

REPORTABLE

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

MC(El.Pet.) No. 46 of 2024

Md. Fajur Rahim, aged about 53 years old, S/o Md. Fajur Rahaman of Irong Chesaba Mathak Leikai, P.O. & P.S. Mayang Imphal, Kakching District, Manipur – 795132.

...Applicant

- Versus -

1. Usham Deben Singh, aged about 55 years, S/o (Late) U. Pukchao Singh of 3-Keirak Awang Usham Leikai, Sub-Division Kakching, P.O. & P.S. Kakching, Kakching District, Manipur – 795103.
2. Mayengbam Ranjit Singh, aged about 47 years old, S/o Late M. Manihar Singh of Wabgai Tera Urak, P.O. & P.S. Kakching, Kakching District, Manipur – 795103.
3. Md. Sikander, aged about 43 years, S/o Md. Ahmad Ali of Santhel Mayai Leikai, P.O. & P.S. Mayang Imphal, Kakching District, Manipur – 795132.
4. Sakir Ahmed, aged about 39 years old, S/o Late Hayad Ali of Sekmaijin Hangul Ngakhapat, Hangul, P.O. Mayang Imphal, P.S. Mayang Imphal, P.S. Hiyanglam, Kakching District, Manipur – 795132.

...Respondents

**AND
IN THE MATTER OF:
In Election Petition No. 23 of 2022**

Md. Fajur Rahim, aged about 53 years old, S/o Md. Fajur Rahaman of Irong Chesaba Mathak Leikai, P.O. & P.S. Mayang Imphal, Kakching District, Manipur – 795132.

...Petitioner

- Versus -

1. Usham Deban Singh, aged about 55 years old, S/o Late U. Pukchao Singh of 3-Keirak Awang Usham Leikai, Sub-Division Kakching, P.O. & P.S. Kakching, Kakching District, Manipur – 795103.

2. Mayengbam Ranjit Singh, aged about 47 years old, S/o Late M. Manihar Singh of Wabgai Tera Urak, P.O. & P.S. Kakching, Kakching District, Manipur – 795103.
3. Md. Sikander, aged about 43 years, S/o Md. Ahmad Ali of Santhel Mayai Leikai, P.O. & P.S. Mayang Imphal, Kakching District, Manipur – 795132.
4. Sakir Ahmed, aged about 39 years old, S/o Late Hayad Ali of Sekmajin Hangul Ngakhapat, Hangul, P.O. Mayang Imphal, P.S. Mayang Imphal, P.S. Hiyanglam, Kakching District, Manipur – 795132.

...Respondents

B E F O R E

HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA

For the applicant	:	Mr. N. Ibotombi, Sr. Adv.;
		Mrs. N. Savitri, Adv.
For the respondent	:	Mr. M. Rendy, Adv.
Date of hearing	:	26.05.2025
Date of Judgment & Order	:	23.09.2025

J U D G M E N T & O R D E R [C A V]

[1] Heard Mr. N. Ibotombi, learned senior counsel assisted by Mrs. N. Savitri, learned counsel for the applicant and Mr. M. Rendy, learned counsel for respondent No. 1.

[2] The present application has been filed under Order 6 Rule 17 read with Section 151 of the Code of Civil Procedure, 1908 with a prayer for allowing to amend the election petition.

[3] In the present application, the applicant submits that while drafting the election petition, some typographical mistake has occurred through bona fide mistake and inadvertence on the part of the applicant/election petitioner at:

- (i) Para 16, page 23, Sl. No. 9, in the column of polling Station No. “36/7” and in the column of name – “Moirangthem”.
- (ii) Para 16, page 23, Sl. No. 10, in the column of polling Station No. “36/7” and in the column of Electoral Sl. No. “525” and in the column of name – “Maibam”.
- (iii) Para 16, page 24, Sl. No. 18, in the column of Electoral Sl. No. “402”.
- (iv) Para 16, page 26, Sl. No. 33, in the column of name “Mayengbam Bisheshwor”.
- (v) Para 16, page 30, Sl. No. 67, in the column of polling Station No. “36/23” and in the column of Electoral Sl. No. “ ”.
- (vi) Para 16, page 30, Sl. No. 68, in the column of polling Station No. “36/23” and in the column of Electoral Sl. No. “ ”.

