuable lands. It seems all the allegations are made against the petitioner/respondent No.1's son without any details in the affidavit and the same is suppressed.

15. Learned counsel for the petitioner/respondent No.1 further submits that the election petitioner has based the election petition on serious assumptions, which the petitioner/respondent No.1 has a bounden duty to bring out the correct facts in relation to the assumptions of the

election petition. Regarding sale consideration for the purchase of the lands, is concerned; the same has not been funded by the petitioner/respondent No.1. Therefore, the allegation that within one week of becoming a major, the petitioner/respondent No.1's son purchased the lands and that he had no means to arrange such huge amounts, is absolutely baseless.

16. The petitioner/respondent No.1's son attained majority on 12.07.2023 and as on the date of filing of petitioner/respondent No.1's nomination on 09.11.2023, the son of the petitioner/respondent No.1 is having his own source of livelihood and is not dependent on the petitioner/respondent No.1. Therefore, it is clear that the son of the petitioner/respondent No.1 has attained majority, had his own source of livelihood and not dependent on the petitioner/respondent No.1 as on the date of filing of the nomination. More so, the amount for the purchase of the land by the petitioner/respondent No.1's son on 19.07.2023 did not come from the petitioner/respondent No.1. It is wrong to contend that the said details ought to have been declared in Form-26 of the petitioner/respondent No.1 under the relevant clause

of Form-26 i.e. clause VII-A under the heading “details of movable assets.” There is no suppression whatsoever by the petitioner/respondent No.1, and the allegations are unsupported and an incomplete study of the relevant material facts before venturing to file the present election petition.

17. Learned counsel for the petitioner/respondent No.1 further submits that the petitioner/respondent No.1’s son could not be called a dependent of the petitioner/respondent No.1 in view of his attaining the majority on 12.07.2023 and also because he has his own source of income for his livelihood. In this view of the matter, there is no requirement of showing the details of immovable properties belonging to the petitioner/respondent No.1’s son in the relevant clause of Form-26, i.e. clause 7B under the heading “details of immovable properties.”

18. Learned counsel for the petitioner/respondent No.1 further submits that the only two grounds raised by the election petitioner are false and the election petition should fail. The election petitioner has not stated the facts correctly, leave alone material facts that can give rise to a

cause of action with triable issues to maintain the election petition as such; the same deserves to be dismissed in limine.

19. Learned counsel for the petitioner/respondent No.1 further submits that a plain reading of the Section 75(A) would clearly indicate that the said section applies to an elected candidate for a House of Parliament, post-election within a period of 90 days from the date on which he makes or subscribes an oath or affirmation, according to the form set out for the purpose in the 3rd schedule to the Constitution, for taking his seat in either House of Parliament is bound to furnish the information relating to among other things, the movable and immovable property of which, he, his spouse and his dependent children are jointly and severally owners and beneficiaries. The explanation vide clause (V) to the said section defines “dependent children” means sons and daughters who have no separate means for earning and are wholly dependent on the elected candidate referred to in sub-section (1) for their livelihood. Accordingly, Section 75(A) itself does not apply to the facts of the present election petition. Therefore, the said section in its entirety has been misread

and relied upon. Such misleading and wrong understanding cannot come to the aid of the election petitioner; rather, it makes the election petition itself liable to be dismissed at the threshold, without going into the stage of trial.

20. Learned counsel for the petitioner/respondent No.1 further submits that regarding the purchase of lands and consideration of the said lands is verified as within the knowledge of the election petitioner vide Annexure-A8 and A9. Both the documents filed vide Annexure-A8 and A9 nowhere disclose that the consideration amount for the purchase of lands by petitioner/respondent No.1's son has originated from the petitioner/respondent No.1 and that he has funded the same. Except Annexure-A8 and A9, the election petitioner has not filed any other documents to establish that the funds for the purchase of the lands by petitioner/respondent No.1's son have been sourced from the petitioner/respondent No.1.

21. Learned counsel for the petitioner/respondent No.1 further submits that averment in para III sub-para 15 that due to the suppression of material facts there is every possibility of there being undue influence on the Electorate

indicates that the election petitioner is not sure or does not assert that there is undue influence on the Electorate on account of the allegations made in the election petition but feels that “there is a possibility of undue influence”, which cannot form a basis for election petition under Section 100 of the R.P. Act. He also submits that the election petitioner did not raise any objection before the Returning Officer at the stage of scrutiny of nomination and, only after the election result was declared and having lost the same by a huge margin, chose to file the election petition on frivolous grounds.

22. Learned counsel for the petitioner/respondent No.1 further submits that most of the allegations do not constitute material facts. The election petitioner has confused an allegation with material facts constituting the allegations, and it is the material facts regarding an allegation made that alone can give rise to a cause of action, which is not traceable to any pleading made in the election petition. Furthermore, the election petitioner nowhere pleaded how, in what manner, the result of the election has been materially affected on the allegations made in the election petition. It is an established principle

of law that an election petition cannot be maintained on the basis of surmises without being supported by any document. This is also another ground to dismiss the election petition in limine. In the cause of action vide para VI, it is the case of the election petitioner that the Returning Officer has improperly and illegally accepted the nomination of the petitioner/respondent No.1 in the election to the 29 Sircilla Assembly Constituency. There is no relief sought on this aspect and the relevant section, i.e. Section 100(1)(a)(d)(i), has not been invoked by the election petitioner. Therefore, the election petition is liable to be rejected at the threshold.

23. Learned counsel for the petitioner/respondent No.1 further submits that there is no material fact as to how, in what manner, where and when the alleged corrupt practice of undue influence was allegedly committed. In the absence of material facts of corrupt practice, for undue influence, no cause of action leading to a triable issue arises in the instant election petition. Without specifying which part of those paragraphs as per the election petitioner, relate to commission of corrupt practice, thereby putting the petitioner/respondent No.1 in the dark

in that regard, which, if allowed, will not only prejudice the petitioner/respondent No.1 but involve the Hon'ble Court in a fishing and roving enquiry. None of the statements made in paragraph III, sub-para No. 1 to 19 constitutes material facts of commission of corrupt practice of undue influence. No names of any informant have been mentioned in respect of allegations of corrupt practice of undue influence in the affidavit of the election petition.

24. Learned counsel for the petitioner/respondent No.1 further submits that the entire election petition is devoid of any material particulars such as a full statement of the names of the parties alleged to have committed the corrupt practice of undue influence along with the date and place of commission of such corrupt practice to disclose a complete cause of action. In view of the total absence of any particulars in the election petition, the question of giving better particulars at a later stage of the trial does not arise. The election petition also completely fails and is silent to give any material particulars of corrupt practice of undue influence as required under Order VI Rule 4 of Code of Civil Procedure 1908 r/w Section 83 of the R.P. Act to make out cause of action and regarding material facts

as to how and in what manner result of the election was materially affected due to alleged suppression of details in the election affidavit. Equally, the election petition is silent on the material facts necessary to constitute the alleged corrupt practice. The contradiction in the dates by the Notary is a material omission which has caused serious prejudice to the petitioner/respondent No.1 and this cannot be said to be a true and correct copy of the election petition as envisaged u/s 81(3) of the R.P. Act.

