

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPLICATION (L) NO. 11620 OF 2026
IN
ELECTION PETITION NO. 32 OF 2025

1) Sunil Dnyandev Kamble	]	
Age: 45 years, Occ: Business	]	
R/o: 54, HP 855, Lohiyanagar Ganj Peth,	]	
Pune – 411 042	]	
	]	...Applicant

IN THE MATTER BETWEEN

1) Ramesh Anandrao Bagwe	]	
Age: 71 years, Occ: Business	]	
R/o: 592, Kasheewadi, Bhavani Peth	]	
Pune – 411 002	]	
	]	<u>...Petitioner</u>

Versus

1) Sunil Dnyandev Kamble	]
Age: 45 years, Occ: Business	]
R/o: 54, HP 855, Lohiyanagar Ganj Peth,	]
Pune – 411 042	]
2) The Election Commissioner of India	]
Nirvachan Sadan, Ashoka Road, New Delhi	]
110 001, Through It's Secretary.	]
3) The District Election Officer, and District	]
Collector, Pune having his office at	]
Collectorate, Pune Taluka and District: Pune	]
4) Deputy District Election Officer, and Deputy	]
Collector, Pune having his office at	]
Collectorate, Pune Taluka and District: Pune.	]
5) The Returning Officer,	]
214 Pune Cantonment Legislative Assembly	]
Constituency and District Collector, Pune	]
having his office at Collectorate, Pune Taluka	]
and District: Pune	]

6) Assistant Returning Officer]
 And Nayab Tahsildar]
 4th Floor, Election Office, B Wing, District]
 Collectorate Office, Pune 411 001] **...Respondents**

Mr. Balkrushna Joshi a/w Mr. Viren Pathkar, Mr. Atul Patil, for the Applicant in AEP(L) No. 11620 of 2026 and Respondent No. 1 in EP No. 32 of 2025.

Mr. Nitin Deshpande a/w Mr. Sahil Jothwani i/b Ms. Kanchan Phatak, Ms. Rachana Harpale, for the Respondent in AEP(L) No. 11620 of 2026 and Petitioner in EP No. 32 of 2025.

CORAM : SHARMILA U. DESHMUKH
RESERVED ON : JULY 13, 2026
PRONOUNCED ON : AUGUST 12, 2026

JUDGMENT:

1. The present application has been filed under Order VII Rule 11(a) of the Code of Civil Procedure, 1908, (for short '**CPC**'), read with Section 83, 86, and 87 of the Representation of the People Act, 1951, (for short '**RP Act**'), seeking rejection of the Election Petition filed by the Petitioner on the ground that the Petition does not disclose material facts constituting a cause of action as mandatorily required under Section 83 of the RP Act, does not contain material particulars of corrupt practice as required under Section 83(1)(b) of the RP Act, and is vague and omnibus.

2. The captioned Election Petition has been filed seeking to declare void the election of the Respondent No. 1 from 214 Pune Cantonment

Legislative Assembly Constituency, District Pune, for 2024.

3. It is pleaded that the Election Commission of India issued a press note dated 15th October, 2024 setting out the election program pursuant to which, the nomination forms of the Petitioner as well as the returned candidate were accepted. The Respondent No. 1 was declared as elected having secured 76,032 votes, whereas, the Petitioner polled 65,712 votes, including number of votes recorded on postal ballots. Paragraph 6 of the Petition pleads that Section 61A requires issuance of the notification of the decision to utilise EVM for reasons to be recorded. In the absence of notification, the polling ought to have been taken by ballot and hence the use of EVM has rendered the election void.

4. It is pleaded that on 27th November, 2024 and 5th December, 2024 when information about the nomination papers, documents of the returned candidates, expenses incurred by the returned candidates, the number of votes scored by each candidate, the unit-wise election results, the total number of voters, etc. were sought by the Petitioner and his agent respectively, they were provided with vague and misleading replies. The application on 28th November, 2024 made to the District Election Officer seeking information regarding signed list of units per polling station selected for checking and verification, was not replied. Again application was made on 1st January, 2025, which came to

be rejected by the Information Officer on 2nd January, 2025 on the ground that the record is with the District Election Officer and the custody of the ballot papers and the papers relating to election cannot be made available. This conduct is claimed to have violated the provisions of Section 123(7) of RP Act.

