

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

MC(EI.Pet.) No. 60 of 2022
[Ref: EL.PET. No. 17 of 2022]

Shri Chinlunthang, aged about 46 years, S/o (Late) Thangkhanlal, resident of Hiangtam (V) Singhat, Singhat Sub-Division, P.O. & P.S. Singhat, District: Churachandpur, Manipur, Pin- 795139.

Applicant/s

Vrs.

1. Shri Ginsuanhao Zou, aged about 62 years, S/o Late Thangzalong, resident of M. Buangmun Village, P.O. & P.S. Singhat District: Churachandpur, Manipur, Pin-795139 at present residing at Lailam Veng, P.O. & P.S. Churachandpur, Manipur, Pin – 795128.
2. Shri Tuankhan Kiamlo Hangzo, aged about 61 years, S/o Late Vungkham Hangzo, resident of Paite Veng, P.O. Imphal, P.S. Lamphel District: Imphal West, Manipur, Pin- 795001.
3. Shri T. Hangkhanpau, aged about 58 years, S/o Late T. Doupu, resident of Singhat Hausa Veng, P.O. & P.S. Singhat, District: Churachandpur, Manipur, Pin-795139.

Respondent/s

BEFORE

HON'BLE THE CHIEF JUSTICE MR. M. SUNDAR

For the applicant : Mr. L. Shashibhushan, Sr. Advocate,
instructed by Mr. Md. Fakaruddin,
Advocate.

For first respondent : Mr. Ajoy Pebam, Advocate along
with Mr. L. Rojeshon, Advocate.

Second & third respondents : Set ex-parte

Date of Judgment & Order : 18.02.2026

JUDGMENT & ORDER (ORAL)

[1] Subject matter of captioned main election petition pertains to election to one of the Assembly Constituencies qua 12th Manipur Legislative Assembly and the Assembly Constituency is 60-Singhat Assembly Constituency.

[2] Losing candidate who finished second, has filed the main election petition primarily on grounds of misrepresentation, concealment of facts, documents, assets and holdings by the returned candidate at the time of nomination. It is the contention of the election petitioner that in terms of Section 100 of 'the Representation of Peoples Act, 1951 (43 of 1951)' ('RP Act' for the sake of convenience) the alleged misrepresentation, concealment of facts, documents, assets and holdings is violation of Sections 33 & 33A of RP Act read with Rule 4A of 'Conduct of Election Rules, 1961' ('said Election Rules' for convenience). Owing to the scope of the legal drill at hand i.e., disposal of captioned Miscellaneous Case (MC) being MC(El.Pet.) No. 60 of 2022, it may not be necessary to dilate more on facts and grounds in the main election petition.

[3] As regards captioned MC, the same has been taken out by the returned candidate under Section 86 (1) of RP Act seeking dismissal of the main election petition on the ground that it does not comply with sub-Sections (1) & (3) of Section 81 of RP Act. To be noted, sub-Section (1) of Section 81 of RP Act mandates that the election petition may be 'presented by' any candidate qua election concerned or an elector. Elector has been explained vide explanation to Section 81(1) as a person entitled to vote at the election to which the election petition relates, irrespective of whether he has voted or not. It is not necessary to dilate on this aspect as the captioned election petition has been filed by a losing candidate who finished the 2nd. Suffice to add that the losing candidate has also made an alternate prayer for declaring himself as the elected candidate in the aforesaid Assembly Constituency. Sub-Section (3) of Section 81 mandates that an election petition shall be accompanied by as many as copies as there are

respondents mentioned in the petition and every such copy shall be attested by the petitioner under his/her own signature to be a true copy of the petition.

[4] Before proceeding further it is necessary, for the purpose of capturing facts comprehensively to write that 2(two) other losing candidates have been arrayed as R2 & R3 in the main election petition. To be noted, 'R2' & 'R3' are abbreviations denoting 'second respondent' and 'third respondent' respectively. R2 & R3 in main election petition are R2 & R3 in captioned MC too. Though R2 & R3 have entered appearance through counsel and names of their counsel are duly shown in the cause-list, they have not chosen to come before this Court and in this regard, this Court has already made proceedings dated 05.11.2025, 08.12.2025 and 10.12.2025, which read as follows:

'08.12.2025

Read this in conjunction with and in continuation of earlier proceedings made in the listing on 05.11.2025 which reads as follows:

'05.11.2025

Mr. Ajoy Pebam, learned counsel for election petitioner(losing candidate); Mr. L. Shashibhushan, learned senior counsel for respondent No. 1(returned candidate); and Ms. Alina, learned counsel for respondent No. 2(another losing candidate); are before this Court but there is no representation for respondent No. 3(yet another losing candidate).