25. Learned counsel for the petitioner/respondent No.1 further submits that U/s 117 of the R.P. Act, at the presentation of the election petition, the election petitioner is required to deposit in the High Court in accordance with the Rules of the High Court a sum of Rs.2,000/- as security for the costs of the petition. A perusal of para IX at page 18 of the election petition does not declare such payment by the election petitioner. It only declares that a security deposit of Rs.2,000/- has been made by lodgment schedule dt.11.01.2024 as required by Section 170 of R.P. Act. No such payment as mandated by Section 117 of R.P. Act is filed along with the election petition. Therefore, the election petition is defective on this account also. Under

the above said circumstances, the election petition is liable to be rejected.

26. Learned counsel for the respondent/election petitioner has filed counter affidavit stating that the contentions of the petitioner/respondent No.1 are incorrect and do not have legs to stand. As per the pronouncements in various decisions, the right to vote includes formulation of information about the candidates and expression by casting their vote for the candidate. Further, the essential information has to be provided by the candidates by way of an affidavit to the competent authority before the election itself. This has been pronounced in various judgments of the Hon'ble High Courts and Hon'ble Supreme Court. The petitioner contends that this respondent had not quoted a particular sub-section of section 123, for which he is claiming relief, is ridiculous. The non-disclosure of assets of one of the dependent persons amounts to corrupt practice which would result in undue influence of the voters as per the pronouncements of the Hon'ble Supreme Court. As such, 123(2) is applicable. However, not quoting the same does not in any manner render the election petition not maintainable and the claim of the

petitioner is hollow. The petitioner has filed the application with untenable averments and is trying to take the Court around in circles and confuse the issues. The election petition and its contents are as clear as they can be. The election petitioner is entitled to the relief claimed, as the election petition is maintainable and based on sufficient grounds.

27. Learned counsel for the respondent/election petitioner submits that the averments made in the election petition are comprehensive and sufficient for the purpose of adjudicating the issue and disqualifying the petitioner. Instead of filing the counter affidavit to the election petition and contesting the matter on merit, the petitioner is trying to procrastinate the matter by filing the present petition. The contention of the petitioner that upon combined reading of the pleadings made in the election petition, the same is liable to be rejected under Order VII Rule 11 is a tall statement and only amounts to wishful thinking on the part of the petitioner. The statement that the said section applies only to post-election declarations applicable to the members of both Houses of Parliament, as is found in the explanation clause of that section, is not correct. This

section applies not only to the post-election declaration applicable to the Legislators but also applies to the persons intending to become Legislators, as is laid down in the various pronouncements of the Hon'ble Supreme Court and this Hon'ble Court. Long back in 2003(4) SCC 399 People's Union of Civil Liberties Vs. Union of India, the Hon'ble Supreme Court has clearly held that Section 75(A)(5) applies to persons aspiring to become Legislators also and the same is to be made, and the same has been declared in various pronouncements of the Hon'ble Supreme Court. Thus, the contention of the petitioner has no legs to stand.

28. Learned counsel for the respondent/election petitioner further submits that, regarding the son of the petitioner, merely stating that the particular individual is not his dependent and has his own source of livelihood does not suffice the purpose. The petitioner has to come out with the actual source of livelihood of his 18 years-old son which enables him to sponsor his education in the USA and also enables him to purchase properties worth crores of rupees. If the petitioner does not reveal such information, the Court has to deem that the allegations

made in the election petition are true. The present petition is filed only for the purpose of pulling wool over the Court's eye and obtaining relief from the Hon'ble Court even without placing the facts before the Court to enable the Court to come to an independent conclusion about the so called independent nature of the source of the livelihood of the petitioner's son. The statements of the petitioner that the amounts paid for purchase of lands in the name of petitioner/respondent No.1's son have not come from him and as such, the details of the said purchase need not be declared in Form 26 is nothing but dodging the issue and refusing to part with the information which might lead to explosive facts.

29. Learned counsel for the respondent/election petitioner further submits that the statement of the petitioner that his son cannot be called as a dependent as he has his source of income but the same need not be if accepted revealed clearly undermines the purpose for which the candidates are required to file their affidavits along with their nominations and merely stating that his son is not dependent on him and has independent source of income and as such, he need not declare the assets of

his son or show him as dependent does not absolve the responsibility of the petitioner in view of the various pronouncements of the Hon'ble Supreme Court and Hon'ble High Courts clearly holding that the candidates and all his dependents should be revealed their assets and source of income. Non-disclosure of the petitioner son's assets and source of income assumes enormous significance because the same Himanshu Rao was 18 years old on the date of petitioner filing nomination, pursuing his education in USA and also purchasing property worth a huge amount simultaneously.

30. Learned counsel for the respondent/election petitioner further submits that Section 75(A)(5)(v) clearly defines the dependents and the statement of the petitioner that it applies to only elected candidates is not correct as misconceived. Even assuming the petitioner's is correct, the petitioner is three times MLA and ought to have declared his assets and source of income, including that of his wife and children, before the Speaker and the same should also be filed before the Returning Officer. The petitioner has not given any particulars and is trying to get the election petition dismissed at the threshold. The

contention of the petitioner that the respondent did not make any petition before the Returning Officer and raised an objection after the election results cannot be countenanced, and it shows the duplicity of the petitioner. The election petitioner denied that the election petition is filed based on surmises and conjectures and submitted that there is no requirement to reveal any source of information in respect of allegations of corrupt practice of undue influence as per the settled position of law. The petitioner states that if the matter is proceeded with, it would cause prejudice to him and would involve the Court in a fishing and roving enquiry, which itself shows that the cat is out of the bag. The petitioner himself is apprehending huge difficulties, if the information is revealed about the source of the funds for purchase of the agricultural land in the name of his son and the source of his son's education in USA, which would lead to startling revelations.

31. Learned counsel for the respondent/election petitioner further submits that the election petition contains all the required particulars and does not suffer from any irregularity or laps or lacunae. The very

suppression of the information in the said affidavit amounts to undue influence, amounting to corrupt practice. The petitioner choosing to remain silent about his son's source of funds is, however, making allegations against the election petitioner that the election petition is silent and based on surmises. The said statement cannot be countenanced. For the election petition, an amount Rs.2,000/- has been deposited and there is no defect in the election petition. The election petitioner is a practising advocate in the High Court for the State of Telangana at Hyderabad; there is no requirement of stating that he has come down to Hyderabad for the purpose of verifying the pleadings and affidavit. There is no contradiction as stated, and there is no violation of Section 81(3) of the Act or any other provisions. In view of the above said circumstances, IA. No.2 of 2024 is liable to be dismissed.

32. Learned counsel for the petitioner/respondent No.1 relied upon the following judgments:

(01) In the case of **V. Narayanaswamy Vs. C.P. Thirunavukkarasu**¹, wherein the Hon'ble Supreme Court

¹ (2000) 2 SCC 294

regarding the maintainability of the election petition observed as follows:

“20. In R.P. Moidutty v. P.T. Kunju Mohammad this Court was considering the question regarding the nature of particulars required to be pleaded in support of an averment of corrupt practice. It said that a heavy onus lies on the petitioner seeking setting aside of the election of a successful candidate to make out a clear case for such relief both in the pleadings and at the trial. The mandate of the people is one as has been truly, freely and purely expressed. And further that "as the consequences flowing from the proof of corrupt practice at the election are serious, the onus of establishing commission of corrupt practice lies heavily on the person who alleges the same". In this case, the corrupt practice alleged was screening of a video film by the successful candidate which according to the petitioner materially affected the result of the election and vitiated by the commission of corrupt practice within the meaning of sub-sections (3) and (3-A) of Section 123 of the Act. It was alleged that the film was exhibited throughout the constituency during the election. The photo contents of the video film as also the speeches contained therein were highly objectionable and inflammatory. This Court also referred to the verification to the election petition as well as to the affidavit required to be filled in Form 25 appended to the rules.