5. It is pleaded that Electronic Voting Machine and Voter Verifiable Paper Audit Trail (**EVM-VVPAT**) machines were not in compliant with the mandatory guidelines as the serial numbers were not engraved on the cabinet or on the metal plate riveted to the cabinet and that the Returning Officer did not sign and seal any of the machines himself which is non-compliance of Rule 49B of Conduct of Elections Rules, 1961 (for short '**Election Rules**') and other guidelines which has materially affected the result of election insofar it concerns the Respondent No. 1.

6. In paragraph 37, it is pleaded that when the Petitioner's nomination form was accepted, he was given a voter's list, and there is a supplementary voter's list which was not provided to him and must have been published after the last date of nomination, which results in the votes of the voters in the supplementary list being improperly accepted resulting in corrupt practices under Section 100(1)(d)(iii) of RP Act.

SUBMISSIONS :

7. Mr. Joshi, learned counsel for the Applicant, would submit that the grounds on which the election has been challenged is Section 61A

and Section 123(7) of the RP Act. He submits that Section 59 of the RP Act provides for the manner of voting at election and that where a poll is taken, vote shall be given by ballot in such manner as may be prescribed and Section 61A provides for voting machine at elections. He submits that the case of the Petitioner is that there is no notification issued, which is not mandated under the RP Act or rules drawing support from the decision of this Court in the case of ***Datta Rangnath Bahirat vs Sidharth S/O Padmakar Shirole***¹. He submits that it is the Petitioner's own case that the press note has been issued on 15th October, 2024, which is sufficient compliance with Section 61A.

8. He would further point out that the allegation of corrupt practices under Section 123(7) of the RP Act is based on the non-supply of information sought under the RTI Act, which application was made after the declaration of the results. He would submit that the allegation of EVM tampering is vague and no details have been given so as to challenge the elections.

9. *Per contra*, Mr. Deshpande, learned counsel for the Petitioner, would submit that the claim of the Applicant is that the decision in the case of ***Datta Rangnath Bahirat vs Sidharth S/O Padmakar Shirole*** (supra) covers the issue which is distinguishable. He submits that the finding of the learned Single Judge in ***Datta Rangnath Bahirat vs Sidharth S/O Padmakar Shirole*** (supra) is that there were no sufficient

1 AEP No. 23 of 2025 decided on 17/11/2025 by Bombay High Court.

pleadings exhibiting the cause of action in support of the ground of non-compliance with Section 61A for challenging election of the Respondent, whereas in the present case, paragraphs 6, 16, 17, and 18 pleads the cause of action. He would further submit that it is specifically pleaded that the polling personnel were ill-equipped, logistically, technically in terms of expertise and familiarity with the machine, and therefore, the material particulars of corrupt practice as mandated by Section 83 of the RP Act was pleaded. He would further submit that it is pleaded in paragraph 23 that the various rules, manuals, etc. were not followed and there was no engraving of the serial numbers, and therefore, the result of the election has been materially affected due to the alleged corrupt practices.

10. He submits that the EVM machines were not in compliance with the mandatory guidelines, has been specifically pleaded. He submits that in the case of ***Datta Rangnath Bahirat vs Sidharth S/O Padmakar Shirole*** (supra), the learned Single Judge has gone through the pleadings in that Election Petition where there is no allegation that the Election Commission did not specify that giving and recording of votes would be by voting machines, which pleading is present in the present petition. He submits that the Petitioner has also taken the ground of illegal addition in the voter list post acceptance of nomination papers by giving particulars about the discrepancy in the voter's list declared on

30th August, 2024, and the final voter list, and that by reason of manipulation in the process of voter registration and electoral rolls, the election of the Respondent No. 1 has been materially affected. He submits that the similar allegation of irregularities in the electoral rolls and voter list in the decision of the learned Single Judge was based on the pleadings being vague.