Though respondent No. 3 has been duly served, respondent No. 3 has entered appearance through counsel and name of the counsel Mr. Murtaza Ahmed is duly shown in the cause-list, there is no representation either in physical Court or on the VC platform

In the above scenario, with the intention of giving opportunity to respondent No. 3 and learned counsel for respondent No. 3, captioned matter will stand over by 1(one) week but with a caveat that if there is no

representation for respondent No. 3 in next listing also either in physical Court or in VC platform, matter will be heard out on the basis of counsel who are before this Court and on the basis of available record.

Be that as it may, both sides agreed that MC(El.pet.) No. 60 of 2022 which has been taken out by the returned candidate seeking dismissal of main election petition inter alia on the ground of non-compliance qua Section 81(3) of RP Act 1951 is to be heard out first. List 1(one) week hence.

List on 12.11.2025.'

Mr. Ajoy Pebam, learned counsel for election petitioner and Mr. L. Shashibushan, learned senior counsel instructed by Md. Fakaruddin, learned counsel on record for R1 (returned candidate) are before this Court but there is no representation for R2 & R3.

To be noted, today also, there is no representation for R3.

As regards R2, there is no representation today, with the intention of giving opportunity to R2 and learned counsel for R2, this matter will stand over to day after tomorrow but with a caveat that captioned matter will be taken up and heard out if there is no representation for R2 in the next listing also. To be noted, as regards R3, already such a caveat has been put in place vide proceedings dated 05.11.2025.

It is also to be noted that captioned MC(El.Pet.) No. 60 of 2022 which has been taken out by R1(returned candidate) seeking dismissal of the election petition on the ground of non-compliance with Section 81(3) of the Representation of the People Act, 1951 will be heard out first. List day after tomorrow.

List on 10.12.2025.'

'10.12.2025

Mr. L. Rojeshon, learned counsel for election petitioner and Md. Fakaruddin, learned counsel for R1 (returned candidate) are before this Court.

Learned counsel for election petitioner is ready.

In the first call, Md. Fakaruddin, learned counsel for returned candidate requested for a pass over to enable Mr. L.

Shashibushan, learned senior counsel who is leading him to appear in the matter.

In the second call, learned counsel for returned candidate sought an adjournment.

To be noted, MC(EI.Pet.) No. 60 of 2022 which has been taken out by the returned candidate with a prayer for dismissal of main Election Petition has to be heard out first.

Election petitions have to be heard out on a day today basis. In this view of the matter, the next listing will have to be treated as peremptory.

List on 21.01.2026.'

[5] To be noted, in 08.12.2025 proceedings the 05.11.2025 proceedings has been reproduced and therefore, the same is not being extracted and reproduced again separately supra. In the light of the afore-referred proceedings, R2 & R3 are set ex-parte in the captioned MC and this Court proceeds with the matter.

[6] As already alluded to supra, captioned MC has been taken out by R1(returned candidate). Therefore, MC applicant shall be referred to as 'returned candidate', the lone contesting respondent is the election petitioner and therefore 'R1', who is the lone contesting respondent shall be referred to as 'election petitioner'.

[7] In the hearing today, Mr. L. Shashibhushan, learned Sr. Advocate instructed by Mr. Md. Fakharuddin, learned counsel on record for the returned candidate and Mr. Ajoy Pebam, learned counsel along with Mr. L. Rojeshon, learned counsel for election petitioner are before this Court.

[8] Reverting to the crux and gravamen of captioned MC, learned senior counsel for MC applicant, elaborating on violation/non-compliance qua sub-Sections (1) & (3) of Section 81 made the following 2(two) points:

(i) The election petition should have been presented in this Court by the election petitioner himself and it could not have been presented by the counsel for election petitioner though the election petitioner has executed a duly valid Vakalatnama in favour of learned counsel for the election petitioner;

(ii) The copy of the election petition served on the returned candidate, though attested as a true copy is not notarized.

This according to learned counsel is non-compliance qua sub-Section (3) of Section 81.

[9] The election petitioner has filed an affidavit-in-opposition (written objection to the captioned MC) and the reply to the aforesaid 2(two) points in a nutshell is as follows:

(i) The election petition was presented in this Court by the election petitioner himself along with his counsel and it is incorrect to say that the election petition was not presented by the election petitioner in the Registry of this Court;

(ii) The affidavit accompanying the election petition is duly attested by Commissioner of Oaths. As regards the copy furnished to the returned candidate, it has been attested as true copy by the election petitioner and this will suffice qua compliance with sub-Section (3) of Section 81.