“21. In LR. Shivaramagowda v. T.M. Chandrashekar this Court again considered the importance of pleadings establishing in an election petition alleging corrupt practice falling within the scope of Section 123 of the Act and said: (SCC p. 677, para 11)

"11. This Court has repeatedly stressed the importance of pleadings in an election petition and pointed out the difference between 'material facts' and 'material particulars'. While the failure to plead material facts is fatal to the election petition and no amendment of the pleading could be allowed to introduce such material facts after the time-limit prescribed for filing the election petition....

23. It will be thus seen that an election petition is based on the rights, which are purely the creature of a statute, and if the statute render any particular requirement mandatory, the court cannot exercise dispensing powers to waive non-compliance. For the purpose of considering a preliminary objection as to the maintainability of the election petition the averments in the petition should be assumed to be true and the court has to find out whether these averments disclose a cause of action or a triable issue as such. Sections 81, 83(1)(c) and 86 read with Rule 94-A of the rules and Form 25 are to be read conjointly as an integral scheme. When so read if the court finds non-compliance it has to uphold the preliminary objection and has no option except to dismiss the petition. There is difference between "material facts" and "material particulars". While the failure to plead material facts is fatal to the election petition the absence of material particulars can be cured at a later stage by an appropriate amendment. "Material facts" mean the entire bundle of facts, which would constitute a complete cause of action and these must be concisely stated in the election petition, i.e., clause (a) of sub-section (1) of Section 83. Then under clause (b) of sub-section (1) of Section 83 the election petition must contain full particulars of any corrupt practice. These particulars are obviously different from material facts on

which the petition is founded.... To plead corrupt practice as contemplated by law it has to be specifically alleged that the corrupt practices were committed with the consent of the candidate and that a particular electoral right of a person was affected. It cannot be left to time, chance or conjecture for the court to draw inference by adopting an involved process of reasoning. Where the alleged corrupt practice is open to two equal possible inferences the pleadings of corrupt practice must fail. Where several paragraphs of the election petition alleging corrupt practices remain unaffirmed under the verification clause as well as the affidavit, the unsworn allegation could have no legal existence and the court could not take cognizance thereof. Charge of corrupt practice being quasi-criminal in nature the court must always insist on strict compliance with the provisions of law. In such a case it is equally essential that the particulars of the charge of allegations are clearly and precisely stated in the petition. It is the violation of the provisions of Section 81 of the Act which can attract the application of the doctrine of substantial compliance....

A plain reading of the above paras makes it clear that, for the purpose of considering a preliminary objection as to the maintainability of the election petition, the averments in the petition should be assumed to be true and the court has to find out whether these averments disclose a cause of action or a triable issue as such. Sections 81, 83(1)(c) and 86 read with Rule 94-A of the rules and Form 25 are to be read conjointly as an integral

scheme. When so read, if the court finds non-compliance, it has to uphold the preliminary objection and has no option except to dismiss the petition. There is a difference between "material facts" and "material particulars". While the failure to plead material facts is fatal to the election petition, which would constitute a complete cause of action and these must be concisely stated in the election petition, i.e., clause (a) of sub-section (1) of Section 83. Then, under clause (b) of sub-section (1) of Section 83, the election petition must contain full particulars of any corrupt practice. These particulars are obviously different from material facts on which the petition is founded. An election petition challenging the election of a returned candidate on the ground of corrupt practices is a serious matter. Therefore, every election petition must contain all the material facts constituting a complete cause of action. In the present case, the election petition fails to disclose such a complete bundle of material facts. The mere filing of two documents about the son of the petitioner/respondent No. 1 by the election petitioner does not amount to pleading the necessary material facts required by law. In these circumstances, the aforesaid

judicial precedent supports the contention advanced by the learned counsel for the petitioner/respondent No. 1.

(02). In the case of **Kanimozhi Karunanidhi Vs. A. Santhana Kumar and others**² wherein the Hon'ble Supreme Court observed as follows:

2. 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 7 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.

23. A three-Judge Bench in Hari Shanker Jain v. Sonia Gandhi had an occasion to deal with Section 83(1)(a) of the RP Act and the Court dismissed the election petition holding that the bald and vague averments made in the election petitions do not satisfy the requirements of pleading "material facts" within the meaning of Section

² (2024) 18 SCC 592

83(1)(a) of the RP Act read with the requirements of Order 7 Rule 11 CPC. It was observed in paras 23 and 24 as under: (SCC pp. 251-52)

"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....."

In the above said case, discussed Section 83(1)(a) of the R.P. Act, 1951 mandates that an election petition shall contain a concise statement of material facts on which the petitioner relies. If material facts are not stated in an election petition, the same is liable to be dismissed on that ground alone. It was also observed that an election petition is a serious matter, and it cannot be treated lightly or in a fanciful manner, nor is it given to a person who uses it as a handle for vexatious purpose.

Regarding the above case law, if anybody files an election petition for vexatious purpose, the same cannot be entertained. As observed in the above case law, “omission of a single material fact would lead to an incomplete cause of action and the statement of plaint would become bad.” In the present case also, there is a clear lack of material facts in the election petition. The election petitioner himself has stated in the election petition that there was "every possibility of there being undue influence on the electorate." This statement, by itself, demonstrates that the allegation is based on mere possibility and not on definite material facts. It indicates that the election petitioner did not have concrete facts to substantiate the allegation of undue influence. Accordingly, the aforesaid decision also supports the contention of the learned counsel for the petitioner/respondent No. 1 that the election petition is liable to be rejected for want of material facts.

(03.) In the case of ***Karikho Kri v. Nuney Tayang And Another***³ wherein the Hon’ble Supreme Court observed as follows:

³ (2024) 15 SCC 112

16. It is well settled that the success of a winning candidate at an election should not be lightly interfered with (see *Santosh Yadav v. Narender Singh and Harsh Kumar v. Bhagwan Sahai Rawal*). The issue before us presently is as to the validity of the High Court's findings that the grounds under Sections 100(1)(b), 100(1)(d)(i) and 100(1)(d) (iv) of the 1951 Act were established, warranting invalidation of the election of Karikho Kri. Further, the finding of the High Court on Issue 6, that Karikho Kri committed a "corrupt practice" within the meaning of Section 123(2) of the 1951 Act also requires to be examined.

