

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

* * * *

ELECTION PETITION Nos.6 and 7 of 2014

Between:

Kancharla Bhupal Reddy and another.

....Petitioners

and

Komatireddy Venkat Reddy
And others.

....Respondents

JUDGMENT PRONOUNCED ON : 27.04.2018

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO :

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? : Yes
2. Whether the copies of judgment may be Marked to Law Reporters/Journals? : Yes
3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? : Yes

*** THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO**

+ ELECTION PETITION Nos.6 and 7 of 2014

% 27.04.2018

Kancharla Bhupal Reddy and another

...Petitioners

vs.

\$ Komatireddy Venkat Reddy
and others.

... Respondents

!Counsel for the Petitioners : Sri B.Venkata Rama Rao
Sri K.V.Bhanu Prasad

^Counsel for the Respondents : Sri S.Niranjana Reddy
Sri A.Venkatesh
Sri Y.Shashidhar Reddy
GP for General Administration (TG)

<Gist :

>Head Note :

? Cases referred

1. (2002) 5 SCC 294
2. (2003) 4 SCC 399
3. 149 (2008) DLT 205 : 2008 (101) DRJ 283 (Elec.P.1/2004, dated 19.02.2008, High Court of Delhi)
4. (2009) 9 SCC 92
5. (2011) 8 SCC 333
6. 2012 SCC OnLine HP 397 : (2012) 116 AIC (Sum 4) 2
7. (2014) 5 SCC 312
8. (2014) 14 SCC 162
9. (2014) 14 SCC 189
10. (2015) 3 SCC 467
11. 2016 SCC OnLine Bom 10078 : (2017) 98 VST 172
12. 2016 SCC OnLine Mani 30
13. (2017) 2 SCC 487
14. Writ Petition (C) No.784 of 2015, dated 16.02.2018
15. Civil Appeal Nos.9466-9468 of 2016, dated 21.03.2018
16. (2012) 3 SCC 314
17. (2012) 11 SCC 390

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

ELECTION PETITION Nos.6 and 7 of 2014

COMMON ORDER:

Ekam sat vipra bahudha vadanti

(Truth is one, but the learned speak in different voices)

These two Election Petitions were filed by the unsuccessful candidates challenging the election of the first respondent who was elected as a Member of Legislative Assembly from 92-Nalgonda Legislative Assembly Constituency held in the month of May 2014. The petitioner in E.P.No.6 of 2014 further prayed for a declaration that he was duly elected as Member of the 92-Nalgonda Legislative Assembly Constituency and for punishing the first respondent under Section 125A(ii) of the Representation of the People Act, 1951 (for short, the Act). Hence, these two Election Petitions are taken up together as they relate to the challenge made to the election of the first respondent.

It is averred in the Election Petition No.6 of 2014 that the schedule for General Election was issued on 05.03.2014 and the election notification for conduct of elections was issued on 02.04.2014. The last date for filing of nomination was 09.04.2014 and the nominations were scrutinized on 10.04.2014. The last date for withdrawal of candidature was 12.04.2014. Polling was held on 30.04.2014 and the votes were counted on 16.05.2014. The petitioner states that he contested the elections as an independent candidate, whereas the first

respondent was nominated by the Indian National Congress party. The third respondent is none other than the petitioner in E.P.No.7 of 2014. It is further stated that the first respondent secured 60,774 votes, whereas the petitioner secured 50,227 votes and the petitioner is the second candidate who secured highest number of votes. The petitioner states that the first respondent was never elected to any post in the village level, Mandal level or District level. But, he was elected to the Legislative Assembly Constituency in the General Elections held in the year 1999. Thereafter in the elections held in 2004, 2009 and 2014 he was elected. Before his election as Member of Legislative Assembly (MLA) in 1999, he projected himself and influenced the voters of his Constituency to believe that he is an educated youth leader with B.E qualification and was engaged in the business of contracts. The voters were made to believe that he is highly educated, rich and influential businessman in his Constituency. In the General Elections held in the year 2004, the first respondent declared his highest educational qualification as B.E and completed year of course as '1986' in the affidavit dated 01.03.2004 filed along with the nomination paper. In the subsequent elections held in the year 2009 also he stated the same qualification. The educational qualification declared by the petitioner was widely published and notified in the official records since 1999. It is stated that the first respondent suppressed the true fact that he passed XII standard (Intermediate) only and made the people of the State

believe, in particular, the voters of his Constituency that he holds a degree of Bachelor of Engineering (B.E) from CBIT as his educational qualification. In fact the first respondent discontinued B.E (Civil) course in CBIT affiliated to Osmania University, the fact of which was never disclosed. The first respondent was appointed as the Minister for Information Technology, Ports and Infrastructure & Investment after his election in the year 2009. He participated in various programs organized by the Government and public projecting himself to be an engineering graduate with immense knowledge in that field. The petitioner is the native of Urumadla Village of Nalgonda District and resident of Nalgonda Town. He is a graduate in Commerce and engaged in social service for the last ten years in the said Constituency. He started his political career and contested the elections for the first time in 2014. The petitioner had no occasion to personally verify the antecedents of the first respondent prior to the General Elections of 2014. He further states that if the first respondent did not indulge in misrepresenting his educational qualifications, he would have succeeded in polling the highest number of votes and thereby winning the election. After filing the nomination paper by the first respondent the petitioner verified his antecedents. He came to know from the local sources that the first respondent was not an engineering graduate but gained undue advantage amongst the other contestants of the Constituency by misinforming the voters

about his educational qualification resulting in the inducement of electors to cast their votes in favour of the first respondent. In the affidavit filed along with nomination paper in Form 26 under Rule 4A of the Rules framed under the Representation of People Act against the column for disclosure of highest qualification, the first respondent stated '1986' in the column of 'year of completion of highest educational qualification' and mentioned 'B.E' in the column of 'course completed' knowingly that such disclosure/information given by him was false. It is the case of the petitioner that the first respondent falsely disclosed that he completed the highest educational qualification as (B.E) even though he did not complete the same. The petitioner and the second respondent raised their objection on the date of scrutiny of nominations on 10.04.2014 before the fifteenth respondent, Returning Officer, against the false disclosure of highest educational qualification made by the first respondent in his affidavit filed along with the nomination papers. They requested the fifteenth respondent to conduct an enquiry into the matter and reject the nomination paper of the first respondent. The fifteenth respondent, through his Memo No.J/600/2014, dated 10.04.2014, informed the petitioner that since the first respondent filled all the columns of nomination paper, he has no authority to reject the said nomination of the first respondent and the affidavit of the first respondent was available on the website of the Election Commission for verification. Thus, the nomination paper of the first respondent

was accepted on 10.04.2014. The petitioner further states that the first respondent passed only Intermediate examination. As per the information obtained from the Osmania University through letters dated 12.06.2014 and 07.06.2014, the first respondent took admission in B.E., Civil Engineering course in CBIT in the academic year 1982-83. He failed in most of the subjects in the first three years. He was caught red handed and booked by examination authorities for malpractice in the month of April 1985 and as a measure of punishment, all his papers of B.E in the third year first semester were cancelled and later he was given a chance to appear for all the said papers in the next examination. Thereafter, he did not register for any examinations and discontinued the B.E course after November, 1989. In spite of the same, the first respondent proclaimed himself as a B.E graduate and in the book "Who's Who" published by the Legislative Assembly during the year 1999 to 2009 it was recorded as 'B.E'. When he was asked in TV9 interview whether he corrected his education qualification in the website of Legislative Assembly or such other portals/records made available to the public, he replied that he forgot. The third respondent filed W.P.No.12066 of 2014 before this Court challenging the action of the Election Commission of India and the Chief Electoral Officer for not rejecting the nomination of the first respondent for giving false information. The said Writ Petition was disposed of. The first respondent in his counter affidavit filed in the said Writ Petition admitted that he

discontinued the course in the middle and did not complete the B.E course. But, in the affidavit presented to the Returning Officer he made false affirmation. The first respondent made a false declaration and he cannot getaway by filing a false affidavit violating Article 19(1)(a) of the Constitution of India. He unduly influenced/interfered with the free exercise of electoral right of the voters of his Constituency. The result of the elections of 2014 was materially altered/affected by the voting pattern. Since the voters have a fundamental right to know about the true particulars of the contesting candidates and the right to freedom of expression of casting their vote in a free and fair elections, the first respondent had infringed such right. The first respondent committed corrupt practice under Section 123(2) and (4) read with Section 100(1)(b) of the Representation of the People Act.

The petitioner in E.P.No.7 of 2014 stated that he contested in the elections for the State of Telangana Legislative Assembly from 92 Assembly Constituency of Nalgonda, Nalgonda District, on behalf of Telangana Rashtra Samithi. He had formal education up to 10th class, but he is involved in public activities for a long time. Earlier he was elected as MPTC on behalf of Congress party. Thereafter, in the assembly elections held in the year 2009, he contested on behalf of Praja Rajyam party and lost. He states that all the other candidates are also having formal education and in those circumstances, the first respondent wanted to project himself as a highly qualified person when

compared to other contesting candidates. He has been in the habit of projecting himself as highly qualified person, though, in reality he did not possess any such qualification. He passed Intermediate from N.B.Science College, Pattargatti, Hyderabad, in the year 1982 and thereafter joined B.E. course but failed in all subjects. In the Assembly elections held in the year 2009 he declared that he passed B.E., from Chaitanya Bharati Institute of Technology, Hyderabad, in the year 1986. As a qualified engineering graduate he secured a place in the Expert Committee appointed by the then Hon'ble Chief Minister, Late Sri Y.S.Rajasekhar Reddy by removing an Engineer, who was already there in the Committee. In the website of the State Assembly as well as in the book published by the State Assembly, in respect of the Members of the 12th and 13th Legislative Assembly under the title "Who's who", the first respondent was shown as an engineering graduate. He was getting treatment in political circles as if he is a highly qualified person and getting opportunities from various programs undertaken by the Government. In the debate conducted by ABN Channel about his educational qualifications, he did not commit himself that he was an engineering graduate. The petitioner, being a rival candidate, applied to the Osmania University to furnish information about the educational qualification of the first respondent under the Right to Information Act much before the State 13th Legislative Assembly elections. The required information was furnished on

12.05.2010. As per the said information, the first respondent appeared for the first semester in August 1983 and failed in all subjects. He tried to finish the first semester till April 1989, and thereafter stopped pursuing the matter. He appeared for the second year first semester in January 1984 and completed in January 1985. Though he applied for the second year first semester in June 1984, he was absent. Thereafter, he appeared for the second year second semester, but failed in all subjects and he pursued the course up to April 1989. Subsequently, he appeared for the third year first semester in April 1985 and committed malpractice to pass through and he was caught. He failed in all subjects and tried his best to complete the third year first semester till November, 1989. He pursued the third year second semester in July 1985 and failed in all subjects and pursued up to 1989 without any success. He appeared for fourth year first semester in December 1985 and failed. However, he completed the fourth year first semester in January 1987 (sic. 1986). He completed the fourth year second semester in July 1986 with the net result, he failed the first year first semester, completed the second year first semester, failed in the second year second semester failed in the third year first semester, and also failed in the third year second semester, but completed the fourth year first and second semesters and stopped pursuing after April 1989. He ultimately stated that the first respondent being a failed candidate of B.E course cannot proclaim himself to be possessing engineering degree.

Apprehending opposition complaints, the first respondent cleverly mentioned in the affidavit enclosed to the nomination papers by placing B.E in brackets and writing 1986 under the column “course completed”. In fact, he has been pursuing study and writing examinations till 1989. Thus, the information furnished with regard to the qualification as well as year of completion is false. The said false information was furnished intentionally to misguide the public and to show that he is more qualified than other contesting candidates. The petitioner gave a complaint to the second respondent on 10.04.2014 and after receiving the same, the second respondent gave an endorsement on the same day. Though the second respondent was bound to make a summary enquiry about the educational qualification of the first respondent, the second respondent failed to do so and it shows the casual approach of the second respondent. The complaint was rejected on 10.04.2014 itself stating that the first respondent filled up the affidavit in Form-26 in full shape without leaving blank columns and signing the same with attestation of the notary. Under those circumstances, he gave a representation to all the official respondents on 12.04.2014 and it did not evoke any response. When there was no response, he filed W.P.No.12066 of 2014. Since serious objection was taken with regard to the maintainability of the Writ Petition, the present Election Petition was filed by way of abundant caution. Thereafter, W.P.No.12066 of 2014 was disposed of by a Division Bench of this Court on

09.07.2014. The petitioner further submits that the second respondent should have at least demanded the first respondent to produce any certificate with regard to his educational qualifications, but instead of doing so, he simply rejected the complaint of the petitioner. He states that the second respondent was a person brought by the first respondent and he worked as Returning Officer in the previous elections also. In order to help the first respondent, the second respondent rejected the complaint of the petitioner deliberately and intentionally to save him. A news item was published in Andhra Jyothi Telugu daily on 22.02.2010 stating that “Munna Bhai M.B.B.S., Komati Reddy Beetekku” sarcastically. Even at the time of campaigning, he took margin on the basis of his false degree against other contesting candidates. The second respondent had hand-in-glove with the first respondent and therefore did not entertain the objection of the petitioner. The false projection of the first respondent as a highly qualified person when compared to the other contesting candidates has materially affected the result of the election, as the public believed that the first respondent was a highly qualified person. Accordingly, he prayed for declaring the election of the first respondent from 92 Nalgonda Assembly Constituency, Nalgonda District, in the Assembly General Elections held in the month of May 2014 as illegal and void.

