

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ELECTION PETITION NO.21 OF 2009

Pravin Madhukar Thakur Petitioner
V/s.
Meenakshi Prabhakar Patil Respondent.

Mr. Pramod N. Patil, for the Petitioner.
Mr. G.S. Hiranandani, for the Respondent.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 27TH SEPTEMBER, 2016.

P.C. :

1. Heard learned counsel for the petitioner. He submits that withdrawal of this petition is not possible in view of tedious procedure laid down in Section 109 and 110 of the Representation of the People Act 1951. However, according to him, this Election Petition can be disposed as assembly has been dissolved and secondly issues raised in this Election Petition, are merely of academic interest. For this purpose, he has relied upon the judgment of Supreme Court in case of **Loknath Padhan -vs- Birendra Kumar Sahu**¹; wherein it was held that if the allegations made in the Election Petition are not of corrupt practice, then the Election Petition on any other ground or allegation if the Legislature is dissolved in the meantime, becomes merely an issue of academic interest and hence it could be disposed of as having become infructuous.

1 (1974) 1 SCC 526

2. In this behalf learned counsel for the petitioner submits that Election Petition was filed under Section 100 (1) (a), d(i) and d(iv) of the Representation of the People Act, 1951, which reads thus :-

“100. Grounds for declaring election to be void. (1) Subject to the provisions of sub section (2) if (the High Court) is of opinion (a) that on the date of his election a returned candidate was not qualified, or was disqualified, to be chosen to fill the seat under the Constitution or this Act [or the Government of Union Territories Act 1963 (20 of 1963)]; or

(b)

(c)

(d) that the result of the election, in so far as it concerns a returned candidate, has been materially affected :-

(i) by the improper acceptance or any nomination, or

(ii)

(iii)

(iv) by any non-compliance with the provisions of the Constitution or of this Act or of any rules or orders made under this Act”.

3. The clause which pertains to corrupt practice namely section 100(b), the allegation in that behalf was not made in this petition. In view thereof, issue raised by this petition becomes of academic interest as the Legislative Assembly is already dissolved. The Election Petition has become infructuous and accordingly it is disposed of .

[DR. SHALINI PHANSALKAR-JOSHI, J.]