21. Insofar as the present case is concerned, Section 123(2) of the 1951 Act is of relevance. This provision reads as under:

"123. Corrupt practices.- The following shall be deemed to be corrupt practices for the purposes of this Act-

(2) Undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any other person with the consent of the candidate or his election agent, with the free exercise of any electoral right:"

23. Though it appears that the three vehicles in question still remained registered in the names of the wife and son of Karikho Kri, the question that arises is as to whether non-disclosure of such vehicles justified the attributing of a corrupt practice to Karikho Kri and the negating of his election on that ground. The High Court assumed that the non-disclosure of a vehicle registered in the name of a candidate or his dependent family members was sufficient in itself to constitute undue influence. In this context, the High Court placed reliance on the provisions of the 1988 Act and the decision of

this Court in *Naveen Kumar*. Section 2(30) of the 1988 Act defines the "owner" of a vehicle as under:

"2. (30) "owner" means a person in whose name a motor vehicle stands registered, and where such person is a minor, the guardian of such minor, and in relation to a motor vehicle which is the subject of a hire-purchase agreement, or an agreement of lease or an agreement of hypothecation, the person in possession of the vehicle under that agreement;"

31. Coming to the next ground, if the acceptance of a nomination is found to be improper and it materially affects the result of the election insofar as the returned candidate is concerned, Section 100(1)(d)(i) of the 1951 Act would come into play. It would be appropriate and apposite at this stage for us to take note of precedential law on this point.

32. In *Vashist Narain Sharma v. Dev Chandra*, a three-Judge Bench of this Court noted that the burden of proving that the improper acceptance of a nomination has materially affected the result of an election would arise in one of three ways: (i) where the candidate whose nomination was improperly accepted had secured less votes than the difference between the returned candidate and the candidate securing the next highest number of votes, (ii) where the person referred to above secured more votes, or (iii) where the person whose nomination has been improperly accepted is the returned candidate himself. It was held that in the first case the result of the election would not be materially affected because if all the wasted votes were added to the votes of the candidate securing the next highest votes, it would make no difference to the result and the returned candidate would retain the seat. However, in the other two cases, the result may be materially

affected and insofar as the third case is concerned, it may be readily conceded that such would be the conclusion.

39. In Mairembam Prithviraj v. Pukhrem Sharatchandra Singh, this Court noted that there is a difference between improper acceptance of the nomination of a returned candidate as opposed to improper acceptance of the nomination of any other candidate. It was observed that a mere finding that there has been an improper acceptance of a nomination would not be sufficient for a declaration that the election is void under Section 100(1)(d)(i) and there has to be further pleading and proof that the result of the election of the returned candidate was materially affected, but there would be no necessity of any such proof in the event of the nomination of the returned candidate being declared as having been improperly accepted, especially in a case where there are only two candidates in the fray.

43. Having considered the issue, we are of the firm view that every defect in the nomination cannot straightaway be termed to be of such character as to render its acceptance improper and each case would have to turn on its own individual facts, insofar as that aspect is concerned. The case law on the subject also manifests that this Court has always drawn a distinction between non-disclosure of substantial issues as opposed to insubstantial issues, which may not impact one's candidature or the result of an election. The very fact that Section 36(4) of the 1951 Act speaks of the Returning Officer not rejecting a nomination unless he is of the opinion that the defect is of a substantial nature demonstrates that this distinction must always be kept in mind and there is no absolute mandate that every non-disclosure, irrespective of its gravity and impact,

would automatically amount to a defect of substantial nature, thereby materially affecting the result of the election or amounting to "undue influence" so as to qualify as a corrupt practice.

44. The decision of this Court in *Kisan Shankar Kathorel*, also demonstrates this principle, as this Court undertook examination of several individual defects in the nomination of the returned candidate and found that some of them were actually insubstantial in character. This Court noted that two facets required consideration- whether there is substantial compliance in disclosing requisite information in the affidavits filed along with the nomination and whether non-disclosure of information on identified aspects materially affected the result of the election. This Court observed, on facts, that non-disclosure of the electricity dues in that case was not a serious lapse, despite the fact that there were dues outstanding, as there was a bona fide dispute about the same. Similar was the observation in relation to non-disclosure of municipal dues, where there was a genuine dispute as to re-valuation and re-assessment for the purpose of tax assessment. Earlier, in *Shambhu Prasad Sharma v. Charandas Mahant*, this Court observed that the form of the nomination paper is not considered sacrosanct and what is to be seen is whether there is substantial compliance with the requirement as to form and every departure from the prescribed format cannot, therefore, be made a ground for the rejection of the nomination paper.

48. So far as the ground under Section 100(1)(d)(iv) of the 1951 Act is concerned, the provision requires that the established non-compliance with the provisions of the Constitution or the 1951 Act 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, b the High Court linked all the non-disclosures attributed to Karikho Kri to Section 100(1)(d)(i) of the 1951 Act 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 1951 Act 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.

50. In LR. Shivaramagowda v. T.M. Chandrashekar, a three-Judge Bench of this Court pointed out that in order to declare an election void under 9 Section 100(1)(d)(iv) of the 1951 Act, 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 1951 Act or the rules or orders made thereunder and the failure to plead such material facts would be fatal to the election petition.

51. However, perusal of the election petition filed by Nuney Tayang reflects that the only statement made by him in this regard is in Para 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 Respondent 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 4-A of the Conduct of Elections Rules, 1961 and the orders made thereunder ..."

Again, in his "Ground (ii)", Nuney Tayang stated as under:

".... As such, the nomination papers of Respondents 1 and 2 were improperly accepted by the Returning Officer and the result of the election in quesdon, insofar as it concerns Respondent 1 the returned candidate, as well as Respondent 2, has been materially affected by such improper acceptance of their nominations...."

52. Though there are some general references to non-compliance with particular provisions of the 1951 Act 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 1951 Act. 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 1951 Act, 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, insofar 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 non-compliance that would attract Section 100(1) (d) (iv) of the 1951 Act. The finding of the High Court in that regard is equally bereft of rhyme and reason and cannot be sustained.

The above-mentioned case dealt with a challenge to the election of the returned candidate under Section 100(1)(d)(i) of the Representation of the People Act, 1951,

seeking a declaration that the election was void. The issue involved in the said case was whether the improper acceptance of the nomination of the returned candidate by the Returning Officer had materially affected the result of the election.

Another issue considered in the above-mentioned case was whether the non-disclosure of vehicles in the nomination affidavit would justify attributing a corrupt practice to the returned candidate. The Court also examined the distinction between the non-disclosure of substantial matters and the non-disclosure of insignificant matters which do not affect either the candidature of the candidate or the result of the election.

The Court observed that the very fact that Section 36 of the Representation of the People Act, 1951 empowers the Returning Officer to reject a nomination only if he thinks that the defect is of a substantial nature clearly demonstrates that such a distinction must always be kept in mind. There is no absolute mandate that every instance of non-disclosure, irrespective of its gravity or impact, would automatically constitute a defect of a substantial nature. Consequently, every non-disclosure cannot be

said to have materially affected the result of the election or to amount to undue influence to constitute a corrupt practice. The above-mentioned decision also dealt with the issue of non-disclosure of electricity dues. It held that such non-disclosure, in the facts and circumstances of the case, did not constitute a serious lapse or a defect of a substantial nature to affect the election or amount to a corrupt practice materially.

In the present case, the election petitioner has failed to disclose the material facts constituting the alleged corrupt practice or undue influence. It is well settled that an election petition which does not contain the material facts required under the law is not maintainable and is liable to be rejected at the threshold. It is only where an election petition discloses all the necessary material facts that the Court proceeds to trial to determine whether those facts are proved and whether they are sufficient in law to invalidate the election of the returned candidate. However, in the present case, the election petition does not disclose any material facts warranting a trial. In these circumstances, the aforesaid decision supports the case of

the petitioner/respondent No. 1 and reinforces the contention that the election petition is liable to be rejected.