[4] It has been pleaded by the applicant/election petitioner that the said typographical mistake occurred in the election petition of the applicant/election petitioner is very much required to be amended for better appreciation and for a just decision. Therefore, the applicant/election petitioner proposed to amend the election petition as follows:—

- (i) In para 16, page 23, Sl. No. 9, in the column of polling Station No. “36/7” be deleted and in its place “36/6” be inserted and also in the column of name – “Moirangthem” be deleted and in its place “Moirangmayum” be inserted.
- (ii) In para 16, page 23, Sl. No. 10, in the column of polling Station No. “36/7” be deleted and in its place “36/6” be inserted, in the column of Electoral Sl. No. “525” be deleted and in its place “553” be inserted and in the column of name – “Maibam” be deleted and in its place “Moirangmayum” be inserted.
- (iii) In para 16, page 24, Sl. No. 18, in the column of Electoral Sl.

No. "402" be deleted and in its place "432" be inserted.

- (iv) In para 16, page 26, Sl. No. 33, in the column of name "Mayengbam Bisheshwor" be deleted and in its place "Huidrom Bisheshwar" be inserted.
- (v) In para 16, page 30, Sl. No. 67, in the column of polling Station No. "36/23" be deleted and in its place "36/19" be inserted, and also in the column of Electoral Sl. No. " ", the numeric number "486" be inserted.
- (vi) In para 16, page 30, Sl. No. 68, in the column of polling Station No. "36/23" be deleted and in its place "36/21" be inserted, and in the column of Electoral Sl. No. " ", the numeric number "306" be inserted.

[5] The respondent No. 1 objects to the proposed amendment of election petition on the following grounds:—

- (i) That, the proposed amendment sought for correction of the names by the applicant are different persons.
- (ii) That, the names and information mentioned in Para No. 16 of the election petition and information of the amendment sought for are different names.
- (iii) That, in the amendment application, the names which are already mentioned in Para No. 16 of the election petition and the names mentioned sought for correction are never pleaded by the applicant as one and same persons. There are full of controversy and need for verification.
- (iv) That, stage of the case is examination of PW's trial of the case already started by framing issues. Therefore,

amendment sought for are on belated stage.

- (v) That, election petition is to be filed within 45 days from the date of declaration of result. As the election result was declared on 03-05-2022, automatically proposed amendment sought for is time barred one.
- (vi) That, amendment to election petition cannot be permitted to cure inherent defects, after expiry of the limitation period.
- (vii) That, the proposed amendment sought for will change the character of the election petition.
- (viii) That, the proposed amendment sought for will introduce new facts.

[6] Mr. N. Ibotombi, learned senior counsel for the applicant/election petitioner submits that the proposed amendment is sought for to correct typographical error in the election petition and to insert few innocuous data which is the missing figure of booth number, etc. It is clarified that such amendment of typographical regarding surname of persons will not change the nature of the case and the same is necessary for adjudication of the petition on merit. He relies on the following decisions.

(i) **Gore Lal Shakya v. Maharaj Singh Yadav: 1995 Suppl (3) SCC 407-** It is held that typographical error in the name of 10th respondent in the election petition shall not invalidated the election petition under Section 86(1) of the Representation of People Act, 1951.

(ii) **Ram Prasad Sharma v. Mani Kumar Subba: (2003) 1 SCC 289-** Typing the name “Abul Khayer” as “Abdul Khyer” in the election

petition was held to be mere typographical error and election petition cannot be dismissed on this ground alone.

(iii) **Shri Jotin Waikhom v. Shri Khumucham Joykisan Singh: MC(EP) No. 110 of 2022 Ref: EP 12 of 2022, order dated 27-02-2023-** This Court held that the prayer to delete “h” from the name of the respondent No.1- Joykishan under Order 6 Rule 17 CPC in the election petition is just for correcting typographical error and the same will not change the nature of the case and will not introduce new material facts. Accordingly, the prayer for amendment for dropping extra alphabet “h” was allowed.