11. He would further submit that the non-supply of the information is for the purpose of furtherance of the prospects of the returned candidate, and therefore, there is a corrupt practice under Section 123(7). Mr. Deshpande has handed over the following decisions:

***(i) Raj Narain vs Smt. Indira Nehru Gandhi And Another*²**

***(ii) K.K. Ramachandran Master vs M.V. Sreyamakumar And Others*³**

***(iii) State of U.P. vs Shambhu Nath Singh And Others*⁴**

***(iv) U.S. Sasidharan vs K. Karunakaran And Another*⁵**

***(v) Amar Prasad Satpathy vs Sitakanta Mohapatra And Others*⁶**

***(vi) L.R. Shivaramagowda And Others vs T.M. Chandrashekar (Dead) By Lrs. And Others*⁷**

***(vii) Sardar Harcharan Singh Brar vs Sukh Darshan Singh And Others*⁸**

2 (1972) 2 SCC 850

3 (2010) 7 SCC 428

4 (2001) 4 SCC 667

5 (1989) 4 SCC 482

6 1996 SCC Online Ori 44

7 (1999) 1 SCC 666

8 (2004) 11 SCC 196

(viii) Ramesh Rout vs Rabindra Nath Rout⁹

(ix) Ponnala Lakshmaiah vs Kommuri Pratap Reddy And Others¹⁰

(x) Ajay Maken vs Adesh Kumar Gupta And Another¹¹

(xi) Bhupendra Narain Mandal vs Ek Narain Lal Das And Others¹²

(xii) Amol Gajanan Kirtikar And Others vs Ravindra Dattaram Waikar And Others¹³

(xiii) Sudhir Brijendra Jain vs Rajendra Dhedya Gavit¹⁴

(xiv) Udesb Shantaram Patekar vs Prakash Rajaram Surve¹⁵

(xv) Anil Subhash Sawant vs Samadhan Mahadeo Autade And Others¹⁶

12. Rival contentions now fall for determination.

13. The captioned application seeks rejection of Petition on the ground of non-disclosure of cause of action for challenging the election of the Respondent under Section 100 of the RP Act. Section 100 of the RP Act sets out the grounds for declaring the election to be void, and in the present case, the election of the returned candidate is sought to be declared void under the provisions of Section 100(1)(b), Section 100(1)(d)(iv) and Section 123(7) of the RP Act.

14. Section 100 of the RP Act reads as under:

9 (2012) 1 SCC 762

10 (2012) 7 SCC 788

11 (2013) 3 SCC 489

12 1964 SCC Online Pat 147

13 2024 SCC Online Bom 3828

14 2025 SCC Online Bom 2447

15 AEP No. 3 of 2025 decided on 1st August, 2025 by Bombay High Court.

16 (2025) 2 HCC (Bom) 473

"100. Grounds for declaring election to be void.—

(1) Subject to the provisions of sub-section (2) if the High Court is of opinion—

(a) that on the date of his election a returned candidate was not qualified, or was disqualified, to be chosen to fill the seat under the Constitution or this Act or the Government of Union Territories Act, 1963 (20 of 1963); or

(b) that any corrupt practice has been committed by a returned candidate or his election agent or by any other person with the consent of a returned candidate or his election agent; or

(c) that any nomination has been improperly rejected; or

(d) that the result of the election, in so far as it concerns a returned candidate, has been materially affected—

(i) by the improper acceptance or any nomination, or

(ii) by any corrupt practice committed in the interests of the returned candidate by an agent other than his election agent, or

(iii) by the improper reception, refusal or rejection of any vote or the reception of any vote which is void, or

(iv) by any non-compliance with the provisions of the Constitution or of this Act or of any rules or orders made under this Act, the High Court shall declare the election of the returned candidate to be void.

(2) If in the opinion of the High Court, a returned candidate has been guilty by an agent other than his election agent, of any corrupt practice but the High Court is satisfied—

(a) that no such corrupt practice was committed at the election by the candidate or his election agent, and every such corrupt practice was committed contrary to the orders, and without the consent, of the candidate or his election agent;

(c) that the candidate and his election agent took all reasonable means for preventing the commission of corrupt practices at the election; and

(d) that in all other respects the election was free from any corrupt practice on the part of the candidate or any of his agents, then the High Court may decide that the election of the returned candidate is not void."