33. Learned counsel for the respondent/election petitioner relied upon the following judgments:

01 In the case of **Sulakshana Raju Dhar Vs. Anna Dadu Bansode and others**⁴ wherein the High Court of Bombay at para Nos.29 to 31, and 34 observed as follows:

29. In view of the well-settled legal principles, all "material facts" must be pleaded by the party in support of the case set up by him. The object and purpose are to enable the opposite party to know the case he has to meet with. However, "particulars" are the details of the case which is in the nature of evidence a party would be leading at the time of trial. The law requires only full particulars' and not 'material particulars'.

30. In the present case, the petitioner has challenged the election on the ground that it is void under Section 100(1)(b) and 100(1)(d)(i) and (iv) of the said Act. In paragraphs 4 to 7, the petitioner has pleaded the facts alleging that the applicant suppressed true and correct information regarding assets and liabilities in the affidavit, in terms of Rule 4A of the Rules of 1961, read with the prescribed Form 26. The petitioner provided full particulars of the alleged suppression, including details of the property and the liabilities suppressed by the applicant. The petitioner has annexed relevant revenue records to Support the allegation of non-disclosure of the assets. Learned counsel for the applicant argued that the particulars regarding the alleged assets are not owned by the applicant, but his name is entered as the only office bearer of the society that owns the property. However, when examining whether the petition is liable to be rejected at the threshold, under Order VII, Rule 11 of the CPC, the explanation or defence cannot be considered. The explanation or the defence of the applicant would be a matter of trial.

31. The petitioner has pleaded regarding the objections she filed to the nomination of the applicant and further challenged the Returning, Officer's rejection of those objections. She has pleaded that her objections were submitted much before the scrutiny process started. However, the returning officer, though

⁴ 2025 SCC OnLine Bom 4503

he accepted her objection at that time, only to give undue benefit to the applicant, did not give an acknowledgement and later rejected her objection on the ground that it was received belatedly. The petitioner has annexed the relevant documents to support her allegations. The petitioner has thus raised an objection that the election result has been materially affected due to the improper acceptance of the applicant's nomination.

34. The legal principles settled by the Hon'ble Apex Court, in the decisions of Virendra Nath Gautam and Ashraf Kokkur, squarely support the arguments made on behalf of the petitioner. The legal principles settled in the decisions relied upon by the learned counsel for the applicant would not be of any assistance to the applicant. The material facts which are required to be pleaded in the election petition as required by Section 83(1) of the Act, read with Order 7 Rule 11(a) of the Code, have been pleaded by the petitioner, and the cause of action has been disclosed. Therefore, the petition cannot be rejected at the threshold.

In the above-mentioned case, the petitioner had raised objections at the time of filing of the nomination itself and challenged the action of the Returning Officer in rejecting those objections, which had been submitted well before the commencement of the scrutiny of nominations. The facts of the present case are altogether different. In the present case, the respondent/election petitioner did not raise any objection before the Returning Officer at the time of scrutiny of the nomination. Therefore, the factual foundation in the present case is entirely distinct from that of the aforesaid decision. Consequently, the said decision is clearly distinguishable on facts and is not

applicable to the present case.

02. In the case of **K. Babu Vs. M. Swaraj and others**⁵ wherein the Hon'ble Apex Court at para Nos.15 and 17 which are related to Rule 212.

The above referred paragraphs deal exclusively with technical issues concerning the furnishing of copies of the election petition under Rule 212. The present case, however, does not involve any issue relating to Rule 212. Therefore, the said observations have no application whatsoever to the facts and circumstances of the present case.

03. In the case of **Thangjam Arunkumar Vs. Yumkham Erabot Singh and others**⁶ wherein the Hon'ble Apex Court at para Nos.4, 5, 11, 14, and 16 observed as follows:

4. In response to the election petition, the appellant moved two applications under Order 7 Rule 11 read with Section 151 CPC and under Section 86 of the Act seeking dismissal of the election petition on the grounds of - (i) non-disclosure of cause of action/triable issue vis-à-vis the alleged corrupt practice committed by the appellant; (ii) the absence of a concise statement of facts as mandated under Section 83 of the Act; and (iii) for not serving a true self-attested copy of the election petition on the returned candidate as provided under Section 81 of the Act.

5. Apart from the above, and more importantly, the appellant also sought dismissal of the election petition on the ground that Form 25 affidavit as prescribed under Section 83 of the Act read with Rule 94-A of the Conduct of Election Rules, 1961 (hereinafter "the Rules") has not been filed along with the election petition. It was alleged that such an affidavit is mandatory, as the election petition raises allegations of corrupt practice.

11. We may at the outset state that there is absolutely no consideration of this issue by the High Court. Neither the

⁵ (2024) 4 SCC 299

⁶ (2023) 17 SCC 500

implications of Section 83(1)(c) of the Act, nor the interpretation of its proviso were taken up for consideration by the High Court. Further, surprisingly, the High Court simply referred to the decision of this Court in *Lok Prahari* and rejected the submission. *Lok Prahari* has no bearing on the issue.

14. In *Siddeshwar*, the matter came up before a three-Judge Bench of this Court by way of a reference. When the matter was placed before a two-Judge Bench, it was contended, relying upon *P.A. Mohammed Riyas v. M.K. Raghavan*, that an election petitioner has to file Form 25 affidavit in support of the corrupt practice allegation, in addition to the usual verifying affidavit which forms an integral part of the election petition. On the other hand, the two-Judge Bench was also apprised of judgments to the contrary which held that not filing of the affidavit is a curable defect. In order to give quietus to the issue, the matter was referred to a Bench of three Judges. After relying on various precedents, the three-Judge Bench in *Siddeshwar* observed as under: (*Siddeshwar* case, SCC pp. 781-82, 785-86, 788 & 792, paras 1-2, 22-23, 25 & 37-38)

2. Another question that has arisen is that if an affidavit filed in support of the allegations of corrupt practices of a returned candidate is not in the statutory Form 25 prescribed by the Conduct of Elections Rules, 1961, whether the election petition is liable to be summarily dismissed. In our opinion, as long as there is substantial compliance with the statutory form, there is no reason to summarily dismiss an election petition on this ground. However, an opportunity must be given to the election petitioner to cure the defect. Further, merely because the affidavit may be defective, it cannot be said that the petition filed is not an election petition as understood by the Representation of the People Act, 1951.

16. The position of law that emerges from the above referred cases is clear. The requirement to file an affidavit under the proviso to Section 83(1)(c) is not mandatory. It is sufficient if there is substantial compliance. As the defect is curable, an opportunity may be granted to file the necessary affidavit.

In the above case, although the issue arose in the context of an application under Order VII Rule 11 of the Code of Civil Procedure seeking dismissal of the election petition, the paragraphs relied upon by the learned counsel for the respondent/election petitioner

pertain to Section 81 of the Representation of the People Act, relating to the failure to serve a true self-attested copy of the election petition on the returned candidate, as mandated under the said provision. Those observations are wholly unrelated to the facts and issues involved in the present case. The said judgment also deals with the question of whether an election petition is liable to be summarily dismissed for non-filing of the affidavit in Form No. 25 prescribed under the Conduct of Election Rules, 1961. In the present case, however, no such issue arises, as the election petitioner has duly filed the affidavit in Form No. 25, and no objection in that regard has been raised by the petitioner/respondent No. 1. Therefore, the observations made in the said judgment have no application to the present case.

