

IN THE HIGH COURT OF MANIPUR

AT IMPHAL

MC(EI. Petn.) No. 137 of 2022

(*Ref:-* EI. Petn. No. 24 of 2022)

Shri Thangjam Arunkumar, aged about 54 years, S/o (Late) Thangjam Birchandra of Chingmeirong Mamang Leikai, P.O. Lamlong, P.S. Lamphel, District: Imphal East, Manipur – 795010.

... Applicant

-Versus-

1. Shri Yumkham Erabot Singh, aged about 82 years, S/o (Late) Y. Angangyaima Singh of Khurai Ahongei, P.O. Imphal & P.S. Porompat, District- Imphal East, Manipur – 795010.

... Principal Respondent

2. Shri Okram Henry Singh, aged about 37 years, S/o (Late) O. Lukhoi Singh of Khurai Ahongei, P.O. & P.S. Porompat, District-Imphal East, Manipur – 795010.

3. Shri Rajkumar Priyobarta Singh, aged about 47 years, S/o R.K. Maipaksana Singh of Nongmeibung Wangkheirakpam Leikai, P.O. Imphal & P.S. Porompat, Imphal East District, Manipur – 795005.

... Proforma Respondents

-AND-

IN THE MATTER OF:

Ref: Election Petition No. 24 of 2022

Shri Yumkham Erabot Singh, aged about 82 years, S/o (Late) Y. Angangyaima Singh of Khurai Ahongei, P.O. Imphal & P.S. Porompat, District- Imphal East, Manipur – 795010.

.... Petitioner

-Versus-

1. Shri Thangjam Arunkumar, aged about 54 years, S/o (Late) Thangjam Birchandra of Chingmeirong Mamang Leikai, P.O.

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Lamlong, P.S. Lamphel, District: Imphal East, Manipur – 795010.

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3. Shri Rajkumar Priyobarta Singh, aged about 47 years, S/o R.K. Maipaksana Singh of Nongmeibung Wangkheirakpam Leikai, P.O. Imphal & P.S. Porompat, Imphal East District, Manipur – 795005.

... Respondents

B E F O R E

HON'BLE MR. JUSTICE AHANTHEMBIMOL SINGH

For the applicant	::	Mr. H.S. Paonam, Sr. Advocate assisted by Mr. B.R. Sharma, Advocate
For the respondents	::	Mr. Ajoy Pebam, Advocate; Mr. S. Chittaranjan, Advocate & Mrs. L. Ayangleima, Advocate
Date of Hearing	::	29-03-2023
Date of Judgment	::	11-04-2023

J U D G M E N T

[1] Heard Mr. H S. Paonam, learned senior counsel assisted by Mr. B.R. Sharma, learned counsel appearing for the applicant, Mr. S. Chittaranjan, learned counsel appearing for the respondent No. 1, Mr. Ajoy Pebam, learned counsel appearing for the respondent No. 2 and Mrs. L. Ayangleima, learned counsel appearing for the respondent No. 3.

The present application had been filed under Order-VI Rule-16 read with Section 151 of the CPC with the prayer for striking off paragraphs No. 4.4, 4.8, 4.9, 4.15, 4.16, 4.17 and 7 of the Election Petition No. 24 of 2022 filed by the respondent No. 1 herein.

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[2] It has been contended by Mr. H.S. Paonam, learned senior counsel appearing for the applicant that the pleadings made in paragraphs No. 4.4, 4.8, 4.9, 4.15, 4.16, 4.17 and 7 of the election petition are liable to be struck off as the same are unnecessary, scandalous, frivolous and vexatious in nature, which tends to prejudice, embarrass the applicant. It has also been submitted that the election petitioner is using the election petition as a tool to advance his political goals by soiling the clean image of the applicant/ Returned Candidate and the same is nothing but abuse of the process of the Court in order to keep himself relevant in the eyes of the voters and to ventilate his humiliation and heart burnt of being defeated in the hands of the applicant/ Returned Candidate.

[3] The learned senior counsel further submitted that Order-VI Rule-16 of the CPC, 1908 provides for the court to order that any matter in any pleadings before it be struck out on the grounds specified under clauses (a), (b) and (c) and that the very purpose of the Rule is to ensure that parties to a legal proceeding are entitled ex debito justitiae to have the case against them presented in an intelligible form so that they may neither be embarrassed nor lost in meeting the case.