[7] On the other hand, Mr. M. Rendy, learned counsel for respondent No.1/returned candidate raises the preliminary objection that the applicant has not sought leave for filing the proposed amendment after 2½ years after filing of the election petition and the present application is barred by limitation under Section 81(1) of RP Act. On merit, it is submitted that by the proposed amendment, the applicant tries to cure the inherent defects in election petition after the lapse of 45 days of filing election petition. If the amendment is allowed as sought for, it will allow filing fresh election petition with new material fact after the expiry of 45 days limitation prescribed by Section 81(1) of R P Act. Learned counsel for the respondent No.1 further submits that in an election petition even if the provision of Order 6 Rule 17 of CPC is applicable in terms of Section 87 of the Act, amendment incorporating new material facts cannot be introduced after expiry of 45 days of limitation. Mr. M. Rendy has pointed out that by the proposed amendment

at six places in the election petition, the applicant makes an attempt to correct patent defects in the election petition by introducing new material facts and the same is impermissible. It is urged that “Moirangthem” and “Moirangmayum” and also “Mayengbam” and “Huidrom” are different surnames in Manipur and the proposed amendment cannot be treated as mere typographical errors as suggested. The applicant proposes to introduce different persons with same names but different surnames. Changing the polling station numbers in the election petition will change the nature of election petition. It is prayed that the application be dismissed with heavy cost.

[8] Mr. M. Rendy, learned counsel for the applicant relies on the following case laws in support of his submission:

- (i) **Anil Vasudev Salgaonkar v. Naresh Kushali Shigaonkar: (2009) 9 SCC 310:** All ‘material facts’ must be pleaded by the party in support of the case set up by him. Since the object and purpose is to enable the opposite party to know the case he has to meet with, in the absence of pleading, a party cannot be allowed to lead evidence. Failure to state even a single material fact, hence, 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.
- (ii) **Ram Sukh v. Dinesh Aggarwal: (2009) 10 SCC 541,** Hon’ble Supreme Court held that averments of all material facts have to be pleaded in the petition and failure to plead even a single material fact

will be fatal. Material particulars are not required to be pleaded in the petition.

(iii) **Ashok Kumar Gedi vs. Jyotrimayee Behera and Ors.:**

MANU/OR/0555/- Orissa High Court held that new pleadings cannot be introduced by way of amendment and relevant para are reproduced below.

"4. Considering the rival contentions of the parties, this Court finds the moot question involved herein even assuming the election proceeding involved herein has the scope of Order 6 Rule 17 of the Code of Civil Procedure, being considered, looking to the nature of amendment since attempted for correcting an inherent mistake, if permissible in the eye of law? This Court here takes into account the pleadings already exist the election petition in paragraph-4, which reads as follows:

"4) That while the voting process was going on unfortunately all on a sudden O.P. No. 1 insisted six P.S. Members of Chandanpur Bari, Madhusudanpur, Ratalanga, Arangabad & Amathpur G.P. who were very much hale hearty on that day presented the E.O. i.e. O.P. No. 2 that they are not capable to caste their votes and thus their representatives be permitted to caste their votes on their behalf to which the present petitioner and some other voters objected."

Proposed amendment moved by the petitioner therein remains as follows:

"That in Para-4 of the election petition 'Ratnagiri, Sahupada & Mandari' be written in place of Chandanpur, Madhusudanpur & Amathpur."

Reading together both the above paragraphs, this Court finds mistake committed through the pleading in paragraph-4 cannot be considered to be a simple typographical error. Keeping in view that the contesting opposite party herein moved an election petition, it is unbelievable even the petitioner is making his ground involving mal functioning in an election petition giving wrong description of the villages./For the opinion of this Court, the mistake appears to be inherent mistake by allowing change in the village names after election dispute period is over which will be amounting to extending filing of election dispute beyond the time stipulation prescribed in the Grama Panchayat Election Rules. Finding the election dispute involved inherent mistake and

amendment being brought after 15 days restriction from filing the election dispute of this nature is impermissible in the eye of law. As observed earlier in the event election petitioner was unaware of names of villages so relied and he was waiting to know the names of villages in a development under the RTI exercise, nothing prevented the Election Petitioner from not disclosing the names of villages and leaving a statement that his right to giving the names of villages to be brought out subsequent stage but dependant on his RTI exercise. Reading from the statement made in paragraph-4 it appears with close mind it already indicated the particular villages involved therein. This Court discard the plea of Mr. Rath, learned counsel on the premises of obtaining information through the R.T.I. development.”