04. In the case of ***Bhim Rao Baswanth Rao Patil Vs. K. Madan Mohan Rao and others***⁷ wherein the Hon'ble Apex Court at para Nos.12, 22, 24, and 29 observed as follows:

12. Section 33-A of the Act, which requires disclosure of past criminal antecedents of every candidate, which is not issue in the present case.

22. So far as the past convictions are concerned, the allegations are not per se denied by the appellant, but rather the

⁷ (2023) 18 SCC 231

application for rejection of the petition contended that no disclosure of this kind was needed since they did not answer the description of the class of offences enumerated in Section 33-A of the Act.

24. The impugned order, as noticed earlier, is premised on the reasoning that any material brought on the record by the successful candidate who is a respondent in the election proceedings, ipso facto cannot be considered within the framework of Order 7 Rule 11 CPC to reject the plea altogether. That understanding in this Court's opinion is correct. At the same time, there could be circumstances when there is material on the record, the consideration of which may not be considered by Order 7 Rule 11 CPC but may fall within the ambit of Order 12 Rule 6 CPC (decree on admission), which reads as follows:

"6. Judgment on admissions.-(1) Where admissions of fact have been made either in the pleading or otherwise, whether orally or in writing, the Court may at any stage of the suit, either on the application of any party or of its own motion and without waiting for the determination of any other question between the parties, make such order or give such judgment as it may think fit, having regard to such admissions.

(2) Whenever a judgment is pronounced under sub-rule (1), a decree shall be drawn up in accordance with the judgment and the decree shall bear the date on which the judgment was pronounced."

*29. A plain look at the election petition reveals that apart from allegations pertaining to non-disclosure of criminal cases pending against the appellant, or cases where he was convicted, other averments and allegations have been made regarding non-compliance with stipulations regarding information dissemination and the manner of dissemination through publication in newspapers, the font size, the reach of the newspapers concerned amongst the populace, etc. The alleged non-compliance with statutory and Election Commission mandated regulations, and their legal effect, cannot be examined in what are essentially summary proceedings under Order 7 Rule 11 CPC, or even under Order 12 Rule 6 CPC. Even if the allegations regarding non-disclosure of cases where the appellant has been arrayed as an accused, are ultimately true, the effect of such allegations (in the context of provisions of law and the non-disclosure of all other particulars mandated by the Election Symbols Order) has to be considered after a full trial. The admission of certain facts (and not all) by the election petitioner cannot be sufficient for the court to reject the petition, wholly. Even in respect of the undeniable nature of the judicial record, the effect of its content, is wholly inadequate to draw a decree in part. This Court has also ruled that the truth or otherwise of anything is ordinarily a matter of evidence, in a full-blown trial, in *Virender Nath Gautam v. Satpal Singh*.*

The discussion in the above-referred paragraphs, relied upon by the respondent/election petitioner, pertains to the suppression of criminal cases by a candidate. The said issue has no nexus whatsoever with the facts and circumstances of the present case. Therefore, the said observations are wholly inapplicable to the present case.

5. In the case of **Ponnala Lakshmaiah Vs. Kommuri Pratap Reddy and others**⁸ wherein the Hon'ble Apex Court at para Nos.15, 16 and 31 observed as follows:

15. The High Court has, in the present case, held that the material facts constituting the foundation of the case set up by the election petitioner have been stated in the election petition. That being so, the requirement of Section 83 of the Act viz. that "the petition shall contain a concise statement of material facts" has been satisfied. The question of dismissing the petition on that ground also therefore did not arise. The High Court in our opinion committed no wrong in coming to that conclusion.

16. We need only emphasise that the burden which lies on an election petitioner to prove the allegations made by him in the election petition, whether the same relate to commission of any corrupt practice or proof of any other ground urged in support of the petition has to be discharged by him at the trial. There is no dilution of that obligation when the court refuses to dismiss a petition at the threshold. All that the refusal to dismiss the petition implies is that the appellant has made out a case for the matter to be put to trial. Whether or not the petitioner will succeed at the trial remains to be seen till the trial is concluded. Even so, on a somewhat erroneous understanding the law settled by this Court, the successful candidates charged with commission of corrupt practices or other illegalities and irregularities that constitute grounds for setting aside their elections seek dismissal of the petitions in limine on grounds that are more often than not specious, in an attempt to achieve a twofold objective. First, they take a chance of getting the election petition dismissed on the ground of it being deficient,

⁸ (2012) 7 SCC 788

whether the deficiency be in terms of non-compliance with the provisions of Sections 81, 82 and 117 of the Act or on the ground that it does not disclose a cause of action. The second and the more predominant objective is that the trial of the election gets delayed which in itself subserves the interests of the successful candidate. Dilatory tactics including long-drawn arguments on whether the petition discloses a cause of action or/and whether other formalities in the filing of the petition have been complied with are adopted with a view to prevent or at least delay a trial of the petition within a reasonable time-frame.

31. Suffice it to say, that in the absence of any provision making breach of the proviso to Section 83(1) a valid ground of dismissal of an election petition at the threshold, we see no reason why the requirement of filing an affidavit in a given format should be exalted by a judicial interpretation to the status of a statutory mandate. A petition that raises triable issues need not, therefore, be dismissed simply because the affidavit filed by the petitioner is not in a given format no matter the deficiency in the format has not caused any prejudice to the successful candidate and can be cured by the election petitioner by filing a proper affidavit.

The above case law primarily deals with the requirement of pleading material facts, the consequences of non-compliance with the provisions of Sections 81, 82, and 117 of the Representation of the People Act, and the existence of a valid cause of action. The election petition in that case related to variation in the counting of votes. While considering the application, the Hon'ble Court examined whether the election petition disclosed a cause of action and reiterated that, under Section 83 of the Act, an election petition must contain a concise statement of material facts.

In the present case, however, the election petition does not disclose the material facts necessary to constitute a cause of action. An election petition challenging the election of the petitioner / respondent No. 1 cannot be maintained in the absence of primary and foundational facts giving rise to a valid cause of action. The respondent/election petitioner has merely relied upon certain judgments of the Hon'ble Apex Court and alleged non-disclosure of the assets of the petitioner/respondent No. 1's son. Such an allegation, by itself, does not disclose a legally sustainable cause of action nor does it satisfy the mandatory requirement of pleading material facts under Section 83 of the Act. Therefore, the said judgment does not support the case of the respondent/election petitioner and is inapplicable to the facts of the present case. Moreover, in the above case, the issue also concerned the filing of an affidavit not in the prescribed format, which was held to be a curable defect capable of being rectified by filing a proper affidavit. No such issue arises in the present case.

Accordingly, the said decision has no application to the facts and circumstances of the present case.

