

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/ELECTION PETITION NO. 9 of 2023**

PANKAJKUMAR BACHUBHAI VELANI (JAIN)

Versus

ELECTION COMMISSION OF INDIA

Appearance:

MR.AMIT R JOSHI(6682) for the Petitioner(s) No. 1

for the Respondent(s) No.

1,10,11,12,13,14,15,16,17,18,19,2,20,22,3,4,5,6,7,8,9

ADVANCE COPY SERVED TO GOVERNMENT PLEADER/PP for the
Respondent(s) No. 21**CORAM:HONOURABLE MS. JUSTICE SANGEETA K. VISHEN****Date : 06/04/2023****ORAL ORDER**

1. Mr Amit R. Joshi, learned advocate, submitted that there is a non-disclosure on the part of the respondent no.5 in the affidavit filed in the prescribed Form no.26 read with Rule 4A of the Conduct of Election Rules, 1961. It is submitted that the respondent no.5, has not disclosed the factum of First Information Report being I-C.R. no.263 of 2018 in both the affidavits namely first affidavit and the subsequent affidavit which, was filed on 17.11.2022. It is submitted that the petitioner, is raising objection; however, the objection, has not been accepted, citing the RO Handbook Document paragraph 6.10.4. It is submitted that the provisions of the Representation of the People Act, 1951 (hereinafter referred to as "the Act of 1951") will prevail over the RO Handbook of procedure. It is submitted that Section 33A, provides that a candidate, shall apart from any information which he is required to furnish under the Act or the Rules in his nomination paper, the candidate, shall furnish the information also as to whether he is accused of any offence

punishable with imprisonment for two years or more in a pending case. It is submitted that the respondent no.5, was obliged to furnish information about registration of the First Information Report; however, failing to do so, would directly be covered under Section 100 of the Act of 1951 inasmuch as, the election can be declared void, *inter alia*, on the ground of non-compliance of the provisions of the Act or any Rules or orders made therein.

2. Considered the submissions. Issue notice to the respondent nos. 4 and 5, returnable on 16.6.2023.

RAVI P. PATEL

(SANGEETA K. VISHEN,J)