[10] As regards the rival contentions, learned senior counsel for the returned candidate elaborating further on the first point pressed into service **G.V.**

Sreerama Reddy & anr. vs. Returning Officer & ors. reported in **(2009) 8**

SCC 736. G.V. Sreerama Reddy Case was a judgment rendered in a statutory appeal by Hon'ble Supreme Court i.e., Statutory appeal under Section 116-A of RP Act and the matter pertains to an election petition in the High Court of Karnataka pertaining to Constituency No. 140, Bagepalli, Karnataka Legislative Assembly. In this **Sreerama Reddy** Case, election petition was filed by the losing candidate alleging large-scale irregularities and illegalities by the authorities in the voting and illegalities of allowing re-counting after announcing the declaration of election petitioner as elected. In this **Sreerama Reddy** case, after analyzing sub-Section (1) of Section 81, Hon'ble Supreme Court after reiterating the position that RP Act is a self-contained code held that the words '*by*' and '*presented*' occurring in sub-Section (1) of Section 81 of RP Act cannot be given a wide meaning and construed as one wherein presentation of an election petition through an advocate without the presence of the candidate or elector is valid. To put it differently, in **Sreerama Reddy** case, Hon'ble Supreme Court laid down the proposition that a election petition should be presented in the Registry by the election petitioner himself/herself, be it a losing candidate or an elector. Therefore, the question as regards point No. 1 is whether the captioned election petition viz., EL.PET. No. 17 of 2022 was presented by the election petitioner (losing candidate, finishing 2nd in this case) viz., Shri Ginsuanhau Zou. A careful perusal of the Court records and more particularly, the election petition before this Court, gives a straightforward and clear answer to this question as it has been clearly recorded by this High Court Registry that the presentation of the captioned election petition was by the petitioner himself along with his counsel before the Registry officer concerned on 22.04.2022. A scanned reproduction of this part of the records of the election petition is as follows:

- ① Date of Election for the Petitioner = 28.02.2022
- ② Date of the returned candidate = 10.03.2022
- ③ Date of presentation of this Election Petition by the Petitioner himself along with his Counsel before me viz. Hon'ble High Court of Manipur, Imphal = 22.04.2022
- ④ furnished postage stamp of Rs. 350/- (Three Hundred and fifty) only each for Respondents NO. 1 to 3 as required by the Rule.

Petn. No. HCM	2302
Did.	29.4.2022
1. Court Fee Rs.	5.00
2. Advalorem Fee Rs.	5.00
3. Affidavit fee Rs.	5.00
4. Power Attorney Rs.	20.00
5. Document Fee Rs.	1.00
Total Rs.	41.00

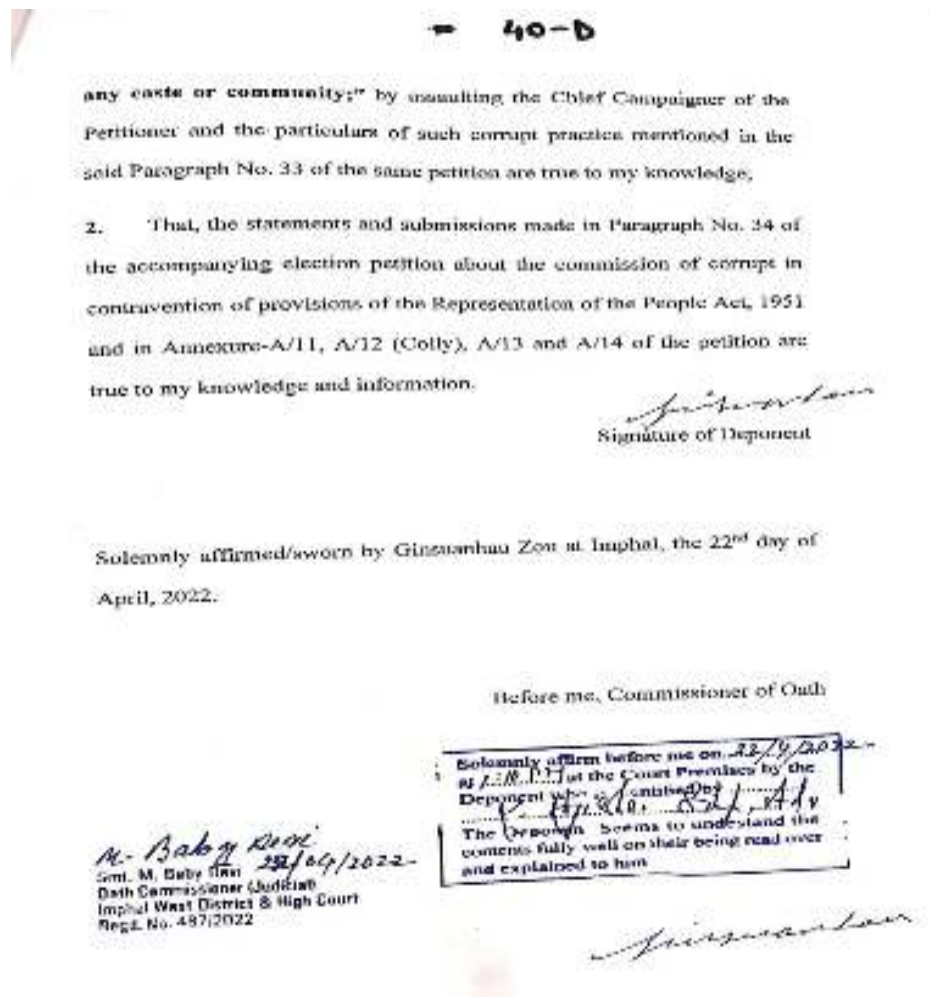
Court Fee Rs.
Stamp Sufficient
Second Judge's Paper not filed
In form
In time