34. Having regard to the facts and circumstances of the present case, this Hon'ble Court is of the considered view that the mere non-disclosure of certain information relating to assets by a returned candidate does not, by itself, warrant setting aside the election. This view is fortified by the judgment of the Hon'ble Supreme Court in **Ajmera Shyam v. Kova Lakshmi and Others**⁹. In paragraphs 105 to 113 of the said judgment, the Hon'ble Supreme Court has observed as follows:

105. What is also to be noted in the present case is that apart from the fact that there was no objection at the time of scrutiny, during the election trial, no material has been produced by the election petitioner regarding the non-disclosure of any material information by the returned candidate, which would have had a significant impact on the adequacy or inadequacy of the information regarding the disclosed assets and income of the returned candidate.

106. Regarding the plea of the election petitioner that Respondent-1's election be declared as void due to non-compliance with the provisions of the Constitution, the Act, or rules or orders made under the Act, it must be demonstrated that such non-compliance was of a substantial nature, and that it materially affected the result of the election as far as Respondent-1 is concerned, which is not the case here.

107. We are, thus, of the view that merely because a returned candidate has not disclosed certain information related to the assets, courts should not rush to invalidate the election by adopting a highly pedantic and fastidious approach, unless it is shown that such concealment or non-disclosure was of such magnitude and substantial nature that it could have influenced the election result.

⁹ (2026) 3 SCC 373

108. In this case, it has not been demonstrated that such concealment or non-disclosure of certain information related to assets was of a substantial nature that could have materially affected the result of the election of the returned candidate. Of course, it was observed by this Court in *Lok Prahari*, *Rukmini Madegowda*, etc., that if it is found that there has been non-disclosure of assets, it amounts to a corrupt practice. But the non-disclosure of income as per income tax return in the present case, as discussed above, is not of a substantial nature to be considered a corrupt practice.

109. The true test, in our opinion, would be whether the non-disclosure of information about assets in any case is of consequential or inconsequential import, finding of which will be the basis for declaring the election valid or void, as the case may be.

110. Judicial intervention in election disputes concerning disclosure of information, as discussed above, was prompted by the quest for sanitising the electoral process by eliminating polluting elements by making candidates criminal antecedents public. Aiming to prevent criminals from participating in elections to maintain purity of the electoral process-essential for the proper functioning of parliamentary democracy-the Court was compelled to exercise its extraordinary power to issue specific directions. Consequently, not only disclosure of criminal antecedents, but also related obligations to disclose assets, liabilities, and educational qualifications of election candidates became mandatory. The knowledge of the criminal antecedents, assets and educational qualifications of the candidates by voters certainly invigorates the electoral process, which is ensured by obligatory disclosure by the candidate. However, the Court has made a subtle distinction between non-disclosure of criminal antecedents and that of assets and educational qualifications. While disclosure of criminal antecedents in the electoral process was the most critical element to maintain the purity of the electoral process which has to be scrupulously adhered to, disclosure of assets and educational qualifications were considered as attending supplementary requirements to strengthen the electoral process, of which there will be certain scope for consideration as to whether it is of substantial or inconsequential nature.

111. In the light of the above, this disclosure requirement as far as assets and educational qualification is concerned, should not be unreasonably stretched to invalidate an otherwise validly declared election over minor technical non-compliances that are not of substantial character, and should not be the basis for nullification of the people's mandate.

112. In the light of the legal position exposited, on examination of the facts in the peculiar background obtaining in the case, we hold that the non-disclosure of income in the income tax return for four financial years by Respondent-1, is not a defect of substantial character. Therefore, the nomination could not have been rejected under Section 36(2) of the Representation of the People Act, 1951 as contended by the appellant and hence, no illegality was committed by the Returning Officer in accepting the nomination of Respondent-1. Resultantly, the penal clause cannot be invoked to invalidate Respondent-1's election under Section 100(1)(d)(i) of the Act on the ground that the nomination of Respondent-1I was improperly accepted.

113. As we have held that the defect of non-disclosure mentioned is not of a substantial nature, for the same reason Respondent-1 cannot be considered to have indulged in a corrupt practice within the meaning of Section 123(2) of the Act, and thus, the election of Respondent 1 cannot be rendered void under Section 100(1)(b) of the Act.

35. The present I.As have been filed by the petitioner/respondent No.1 seeking rejection of the election petitions on the ground that they do not disclose any cause of action and fail to plead the material facts necessary to establish the allegations of corrupt practice and undue influence against the petitioner/respondent No. 1. A plain reading of the election petitions clearly reveals that the sole allegation made by the election petitioner is that the petitioner/respondent No. 1 failed to disclose the assets of his son in the nomination affidavit and that such alleged non-disclosure constitutes a corrupt practice. Based on this allegation alone, the election petitioner seeks a

declaration that the election of the petitioner/respondent No. 1 is null and void.

In view of the aforesaid contentions advanced by the respondent/election petitioner, it is necessary to reproduce the provisions of Section 83 of the Representation of the People Act, 1951, which read as follows:

83. Contents of petition – (1) An election petition -

- a) shall contain a concise material facts on which the petitioner relies;
- b) shall set forth full particulars of any corrupt practice that the petitioner alleges, including as to 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; and
- c) shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure 1908 (5 of 1908) for the verification of pleadings.

In the present case, the specific contention of the petitioner/respondent No.1 is that the election petition does not contain a concise statement of material facts as mandated under Section 83 of the Representation of the People Act, 1951, nor does it furnish the full particulars of any alleged corrupt practice. A careful reading of the

election petition reveals that no primary or foundational facts have been pleaded to substantiate the allegations of corrupt practice or undue influence.

Further, it is an admitted fact that, at the time of scrutiny of the nomination papers, the respondent/election petitioner did not raise any objection whatsoever regarding the disclosures made by the petitioner/respondent No. 1 in his nomination affidavit. Having failed to raise any such objection at the stage of scrutiny, the respondent/election petitioner is precluded from questioning, after the declaration of the election result, the alleged non-disclosure of the assets of the petitioner/respondent No. 1's son. Such an allegation, raised for the first time after the election, does not constitute a valid cause of action and cannot be treated as a material fact giving rise to an election dispute.

36. In the election petition, in para No.15 it reads as follows:

“It is submitted that due to the suppression of material facts, there is every possibility of there being undue influence on the Electorate as per the judgments rendered by the Hon’ble Supreme Court in Lok Prahari Vs. Union of India, 2018(4) SCC 699 and Union of India Vs. Association of Democratic Reforms, 2002(5) SCC 294.”

The said paragraph itself demonstrates that the respondent/election petitioner is unable to specify the particular incident, act, or information that allegedly amounted to undue influence on the electorate. In the absence of such specific pleadings, the allegation of undue influence is wholly vague, bald, and unsupported by any material facts. The respondent/election petitioner has merely relied upon certain judicial precedents to make allegations against the petitioner/respondent No. 1 without disclosing the foundational facts required under the Representation of the People Act, 1951. Such allegations, unsupported by material particulars, are not maintainable in law and do not satisfy the mandatory requirements of the Act.

37. The respondent/election petitioner has alleged that the petitioner/respondent No. 1 has committed a corrupt practice under Section 123 of the Representation of the People Act, 1951. However, the election petition fails to disclose the specific clause or sub-clause of Section 123 under which the alleged corrupt practice is said to have been committed. The petitioner has neither pleaded nor established as to how the acts attributed to the

petitioner/respondent No. 1 fall within any of the categories of corrupt practice enumerated under Section 123 of the Act.

