

**NON-REPORTABLE**

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

**MC(El.Pet.) No. 47 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 Sekmaiin 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, 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                 |
| <b>Date of Order</b> | <b>: 23.09.2025</b>          |

**ORDER [CAV]**

**[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 by the applicant/election petitioner praying for grant of leave for allowing to file the certified copies of the (i) Notice dated 16-02-2022 and Annexure-1 enclosed in the said notice; (ii) Final Result Sheet dated 10-03-2022 of the 12<sup>th</sup> Manipur Legislative Assembly from the 36-Wabgai Assembly Constituency; and (iii) Copy of the letter dated 28-03-2022 which are annexed as Annexure-A/1, A/4 and A/7 respectively in the election petition.

[3] Mr. N. Ibotombi, learned senior counsel for the applicant has submitted that at the time of filing the election petition, the certified copies of the above-mentioned documents were not available/in the possession of the applicant/election petitioner and as such the same were filed in the form of xerox copy of the original copies. As the concerned authority issued certified copies of the (i) Notice dated 16-02-2022 and Annexure-1 enclosed in the said notice; (ii) Final Result Sheet dated 10-03-2022 of the 12<sup>th</sup> Manipur Legislative Assembly from the 36-Wabgai Assembly Constituency; and (iii) Copy of the letter dated 28-03-2022 which are annexed as Annexure-A/1, A/4 and A/7 respectively in the election petition, the applicant craves leave of the Hon'ble Court to allow the applicant/election petitioner to file the certified copies of the above mentioned documents.

[4] Mr. M. Rendy, learned counsel for the respondent No. 1 states that the contents of the miscellaneous application filed by the applicant for allowing to file the certified copies, is opposed on the following grounds:—

(i) That, the stage of the present election petition is examination of P.W.'s.

(ii) That **Order VII Rule 14(3) C.P.C.** says that:

A document which ought to have been produced in Court by the plaintiff when the plaint is presented, or to be entered in the list to be added or annexed to the plaint but is not produced or entered accordingly, shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit.

In the present case, documents were already filed as photostat copies. It is about production of documents as

additional documents with a leave of the Court not for substitution of the already filed documents.

(iii) That, **Order XIII Rule 1(1) C.P.C.** says that:

Original documents to be produced at or before the settlement of issues:—

The parties or their pleader shall produce on or before the settlement of issues, all the documentaries evidence in original where the copies thereof have been filed along with the plaint or written statement.

Issues already framed and trial also already started by filing list of witnesses.

- (iv) That, the stage of filing original/certifies copies by the petitioner already over. No room for grant of leave for filing certified copies of the petitioner's documents.
- (v) That, no explanation about the production of the documents sought for at the belated stage.
- (vi) That, the documents were not furnished at the relevant time before the settlement/framing of the issues.
- (vii) That, the proposed of filing of documents mentioned in the petition is not clearly mentioned that it is an additional documents or substitution of earlier documents.

**[5]** In the case of **Jitu Patnaik v. Sanatan Mohakud: (2012) 4 SCC 194**, Hon'ble Apex Court distinguished between material facts and material particulars or evidences in the election petition, as below:

**43. Order 6 Rule 2 CPC, to the extent it is relevant, reads as under:**

***"2. Pleading to state material facts and not evidence.—(1) Every pleading shall contain, and contain only, a statement in***

*a concise form of the material facts on which the party pleading relies for his claim or defence as the case may be, but not the evidence by which they are to be proved.*

*(2)-(3) \* \* \**

**44.** Section 83(1)(a) of the 1951 Act is as follows:

**“83. Contents of petition.—**(1) An election petition—

*(a) shall contain a concise statement of the material facts on which the petitioner relies;”*

**45.** A bare perusal of the above provisions would show that the first part of Order 6 Rule 2 CPC is similar to sub-section (1)(a) of Section 83 of the 1951 Act. It is imperative for an election petition to contain a concise statement of the material facts on which the election petitioner relies. What are the material facts? All basic and primary facts which must be proved at the trial by a party to establish the existence of a cause of action or defence are material facts. The bare allegations are never treated as material facts. The material facts are such facts which afford a basis for the allegations made in the election petition. The meaning of “material facts” has been explained by this Court on more than one occasion. Without multiplying the authorities, reference to one of the later decisions of this Court in *Virender Nath Gautam v. Satpal Singh*<sup>8</sup> shall suffice.