15. Section 123(7) of the RP Act reads as under.

"(7) The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent or, by any other person with

the consent of a candidate or his election agent, any assistance (other than the giving of vote) for the furtherance of the prospects of that candidate's election, from any person whether or not in the service of the Government and belonging to any of the following classes, namely:—

- (a) gazetted officers;
- (b) stipendiary judges and magistrates;
- (c) members of the armed forces of the Union;
- (d) members of the police forces;
- (e) excise officers;
- (f) revenue officers other than village revenue officers known as lambardars, malguzars, patels, deshmukhs or by any other name, whose duty is to collect land revenue and who are remunerated by a share of, or commission on, the amount of land revenue collected by them but who do not discharge any police functions; and
- (g) such other class of persons in the service of the Government as may be prescribed;
- (h) class of persons in the service of a local authority, university, government company or institution or concern or undertaking appointed or deputed by the Election Commission in connection with the conduct of elections:

Provided that where any person, in the service of the Government and belonging to any of the classes aforesaid, in the discharge or purported discharge of his official duty, makes any arrangements or provides any facilities or does any other act or thing, for, to, or in relation to, any candidate or his agent or any other person acting with the consent of the candidate or his election agent (whether by reason of the office held by the candidate or for any other reason), such arrangements, facilities or act or thing shall not be deemed to be assistance for the furtherance of the prospects of that candidate's election."

16. For the purpose of declaring an election void under Section 100(d) (iv), the requirement is of non compliance with the provisions of the Constitution or RP Act or rules, orders under the RP Act in a manner so as to materially affect the result of the returned candidate. To bring out a cause of action of non compliance, the case of the Petitioner is

premised on Section 61A of the RP Act, claiming that the Election Commission is required to issue a notification under Section 61A of the RP Act for use of EVMs in the election. Section 61A of the RP Act reads as under:

"61A: Voting machines at elections:- Notwithstanding anything contained in this Act, or the rules made thereunder, the giving and recording of votes by voting machines in such manner as may be prescribed, may be adopted in such constituency or constituencies as the Election Commission may, having regard to the circumstances of each case, specify.
Explanation:....."

17. A plain reading of Section 61A does not mandate any requirement of issuance of notification. The provision requires that the Election Commission has to specify that giving and recording of votes would be by voting machine. Mr. Deshpande would place reliance on paragraph 6, 16, 21, 22, and 23 of the Petition in order to contend that there is a specific pleading that the Election Commission has not specified that the giving and recording of votes would be by voting machine. I have gone through the paragraphs on which reliance has been placed by Mr. Deshpande.

18. Paragraph 6 pleads that for the purposes of Section 61A, a notification is required to be issued to that effect. Paragraph 16 pleads about the commission of corrupt practice as defined under Section 123(7) of the RP Act. Paragraph 21 pleads that notification under Section 61A of the RP Act is a public document which has not been given

to the Petitioner. Paragraph 22 pleads that the Petitioner is not aware of any notification issued by the Election Commission of India under Section 61A of the RP Act, and in the absence of such notification, the conduct of voting by use of EVM was in violation of Section 59 and Section 61A of the RP Act. Paragraph 23 pleads that the mandatory provisions to ensure adherence to Section 61A was not followed, thereby vitiating the entire election process.

19. The pleaded case of the Petitioner was that there was no notification issued for purpose of Section 61A of RP Act and not that the Election Commission has not specified about voting by voting machine. In the decision of ***Datta Rangnath Bahirat vs Sidharth S/O Padmakar Shirole*** (supra), the Co-ordinate Bench has considered an identical challenge to the same election but from a different constituency i.e. Shivajinagar Constituency, where it was alleged that the Election Commission had not issued notification as required under Section 61A of the RP Act. The learned Single Judge has held that Section 61A of the RP Act does not contemplate issuance of any notification, and what it contemplated is mere specification and that issuance of a press note is sufficient compliance with the provisions of Section 61A. The press note has admittedly been issued in respect of the same election.

20. On perusal of the Petition, I do not find any allegation that there

was no specification by the Election Commission that giving and recording of votes would be by voting machine. Similar lack of pleading was found by the learned Single Judge in the case of ***Datta Rangnath Bahirat vs Sidharth S/O Padmakar Shirole*** (supra), and the challenge under Section 61A failed. I am respectfully bound by the said decision.