Section 123 comprises various categories of corrupt practices. Clause (1) deals with bribery, while clause (2) relates to undue influence, and the remaining clauses enumerate other distinct forms of corrupt practices. The respondent/election petitioner has failed to specify the particular clause under which the alleged acts of the petitioner/respondent No. 1 are said to constitute a corrupt practice. In the absence of such specific pleadings and the requisite material facts, the vague allegation of corrupt practice is wholly unsustainable.

As stated supra, an allegation of corrupt practice is a serious charge carrying grave civil consequences. It must be pleaded with strict compliance with the mandatory provisions of the Representation of the People Act, 1951. The filing of the prescribed affidavit is not a mere formality but is intended to support specific and complete pleadings regarding the alleged corrupt practice. In the present case, in the absence of a clear disclosure of the relevant provision of Section 123 and the material facts constituting

the alleged corrupt practice, the election petition is not maintainable. Furthermore, Section 123(1), which relates to bribery, has no application whatsoever to the allegations made against the petitioner/respondent No. 1. The respondent/election petitioner appears to rely upon Section 123(2) relating to undue influence, which reads as follows:

123(2): Undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any other person (with the consent of the candidate or his election agent), with the free exercise of any electoral right.

Provided that –

(a) without prejudice to the generality of the provisions of this clause any such person as is referred to therein who –

- i) Threatens any candidate or any elector, or any person in whom a candidate or an elector is interested, with injury of any kind including social ostracism and excommunication or expulsion from any caste or community; or
- ii) Induces or attempts to induce a candidate or an elector to believe that he, or any person in whom he is interested, will become or will be

rendered an object of divine displeasure or spiritual censor.

shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause.

- (b) A declaration of public policy, or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this clause.

38. Even assuming, without admitting, the contentions advanced by the respondent/election petitioner under Section 123 of the Representation of the People Act, 1951, neither the election petition nor the provisions of Section 123 state that the mere non-disclosure of assets constitutes a corrupt practice or amounts to undue influence. The respondent/election petitioner has merely relied upon certain judicial precedents to level allegations against the petitioner/respondent No. 1, without disclosing any material facts or particulars to establish that the alleged non-disclosure falls within any of the categories of corrupt practice or undue influence contemplated under Section 123 of the Act.

39. A plain reading of the election petition makes it abundantly clear that the entire challenge to the election is founded solely on the alleged non-disclosure of the assets of the petitioner/respondent No. 1's son, who had attained majority as on the date of filing of the nomination. Except for this solitary allegation, the election petition does not disclose any factual basis or material particulars to establish the commission of any corrupt practice or undue influence by the petitioner/respondent No. 1. Consequently, the election petition fails to disclose any legally sustainable cause of action and is liable to be rejected.

40. The General Elections to the Telangana State Legislative Assembly were notified on 03.11.2023. The last date for filing nominations was 10.11.2023, scrutiny of nominations was conducted on 13.11.2023, the last date for withdrawal of nominations was 15.11.2023, polling was held on 30.11.2023, and the election results were declared on 03.12.2023. The son of the petitioner/respondent No. 1 attained majority on 12.07.2023, i.e., much before the notification of the elections. According to the averments made by the respondent/election petitioner, within a week

thereafter, the son of the petitioner/respondent No. 1 purchased certain property from M/s Telangana Publications Private Ltd. for a consideration of Rs.10,50,000/-, and an amount of Rs.88,15,500/- is alleged to have been paid through Account No. 18090100019288 maintained with Bank of Baroda, Banjara Hills Branch, Hyderabad, through cheques dated 20.07.2023. However, the election petitioner has not disclosed any material facts regarding the relationship, if any, between M/s Telangana Publications Pvt. Ltd. and the petitioner/respondent No.1. There is also no specific averment as to whether the alleged amount was paid by the petitioner/respondent No. 1 or by his son from his own resources. Further, the election petition is completely silent as to how the alleged non-disclosure of the said asset had influenced the electorate or resulted in any corrupt practice or undue influence. Mere assumptions and presumptions cannot constitute a valid cause of action for maintaining an election petition.

41. It is also relevant to note that the son of the petitioner/respondent No.1 is pursuing his higher education at Carnegie Mellon University, Pittsburgh, USA.

Except for making such a bald averment, no further details or particulars have been furnished in the election petition. In the absence of specific pleadings regarding the alleged non-disclosure of assets or the educational status of the son of the petitioner/respondent No. 1, there is no basis to conduct any trial. If the election petitioner had disclosed specific facts as to whether such non-disclosure was legally required, whether the disclosure made was false or incorrect, and how such alleged omission constituted corrupt practice or undue influence, the same could have been examined during trial. However, when the election petition itself does not contain such material averments, no triable issue arises for consideration. In the absence of triable issues, there is no valid cause of action, and consequently, the election petition is not maintainable.

42. Further, under the heading of cause of action, the election petitioner has alleged that the Returning Officer improperly and illegally accepted the nomination of the petitioner/respondent No. 1 for election to the 29th Sircilla Assembly Constituency and that, on 03.12.2023, the Returning Officer illegally declared the petitioner/respondent No. 1 as duly elected to the

Telangana Legislative Assembly. Such a contention is wholly untenable, particularly when the election petitioner himself did not raise any objection during the scrutiny of nominations and accepted the validity of the nomination process. Once the nomination was scrutinized and accepted without any objection from the election petitioner, the subsequent allegation that the Returning Officer improperly or illegally accepted the nomination is unsustainable. Therefore, in the absence of a valid cause of action, non-disclosure of material facts and failure to specify the relevant provisions of the Representation of the People Act, 1951, the election petition is devoid of merits and is liable to be rejected.

43. As per the contention of the petitioner/respondent No. 1, his son had an independent source of livelihood and was not dependent upon the petitioner/respondent No. 1 as on the date of filing of the nomination. The respondent/election petitioner has not placed any substantial material or specific averments on record to disprove the said contention. In the absence of any contrary evidence or material particulars, the allegation that the assets of the son of the petitioner / respondent

No.1 were required to be disclosed cannot be sustained merely on assumptions or presumptions. In the entire election petition, there is no specific averment as to how the alleged non-disclosure of the assets of the petitioner/respondent No. 1's son influenced the voters or had any bearing on the election result of the petitioner/respondent No. 1. The election petitioner has also failed to plead as to how such alleged non-disclosure constitutes a corrupt practice or amounts to undue influence within the meaning of the provisions of the Representation of the People Act, 1951. In the absence of such material facts and particulars, the allegations made in the election petition are vague, bald, and insufficient to constitute a valid cause of action.

44. In view of the foregoing discussion, the material available on record, and upon considering the rival submissions advanced by the learned counsel appearing for the respective parties, this Court is of the considered view that I.A. No. 2 of 2024 in E.P. Nos. 27 and 28 of 2024 are liable to be allowed.

45. Accordingly, I.A. No.2 of 2024 in E.P.No.27 and I.A. No.2 of 2024 in E.P. No.28 of 2024 are allowed.

Consequently, the Election Petition Nos.27 and 28 of 2024 are hereby rejected. There shall be no order as to costs.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

NAMAVARAPU RAJESHWAR RAO, J

Date:04.08.2026

NOTE:

LR copy to be marked.

B/o
BDR