**46.** In *Virender Nath Gautam*<sup>8</sup> this Court referred to the leading case of *Philipps v. Philipps*<sup>9</sup> and the subsequent decision in *Bruce v. Odhams Press Ltd.*<sup>10</sup> that referred to *Philipps*<sup>9</sup> and observed in paras 34 and 35 of the Report as follows: (*Virender Nath case*<sup>8</sup>, SCC p. 629)

“34. A distinction between ‘material facts’ and ‘particulars’, however, must not be overlooked. ‘Material facts’ are primary or basic facts which must be pleaded by the plaintiff or by the defendant in support of the case set up by him either to prove his cause of action or defence. ‘Particulars’, on the other hand, are details in support of material facts pleaded by the party. They amplify, refine and embellish material facts by giving distinctive touch to the basic contours of a picture already drawn so as to make it full, more clear and more informative. ‘Particulars’ thus ensure conduct of fair trial and would not take the opposite party by surprise.

*35. 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.”*

**47.** *Whether the averments in the election petition constitute material facts or not would depend upon the facts of each case. As stated by this Court in Virender Nath Gautam<sup>8</sup>, no rule of universal application can be applied in finding out whether the statements of fact made in the election petition amount to material facts or not. It is, therefore, necessary to consider the pleadings with regard to suppression of 319 votes in Para 7(D) of the election petition.*

<sup>8</sup> (2007) 3 SCC 617

<sup>9</sup> (1878) 4 QBD 127 (CA)

<sup>10</sup> (1936) 1 KB 697 : (1936) 1 All ER 287 (CA)

**[6] In Moirangthem Hemanta Singh v. Paonam Brojen Singh &**

**Anr.:2024 SCC OnLine Mani 507**, this Court discussed the permissibility of

filing of material documents even after 45 days of limitation as stipulated by

Section 81(1) of Representation of the People Act, 1951 and held 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.*

*[19] On perusal of the election petition, specially, the contents of para 10, 11 and 12, it is found that the applicant/ election petitioner has pleaded all instances of concealment of material information in the affidavit Form-26 by the returned candidate. However, one page of the affidavit with respect to non-movable property has been missing and the same is said due to inadvertence. By the present application, the election petitioner seeks leave of this Court for inserting this particular (Annexure R-1 to the application) as page 95A in between pages 95 and 96. This Court is of the firm opinion that missing document from the affidavit Form-26 (Annexure R-1) is a material document only and the fact relating to this document has already been pleaded in the election petition. Accordingly, first point is answered in favour of the applicant.*

*[20] It is the settled position of law that only material facts are to be pleaded in an election petition as stipulated under Section*

83(1)(a) of RP Act and such a petition has to be filed within 45 days of the declaration of the election result in terms of Section 81 of the Act. However, material particulars which are explanatory facts/documents of the material facts pleaded in the election petition are in the nature of evidence and are not required to be pleaded in the petition. It is held in para 18 above that missing document from the affidavit Form-26 [Annexure R-1] is only a material particular and as such the same is not required to be filed within 45 days in terms of Section 81 of the Act. Second point is also decided in favour of the applicant.”

[7] In the present case, the documents proposed to be brought on record are the certified copies of the documents that have already been filed along with the election petition as photocopies, ie, Annexures- A/1, A/4 & A/7. By the present application, no new documents are sought to be brought on record. Since the certified copies of these documents were not available at the time of filing of the election petition, photocopies of these documents were annexed. After obtaining certified copies of the documents from the authorities, the same are proposed to be brought on record by way of the present application. All the material facts within the meaning of Section 83(1) of RP Act have already been pleaded in the election petition. The certified copies are intended to authenticate the photocopies of documents already on record and the same can be filed beyond 45 days, as they do not introduce any new material facts.

[8] In the circumstances, the application MC[El.Pet.] No. 47 of 2024 is allowed and the certified copies of Annexures A/1, A/4 & A/7 are brought on record. No cost.

**JUDGE**

**FR/NFR**  
victoria