The petitioner in E.P.No.6 of 2014 had shown fifteen respondents including the contesting candidates apart from the

Returning Officer. This Court, by order dated 09.07.2015, set respondent Nos.2, 8 and 13 *ex parte* and, by order dated 12.08.2015, set respondent Nos.4 to 7, 9 to 12 and 14 also *ex parte*.

The petitioner in E.P.No.7 of 2014 has shown five respondents and the Chief Electoral Officer and the Election Commission of India, who were shown as respondent Nos.3 and 4, were deleted from the array of respondents by the order of this Court dated 25.03.2015 in Application No.128 of 2015. Thus, apart from the returning candidate, the Returning Officer and the District Collector remained as respondents in E.P.No.7 of 2014.

In both the Election Petitions, the returned candidate as well as the Returning Officer filed separate counter affidavits.

The returned candidate, the first respondent in both the Election Petitions, filed separate counter affidavits. In E.P.No.6 of 2014 he stated that the Election Petition is a clear abuse of the process of law as the petitioner failed to make any case for rendering the election void. The allegations relating to corrupt practices are vague and the allegation related to educational qualification, even if it is assumed to be true, it does not constitute an election offence within the purview of Section 100 of the Act. The petitioner has not submitted any material facts in support of the said averment, which is a requirement under Section 83(1) of the Act. Even with respect to the allegation as

regards the incorrect furnishing of educational qualifications in the nomination papers, the only remedy available to any aggrieved party is under Section 125A of the Act. This is more so in view of the opinion of this Court in W.P.No.12066 of 2014 filed by the election petitioner in E.P.No.7 of 2014 and which was disposed of by this Court on 09.07.2014. He further stated that he did not hold any elected post in the Village level, Mandal level or District level prior to being elected for the first time in the year 1999 and thereafter, in 2004, 2009 and 2014 as MLA from Nalgonda Assembly Constituency. The said fact is entirely irrelevant for the purpose of determining of the issues in the Election Petition. The very fact of getting elected four times from the same Constituency shows that the general public had reposed trust and faith in his abilities. The allegation that he falsely projected himself and influenced the voters of his Constituency that he is an educated youth leader with B.E qualification having knowledge in the business and contracts is entirely misconceived. The averments pertaining to the actions of the returned candidate from the date of filing of nomination till the date of the election in question have to be taken into consideration for the purpose of determining as to whether there is an election offence or not. The averments not related to the present election are irrelevant and should be eschewed from consideration. The educational qualifications published in the official records and in the records of the State Government of Andhra Pradesh since 1999 are incorrect and denied as it was

not to his knowledge. The other allegation that he suppressed the fact that he passed only 12th standard and made the people of the State believe that he holds B.E degree from CBIT is denied. The further allegation that had he not indulged in misrepresenting his educational qualification, the petitioner would have succeeded in polling highest number of votes and would have won the election and the petitioner suffered on account of such a situation was denied as being incorrect and speculative in nature. He stated that he clarified to the media and general public that it is a common practice in the State of Andhra Pradesh to refer to any incomplete course in brackets. He stated that he had joined engineering course after his intermediate education and he was under a bonafide impression that he was required to furnish the full educational qualifications to the level of education pursued and with that impression in mind, he referred to B.E course in parenthesis. The fact of the first respondent not completing B.E course is in public knowledge and was adequately represented in the press and public debates. It was discussed before the date of filing of nomination and election itself. In fact, the petitioner, himself on various occasions, sought to publicize this fact to the general public and the electorate so as to influence the minds of the public prior to the election. The allegation that the petitioner suffered on account of any malpractice committed by the first respondent was incorrect and no malpractice was committed by him and the fact of his not completing the B.E course was in the

knowledge of the public by the time of election. When the petitioner in E.P.No.7 of 2014 made similar allegation in the media by addressing a press conference even before the election about his alleged wrong declaration, he clarified in another press conference explaining the position with regard to the qualifications mentioned. Accordingly, he again quoted the qualification in brackets even in the present Assembly elections and he never proclaimed himself as having completed the engineering course nor he is an engineering graduate. The allegation that he gained undue advantage and induced the electorate was denied. He stated that he completed the Intermediate education in the year 1982 and thereafter, he joined B.E course in CBIT institute and pursued the said course from 1982 to 1986. He could not continue the course and finish the same to acquire the degree on account of personal factors. Since he was under the bonafide impression that he was required to furnish the information and non-furnishing of pursuit of degree education may amount to suppression of fact, he indicated the same as having completed in 1986 by taking the year of completion of education. Since he did not complete the course, he put it in brackets. At no point of time, did he state that he had a degree in Bachelor of Engineering or represented that he was an engineering graduate. He sought to give a fair representation of the education pursued by him without making any false claim of having completed the course. The petitioner having accepted the memo from the 15th

respondent, ought not to have maintained the present Election Petition. The information furnished by the Osmania University clearly bears the fact that he pursued the B.E course from year 1982 to 1986, he but did not complete the same. The first respondent denied the allegation of having failed in most of the subjects, caught red handed and booked by the examining authority for malpractice. In the counter affidavit filed before the Division Bench, he clearly stated that he only referred to the fact of his having pursued B.E course and he never admitted that B.E is his highest educational qualification and he did not assert that he completed the B.E course. He has not concealed or suppressed any material information while furnishing the highest educational qualification and he was not having any fraudulent intention to provide any incorrect or misleading information nor did he provide the information knowing it to be false. The averment that the affidavits dated 04.04.2014 and 05.04.2014 filed by him were without subscription of signatures and the same were incomplete affidavits was incorrect and denied. He furnished all the material information as required by the form. He did not intentionally suppress any material fact nor did he make any deliberate false statement contrary to the truth. He denied that he made the voters to believe that he was an engineering graduate and got his profile published in the Andhra Jyothi. He also denied the other allegations leveled by the petitioner.

The first respondent filed a similar counter affidavit in E.P.No.7 of 2014. He specifically denied that by representing himself to be engineering graduate, he secured a place in the Expert Committee constituted by the then Hon'ble Chief Minister. He stated that the said allegation is irrelevant.

The Returning Officer, who is the fifteenth respondent in E.P.No.6 of 2014 and the second respondent in E.P.No.7 of 2014, filed separate counter affidavits. In his counter affidavit filed in E.P.No.6 of 2014 he stated that it is the duty of the Returning Officer to verify whether all the columns are filled up by the candidate in Form 26 and if any column is left blank, it is the duty of the Returning Officer to bring to his notice to fill up the blanks, but the Returning Officer is not empowered to verify the genuineness or otherwise of the information made available by the candidate. He further stated that he acted as per the guidelines in Circular No.4/2014/SDR-Vol-I, dated 26.04.2014, issued by the Election Commission of India. If a false information is given, it is a punishable offence under Sub-clause (2) of Section 125-A apart from liberty available to the petitioner to give a complaint as per Circular No.4/2014/SDR-Vol-I, dated 26.04.2014. The Returning Officer has issued the Memo No.J/600/2014, dated 10.04.2014, to the petitioner informing that the first respondent has filled up all the columns of Form 26 and the same was duly attested by notary as required and the Returning Officer has no authority to reject the said nominations. He finally stated that the third respondent

filed W.P.No.12066 of 2014 challenging the action of the Election Commission of India and the Chief Electoral Officer for not rejecting the nomination of the first respondent and the said Writ Petition was disposed of on 09.07.2014 giving liberty to the petitioner to take steps in accordance with law. He further stated that he acted scrupulously and had followed the Act and the Rules made thereunder and as such there is no violation in following the procedure while scrutinizing the nomination paper of the first respondent. The counter affidavit filed in E.P.No.7 of 2014 is also to the same effect.

On the above pleadings, the following issues were settled for trial with the consent of the learned Counsel appearing for the parties:

“1. Whether the filing of Form 26 along with the nomination paper with incorrect/non-disclosure of correct information and acceptance of the said nomination paper would amount to improper acceptance of nomination by the Returning Officer?

2. Whether the insufficient/non-disclosure of correct information in Form 26 would come within the scope of Section 100(1)(d)(iv) of the Representation of the People Act, 1951?

3. Whether the declaration made by respondent No.1 in his affidavit in Form 26 under Rule 4A of the Conduct of Elections Rules, 1961, would amount to corrupt practice within the meaning of Section 123(2)(4) read with Section 100(1)(b) of the Representation of the People Act, 1951?

4. Whether the incorrect information or misinformation by respondent No.1 would violate Article

19(1)(a) of the Constitution of India and whether it would result in declaring the election to be void?

5. Whether respondent No.1 is liable for prosecution under Section 125A(ii) of the Representation of the People Act, 1951, for failure to disclose the correct/complete information/ furnishing wrong information in Form 26 filed under Rule 4A of the Conduct of Elections Rules, 1961?"

A joint trial was conducted and common evidence was recorded in E.P.No.6 of 2014.

The petitioner in E.P.No.6 of 2014 was examined as P.W.1 and apart from him, P.Ws.2 to 11 were examined on behalf of the petitioners. Exs.P1 to P33 were marked on behalf of the petitioners. The first respondent was examined as R.W.1 and the Revenue Divisional Officer, who worked as the Election Officer, was examined as R.W.2, and the Election Officer, who is now retired, was examined as C.W.1. On behalf of the respondents, Exs.R1 to R4 were marked. Ex.X1 is the accepted nomination form of the first respondent, whereas Ex.X2 is the rejected nomination form of Sri Kuthuru Laxma Reddy.

The evidence on record is as follows:

The petitioner in E.P.No.6 of 2014, who was examined as P.W.1, stated that he contested as an independent candidate in the elections conducted to the 92-Nalgonda Assembly Constituency. The results of the elections for the said Constituency were declared on 16.05.2014 wherein the first

respondent had polled 60,774 votes and was declared “elected” to fill a seat in the House of Legislative Assembly of Andhra Pradesh from Nalgonda Assembly Constituency. The first respondent secured 60,774 votes whereas he secured 50,227 votes. The first respondent never held any elected post in the village, mandal or district level prior to being elected for the first time in general elections held in the year 1999 as a Member of Legislative Assembly and thereafter in the year 2004, 2009 and 2014 from Nalgonda Assembly Constituency. Since the elections of 1999, he has been falsely projecting himself and influencing the voters of his Constituency to believe that he is an educated youth leader holding an engineering degree/B.E and that he was engaged in the business of contracts as Civil Engineer. He made the voters of his Constituency believe that he is a highly educated and influential businessman in his Constituency. In the general elections of 2004, though the first respondent was not required to declare his incomplete course of B.E, he falsely declared his highest educational qualification in the affidavit on oath dated 01.03.2004 under the caption of educational qualification at para 4 as ‘(B.E)’ in the column of ‘course completed’ and declared ‘1986’ under the column of ‘year’, which is an enclosure to the nomination form for election to the Legislative Assembly from the said Constituency. Similarly, in the general elections of 2009 also in the nomination form, the first respondent declared as such. The false declaration of the first respondent that he is a B.E

graduate had received wide publicity in the earlier elections and the said higher educational qualification as declared by him was published/notified in the official records of different offices of State Government of Andhra Pradesh (that are made available to the public at large for their information), including the official websites of the State Government and various booklets and diaries of the Government from 1999 onwards. The first respondent, all through his political career, by suppressing the true fact that he had passed only Intermediate and discontinued B.E. Civil course from CBIT, affiliated to Osmania University, has made the people of the State, in particular, the voters of his Constituency believe that he holds B.E. Degree. In the year 2009, while Late Sri Y.S.Rajashekar Reddy was the Chief Minister, the first respondent was holding the post of Minister for Information & Technology, Ports and also Minister for Infrastructure & Investment. He participated in various programs organized by the Government and public projecting himself to be an engineering graduate with immense knowledge in that field. The petitioner in E.P.No.6 of 2014 contested the elections for the first time in 2014 and he had no occasion to personally verify the authenticity of the first respondent's declaration of educational qualification prior to general elections, 2014, and he believed, like any other voter in the Constituency, that the first respondent is a qualified B.E graduate. Had the first respondent did not indulge in misrepresenting his educational qualifications, he (petitioner)