[Signature]
Stamp Reporter
High Court of Manipur
Imphal (Manipur)

[11] Therefore, the first point urged by the returned candidate in his campaign against the election petition fails.

[12] The above takes this Court to the 2nd point i.e., the copy furnished to the election petitioner. As would be evident from the capturing of contentions supra, the contention of the returned candidate is that the copy furnished to the returned candidate has no doubt been attested as true copy by the election petitioner but it is not notarized which is a requirement. A careful perusal of the record of this Court makes it clear that the election petition filed in this Court is accompanied by the requisite affidavit in Form-25 qua Rule 94A of the 'Conduct of Elections Rules, 1961' ('said Election Rules'). It is seen that this affidavit has been duly attested by a

Commissioner of Oaths. A careful perusal of Rule 94A of said Election Rules and the prescribed Form thereat being Form-25, makes it clear that the affidavit can be sworn before (a) a Magistrate of First Class or (b) a Notary or (c) a Commissioner of Oaths. In the case on hand, it has been sworn before a Commissioner of Oaths and a scanned reproduction of records in this regard is as follows:



This takes this Court to the pointed submission of learned senior counsel that the copies served on the returned candidate do not contain the attestation i.e., attestation of the Oaths Commissioner though it was argued that it was not 'notarized'. In support of his contention, learned senior counsel pressed into service **Dr. (Smt.) Shipra vs Shri Shanti Lal Khoiwal** reported in **(1996) 5 SCC 181**. In **Dr. Shipra** case, on facts, election of a candidate from an Assembly Constituency

was challenged on grounds of corrupt practices, after holding that corrupt practices are required to be proved to the hilt, Hon'ble Supreme Court had returned a verdict that when Form 25 prescribes a particular form and copy of this affidavit is to be furnished, the endorsement of the authority before whom the affirmation was made, together with his official designation and the stamped endorsement are also essential and without them the copy cannot be regarded as true copy. To be noted, this was observation of Bombay High Court (Hon'ble Justice Qazi, J.) in an election petition being Election Petition No. 2 of 1990 and this proposition has been upheld by the Hon'ble Supreme Court particularly vide the supplementing opinion/judgment of Hon'ble Justice Bharucha J. as His Lordship then was.

[13] In response to the above point, learned counsel for election petitioner pressed into service a Constitution Bench judgment in **T.M. Jacob Vrs. C. Poullose & ors.** reported in **(1999) 4 SCC 274**. In **T.M. Jacob**, election of a candidate from one of the Assembly Constituencies in the State of Kerala was challenged, alleging that it stood vitiated by commission of various corrupt practices as detailed in the election petition thereat. In **T.M. Jacob** also, the question of affidavit accompanying the election petition, more particularly in Form-25 and Section 83 of RP Act came up for consideration. It was made clear that the object of serving a true copy in election petition and the affidavit filed in support of allegation of corrupt practice of the respondent in the election petition is to enable the respondent to understand the charge against him so that he can effectively meet the same in the written statement and prepare his defense. To be noted in **T.M. Jacob**, a Constitution Bench of Hon'ble Supreme Court after referring to and considering **Dr. Shipra** laid down a litmus test to decide when