[4] It has also been contended on behalf of the applicant that the pleadings made in paragraphs No. 4.4, 4.8, 4.9, 4.15, 4.16, 4.17 and 7 of the election petition lacks material facts constituting the cause of action required under various provisions of the Representation of People Act, 1951 and does not fulfil the mandatory requirement of law. The learned counsel submitted that the election petition does not contain a concise statement of material facts on which the petitioner relies and therefore does

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not disclose a triable issue or cause of action and that the so called specific allegations of corrupt practice as contained in paragraphs No. 4.4, 4.8, 4.9, 4.15, 4.16, 4.17 and 7 does not meet out the basic requirements, which could constitute corrupt practice or a cause of action as required by law. It has also been contended that the material facts as to how the information came to the knowledge of the election petitioner pertaining to various incidences, as mentioned in the referred paragraphs, is absolutely missing, whereas the same is preliminary requirement for maintainability of the election petition. The learned senior counsel contended that even the material particulars are absent in the election petition and thus it suffers from non-compliance of the provisions contained under Section 81 and 83 of the RP Act, 1951.

[5] It has also been submitted on behalf of the applicant that the averments made in the election petition are completely vague and lacking in material particulars and as such, no trial or enquiry is permissible on the basis of such vague, indefinite, imprecise averments and that the non-disclosure of the cause of action, material facts and violation of Section 81 and 83 of the RP Act, 1951 and Rule-94 A of the Conduct of Election Rules, 1961 makes paragraphs No. 4.4, 4.8, 4.9, 4.15, 4.16, 4.17 and 7 of the election petition unnecessary, scandalous, frivolous, vexatious and the same tends to cause prejudice and embarrassment to the respondent No. 1 and accordingly, the said paragraphs deserves to be strike off in the interest of justice.

[6] Mr. S. Chittaranjan, learned counsel appearing for the respondent No. 1 submitted that the election petition had been filed in the context of the

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gross misrepresentation and concealment of facts, documents, assets, liabilities and holdings by the applicant in filing Form-26 affidavit along with his nomination papers in the 12th Manipur Legislative Assembly Election held in the month of February and March, 2022 and that the actions and omissions of the applicant as detailed in the election petition are sufficient to constitute a case for setting aside the election of the applicant in terms of Section 100 of the Representation of People Act, 1951 (RP Act, 1951) being violative of Section 33 and 33A of the RP Act, 1951 read with Rule-4A of the Conduct of Election Rules, 1961 as well as instructions/informations issued by the Election Commission of India under Article 324 of the Constitution of India and being writ large with instances of corrupt practice as defined under Section 123 of the RP Act, 1951.

[7] Mr. S. Chittaranjan, learned counsel submitted that the respondent No. 1/ election petitioner disclosed all relevant and material facts in the connected election petition and the details of specific violation of law as well as commission of corrupt practice have been made and the pleadings in the election petition have been made in due compliance of the provisions of Section 83 of the RP Act, 1951 and the question as to whether the pleadings made in the election petition are sufficient or not can only be determined at the time of final hearing of the election petition. It has also been submitted that the allegations made in the election petition are in connection with improper acceptance of the nomination of the applicant and non-compliance with the statutory provisions and that the allegations regarding corrupt practice under Section 123 of the RP Act, 1951 is related

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with the concealment of material information in Form-26 affidavit of the applicant which amounts to undue influence.

[8] The learned counsel for the respondent No. 1 further submitted that the applicant has knowledge of the dispute in Bank loan, loan taken by his spouse, Bank Account opened in the name of himself, his spouse, his dependent, Government due/ liability, etc. and that a legal duty is cast upon the applicant to disclose the details of all the material information of himself, his spouse and his dependant in his affidavit in Form-26, but for reason best known to him, the applicant failed to disclose such information and such non-disclosure of the material information amounts to violation of the provisions of the RP Act, 1951 and rules made thereunder and hence, his election is fit to be declared as null and void as provided under Section 100 of the RP Act, 1951. The learned counsel strenuously submitted that all these material facts and relevant particulars are elaborately and precisely pleaded in his election petition, more particularly in paragraphs No. 4.4, 4.8, 4.9, 4.15, 4.16, 4.17 and 7 which the applicant is seeking for striking out in the present application and that if the pleadings in the said paragraphs are struck out, then, the election petition will have no stand for claiming the reliefs sought for therein. It has also been submitted that the present application does not even disclose the basic grounds and ingredients of that of the tenets of Order-VI Rule-16 of the CPC and the present application is devoid of merit and the same had been filed with malafide intention of delaying the proceedings of the election petition and accordingly the same is liable to be dismissed with heavy cost