would have succeeded in polling the highest number of votes and thereby winning the election. He suffered on account of the corrupt practice committed by the first respondent which deprived him of a level of playing field in the electoral contest. The third respondent in E.P.No.6 of 2014 and himself gave written objections individually under acknowledgement on the date of scrutiny of nominations on 10.04.2014 before respondent No.15/Returning Officer against the false disclosure of highest educational qualification made by the first respondent in his affidavit with nomination paper. Though they requested the Returning Officer to conduct an enquiry into the matter and reject the nomination paper of the first respondent, the Returning Officer through his Memo dated 10.04.2014 informed that because the first respondent had filled in all the columns of nomination paper, he has no authority to reject the said nomination of the first respondent. Accordingly, the nomination of the first respondent was accepted on 10.04.2014. As per the information he obtained from Osmania University through letters dated 12.06.2014 and 07.06.2014, the first respondent took admission in B.E Civil Engineering course in CBIT during the academic year 1982-83 and he failed in most of the subjects in the first three years. He was caught red-handed and booked by examination authorities for malpractice in the month of April, 1985, and as a measure of punishment, all his papers of B.E in the third year, 1st semester were cancelled and later, he was given a chance to appear in all the said papers in

the next examination. Thereafter he did not register for any examinations and discontinued B.E course after November, 1989. Though he discontinued B.E in 1989 he proclaimed himself to be a B.E graduate. The first respondent's educational qualification is notified in the 'Who's Who' published by the Legislative Assembly during 1999-2009 as B.E and in the T.V interviews when he was asked whether he corrected his educational qualification in the website of Legislative Assembly or such other portals/records made available to the public, he replied that he forgot. The third respondent filed W.P.No.12066 of 2014 questioning the action of the Election Commission of India and Chief Electoral Officer for not rejecting the nomination of the first respondent for giving false information, and the first respondent in his counter affidavit filed in the said Writ Petition admitted that he discontinued B.E in the midst of the course contrary to the affirmation made in his affidavits filed along with nomination form before the Returning Officer. The first respondent, by filing a false affidavit, had violated the fundamental right of the voters to know correct information under Article 19 of the Constitution of India as he has a corresponding obligation to honestly and truthfully make a full, frank and complete disclosure of his antecedents. The first respondent has intentionally suppressed the material fact/furnished false information by disclosing B.E as his highest educational qualification instead of intermediate before the election authorities since 1999 onwards, particularly in the

elections 2014, with an ulterior motive to induce the voters of his Constituency to cast their votes in his favour in the elections in question. The first respondent got his profile (mentioning his educational qualification as B.Tech, Civil) published in Andhra Jyothi Daily newspaper on 08.04.2014, before the date of polling as Congress candidate contesting the elections from Nalgonda Assembly Constituency. The first respondent, by adopting corrupt practice of suppression of truth regarding his educational qualification, deliberately spread falsehood to misinform/mislead the voters of the Constituency. In the cross examination he stated that he filed the objections against the nomination of the returned candidate on 10.04.2014 on his own without taking any legal advice. There are 60 villages and 40 wards in Nalgonda Municipality which fall under the Legislative Assembly Constituency No.92 of Nalgonda. He had covered maximum wards in Nalgonda Town. He denied the suggestion that he invented the ground of non-qualification of the returned candidate only after filing the election petition and he did not raise it prior to filing of the election petition. When a specific question was put to him with regard to the raising of the issue of qualification of the returned candidate after acceptance of nomination and suggested that he did not raise this issue as he felt that it was not important, he answered that everyone in the Constituency knew that the returned candidate was an engineer. He added that at the time of scrutiny of nominations itself he raised an objection with regard to the educational

qualification of the first respondent, but the returning officer, without scrutinizing them properly, accepted the nomination without caring for his objection. He admitted that he did not raise the issue of lack of proper qualification by the first respondent during his campaign. He stated that the third respondent filed objections to the nomination of the first respondent after he raised the objection. There was no controversy relating to the qualifications of the returned candidate prior to the present elections and everyone knows that he was an engineer. He further stated that apart from himself, another candidate possessing engineering graduation and one more candidate possessing post graduation qualification also contested the election. He denied the suggestion that the first respondent filed the nomination papers clearly indicating “(B.E)” showing that he had not completed the engineering course and also the suggestion that the particulars indicated by the returned candidate with regard to his educational qualification did not affect the result of the election.

The second witness – Sri Y.Yellaiah, who was examined as P.W.2 stated that he is an agriculturist. He stated that he knows the first respondent as an engineer, contractor and as an M.L.A. He came to know that he is an engineer because he has undertaken the works of SLBC canal situated in Regatta Village and Purampalli Village, where the witness has lands. The first respondent has been canvassing as an engineer and seeking votes. The other candidates canvassed based on their

qualifications. He cast his vote on the basis of the educational qualification of the candidate with a hope that the educated man would develop the Constituency. He came to know that the first respondent was not an engineer, only after declaration of results. In the cross examination he stated that his younger brother is in political activity and he held party position in Telugu Desam party. His sister-in-law is the Sarpanch of a Village and she belongs to TRS party. He did not enquire with regard to the educational qualifications of the other candidates in general and more particularly the active candidates who contested the elections. He denied the suggestion that he was deposing at the instance of the election petitioner in E.P.No.6 of 2014. He also denied the suggestion that since he likes Sri N.T.Rama Rao, he is a sympathizer of TDP party.

One Sri K.Jalandhar Reddy was examined as P.W.3. He stated that he is resident of Nalgonda Town and he previously worked as Lecturer in English. He is a voter of Nalgonda Assembly Constituency and not a member of any political party. He stated that the successful candidate is a Civil Engineer, contractor and a Member of Legislative Assembly who held the position of Minister in the State Cabinet. He came to know from the profile published in the newspaper stating that the successful candidate declared himself in the election papers that he is qualified engineer. He marked the paper publication as Ex.P19. Apart from the same, he verified the qualification of the successful candidate through internet. The 1st respondent

was representing the Congress Party in the discussion held on Jalayagnam in the T.V programme and he was nominated recognizing him as an engineer. He came to know that he is a qualified B.E graduate through the visiting cards, letter heads printed by him and the affidavit filed before the Election Officer. He came before this Court to depose that the successful candidate had affected his right to know the correct information with regard to the candidates contesting in the elections. In the cross examination he stated that the distance between the village of the election petitioner and that of his parents is nearly 6 kms and he has no acquaintance with the election petitioner in E.P.No.6 of 2014. He knew him as a candidate who contested in the elections of 2014. He further stated that he enquired about the educational qualifications of the main contesting candidates. He is a subscriber to the Eenadu Telugu newspaper. When the Nalgonda edition of Eenadu dated 13.04.2014 was shown to the witness and pointed out that the said newspaper carried the educational qualification of the first respondent as B.E discontinued, he denied to have seen that newspaper. The newspaper was marked as Ex.R2. He admitted that he does not have sufficient computer knowledge, but has seen the internet when his friend showed to him the website containing information relating to the educational qualification of the candidates who contested in the elections.

One Sri J.Satish was examined as P.W.4 and he stated that he was working as Supervisor in the real estate firm,

Nalgonda, and he is a voter in the Constituency. He used to go to the first respondent on personal works now and then. The first respondent used to help the voters by writing letters to concerned authorities and he saw the letter head containing his name and qualification as B.E and MLA. He canvassed in the elections stating that he is an engineering graduate. He further stated that he voted for the first respondent imagining that he would develop the Constituency being an engineer. Though the first respondent canvassed in the elections as if he is an engineering graduate, after the declaration of result, he came to know that he is not an engineering graduate and he was hurt. In the cross examination he stated that though he was not associated with any political party, his father was a politician who belongs to Indian National Congress Party. He is having acquaintance with the first respondent. He denied the suggestion that he was deposing due to non-offering of the post of Chairman of the Agricultural Market Committee to his father.

One Sri Chirumarthi Yadaiah was examined as P.W.5. He stated that he is the President of Mandal TDP Unit of Narketpally and is an agriculturist. The first respondent belongs to their Village. The village falls under Nakrekal Assembly Constituency since 2009. Previously it was under Nalgonda Assembly Constituency. He got acquaintance with the first respondent as an engineer and big contractor. He came to know that he was an engineer because he was telling others that he was a qualified engineer and he believed his

version as he has been executing the contracts. The then Chief Minister Sri Y.S.Rajasekhar Reddy came and inaugurated Yelimineti Madhava Reddy SLBC project on 04.09.2007 and in that connection a plaque was installed and on the said plaque before the name of the first respondent "Er" was written which denoted that he was an engineer along with other engineers named on the plaque. The photo of the plaque was marked as Ex.P20. In the cross examination he stated that his brother was an Ex-MLA from Congress Party. He denied the suggestion that he contested MPTC elections against his brother and lost in the said elections. He admitted that his brother is a follower of the first respondent. The petitioner in E.P.No.6 of 2014 belongs to TDP party and he denied the suggestion that he was speaking at his instance.

Sri P.Mahender Reddy was examined as P.W.6. He stated that he was working as a reporter of Andhra Jyothi Telugu Daily in Nalgonda Town since 2002. During 2014 assembly elections he sent a report of news and the news relating to the Congress candidate of the Nalgonda Assembly under Ex.P19 was sent by him. He sent the same on the information that was made available on the notice board of the Revenue Divisional Office, Nalgonda. During his tenure as press reporter since 2002 he never sent any report with regard to the first respondent. Nothing relevant was elicited in the cross examination.

The election petitioner in E.P.No.7 of 2014 was examined as P.W.7. He marked Exs.P21 to 31. He stated that he contested from 92 Assembly Constituency of Nalgonda on behalf of the Telangana Rashtra Samithi Party, and the first respondent contested the elections on behalf of the Indian National Congress party. He got third position in the elections. He was elected as MPTC on behalf of the Congress party and in the elections held in 2009 he contested on behalf of Praja Rajyam party and lost. The first respondent wanted to project himself as a highly qualified person when compared to other contesting candidates. In the affidavit filed along with his nomination papers he projected himself as a highly qualified person, though he did not possess any such qualification. He further stated that the first respondent has been doing this mischief from 2009 onwards and styling himself as engineering graduate. By projecting himself as engineering graduate he secured place in Expert Committee appointed by then Hon'ble Chief Minister late Sri Y.S.Rajasekhar Reddy. The Hon'ble Chief Minister held a party meeting for discussion of Jala Yagnam programme. In the said Committee, the first respondent mislead everybody including the then Chief Minister late Sri Y.S.Rajasekhar Reddy. Believing that the first respondent was an engineering graduate, the then existing engineer was removed from the Committee and the first respondent was appointed in his place. In the same way, in the website of State Assembly of the Andhra Pradesh and also in the book published

by the State Assembly for 12th and 13th Legislative Assembly with a caption "Who's Who" wherein all the details of the MLAs and Ministers would be published, the educational qualification of the first respondent was mentioned as B.E and this book would be published on the basis of the information furnished by each candidate. It was shown in the said book that the first respondent is an engineering graduate. Therefore, the first respondent who failed in all engineering subjects and who also indulged in malpractice during the examination, declared himself as an engineering graduate. Prior to 1990, the first respondent never held any elected post in the village or mandal but all through he used to give impression among the public that he is an engineering graduate and highly qualified person in the Constituency. But, in reality, he possesses only intermediate qualification and he does not possess any other degree to add. Having come to know from reliable sources that the first respondent is not an engineering graduate but a failed candidate, he applied to the Osmania University authorities under the Right to Information Act on 29.03.2010. The authorities of the University furnished information through the proceedings dated 12.05.2010 which is filed as Ex.P27. A perusal of the said details furnished by the Osmania University shows that the first respondent did not pass engineering from the first year to final year except in few semesters. He mentioned in the affidavit that he completed B.Tech course in the year 1986. In fact, he joined in the year 1982 and took first

year examination in August, 1983. He failed in all the subjects. In 3rd year, he attempted to do malpractice i.e., in April 1985 and was caught. Therefore, the University authorities clearly mentioned that he committed malpractices in 3rd year. In this backdrop, the first respondent cannot claim himself as a candidate who discontinued B.E. He is definitely a failed candidate and does not possess engineering qualification. The first respondent having joined in the year 1982 could not complete engineering course till November, 1989. However, he mentioned in the affidavit that he completed the course in the year 1986, while keeping the (B.E) in bracket and writing on the top of it course completed. This mention was definitely intended to mislead the voters and it is nothing but playing malpractice. Thereafter, he has not registered or attempted to pursue his study after November, 1989. He lodged a complaint to the Returning Officer and the objection was rejected by him on 10.04.2014 stating that the affidavit filed by the first respondent was in full shape without leaving any blank column, signed by the candidate and attested by the notary and therefore there are no grounds to reject the nomination. The false information given by the first respondent as an engineering graduate was spread widely and the same was published in Andhra Jyothi daily on 22.02.2010 itself with the caption “Munnabai MBBS” “Komati Reddy Beetekku” and in a live T.V interview the first respondent categorically stated that he is an engineering graduate and he unnecessarily came into politics.