21. Mr. Deshpande would seek to distinguish the decision of the Co-ordinate Bench on the ground that, in that case it was not pleaded as to how the result of election has been materially affected, which pleading is present herein. It is not a mere repetition of the wordings of Section 100(1)(d) of the RP Act, which would satisfy the statutory requirement and what is required to be pleaded is the manner in which the use of EVMs has materially affected the result of the election. The foundation on which the allegation was based was non-issuance of notification under Section 61A, and once it is held that the issuance of a press note is sufficient compliance of Section 61A, and there is no requirement of issuance of a notification, the ground for challenge fails as it does not disclose a cause of action.

22. The other ground of non compliance is of Rule 49B of Conduct of Election Rules, 1961 and other guidelines by failure of the Returning Officer in signing and sealing the machines himself, the polling personnel being ill equipped logistically and technically to operate the EVM, absence of method of checking/verifying that the components of

the machine are properly working, scope for manipulation as the internal testing of the machine is done by the employee of manufacturing company, the serial numbers/unique identification marks were posted on the machines.

23. The pleadings in that respect found in paragraphs 22 to 33 of the Petition are bald assertions devoid of any particulars sufficient to show cause of action of non compliance of the prescribed guidelines. Chapter II of the Conduct of Election Rules, 1961 govern the procedure to be followed for voting by EVM. The pleadings refer to Rule 49B of Rules of 1961, which governs the preparation of voting machine by the returning officer. There are no particulars stated as to the manner in which the polling personnel were ill equipped, which machines had which serial numbers pasted instead of being engraved or which stamps were used on which seals and so on. The allegations as regards the EVM machines are generalized pleadings, lacking in material particulars and without any pleading as to how the alleged non-compliance with the election Rules *qua* the EVM machines have materially affected the result of election insofar it concerns the returned candidate for the purpose of Section 100(1)(d). It is not merely the non compliance of the provisions or rules, which renders an election void but it must be demonstrated that by reason of such non compliance, the result of the returned candidate has been materially affected.

24. The other non compliance alleged is incurring of expenses in excess of the limit prescribed and it is the Petitioner's own pleading that particulars of the expenditure was not provided to the Petitioner nor are they uploaded on the website. In face of such pleading, when the Petitioner himself is not aware of the expenses of Applicant's campaign, there is no cause of action for alleging non compliance of the circular dated 30th September, 2024. The photographs are relied upon to substantiate the allegation of violation of Code of Conduct. It is not specifically pleaded as to how the result of the election has been materially affected, even accepting for the purpose of arguments that there is a violation of the Model Code of Conduct by Respondent No. 1.

25. The allegation of corrupt practice under Section 123(7) of the RP Act, is non-furnishing of information sought under the RTI Act. The Petition pleads that an application was made under the RTI Act on 27th November, 2024, whereas the results of the election were declared on 23rd November, 2024, and therefore, the application under the RTI Act was filed after the results were declared. The essence of the corrupt practice under Section 123(7) is an attempt by the candidate or his agent to procure any assistance for the furtherance of the prospects of that candidate's election from any person, whether or not in the service of the Government belonging to the classes specified therein, which essentially is referable to the assistance procured during the election

process. As the expression used is “any assistance for the furtherance of the prospects of the candidate's election”, the non-supply of the information under the RTI Act, after the results have been declared, does not constitute assistance for furthering of prospects of the candidate's election. The pleading of non-supply of information under RTI Act does not constitute a ground for corrupt practice. Apart from the said fact, it is required to be pleaded that Respondent No. 1 or his agent had obtained the assistance for furthering the prospects of the Respondent No. 1 election, and the pleadings as regards the non-supply of information under the RTI Act falls short of setting out the cause of action as to how the refusal to provide information sought under the RTI Act can be said to constitute assistance given to Respondent No. 1 for furthering his prospect at election.

26. For the purpose of raising a challenge on the ground of corrupt practices, Section 83 of the RP Act provides that the contents of the Election Petition 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 such practice. The petition is lacking in setting forth the full particulars as required.