[9] This Court has perused the materials on record specially the six proposed amendments in the election petition, the submissions at bar and case law cited. Before proceeding further, it will be relevant to discuss the case law on the amendment of election petition.

[10] In the case of **Ram Dayal vs. Brijraj Singh and Ors. : MANU/SC/0269/1969: 1969 INSC 136**, Hon'ble Supreme Court held that amendment in election petition introducing new material facts is impermissible after expiry of 45 days as stipulated under Section 81(1) of the Representation of the People Act, 1951. Para 2 is reproduced below:

“2. An election petition has, under Section 81(1) of the Representation of the People Act, 1951, to be filed within 45 days of the date of the publication of the result of the election. An application for setting aside the election, that Dataram was below the age of 25 and on that account the election was liable to be set aside under Section 100(1)(d)(i) of the Act made on August 15, 1967, would plainly have been barred, and by amendment the ground could not be permitted to be added. This Court in Harish Chandra Bajpai v. Triloki Singh MANU/SC/0057/1956 : [1957]1SCR370 held that the Election Tribunal has power to allow an amendment in respect of particulars of illegal and corrupt practices, or to permit new instances to be included, provided the grounds or charges are specifically stated in the petition, but its power to permit amendment of a petition under Order VI Rule 17 of the CPC will not be exercised so as to allow new grounds or charges to be raised or the character of the

petition to be so altered as to make it in substance a new petition, if a fresh petition on those allegations would on the date of the proposed amendment be barred. By the amendment a new ground for setting aside the election was sought to be introduced, and the High Court was right in rejecting the application for amendment.”

[11] In the case of **Muniraju Gowda P.M. vs. Munirathna and Ors.: MANU/SC/0756/2020: 2020 INSC 594**, Hon'ble Supreme Court held that amendment proposing to incorporate new material facts after expiry of the period of limitation cannot be allowed in an election petition. Para 16 & 17 are reproduced below for ready reference:

*“16. It is only after two months of the first Respondent filing I.A. No. 4 of 2019 that the Petitioner herein moved an application in I.A. No. 1 of 2020 for amendment of the pleadings by incorporating one paragraph, after the existing para 30 of the election petition. To be precise I.A. No. 1 of 2020 was filed on 11.02.2020 seeking to incorporate one paragraph as para 30(a) in the original election petition. This proposed additional paragraph comprised of two parts, one relating the alleged corrupt practices and the other relating to the requirements of Section 101(b) of the Act. By the order impugned herein, the High Court allowed the amendment to the extent of first part of para 30(a), but rejected the amendment as regards the second part which relates to the ingredients of Section 101 (b). **As rightly pointed out by the High Court, the election Petitioner cannot be allowed to suddenly wake up to the reality of lack of pleading of material facts, relating to his rights in terms of Section 101 after more than 18 months of the filing of the election petition. The same is also barred by limitation. Therefore, the High Court did the right thing in disallowing the second part of the proposed para 30 (a) and in striking off prayer (c).***

17. In any case, the second part of paragraph 30 (a) sought to be incorporated by way of amendment, does not satisfy the requirement of pleading of material facts, necessary for the High Court to form an opinion in terms of Clause (a) or (b) of Section 101.”

[12] In the case of **V.S. Achuthanandan v. P.J. Francis and Ors.: MANU/SC/0197/1999: 1999 INSC 123**, Hon'ble Supreme Court held in para

14 that introduction of new material facts in election petition cannot be permitted by way of amendment after the expiry of the time limit.