The first respondent has been trying to mislead one and all including the public at large that he is a highly qualified person when compared to other contesting candidates. In the cross examination he stated that he has been active in politics and a member of Indian National Congress from 1990 to 2008. He knows the first respondent during the year 1995-96 and they both worked together in the party. He held the position of Ward Member and Director of Cooperative Society in the year 1997. He also held the post of MPTC in the year 2001. He left the Indian National Congress party in the year 2008 and joined Praja Rajyam party. Later on, he joined TRS party in the year 2012. He came to know that the first respondent did not complete the engineering degree in or about the year 2012 or 2013. When he filed objections and no action was taken he filed a Writ Petition and thereafter the present E.P.No.7 of 2014 was filed, since the Writ Petition was disposed of giving liberty to file an election petition. He denied the suggestion that he was aware of the incorrect qualification possessed by the first respondent prior to 2012.

One Sri Mohd.Mumtaz Ali was examined as P.W.8. He stated that he is a voter of Nalgonda Assembly Constituency and President of Minority Wing of Indian National Congress party for Nalgonda District. He worked for the first respondent and canvassed stating that he is an engineering graduate. The returned candidate gave him the vehicle and asked him to canvass that he is a well educated person and asked to solicit

votes. In the cross examination he stated that he was a Member of Indian National Congress for the past 40 years and recently resigned to the post of President and continued to be the member of the party. He never aspired for any party ticket from the Congress party in any election. He denied the suggestion that he is speaking falsely after leaving the congress party and joining the TRS party.

One Sri B.Hari Prasad Reddy was examined as P.W.9 and he stated that he was working as a Journalist in Nalgonda District for the last ten years. He thought that the first respondent was a graduate in Bachelor of Engineering (B.E), but after publication of a news item captioned as “Munnabai MBBS”, he came to know that the first respondent did not possess B.E degree. Thereafter, he enquired with regard to the educational qualifications. In the cross examination he stated that he does not remember the date on which the news item captioned as “Munnabai MBBS” was published. But, he stated that he remembered that it was published in the first page. In the cross examination he stated that he cannot say anything with regard to the personal rivalry between Sri Dubbaka Narasimha Reddy and the first respondent, but he knows to the extent that they contested on behalf of different political parties in the elections.

Sri Md.Azizuddin deposed as P.W.10 and stated that he is a businessman and he knows the first respondent. He also

contested the Assembly elections from Nalgonda Constituency in the year 2014 as an independent candidate. He came to know that the first respondent is not an engineering candidate in view of the news item published in the newspaper. After the elections, he came to know that he is not an engineering graduate as claimed by 50% of the people. In the cross examination he stated that he was not present at the time of scrutiny of nominations and he does not belong to any political party. The news item stating that the first respondent was not an engineering graduate was published for the first time in the year 2010 and the people also came to know about the same in the same year.

One Sri K.Ravinder Rao was examined as P.W.11. He stated that he was enrolled as an advocate in the year 1994 and practiced till 2004. Presently he is an agriculturist. He came to know that the first respondent was an engineering graduate as per the bio-data of the candidate published immediately after the election notification. There was a discussion among the public with regard to the educational qualification of the first respondent and they opined that they were misled thinking that he was an engineering candidate. In the cross examination he stated that before the elections, a live telecast of the interview of the first respondent came in TV wherein he stated that during NSUI period he left studies after completing intermediate course and also said that he is an engineering graduate. He was nominated as a representative of one of the independent

candidates and he was present in the office of the RDO at the time of scrutiny of nominations and as such he came to know about the contents of the affidavit. The petitioner in E.P.No.7 of 2014 submitted a written representation objecting to the affidavit.

The first respondent was examined as R.W.1 and he stated that in terms of the requirements specified by the Election Commission of India, he had filed the affidavit by furnishing all the information as per the proforma. The candidate is required to furnish the highest educational qualification and since he studied upto the level of B.E (Bachelor of Engineering) after qualifying in the intermediate examination, he was required to furnish full information of the level up to which he pursued his education. He completed intermediate education in the year 1982 and thereafter joined B.E course in CBIT Institute and pursued the said course from 1982 to 1986. He could not continue and finish the same on account of personal factors. Since he joined the said course and had continued till the fourth year, he was required to furnish the information and in fact, the non-mentioning of the pursuit of degree education up to that stage would amount to suppression of facts and hence, he indicated the year 1986 up to which he had continued his education in B.E course. He filed a copy of the bonafide certificate issued by the institution as Ex.R3. Since he could not complete the course to earn the degree, the course in which he had continued was indicated in brackets. It clearly shows

that he did not complete and was not qualified in attaining the said B.E course. He clarified to the media and general public on various occasions that it is a common practice in the State of Andhra Pradesh to refer to any incomplete course in brackets. Since he joined engineering course after his intermediate education, he was under a bonafide impression that furnishing full educational qualifications to the level of education pursued had to be given and with that impression in mind, he referred to the B.E course in brackets. His non-completion of B.E course is in the public knowledge and was adequately represented in the press and public debates and it was extensively discussed before the date of filing of nomination and during election itself. Copies of the newspaper articles dated 22.02.2010 and 23.02.2010 are marked as exhibits and they were published in Andhra Jyothi newspaper. When the petitioner in E.P.No.7 of 2014 approached this Court in W.P.No.12006 of 2014, to reject his nomination on the ground that he had furnished incorrect details in respect of his educational qualifications in the nomination papers and the affidavit, the same was widely published in the local media. The people of his Constituency have reposed their faith in him in spite of the negative campaign indulged by the petitioners in E.P.Nos.6 and 7 of 2014 and voted in his favour keeping his track record in mind of serving them as their representative and hence, the question of his committing malpractice does not arise. The petitioner in E.P.No.7 of 2014, P.W.7, held a press conference about the

wrong declaration and he also addressed a press conference explaining the correct position. The petitioners and other contesting candidates had widely campaigned about his educational qualifications in the election campaign conducted by them and he never proclaimed himself that he had completed the engineering course nor that he is an engineering graduate. The said declaration was made by him in his previous election affidavits also. The voters were aware that he is not an engineering graduate and the said fact was made clear by denoting the qualification in brackets. He provided the correct information with regard to his educational qualifications with respect to the courses he had pursued and not completed by including his B.E degree in brackets. In the cross examination he stated that he is a native of Brahmana Vellamla Village, Narkatpally Mandal, Nalgonda District. He resides both in Nalgonda and Hyderabad. His native village was within the Constituency of Nalgonda till 2004. Thereafter, from the general elections of 2009, the village was included in the Nakrekal Assembly Constituency. He is aware of the book “Who’s Who” published by the erstwhile State Legislature in the year 1999 and the details published as against his name under Ex.P16 was not based on the information furnished to the publisher and he did not give any information to the publisher. The information was not correct. He did not give any biodata to the Telangana Legislative Secretary after his election as the Member of Legislative Assembly in the year 2014 and he does

not know whether any book containing the biodata of the members was published by the Legislative Secretariat. He did not complete his bachelor course in engineering. He completed his study of four years, but did not obtain the degree. He completed his studies in 1986 by attending the classes. He attended the examinations during the year 1987, but thereafter he could not attend the examinations. He knows that a degree is put in brackets when the degree is not completed. He denied the suggestion that there is no practice to put the incomplete course in brackets. He filled up the nomination paper on his own after obtaining legal advice and he is aware of the instructions issued by the Election Commission of India regarding filing of nomination. He filled up the nomination papers after understanding the format and the questions asked therein. He knows the information required to be given in the nomination form. He is aware that he is supposed to declare correct facts without concealing or mis-representing the facts and his signature is not available above the verification statement but is available below the verification statement in Ex.P7. In Ex.P6 his signature is found above verification statement. He denied the suggestion that because his signature was not found above the verification statement in Form 26 (affidavit) as an enclosure to the nomination papers, his nomination should not have been accepted. He admitted that his signature is not found on part A as well as B of Ex.P7 above the word "deponent". He stated that he personally sworn in

before the Returning Officer and complied with all the formalities of nomination at the time of filing nomination by himself. At the time of scrutiny of his nomination papers he was not present and his agent was present. Thus, he was not aware of the objection raised at the time of scrutiny of the nominations. He does not remember the name of the agent who was present at the time of scrutiny of the nomination papers. He does not remember the names of the persons who proposed his nomination. He appointed one Sri Poreti Narasimha Reddy as his election agent. He came to know about the objections raised on his nomination form from the news item published in the newspaper on the next day of scrutiny. He does not know whether the affidavit filed by him along with the nomination will be displayed on the notice board in the office of the Returning Officer for information to the public. He knows that the contents of the nomination along with the affidavit of all the contesting candidates will be uploaded by the Election Commission of India in its website. He is not aware of the contents of Ex.R2 and similarly he does not have the knowledge of the contents of Ex.P19 and nobody informed him about the same. When a specific question was put to him, he answered that as per item 10 of Part A of affidavit in Form 26 (Ex.P7), he had to furnish the information indicating the completed qualified educational course with full form of certificates. Accordingly, he furnished the information relating to SSC, Intermediate and B.E. Since he did not complete the B.E, he

put the same in brackets. He furnished the said information since he attended the college upto 1986. Even though he did not complete the B.E., he had furnished the information on the assumption that if he did not furnish that information, it may amount to suppression of fact. To another specific question, he stated that as per item No.11 of Part B of affidavit in Form 26 (Ex.P7), he had to indicate the highest completed qualified educational course with full form of certificate and accordingly, he had furnished B.E in brackets, since he attended the college upto 1986 during his study. He denied the suggestion that his highest educational qualification is intermediate and added that he furnished the information relating to incomplete B.E as he was under the impression that if he does not furnish the information it would amount to suppression of fact. When he was put a specific question with regard to the thinking of the electorate, he stated that he does not know as to what the electorate thinks of him. He also denied the suggestion that disclosure of B.E in brackets as his highest educational qualification in the affidavit (Ex.P7) is contrary to oath affirmation and verification and the requirements of Election Commission of India. He also denied the suggestion that he indicated the qualification as B.E in brackets in order to mislead the voters. When the letterhead printed with his name and the educational qualification was shown, he denied the letterhead and also the signature on the same. He also denied the suggestion that the information published in Ex.P32 was

based on the information furnished by him and he was purposely denying the same. He admitted that the pylon was erected in his Village and the same appears as in Ex.P20. It was erected at the time of laying the foundation stone by the then Hon'ble Chief Minister at the time of inauguration of irrigation project when he was MLA. The department might have put his name on the plaque in the pylon. He admitted that he was present when the pylon was erected. He stated that he has no idea with regard to forfeiture of his admission when backlog subjects are not cleared within a particular period. He admitted that in the affidavit he was not asked to furnish the details regarding the years of study or backlogs and also denied that he had attended the examinations till 1989. He stated that he might have attended one or two examinations after completion of course in the year 1986 and was assisting his brother who was doing contract works. According to his understanding, the highest qualification possessed by him is B.E incomplete. He stated that in his Constituency educated voters are more than uneducated voters. He admitted that the Returning Officer who received the nominations in the elections of 2014 also acted as Returning Officer in the previous elections. He denied the suggestion that the Returning Officer who worked in the previous elections was appointed as Returning Officer in the present election by using his influence. He stated that he does not remember whether he stated in the interview in TV9 expressing his dissatisfaction for entering into

politics even though he is an engineering graduate. Similarly he denied the suggestion that he was appointed as Member of the Committee by replacing the Superintending Engineer on the ground that he was a graduate in engineering when the committee was constituted by the then Hon'ble Chief Minister. He is not aware of Ex.P32 and hence he could not take steps in making corrections in respect of the contents.

When R.W.2 filed an affidavit and stood for cross examination it was pointed out by the learned Counsel appearing for the petitioners that the witness was not the Returning Officer at the time of scrutiny of nomination papers of the first respondent, and hence, his evidence in the affidavit filed in lieu of chief examination was eschewed without conducting the cross examination.