27. The other ground on which the challenge is raised is the illegal addition in the voters list post acceptance of nomination papers. The

Petition pleads that there was a discrepancy in the figures of the votes polled and the voters turn out, and as per voters list declared on 30th August, 2024, the total voters were 2,92,889 when the nomination papers of the Petitioner were accepted, however, the final voters list showed the total number of voters as 2,95,382, and the addition of 2,943 are added after the nomination papers were accepted and amounts to improper acceptance of vote thus, resulting in corrupt practice under Section 100(1)(d)(iii) of the RP Act.

28. Section 100 of the RP Act provides that elections can be declared void if the result of the election insofar it concerns a returned candidate has been materially affected by the improper reception, refusal or rejection of any vote or the reception of any vote which is void. The allegation is premised on the basis that there was a supplementary voters list that was not provided to the Petitioner, and must have been published after the last date of nomination. Identical pleadings were raised in the Petition in the case of ***Datta Rangnath Bahirat vs Sidharth S/O Padmakar Shirole*** (supra), and it was held that there is no pleading in the Election Petition as to which provisions of Constitution of India, RP Act or Rules or Orders made under the Act are not complied with and that the allegations are vague and do not disclose any cause of action. The pleading in the present case is that the supplementary voters list constitutes a corrupt practice under Section 100(1)(d)(iii) of the RP Act.

The basis for the same is that there was a list which was provided to the Petitioner on 30th August, 2024, which showed a particular number of voters and there was an addition of 2,943 voters after the nomination papers were accepted. There is no pleading as to how, even if such supplementary list was published, there was any improper reception of vote which is void. It is not merely an addition of certain voters which would be a ground for challenging the election under Section 100(1)(d) (iii), but a pleading to demonstrate that there was an improper reception of votes which is void. There is no cause of action as there is no particulars given as mandated by Section 83 of the RP Act. In order to substantiate the allegation, at Exhibit N, a statement has been produced showing the voter turnout in respect of Pune Cantonment. Neither the list which was provided to the Petitioner on 30th August, 2024 as alleged nor the supplementary voters list published on 29th October, 2024 has been appended to the plaint. There is also no pleading in the plaint as to how the addition of voters has materially affected the results of the election insofar as the Respondent No. 1 is concerned.

29. There must at least be a bare assertion in the plaint that the addition of the voters resulted in those votes being polled in favor of Respondent No. 1. The pleading being vague do not make out a cause of action for raising a challenge under Section 100(1)(d)(iii) of the RP Act.

30. The decision in the case of ***Datta Rangnath Bahirat vs Sidharth S/O Padmakar Shirole*** (supra) squarely applies to the facts of the present case, where an identical challenge was raised in respect of the same elections, though in respect of Shivajinagar Constituency. The pleadings in that Petition, as reproduced in the decision of the learned Single Judge, as well as the pleadings in the present Petition are substantially similar. The learned Single Judge, after considering the pleadings in the Election Petition, has held that there is a failure to plead the concise statement of material fact or set forth material particulars of corrupt practice as required under Section 83 of the RP Act, and dismissed the petition.

31. With substantially similar pleadings raising similar allegations, in the present case also, as the Petition fails to make out a cause of action for the purpose of Section 100 of the RP Act. In the absence of specific pleadings to demonstrate the corrupt practice, and the absence of specific pleadings showing that the results of the election of the returned candidate has been materially affected by the improper acceptance of the vote or non-compliance of Constitution of India, the statutory provisions or the rules framed thereunder, the returned candidate cannot be made to suffer the agonies of trial.

32. Mr. Deshpande had tendered across the bar various decisions which are annexed to the written submissions enunciating the law in so

far as challenge to the election is concerned. The applicability of the said decisions to the present facts has not been demonstrated. There is no quarrel with the proposition of law laid down in these decisions, however, it is the applicability of these decisions to the factual scenario herein as ground for dismissing the application under Order VII Rule 11 of CPC is doubtful.

33. In light of the above, the application is allowed. The Election Petition is rejected under Order VII Rule 11 of the CPC. Resultantly, the Election Petition stands dismissed. Other interim applications, if any, does not survive for consideration and stands disposed of.

(SHARMILA U. DESHMUKH, J.)