non-compliance with Section 81(3) of RP Act becomes fatal to the election petition itself. The test is to examine whether party who has been served with the true copy has been misled by the copy on account of variation of a material nature qua the original and the copy supplied to the respondent. Elaborating on this, Hon'ble Supreme Court made it clear that non-compliance with Section 81(3) would be fatal to the election petition only in cases where prejudice (such as being misled) is caused to the respondent and it has been further set out with specificity that the same consequence (fatal to election petition) would not follow if no prejudice is caused to the respondent inter alia owing to true copy being at variance qua original. In the instant case, the returned candidate has not demonstrated that any prejudice has been caused to him as regards the true copy served on him. This test and this aspect of the matter has been articulated in paragraph No. 37 of **T.M. Jacob**(Paragraph No. 37 as in SCC report) and the relevant portion of paragraph No. 37 reads as follows:

'..... Defects in the supply of true copy under Section 81 of the Act may be considered to be fatal, where the party has been misled by the copy on account of variation of a material nature in the original and the copy supplied to the respondent. The prejudice caused to the respondent in such cases would attract the provisions of Section 81(3) read with Section 86(1) of the Act. The same consequence would not follow from non-compliance with Section 83 of the Act.'

In this context, it was held that this requirement qua Section 81(3) of RP Act is of substance and not of mere form. However, the point that is of utmost significance for the legal drill at hand is, afore-referred **Shipra** case which was pressed into service by the learned senior counsel for returned candidate {to be

noted **Shipra** was rendered by a Hon'ble 3(three) Member Bench} was considered by a Hon'ble Constitution Bench in **T.M. Jacob** and it was held that **Shipra** case cannot be applied in **T.M. Jacob** as **Shipra** was a case where there was variance between the allegations of corrupt practices in the election petition and the copy served on the respondent. In the case on hand, it is a question of non-attestation/non-mentioning of the authority before whom it was sworn and not a case of variance/variation between the election petition as filed in the Court and the copy as furnished to the returned candidate. In this view of the matter, the facts of the case in hand are clearly close to **T.M. Jacob** and in any event, **T.M. Jacob** was rendered by a Hon'ble Constitution Bench after considering **Dr. Shipra**. As regards facts situation, this Court deems it appropriate to remind itself of the oft quoted celebrated **Padma Sundara Rao** Case being a Constitution Bench declaration of law made in **Padma Sundara Rao (Dead) versus State of T.N. & ors.** reported in **(2002) 3 SCC 533**. On facts, **Padma Sundara Rao** pertains to land acquisition under Central Act and the question was whether after quashing of proceedings, a fresh period is available to the State for making declaration. In **Padma Sundara Rao** law declared with regard to citations and as to how case laws should be applied and this is articulated in paragraph No. 9 thereat by placing reliance on the famous lines of **Lord Morris** in **Herrington v. British Railways Board** where Lord Morris held that one additional or different fact may make a word of difference between conclusions in two cases. Paragraph No. 9 of **Padma Sundara Rao** which is declaration of law as to how Courts should place reliance on decisions reads as follows:

'9. Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on

which reliance is placed. There is always peril in treating the words of a speech or judgment as though they are words in a legislative enactment, and it is to be remembered that judicial utterances are made in the setting of the facts of a particular case, said Lord Morris in Herrington v. British Railways Board. Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases.'

[14] In the case at hand, this Court respectfully follows the declaration of law by a Constitution Bench in **Padma Sundara Rao** and unhesitatingly comes to the conclusion that factual matrix of case at hand, is clearly closer/akin to **T.M. Jacob** rather than Dr. **Shipra**. In any event, as already alluded to supra **Dr. Shipra** rendered by a 3(three) Member Bench has been considered by a Constitution Bench in **T.M. Jacob** and held to be on a different footing as **Dr. Shipra** pertains to variation between election petition and copies served on the respondent.

[15] The sum sequitur of the narrative discussion and dispositive reasoning thus far is, captioned MC which has been filed seeking dismissal of election petition under Section 86(1) for purported non-compliance of sub-Sections (1) & (3) of Section 81 fails and the same is dismissed.

[16] Ergo, sequitur is, captioned MC is dismissed. There shall be no order as to costs.

CHIEF JUSTICE

FR/NFR

Indrajeet