The Returning Officer who worked at the relevant time was examined as C.W.1 and when questions were put by this Court he stated that he retired from service in July 2015 and worked as RDO in Nalgonda from May 2008 to June 2010 and May 2013 to September 2014. He discharged the duties of Returning Officer during the said period for the elections to 92-Nalgonda Assembly Constituency in the year 2014. He scrutinized the nominations of 15 candidates during the said elections including that of the petitioner in E.P.No.6 of 2014 and the first respondent. He identified Ex.X1 as the accepted nomination and Ex.X2 as the rejected nomination. In the cross

examination he stated that he worked as Returning Officer in respect of Nalgonda Assembly Constituency once in 2009 and again in 2014. He denied the suggestion that he was posted as RDO only to act as Returning Officer in respect of the elections held in 2009 and 2014. He admitted Ex.P33, the handbook given to him at the time when he worked as Returning Officer. He does not remember the total number of nominations, but the accepted nominations were 15 and 5 nominations were rejected. He indicated the reasons for rejection in column 23 of the nominations. He stated that he complied with the instructions issued by the Election Commission of India in respect of the affidavit filed by the candidates including the returned candidate. Whenever he finds omissions in the nominations filed by the candidates, he can call the candidates and ask them to fill up the omissions. Though there was no need to print "deponent", it was printed, and "deponent" is needed only in Part B and accordingly "deponent" was printed in Part B. He admitted receiving the objections with regard to the nomination filed by the first respondent and stated that the petitioner in E.P.No.6 of 2014 filed the objections and Ex.P11 is the objection petition. After receiving the objection, he informed the agent of the first respondent with regard to the substance of the objection and asked for his explanation, but he did not give any clarification. He has not conducted any summary enquiry, but verified the information furnished against the respective columns. No reasons need be given for accepting the

nominations, whereas in case of rejection, reasons have to be given. He denied the suggestion that he accepted the defective/incomplete nomination papers submitted by the first respondent under his influence and at his instance. He stated that he did not get any doubt with regard to the qualification possessed by the first respondent and that the petitioner in E.P.No.7 of 2014, P.W.7, filed an objection with regard to the educational qualification possessed by the first respondent and it is in Ex.P30. He admitted that he rejected the objection. He denied the suggestion that he had accepted the nomination of the first respondent in order to help him even though he did not fill up all the columns correctly, in particular, the educational column. In the cross examination conducted by the learned Counsel for the first respondent, he stated that he is not concerned with the genuinity of the information furnished against each column, but he should see whether information was furnished against each column or not. He has no power to make a summary enquiry with regard to the objections raised at the time of scrutiny of nominations, when the candidate filled up the relevant columns with information as per para 5.20.5 of the Hand Book for Returning Officer, 2014. He accepted the nomination of the first respondent as per the procedure in the Hand Book for Returning Officer, 2014. He did not issue any notice to the first respondent on the contents of the objection or supplied a copy of the objection drawing his attention for explanation on the objection.

After closure of evidence, the petitioner in E.P.No.6 of 2014 filed Election Application Nos.1101, 1102 and 1103 of 2016 for reopening the evidence of PW1, for recalling PW1 for the purpose of marking of documents and for receiving the documents respectively. Election Application No.1150 of 2016 was also filed to summon the Secretary, Telangana State Legislature, Nampally, Hyderabad, for the purpose of giving evidence as to publication of information in Exs.P16, P32, P32(a), (b) and (c) in respect of the book published in the year 2014, "WHO'S WHO". The said applications were dismissed by a common order dated 05.01.2017 on the ground that the documents sought to be produced now are not relevant for the purpose of the controversy and the evidence was already completed. The said order was challenged before the Supreme Court in Petition(s) for Special Leave to Appeal (C) Nos.4454-4457 of 2017 and they were dismissed on 23.01.2018.

Learned Counsel for the petitioner in E.P.No.6 of 2014 submitted that the information furnished by the first respondent in his nomination form was incorrect, misinformation and wrong information and, hence, his nomination should have been rejected. He submitted that the same is in violation of Section 100(1)(d)(iv) read with Rule 4A of the Conduct of Elections Rules. In support of his submission, he pointed out the information at serial No.10 of Part A of Form 26 and serial No.11 of Part B of Form 26 and Note 3 of the

affidavit. He relied on **Union of India v. Association for Democratic Reforms¹**, **People's Union for Civil Liberties (PUCL) v. Union of India²**, **Sh.Jaspal Singh v. Sh.O.P.Babbar³**, **Vijay Narayan Thatte v. State of Maharashtra⁴**, Order of the Election Commission of India bearing No.3/ER/2003/JS-II, dated 27.03.2003, **Fuerst Day Lawson Limited v. Jindal Exports Limited⁵**, **Bhagwan Dass v. State of H.P⁶**, **Arikala Narasa Reddy v. Venkata Ram Reddy Reddygari⁷**, **Kisan Shankar Kathore v. Arun Dattatray Sawant⁸**, **Resurgence India v. Election Commission of India⁹**, **Krishna Moorthy v. Sivakumar¹⁰**, **M/s.Zamil Steel Buildings India Pvt. Ltd. v. The State of Maharashtra¹¹**, **Pukhrem Sharatchandra Singh v. Mairembam Prithviraj¹²**, **Mairembam Prithviraj v. Pukhrem Sharatchandra Singh¹³**, **Lok Prahari v. Union of India¹⁴** and **Madiraju Venkata Ramana Raju v. Peddireddigari Ramachandra Reddy¹⁵**. He further submitted that since the first respondent could not complete the B.E course within the double period of original course permitted, he cannot style himself as B.E graduate after 14 years. He pointed out Ex.R3 in support of his case. He

¹ (2002) 5 SCC 294

² (2003) 4 SCC 399

³ 149 (2008) DLT 205 : 2008 (101) DRJ 283 (Elec.P.1/2004, dated 19.02.2008, High Court of Delhi)

⁴ (2009) 9 SCC 92

⁵ (2011) 8 SCC 333

⁶ 2012 SCC OnLine HP 397 : (2012) 116 AIC (Sum 4) 2

⁷ (2014) 5 SCC 312

⁸ (2014) 14 SCC 162

⁹ (2014) 14 SCC 189

¹⁰ (2015) 3 SCC 467

¹¹ 2016 SCC OnLine Bom 10078 : (2017) 98 VST 172

¹² 2016 SCC OnLine Mani 30

¹³ (2017) 2 SCC 487

¹⁴ Writ Petition (C) No.784 of 2015, dated 16.02.2018

¹⁵ Civil Appeal Nos.9466-9468 of 2016, dated 21.03.2018

finally submitted that the Returning Officer failed to discharge his duty in asking for any explanation from the first respondent.

The said argument of the learned Counsel for the petitioner in E.P.No.6 of 2014 was supported by the learned Counsel for the petitioner in E.P.No.7 of 2014. His submissions are as follows:

i) The first respondent suppressed and gave false information at two places in Form 26 with regard to the year of completion of the course and mentioning the highest qualification in brackets as (B.E.). He submitted that he appeared for examinations till 1989 as per Ex.P27 and hence mentioning the year as 1986 was wrong.

ii) The information furnished by him is not the required information.

iii) When the petitioner raised an objection, the Returning Officer ought to have sought for explanation from the first respondent and he should not have accepted the nomination without seeking the explanation.

iv) The Returning Officer has not properly scrutinized the affidavit and in a hurried manner accepted the nomination without the signature above “deponent” in Form 26 under column 10.

v) Since the Legislative Assembly publishes “Who’s Who” on the basis of the information furnished by the Members of the

Legislative Assembly, the information published in Ex.P32 is also incorrect information. He finally submitted that in deciding the issue, the earlier conduct is also relevant and the first respondent has been in the habit of styling himself as a B.E graduate.

Learned Counsel for the first respondent, on the other hand, submitted that by disclosing the complete information, the voter would have a choice and there is nothing wrong in providing the highest qualification which the first respondent pursued. Even as per the arguments of the learned Counsel for the petitioners, since the information in parenthesis should be treated as extra information only, the said extra information which is not a wrong information would not make the nomination form as invalid. He further submitted that since no affidavit was filed by the rival candidate as contemplated in the circular issued by the Election Commission, one should take into account the condonable lapses and substantial lapses while examining the issue and ignore condonable lapses, if any. He buttressed his arguments with a further submission that a candidate is expected to give full information, lest it would be understood that he suppressed some information. He relied on **Mangani Lal Mandal v. Bishnu Deo Bhandari**¹⁶ and **Shambhu Prasad Sharma v. Charandas Mahant**¹⁷. He finally submitted that the Election Petitions are liable to be dismissed as they do

¹⁶ (2012) 3 SCC 314

¹⁷ (2012) 11 SCC 390

not contain the averments relating to corrupt practice as provided under Section 83(1)(b) of the Act.

The issues framed in the instant case are interconnected and mainly related to the submission of information in Form 26 and the consequential effect thereof, and hence, all the issues are considered together.

Before deciding the case, it is necessary to extract the relevant provisions applicable to the cases as the petitions were filed under Sections 100(1)(~~d~~)(i) and (iv) of the Act.

“100. Grounds for declaring election to be void.—(1) Subject to the provisions of sub-section (2) if the High Court is of opinion—

...

(~~d~~) that the result of the election, insofar as it concerns a returned candidate, has been materially affected—

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

...

(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,

the High Court shall declare the election of the returned candidate to be void.

...

125A. Penalty for filing false affidavit, etc.— A candidate who himself or through his proposer, with intent to be elected in an election, -

(i) fails to furnish information relating to sub-section (1) of Section 33A; or

(ii) gives false information which he knows or has reason to believe to be false; or

(iii) conceals any information,

in his nomination paper delivered under sub-section (1) of Section 33 or in his affidavit which is required to be delivered under sub-section (2) of Section 33A, as the case may be, shall, notwithstanding anything contained in any other law for the time being in force, be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.”

Other relevant provisions are Sections 33, 33A, 33B, 34, 35 and 36 of the Act, which are as under:

“33.Presentation of nomination paper and requirements for a valid nomination.—(1) On or before the date appointed under clause (a) of Section 30 each candidate shall, either in person or by his proposer, between the hours of eleven o'clock in the forenoon and three o'clock in the afternoon deliver to the Returning Officer at the place specified in this behalf in the notice issued under Section 31 a *nomination paper completed in the prescribed form* and signed by the candidate and by an elector of the constituency as proposer:...

33A.Right to information.—(1) A candidate shall, apart from any information which he is required to furnish, under this Act or the rules made thereunder, in his nomination paper delivered under sub-section (1) of Section 33, also furnish the information as to whether—

(i) he is accused of any offence punishable with imprisonment for two years or more in a pending case in which a charge has been framed by the court of competent jurisdiction;

(ii) he has been convicted of an offence other than any offence referred to in sub-section (1) or sub-section (2), or covered in sub-Section (3) of Section 8 and sentenced to imprisonment for one year or more.

(2) The candidate or his proposer, as the case may be, shall, at the time of delivering to the Returning Officer the nomination paper under sub-section (1) of Section 33, also deliver to him an affidavit sworn by the candidate in a prescribed form verifying the information specified in sub-section (1).

(3) The Returning Officer shall, as soon as may be after the furnishing of information to him under sub-section (1), display the aforesaid information by affixing a copy of the affidavit, delivered under sub-section (2), at a conspicuous place at his office for the information of the electors relating to a constituency for which the nomination paper is delivered.

33B. Candidate to furnish information only under the Act and the rules:- Notwithstanding anything contained in any judgment, decree or order of any court or any direction, order or any other instruction issued by the Election Commission, no candidate shall be liable to disclose or furnish any such information, in respect of his election, which is not required to be disclosed or furnished under this Act or the rules made thereunder.

34. Deposits.—(1) A candidate shall not be deemed to be duly nominated for election from a constituency unless he deposits or causes to be deposited—

(a) in the case of an election from a Parliamentary constituency, a sum of twenty-five thousand rupees or where the candidate is a member of a Scheduled Caste or Scheduled Tribe, a sum of twelve thousand five hundred rupees; and

(b) in the case of an election from an Assembly or Council constituency, a sum of ten thousand rupees or where the

candidate is a member of a Scheduled Caste or Scheduled Tribe, a sum of five thousand rupees:

Provided that where a candidate has been nominated by more than one nomination paper for election in the same constituency, not more than one deposit shall be required of him under this sub-section.

(2) Any sum required to be deposited under sub-section (1) shall not be deemed to have been deposited under that sub-section unless at the time of delivery of the nomination paper under sub-section (1) or, as the case may be, sub-section (1-A) of Section 33 the candidate has either deposited or caused to be deposited that sum with the Returning Officer in cash or enclosed with the nomination paper a receipt showing that the said sum has been deposited by him or on his behalf in the Reserve Bank of India or in a Government Treasury.

35. Notice of nominations and the time and place for their scrutiny.—The Returning Officer shall, on receiving the nomination paper under sub-section (1) or, as the case may be, sub-section (1-A) of Section 33, inform the person or persons delivering the same of the date, time and place fixed for the scrutiny of nominations and shall enter on the nomination paper its serial number, and shall sign thereon a certificate stating the date on which and the hour at which the nomination paper has been delivered to him; and shall, as soon as may be thereafter, cause to be affixed in some conspicuous place in his office a notice of the nomination containing descriptions similar to those contained in the nomination paper, both of the candidate and of the proposer.

36. Scrutiny of nominations.—(1) On the date fixed for the scrutiny of nominations under Section 30, the candidates, their election agents, one proposer of each candidate, and one other person duly authorised in writing by each candidate, but no other person, may attend at such time and place as the Returning Officer may appoint; and the Returning Officer shall give them all reasonable facilities for examining the nomination papers of all candidates which have been delivered within the time and in the manner laid down in Section 33.