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[9] Mr. Ajoy Pebam and Mrs. L. Ayangleima, learned counsels appearing for the respondents No. 2 and 3 endorsed the submission made by the learned counsel appearing for the respondent No. 1.

[10] I have heard the rival arguments of the learned counsel appearing for the parties at length and have also carefully examined the materials available on record. The object and purpose of the pleading is to ensure that the litigants came to trial with all issues clearly defined and to prevent cases being expanded or grounds being shifted during trial. Its object is also to ensure that each side is fully alive to the questions that are likely to be raised or considered so that they may have an opportunity of placing the relevant evidence appropriate to the issue before the court for its consideration. Since the object and purpose is to enable the opposite party to know the case he has to meet with, all pleadings must be pleaded in support of the case set up by the petitioner. In the absence of pleadings, a party cannot be allowed to lead evidence and failure to state even a single material fact will entail dismissal of the suit or petition. Particulars, on the other hand, are the details of the case which is in the nature of evidence, a party would be leading at the time of trial. On the other hand, the object of framing issues is to identify from the pleadings the question or points required to be decided by the courts so as to enable the parties to led evidence thereon. When the facts necessary to make out a particular claim, or to seek a particular relief, are not found in the plaint, the court cannot focus the attention of the parties or its attention on that claim or grant relief by framing appropriate issues. Thus, it is said that no amount of evidence,

on a plea that is not put forward in the pleadings, can be looked into to grant any relief.

[11] In the present case, the election petition had been filed in the context of the gross misrepresentation and the concealment of facts, documents, assets, liabilities and holdings by the applicant at the time of filing his affidavit in Form-26 along with his nomination papers in connection with the 12th Manipur Legislative Assembly Election. On careful perusal of the averments made in the election petition, more particularly the averments made in paragraphs No. 4.4, 4.8, 4.9, 4.15, 4.16, 4.17 and 7, this Court find that the election petitioner, respondent No.1 herein, elaborately and concisely pleaded all the material facts and set forth full particulars of all the actions and omissions of the applicant which are sufficient to constitute the case for claiming to set aside the election of the applicant in terms of the relevant provisions of the RP Act, 1951. In fact, the averments made in paragraphs No. 4.4, 4.8, 4.9, 4.15, 4.16, 4.17 and 7 of the election petition are primary facts for claiming the reliefs sought for in the election petition and in my considered view, if the averments made in the said paragraphs are struck out as prayed for by the applicant in the present application, the election petition cannot stand on the basis of the remaining averments.

[12] It will be also pertinent to mention here that the applicant, who is the respondent No 1 in the election petition, had already filed his written statement and in the said written statement the applicant did not make even a whisper about the averments made in the said paragraphs as being unnecessarily, scandalous, frivolous, vexatious, tend to prejudice,

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embarrass or an abuse of the process of the court. In the said written statement, the applicant generally denied some of the averments made in the said paragraphs and admit some of the averments. On careful consideration of the pleadings made in the election petition, this Court is not inclined to entertain the claim of the applicant made in the present application as this Court is of the considered view that the applicant has failed to satisfy this Court that the averments made in paragraphs No. 4.4, 4.8, 4.9, 4.15, 4.16, 4.17 and 7 of the election petition are either unnecessary, scandalous, frivolous and vexatious, or that they are such as may tend to prejudice, embarrass or delay the fair trial of the election petition, or that the averments are such as to constitute an abuse of the process of the court as contemplated under the provisions of Order-VI Rule-16 of the CPC.

In the result, the application is hereby dismissed as being devoid of merit. Parties are to bear their own cost.

JUDGE

FR / NFR

Devananda