“14. It would, thus appear, that the election petition was rejected mainly on the ground that it did not disclose the cause of action as according to the learned trial Judge the allegations regarding corrupt practice were vague and did not disclose "material facts and full particulars" of the corrupt practice alleged. It is evident that the learned trial Judge did not distinguish between the 'material facts' and 'material particulars' of allegations regarding corrupt practices as defined under Section 123 of the Act. The Law on the point is well-settled which appears to have not been taken note of by the learned trial Judge. After referring to various pronouncements of this Court including cases in Balwan Singh v. Lakshmi Narain and Ors. MANU/SC/0192/1960 : [1960]3SCR91, Samant N. Balakrishna and Anr. v. George Fernandez and Ors. MANU/SC/0270/1969 : [1969]3SCR603 . Virendra Kumar Saklecha v. Jajiwan and Ors. [1973] 1 SCC 826, Shri Udhav Singh v. Madhav Rao Scindia MANU/SC/0302/1975 : [1976]2SCR246 , F.A. Sapa and Ors. v. Singera and Ors. and Gajanan Krishnaji Bapat and Anr. v. Dattaji Raghobaji Meghe and Ors. MANU/SC/0455/1995 : AIR1995SC2284 and host of other authorities, this Court in L.R. Shivaramagowda etc. v. T.M. Chandrashekar etc. MANU/SC/0756/1998 : AIR1999SC252 held that while failure to plead 'material facts' is fatal to the election petition and no amendment of the pleading is permissible to introduce such material facts after the time limit prescribed for filing the election petition, the absence of 'material particulars' can be cured at a later stage by an appropriate amendment. An election petition was not liable to be dismissed in limine merely because full particulars of corrupt practice alleged were not set out. It is, therefore, evident that material facts are such primary facts which must be proved at the trial by a party to establish existence of a cause of action. Whether in an election petition a particular fact is material fact or not, and as such, required to be pleaded is a question which depends on the nature of the charge leveled, the ground relied upon, and in the light of the special circumstances of the case.”

[13] In **Moirangthem Hemanta Singh v. Paonam Brojen Singh & Anr.:2024 SCC OnLine Mani 507**, this Court discussed the scope of amendment of election petition as embodied under Order 6 Rule 17 of CPC read with the mandatory provisions of Sections 87 & 81 of the

Representation of the People Act, 1951 and held that any amendment in the election petition has to be brought within 45 days as mandated by Section 81(1) of the Act as below:

*“[18] From the above cited decisions, it is clear that the election petition is to be filed within 45 days as stipulated under Section 81 of RP Act and concise material facts have to be pleaded and failure to do so shall be liable for its outright rejection at threshold under Order 7 Rule 11 CPC. **Any amendment has to be made within 45 days as laid down by Section 81.** Material particulars are facts required for proving the material facts as evidence and hence not parts of the pleadings.”*

[14] From the above decisions, the law is settled that the provision of Order 6 Rule 17 CPC for amendment of the pleadings will be applicable to election petition in terms of Section 87 of Representation of People Act, 1951 as nearly as possible, subject to the provisions of the RP Act and Rules. In other words, unlike a civil suit, the amendment of election petition has to be preferred within the stipulated 45 days of limitation as prescribed by Section 81(1) of RP Act. By way of amendment, new material facts as required under Section 83(1) of RP Act cannot be introduced, otherwise it will amount to allowing fresh election petition after 45 days of limitation period. These are the few limitations imposed on the applicability of Order 6 Rule 17 CPC in election petition. The present application has to be examined within these parameters.

[15] In the present case, the applicant/election petitioner proposes to introduce new material facts in the election petition by way of amendment of the petition under the grab of Order 6 Rule 17 CPC stating that the proposed amendments are for correcting mere typographical errors. In para 3 of the

application the details of the proposed amendments have been enumerated. The nature of proposed amendments is for changing the polling station numbers and changing the surnames of the voters mentioned in Para 16 of the election petition. This Court is of the considered opinion that the proposed amendments cannot be treated as mere typographical mistakes. New polling numbers and new surnames are proposed to be introduced in the election petition by way of the amendment application under Order 6 Rule 17 CPC. The proposed amendments are new material facts sought to be brought into the election petition that too after 2½ years of filing the election petition. The same cannot be done after lapse of 45 days. In the circumstances, the application being MC[El.Pet.] No. 46 of 2024 is dismissed with cost of Rs.10,000/- to be deposited with High Court Bar Association of Manipur for relief purposes within a period of 30 days and the applicant is directed to file proof of deposit with the registry.

[16] List the main petition, ie, El. Pet. No. 23 of 2022 before the learned Commissioner for examination of further PWs on **10-10-2025**.

JUDGE

FR/NFR

Victoria