(2) The Returning Officer shall then examine the nomination papers and shall decide all objections which may be made to any nomination and may, either on such objection or on his own motion, after such summary inquiry, if any, as he thinks necessary, reject any nomination on any of the following grounds—

(a) that on the date fixed for the scrutiny of nominations the candidate either is not qualified or is disqualified for being chosen to fill the seat under any of the following provisions that may be applicable, namely—

Articles 84, 102, 173 and 191,

Part II of this Act and Sections 4 and 14 of the Government of Union Territories Act, 1963 (20 of 1963); or

(b) that there has been a failure to comply with any of the provisions of Section 33 or Section 34; or

(c) that the signature of the candidate or the proposer on the nomination paper is not genuine.

(3) Nothing contained in clause (b) or clause (c) of sub-section (2) shall be deemed to authorise the rejection of the nomination of any candidate on the ground of any irregularity in respect of a

nomination paper, if the candidate has been duly nominated by means of another nomination paper in respect of which no irregularity has been committed.

(4) The Returning Officer shall not reject any nomination paper on the ground of any defect which is not of a substantial character.

(5) The Returning Officer shall hold the scrutiny on the date appointed in this behalf under clause (b) of Section 30 and shall not allow any adjournment of the proceedings except when such proceedings are interrupted or obstructed by riot or open violence or by causes beyond his control:

Provided that in case an objection is raised by the Returning Officer or is made by any other person the candidate concerned may be allowed time to rebut it not later than the next day but one following the date fixed for scrutiny, and the Returning Officer shall record his decision on the date to which the proceedings have been adjourned.

(6) The Returning Officer shall endorse on each nomination paper his decision accepting or rejecting the same and, if the nomination paper is rejected, shall record in writing a brief statement of his reasons for such rejection.

(7) For the purposes of this section, a certified copy of an entry in the electoral roll for the time being in force of a constituency shall be conclusive evidence of the fact that the person referred to in that entry is an elector for that constituency, unless it is proved that he is subject to a disqualification mentioned in Section 16 of the Representation of the People Act, 1950 (43 of 1950).

(8) Immediately after all the nomination papers have been scrutinised and decisions accepting or rejecting the same have been recorded, the Returning Officer shall prepare a list of validly nominated candidates, that is to say, candidates whose nominations have been found valid, and affix it to his notice board."

A copy of the affidavit of the first respondent filed under Form 26 is marked as Ex.P7. The copy of the complaints dated 10.04.2014 of the petitioners in E.P.Nos.6 and 7 of 2014 are marked as Exs.P11 and P12. The Memo issued by the returning officer is marked as Ex.P13. The copy of the information furnished by the Osmania University relating to the malpractice of the first respondent is marked as Ex.P14. The copy of the information furnished by the Osmania University in respect of the marks memo of the first respondent is Ex.P15. In respect of item No.10 of Part A of the nomination paper and

serial number 11 of Part B of the nomination paper, the first respondent stated as follows:

“(10) My educational qualification is as under:

(Give details of highest School/University education with full form of the certificate/diploma/degree course (Name of the School/College/University and year in which the course was completed.

Name of the School/University	Year	Course completed
Amarajeevi Potti Sreeramulu High School, Malakpet, Hyderabad	1980	S.S.C.
N.B.Science College, Pathargatti Hyderabad	1982	Intermediate
Chaitanya Bharati Institute of Technology, Hyderabad	1986	(B.E)

DEPONENT”

“PART-B

(11) ABSTRACT OF THE DETAILS GIVEN IN (1) TO (10) OF PART - A:
...

11. Highest Educational qualification:

Name of the School/University	Year	Course completed
Chaitanya Bharati Institute of Technology, Hyderabad”	1986	(B.E)

It is found that there is a slight variation in the printed nomination form with regard to column (10) in Part A and column (11) of Part B from the form prescribed as per the Conduct of Election Rules, 1961, and the prescribed form reads as follows:

“(10) My educational qualification is as under-

.....
(Give details of Highest School/University education mentioning the full form of the certificate/diploma/degree course, name of the School/College/University and the year in which the course was completed.)

PART B

(11) Abstract of the details given in (1) to (10) of Part A:
...

11. Highest educational qualification:

(Give details of highest school/University education mentioning the full form of the certificate/diploma/degree course, name of the School/College/University and the year in which the course was completed.)”

The entire case of the petitioners is directed against the last entry in serial No.10 of Part A disclosing the name of the College, year of study and the course completed. Since Part B contains the summary of serial Nos.1 to 10 of Part A, there cannot be any dispute with regard to entry at serial No.11. In serial No.10, with regard to the educational qualifications, it was stated in brackets that the details of highest school/university education with full form of certificate/diploma/degree course, name of the school/college/university and year in which the course was completed should be given. It is the case of the first respondent that he joined the course of B.E in Civil Engineering in 1982 in CBIT, Hyderabad, and pursued the said course from 1982 to 1986. He attended the college upto 1986. Though he attended the examinations till 1989, he could not obtain the degree. In response to the request made by the petitioner in E.P.No.6 of 2014, the Osmania University furnished the information stating that the first respondent was admitted during the year 1982-1983 for B.E Civil Engineering in CBIT College of Engineering, Hyderabad. It was also stated that he appeared for the examinations from August 1983 to April 1989 and completed the second semester of fourth year in June/July 1986. This document was exhibited as Ex.P15. The information thus

obtained by the petitioner in E.P.No.6 of 2014 is in consonance with the oral evidence given by the first respondent. There is no contradiction or misstatement made by the first respondent. What was required to be given under serial No.10 of Part A of the nomination form is with regard to the “highest course” completed by the candidate and, admittedly, he completed the course of B.E in 1986, but was not qualified to obtain the said degree. The entire case is based on misconception assuming that what was required in column No.10 is the ‘qualification’, but not the ‘course’. Admittedly, the first respondent did not obtain ‘B.E degree’, but completed the ‘course of B.E’. He stated B.E in brackets under the heading, ‘course completed’ and it could not have made any difference had he stated B.E without brackets also, because, what is required is the information relating to the ‘course’, but not the ‘degree’ obtained by him. It is not the case of the petitioners that the first respondent did not join the B.E course in the said College nor did he complete the course in 1986. The entire case of the petitioners is that the first respondent did not obtain the degree, but stated B.E in brackets, which is a violation of the provisions of the Representation of Peoples Act and the rules made thereunder.

The pleadings and evidence on this aspect are as follows:

In E.P.No.6 of 2014, the petitioner stated that he had no occasion to personally verify the antecedents of the first respondent prior to the General Elections of 2014. He stated that the first respondent suppressed the fact that he passed

12th Standard (Intermediate) only and made the people of the State, in particular the voters of his Constituency, believe that he holds the degree of Bachelor of Engineering (B.E) from CBIT as his educational qualification. In fact, he discontinued B.E (Civil) course in CBIT from Osmania University. In the affidavit filed along with the nomination paper in Form 26 under Rule 4A of the Rules framed under the Representation of the People Act, against column for disclosure of highest qualification, the first respondent stated “1986” in the column of “year of completion of highest educational qualification” and mentioned “(B.E)” in the column of “course completed”. It was his case that not only that, such disclosure/information given by him was false. The petitioner further stated that the first respondent falsely disclosed that he completed the highest educational qualification (B.E) even though he did not complete the same. As per the information obtained from the Osmania University, the first respondent took admission in B.E (Civil) Engineering course in CBIT in academic year 1982-83.

In his oral evidence, the petitioner in E.P.No.6 of 2014 as P.W.1 stated that as per the information he obtained from Osmania University through letters dated 12.06.2014 and 07.06.2014, the first respondent took admission in B.E Civil Engineering course in CBIT during the academic year 1982-83 and he failed in most of the subjects in the first three years. Though he discontinued B.E in 1989, he proclaimed himself to be a B.E graduate. He denied the suggestion that the first

respondent filed the nomination papers clearly indicating “B.E” in brackets showing that he had not completed the Engineering Course and also the suggestion that the particulars indicated by the returned candidate with regard to his educational qualification did not affect the result of the election.

Similarly, the petitioner in E.P.No.7 of 2014 stated in his petition that he applied to the Osmania University to furnish the information about the educational qualification of the first respondent under the Right to Information Act much before the State 13th Legislative Assembly elections. As per the information obtained, though the first respondent appeared for the first year first semester in August 1983 and failed in all the subjects and completed the fourth year first and second semesters, he stopped pursuing after April 1989. But, the first respondent cleverly mentioned in the affidavit enclosed to the nomination papers by placing B.E in brackets and writing 1986 under the column “course completed”.

In his deposition as P.W.7, he stated that in reality, the first respondent possesses only intermediate qualification and he does not possess any other degree to add. Having come to know from reliable sources that the first respondent is not an engineering graduate but a failed candidate, he applied to the Osmania University authorities under the Right to Information Act on 29.03.2010. The authorities of the University furnished information through the proceedings dated 12.05.2010 which is filed as Ex.P27. A perusal of the said details furnished by the

Osmania University shows that the first respondent did not pass engineering from the first year to final year except in few semesters. He mentioned in the affidavit that he completed B.Tech course in the year 1986. In fact, he joined in the year 1982 and took first year examination in August, 1983. He failed in all the subjects. In 3rd year, he attempted to do malpractice i.e., in April 1985 and was caught. Therefore, the University authorities clearly mentioned that he committed malpractices in 3rd year. In this backdrop, the first respondent cannot claim himself as a candidate who discontinued B.E. He is definitely a failed candidate and does not possess engineering qualification. The first respondent having joined in the year 1982 could not complete engineering course till November, 1989. However, he mentioned in the affidavit that he completed the course in the year 1986, while keeping the (B.E) in bracket and writing on the top of it course completed. This mention was definitely intended to mislead the voters and it is nothing but playing malpractice. Thereafter, he has not registered or attempted to pursue his study after November, 1989.

The first respondent in his deposition as R.W.1 stated as follows:

The candidate is required to furnish the highest educational qualification and since he studied upto the level of B.E (Bachelor of Engineering) after qualifying in the intermediate examination, he was required to furnish full information of the level up to which he pursued his education.

He completed intermediate education in the year 1982 and thereafter joined B.E course in CBIT Institute and pursued the said course from 1982 to 1986. He could not continue and finish the same on account of personal factors. He filed a copy of the bonafide certificate issued by the institution as Ex.R3. Since he could not complete the course to earn the degree, the course in which he had continued was indicated in brackets. It clearly shows that he did not complete and was not qualified in obtaining the said B.E degree. Since he joined engineering course after his intermediate education, he was under a bonafide impression that furnishing full educational qualifications to the level of education pursued had to be given and with that impression in mind, he referred to the B.E course in brackets. He provided the correct information with regard to his educational qualifications with respect to the courses he had pursued and not completed by including his B.E degree in brackets. When a specific question was put to him, he answered that as per item 10 of Part A of affidavit in Form 26 (Ex.P7), he had to furnish the information indicating the completed qualified educational course with full form of certificates. Accordingly, he furnished the information relating to SSC, Intermediate and B.E. Since he did not complete the B.E, he put the same in brackets. He furnished the said information since he attended the college upto 1986. Even though he did not complete the B.E., he had furnished the information on the assumption that if he did not furnish that

information, it may amount to suppression of fact. To another specific question, he stated that as per item No.11 of Part B of affidavit in Form 26 (Ex.P7), he had to indicate the “highest completed qualified educational course” with full form of certificate and accordingly, he had furnished B.E in brackets, since he attended the college upto 1986 during his study.

The above evidence of the petitioners in E.P.Nos.6 and 7 of 2014 and that of the first respondent would clearly show that the first respondent studied the course of B.E (Civil) Engineering in CBIT, Hyderabad, during the years 1982 – 1986. Though he attended the examinations till 1989, he could not obtain a degree. What was required in Form 26 under the Conduct of Election Rules, 1961, is the details of highest school/University education mentioning the full form of the certificate/diploma/degree course with name of the school/college/University and **the year in which the ‘course’ was completed**. It does not speak of obtaining a degree, but the completion of the course only. The first respondent completed the course in 1986, but did not obtain the degree. He gave the particulars of the course completed with regard to SSC, Intermediate and B.E in the said form and this Court finds that the said information does not amount to suppression or misrepresentation.

There is nothing in the evidence on record to show that he did not complete the course in the year 1986. Though an

attempt was made stating that his admission itself was cancelled for his not obtaining the degree within the maximum period of permissible years for sitting in the examinations, it is of no avail for ascertaining the year of completion of course and finding out whether such information is true or not correct. Thus, the admitted fact is that the first respondent was admitted to the course of B.E Civil Engineering in 1982 and completed the said course in June/July 1986. He made an attempt to clear the examinations till November 1989 and thereafter he did not obtain the B.E degree. In such circumstances, the information furnished by the first respondent in the nomination form with regard to the course completed in respect of highest educational qualification cannot be held to be false. The entire case was woven around this misconceived fact and it falls to the ground.

The distinction between the “course” and “degree” is known to all. “Course” is the number of years study leading to the “degree” and it is known as such in all the academic circles. Whereas, the ‘degree’ is a recognition of qualification obtained by qualifying in the required examination or lectures by virtue of the academic pursuit of the ‘course’. This distinction was lost sight of by the petitioners as well as by the learned counsel for the first respondent. But in the pleadings, the first respondent made a correct averment.

As per the dictionary found in Google, the meanings of “*course*” and “*degree*” are as follows:

“course: a series of lectures or lessons in a particular subject, leading to an examination or qualification.
"a business studies course"

synonyms: programme of study, course of study, educational programme, set of lectures, curriculum, syllabus, schedule; classes, lectures, studies
"he's taking a course in art history"

degree: an academic rank conferred by a college or university after examination or after completion of a course, or conferred as an honour on a distinguished person.
"a degree in zoology"

In P.Ramanatha Aiyar’s *The Law Lexicon 2nd Edition*, the terms “*course*” and “*degree*” are defined as follows:

“Course: ...3. an educational unit usually at a high school, college or university level consisting of a series of instruction periods dealing with a particular subject; a series of such courses coordinated to constitute a curriculum and leading to a degree...

degree:3. A title conferred, making a stage of proficiency in studies...”

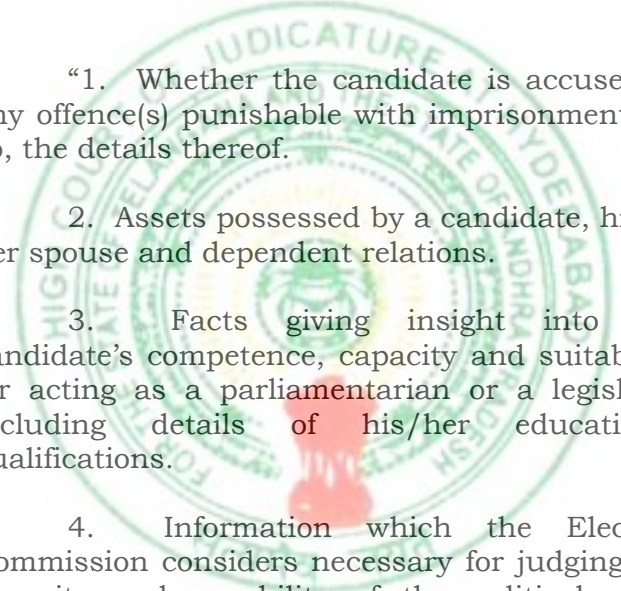
In view of this, this Court holds that the information furnished in Form 26 along with the nomination papers contains correct information.

In view of the fundamental absence and misconception relating to the foundation to the case, which is not even a shaky foundation but is totally absent, it is unnecessary for this Court to embark upon the ratio in the decisions cited across the bar by the learned Counsel, based on the non-existing foundation.

However, this Court feels it proper to consider the decisions cited by parties for proper disposal of the case.

Learned Counsel for the petitioners mainly laid stress on **Association for Democratic Reforms's** case (supra) and submitted that the voter has a right to get relevant information such as assets, qualification and involvement in offence for being educated and informed for judging the suitability of a candidate contesting election as MP or MLA. The said case arose out of a Writ Petition filed by the Association before the High Court of Delhi for a direction to implement the recommendations made by the Law Commission in its 170th Report and to make necessary changes under Rule 4 of the Conduct of Elections Rules, 1961. It was based on the recommendation made by the Law Commission for debarring a candidate from contesting an election if charges have been framed against him by a Court in respect of certain offences and necessity for a candidate seeking to contest election to furnish details regarding criminal cases, if any, pending against him. It was also suggested that true and correct statement of assets owned by the candidate, his/her spouse and dependent relations should also be disclosed. In spite of the report of the Vohra Committee, since the Governments failed to take any action, the petition was filed for implementation of the said reports and for a direction to the Election Commission to make it mandatory for every candidate to provide information by amending Forms 2-A to 2-E prescribed under the Conduct of

Elections Rules, 1961. The High Court of Delhi held that it is the function of the Parliament to make necessary amendments in the Representation of the People Act, 1951, or the Election Rules, and hence, the Court cannot pass any order, as prayed, for amending the Act or the Rules. However, with regard to the information to be furnished by the candidate, the Court directed the Election Commission to secure to voters the following information pertaining to each of the candidates contesting to Parliament and to the State Legislatures and the parties they represent:

- 
- “1. Whether the candidate is accused of any offence(s) punishable with imprisonment. If so, the details thereof.
 2. Assets possessed by a candidate, his or her spouse and dependent relations.
 3. Facts giving insight into the candidate's competence, capacity and suitability for acting as a parliamentarian or a legislator including details of his/her educational qualifications.
 4. Information which the Election Commission considers necessary for judging the capacity and capability of the political party fielding the candidate for election to Parliament or the State Legislature.”

The Union of India challenged the said order before the Supreme Court. The questions considered by the Supreme Court are as follows:

- “1. Whether the Election Commission is empowered to issue directions as ordered by the High Court?
2. Whether a voter – a citizen of this country – has right to get relevant information, such as assets, qualification and involvement in offence for being educated and informed for judging the suitability of a candidate contesting election as MP or MLA?”

With regard to the first question, the Supreme Court observed that the Constitution has made comprehensive provision under Article 324 to take care of surprise situations and it operates in areas left unoccupied by legislation. Ultimately, the Supreme Court held as follows:

“48. The Election Commission is directed to call for information on affidavit by issuing necessary order in exercise of its power under Article 324 of the Constitution of India from each candidate seeking election to Parliament or a State Legislature as a necessary part of his nomination paper, furnishing therein, information on the following aspects in relation to his/her candidature:

- (1) Whether the candidate is convicted/acquitted/discharged of any criminal offence in the past – if any whether he is punished with imprisonment or fine.
- (2) Prior to six months of filing of nomination, whether the candidate is accused in any pending case, of any offence punishable with imprisonment for two years or more, and in which charge is framed or cognizance is taken by the court of law. If so, the details thereof.
- (3) The assets (immovable, movable, bank balance etc.) of a candidate and of his/her spouse and that of dependents.
- (4) Liabilities, if any, particularly whether there are any overdue of any public financial institution or government dues.
- (5) The educational qualifications of the candidate.

49. It is to be stated that the Election Commission has from time to time issued instructions/orders to meet with the situation where the field is unoccupied by the legislation. Hence, the norms and modalities to carry out and give effect to the aforesaid directions should be drawn up properly by the Election Commission as early as possible and in any case within two months.”

After the said decision the Representation of the People (Amendment) Ordinance, 2002, was promulgated on 24.08.2002 and it was later replaced by the Representation of the People

(Third Amendment) Act, 2002, (72 of 2002) and it received the assent of the President on December 28th, 2002. Sections 33-A and 33-B were inserted by the said Amendment Act and they were extracted above.

The validity of Section 33-B was challenged before the Supreme Court and the Supreme Court with a unanimous view in **People's Union for Civil Liberties (PUCL)**'s case (supra) held Section 33-B as illegal, null and void. However, it was held that the judgment would not have any retrospective effect but would be prospective. But, the view of Hon'ble Sri Justice P.Venkatarama Reddi holding that the directives given by the Court in **Association for Democratic Reforms**'s case (supra) were temporary in nature and the failure to provide for disclosure of educational qualification does not in practical terms infringe the freedom of expression, was not accepted by the majority.

The Election Commission of India issued a revised order on 27.03.2003 as follows:

“(1) Every candidate at the time of filing his nomination paper for any election to the Council of States, House of the People, Legislative Assembly of a State or the Legislative Council of a State having such a council, shall furnish full and complete information in regard to the matters specified by the Hon'ble Supreme Court and quoted in paras 13 and 14 above, in an affidavit, the format whereof is annexed hereto as Annexure-1 to this order.

(2) The said affidavit by each candidate shall be duly sworn before a Magistrate of the First Class or a Notary Public or a Commissioner of Oaths appointed by the High Court of the State concerned.

(3) Non-furnishing of the affidavit by any candidate shall be considered to be violation of the order of the Hon'ble Supreme Court and the nomination of the candidate concerned shall be liable to rejection by the returning officer at the time of scrutiny of nominations for such non-furnishing of the affidavit.

(4) The information so furnished by each candidate in the aforesaid affidavit shall be disseminated by the respective returning officers by displaying a copy of the affidavit on the notice board of his office and also by making the copies thereof available freely and liberally to all other candidates and the representatives of the print and electronic media.

(5) If any rival candidate furnishes information to the contrary, by means of a duly sworn affidavit, then such affidavit of the rival candidate shall also be disseminated along with the affidavit of the candidate concerned in the manner directed above”

Thereafter, the Election Commission of India vide letter dated 02.06.2004 directed the Chief Electoral Officers of all the States and Union Territories that where any complaint regarding furnishing of false information by any candidate is submitted by anyone, supported by some documentary evidence, the Returning Officer concerned should initiate action to prosecute the candidate concerned by filing formal complaint before the appropriate authority.

The facts in **Resurgence India's** case (supra) is that the petitioner – Resurgence India, is a non-governmental organization and it undertook a massive exercise under the banner “Punjab Election Watch” and affidavits pertaining to the candidates of six major political parties in the State were analyzed in order to verify their completeness. During such campaign, large scale irregularities were found in most of the affidavits filed by the candidates. It submitted a representation

to the Election Commission of India on 09.02.2007 bringing it to its notice the large number of non-disclosures in the affidavits filed by the contestants in the State of Punjab and poor level of scrutiny by the Returning Officers. The Election Commission of India vide letter dated 20.02.2007 expressed its inability in rejecting the nomination papers of the candidates solely due to furnishing of false/incomplete information in the affidavits in view of the judgment in **People's Union for Civil Liberties (PUCL)**'s case (supra). Challenging the same, the petitioner filed a petition before the Supreme Court. The Supreme Court examined the case in the light of Section 33-A, 36 and 125-A of the Representation of People Act and held as follows:

“29. What emerges from the above discussion can be summarized in the form of following directions:

29.1. The voter has the elementary right to know full particulars of a candidate who is to represent him in the Parliament/Assemblies and such right to get information is universally recognized. Thus, it is held that right to know about the candidate is a natural right flowing from the concept of democracy and is an integral part of Article 19(1)(a) of the Constitution.

29.2. The ultimate purpose of filing of affidavit along with the nomination paper is to effectuate the fundamental right of the citizens under Article 19(1)(a) of the Constitution of India. The citizens are supposed to have the necessary information at the time of filing of nomination paper and for that purpose, the Returning Officer can very well compel a candidate to furnish the relevant information.

29.3. Filing of affidavit with blank particulars will render the affidavit nugatory.

29.4. It is the duty of the Returning Officer to check whether the information required is fully furnished at the time of filing of affidavit with the nomination paper since such information is very

vital for giving effect to the 'right to know' of the citizens. If a candidate fails to fill the blanks even after the reminder by the Returning Officer, the nomination paper is fit to be rejected. We do comprehend that the power of Returning Officer to reject the nomination paper must be exercised very sparingly but the bar should not be laid so high that the justice itself is prejudiced.

29.5. We clarify to the extent that Para 73 of ***People's Union for Civil Liberties v. Union of India*** ((2003) 4 SCC 399) will not come in the way of the Returning Officer to reject the nomination paper when affidavit is filed with blank particulars.

29.6. The candidate must take the minimum effort to explicitly remark as 'NIL' or 'Not Applicable' or 'Not known' in the columns and not to leave the particulars blank.

29.7. Filing of affidavit with blanks will be directly hit by Section 125-A(i) of the RP Act. However, as the nomination paper itself is rejected by the Returning Officer, we find no reason why the candidate must be again penalized for the same act by prosecuting him/her."

In **Kisan Shankar Kathore's** case (supra) the Supreme Court examined the appeal preferred by the unsuccessful candidate of Ambernath Constituency, Thane District, Maharashtra. His election was challenged in the High Court of Judicature of Bombay. In the said election there were five candidates in the fray and the appellant was declared elected. His election was challenged by the first respondent, who is a voter in the said Constituency. The election petitioner submitted that the appellant's nomination had been improperly accepted by the Returning Officer and the election was void due to non-compliance with the provisions of Constitution of India and the Representation of the People Act. It was mainly contended that in the nomination form filled in by the appellant, he had suppressed his dues payable to the Government,

suppressed the assets of his spouse and also suppressed the information and assets of a partnership firm of which is a partner. His plea was accepted by the High Court holding that the nomination form of the appellant was defective and should not have been accepted by the Returning Officer. Accordingly, the election of the appellant was set aside. The Supreme Court observed that there was no dispute on facts as the appellant had not disclosed such information as pointed out by the High Court in his nomination form. The Supreme Court examined whether there was substantial compliance by the appellant in the form of information given by him or it amounted to non-disclosure of material information warranting rejection of his nomination. The Supreme Court examined each of the grounds of non-disclosure and considered the following issues:

“36. In view of the aforesaid, two facets of the issue, which require consideration, are as follows:

36.1. Whether there is a substantial compliance in disclosing the requisite information in the affidavits filed by the appellant along with the nomination paper?

36.2. Whether non-disclosure of the information on account of aforesaid four aspects has materially affected the result of the election?”

In respect of the first aspect, since there was a bonafide dispute about the outstanding dues in respect of the first electricity meter, the feeling expressed by the appellant was bonafide and the non-disclosure of such information should not be treated as a material lapse. Ultimately, the Supreme Court held that it would depend on the facts and circumstances of each case as to

whether such a non-disclosure would amount to material lapse or not. With regard to non-disclosure of the bungalow in the name of the appellant's wife, it was found to be a substantial lapse. Similarly, the non-disclosure of the appellant's interest/share in the partnership firm was found to be very serious and major lapse. The Supreme Court finally dismissed the appeal with the following observations:

"43. When the information is given by a candidate in the affidavit filed along with the nomination paper and objections are raised thereto questioning the correctness of the information or alleging that there is non-disclosure of certain important information, it may not be possible for the returning officer at that time to conduct a detailed examination. Summary enquiry may not suffice. Present case is itself an example which loudly demonstrates this. At the same time, it would not be possible for the Returning Officer to reject the nomination for want of verification about the allegations made by the objector. In such a case, when ultimately it is proved that it was a case of non-disclosure and either the affidavit was false or it did not contain complete information leading to suppression, it can be held at that stage that the nomination was improperly accepted. Ms. Meenakshi Arora, learned senior counsel appearing for the Election Commission, rightly argued that such an enquiry can be only at a later stage and the appropriate stage would be in an election petition as in the instant case, when the election is challenged. The grounds stated in Section 36(2) are those which can be examined there and then and on that basis the Returning Officer would be in a position to reject the nomination. Likewise, where the blanks are left in an affidavit, nomination can be rejected there and then. In other cases where detailed enquiry is needed, it would depend upon the outcome thereof, in an election petition, as to whether the nomination was properly accepted or it was a case of improper acceptance. Once it is found that it was a case of improper acceptance, as there was misinformation or suppression of material information, one can state that question of rejection in such a case was only deferred to a later date. When the Court gives such a finding, which would have resulted in rejection, the effect would be same, namely, such a candidate was not entitled to contest and the election is void. Otherwise, it would be an anomalous situation that even when criminal

proceedings under Section 125A of the Act can be initiated and the selected candidate is criminally prosecuted and convicted, but the result of his election cannot be questioned. This cannot be countenanced.”

The case of filing false affidavit in respect of the qualification of a candidate came up for consideration before the High Court of Manipur at Imphal in **Pukhrem Sharatchandra Singh’s** case (supra). The successful candidate in the elections filed an affidavit stating that he passed MBA in 2004 from Mysore University and when an objection was taken and the Returning Officer directed him to furnish/produce documents in support of his affidavit, he failed to produce the same. In spite of the same, his nomination was accepted. The High Court found that the candidate did not possess MBA from Mysore University as stated by him in the affidavit, and hence, he filed the false affidavit. By following the **Resurgence India’s** case (supra), the High Court held that the defect in furnishing the information of the educational qualification is substantial in nature and the nomination was improperly accepted. The election of the returned candidate was held to be void. The said case went before the Supreme Court as the candidate whose election was declared void preferred an appeal. It was considered in **Mairembam Prithviraj’s** case (supra). The Supreme Court considered two issues as follows:

“8. Two issues fall for our consideration in this appeal which are:

8.1 (a) Whether a false declaration relating to the educational qualification is a defect of substantial character warranting rejection of a nomination?

8.2 (b) Whether it is necessary to plead and prove that the result was materially affected when the nomination of the returned candidate was found to have been improperly accepted, more so, when there are only two candidates contesting the election?”

The Supreme Court noticed that it was not in dispute that the appellant did not study MBA in the Mysore University and the case set up by the appellant that the reference to MBA from Mysore University was a clerical error and his thinking of doing MBA by correspondence course from Mysore University cannot be a ground. Accordingly, the appeal was dismissed.

In the recent decision in **Lok Prahari**'s case (supra) it was held that the non-disclosure of assets and sources of income of the candidates and their associates would constitute a corrupt practice falling under heading 'undue influence' as defined under Section 123(2) of the RP Act of 1951.

Though the effect of stating the highest qualifying course of study in parenthesis is not necessary, in view of the effort made by the learned counsel for the petitioner in E.P.6 of 2014, it is necessary to consider the law on the said aspect. The Supreme Court had an occasion to consider the effect of placing the words in parenthesis in **Fuerst Day Lawson Limited**'s case (supra) while considering the provisions of the Arbitration and Conciliation Act, and it was held as follows:

“44. The use of round brackets for putting words in parenthesis is not very common in legislation and this reminds us of the painful lament by Meredith, J. of the Patna High Court, who in 1948 dealing with a case said that "the 1940 Act contains examples of bad drafting which it would be hard to beat".

45. According to *The New Oxford Dictionary of English*, 1998 Edn., brackets are used to enclose words or figures so as to separate them from the context.

46. *Oxford Advanced Learner's Dictionary*, 7th Edn., defines "bracket" to mean

"either of a pair of marks, () placed around extra information in a piece of writing or part of a problem in mathematics". (emphasis supplied)

47. *The New Oxford Dictionary of English*, 1998 Edn., gives the meaning and use of parenthesis as:

"Parenthesis—noun(pl.parentheses)
a word, clause, or sentence inserted as an explanation or afterthought into a passage which is grammatically complete without it, in writing usually marked off by brackets, dashes, or commas.

- (usu. Parentheses) a pair of round brackets () used to include such a word, clause, or sentence."

48. *The Oxford Advanced Learner's Dictionary*, 7th Edn., defines the meaning of parenthesis as:

"a word, sentence, etc. that is added to a speech or piece of writing, especially in order to give extra information. In writing, it is separated from rest of the text using brackets, commas or DASHES."

49. *The Complete Plain Words* by Sir Ernest Gowers, 1986 revised edition by Sidney Greenbaum and Janet Whitcut, gives the purpose of parenthesis as follows:

"Parenthesis The purpose of a parenthesis is ordinarily to insert an illustration, explanation, definition, or additional piece of information of any sort into a sentence that is logically and grammatically complete without it. A parenthesis may be marked off by commas, dashes or brackets. The degree of interruption of the main sentence may vary from the almost imperceptible one of explanatory words in apposition, to the violent one of a separate sentence complete in itself." (emphasis supplied)

50. *The Merriam Webster Online Dictionary* defines "parenthesis" as follows:

"1 a : an amplifying or explanatory word, phrase, or sentence inserted in a passage from which it is usually set off by punctuation b : a remark or passage that departs from the theme of a discourse : digression

2: INTERLUDE, INTERVAL

3: one or both of the curved marks () used in writing and printing to enclose a parenthetical expression or to group a symbolic unit in a logical or mathematical expression"

51. *The Law Lexicon, The Encyclopaedic Law Dictionary* by P. Ramanatha Aiyar, 2000 Edn., defines parenthesis as under:

"Parenthesis.- a parenthesis is defined to be an explanatory or qualifying clause, sentence, or paragraph, inserted in another sentence, or in course of a longer passage, without being grammatically connected with it. (Cent. Dist.)

Parenthesis is used to limit, qualify or restrict the meaning of the sentence with which it is connected, and it may be designated by the use of commas, or by a dash, or by curved lines or brackets (United States v. Schilling (53 Fed 81 : 3 CCA 440))."

The said decision was followed by the High Court of Bombay in **M/s.Zamil Steel Buildings India Pvt. Ltd.**'s case (supra).The same issue relating to brackets/parenthesis came up for consideration before the Himachal Pradesh High Court in **Bhagwan Dass v. State of H.P**'s case (supra) in the Writ Petition filed under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, and it was held as follows:

"15.The use of punctuations such as brackets/parenthesis endeavours to achieve the same outcome, namely, to clarify that an MM of the First Class can be specially empowered to try cases under the OS Act although this ought not to be the usual practice. The English Cobuild Dictionary defines parenthesis as a pair of curved marks that are to be put around the numbers to indicate that they are additional, separate, or less important. The 21st Century Dictionary speaks of parenthesis as a

“digression”. American Heritage ® Dictionary defines parenthesis as “(a) a qualifying or amplifying word, phrase or sentence inserted within written matter in such a way as to be independent of the surrounding grammatical structure and (b) a comment departing from the view of discourse; a digression”. Fowler’s Modern English Usage explains that parenthesis interrupts the flow of a sentence, generally in order to explain or elaborate on something just written and because they are interruptions, parenthesis should be kept short. A Guide to Punctuation and its allies by Eric Patridge, John W.Clark inter alia states – “The essence of all parenthesis is that, without them, the sentence is grammatically and logically complete: they explain or modify, but they do not determine the sense. The test of a parenthesis is whether the other words make sense without it’ (Charles C.Boyd, Grammar for great or small, 1928): If they do not, either the whole or a part of the parenthesis should be removed from within parenthesis”. The New Oxford American Dictionary states the meaning of parenthesis as – “A word, Clause or sentence inserted as an explanation or afterthought into a passage that is grammatically complete without it, in writing usually marked off by curved brackets, dashes, or commas”...”

Learned Counsel for the first respondent submitted that mere non-compliance or breach of the Constitution or the statutory provisions by itself does not result in invalidating the election of a returned candidate under Section 100(1)(d)(iv). He submitted that in order that the election petitioner to succeed on such ground, he has not only to plead and prove the ground but also that the result of the election insofar as it concerned the returned candidate has been materially affected. He placed reliance on **Mangani Lal Mandal**’s case (supra).

While opposing the submission of the learned Counsel for the respondents by relying on **Shambhu Prasad Sharma**’s case (supra) to the effect that there is no pleading to show that the election of returned candidate has been materially affected by

such acceptance, learned Counsel for the petitioners relied on the latest decision of the Supreme Court in **Madiraju Venkata Ramana Raju's** case (supra) in support of his contention that if the election of the returned candidate is challenged under Section 100(1)(a)(i) and if it is accepted and the election of the returned candidate is declared to be void, it would necessarily follow that the election result of the returned candidate has been materially affected. In view of the finding recorded as above, the issue does not arise.

The cases relied on by the learned Counsel for the petitioners in **Sh.Jaspal Singh's** case (supra), **Vijay Narayan Thatte's** (Supra), **Arikala Narasa Reddy's** case (supra) and **Krishna Moorthy's** case (supra) are not applicable in the instant case.

The ratio decided in the above decisions is inapplicable and irrelevant for these cases in view of the conclusion above.

The disclosure of the actual information with respect to which there cannot be any dispute from any quarter, cannot be called as false information/mis-information/wrong information. The first respondent undoubtedly enrolled as a student in 1982 for pursuing his B.E course in Chaitanya Bharati Institute of Technology and attended the course till 1986. What was required in serial No.10 of the nomination form is the 'course' pursued by the candidate and not the 'degree' obtained by him.

Hence, all the issues are, accordingly, held against the petitioners.

Truth cannot be a casualty in judicial proceedings however persuading the forensic skills of the Counsel. Truth was misinterpreted and attacked from different angles. The election of a duly elected people's representative cannot be set aside on flimsy grounds. The attack must be substantial and based on concrete evidence. There was much ado about nothing.

The Election Petitions are thus, dismissed with costs of Rs.25,000/- (Rupees twenty five thousand only) each payable to the first respondent. The amount of security deposit furnished towards costs under Section 117 of the Representation of the People Act before this Court shall be inclusive of the costs awarded now, and the first respondent is entitled to withdraw the costs already furnished by the petitioners.

(JUSTICE A.RAMALINGESWARA RAO)

27.04.2018

vs

APPENDIX OF EVIDENCE

Witness for petitioners:

P.W.1	Sri Kancharala Bhupal Reddy
P.W.2	Sri Y.Yellaiah
P.W.3	Sri Kukunooru Jalandhar Reddy
P.W.4	Sri Jerripothula Satish
P.W.5	Sri Chirumarthi Yadaiah
P.W.6	Sri Pulimamidi Mahender Reddy
P.W.7	Sri Dubbaka Narsimha Reddy
P.W.8	Sri Mohd. Mumtaz Ali
P.W.9	Sri Beeravolu Hari Prasad Reddy
P.W.10	Sri Md.Azizuddin
P.W.11	Sri Kanchanapalli Ravinder Rao

Witness for respondents:

R.W.1	Sri Komatireddy Venkat Reddy
R.W.2	Sri E.Venkata Chary

C.W.1	Sri Md.Zaheer
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DOCUMENTS MARKED

ON BEHALF OF THE PETITIONERS:

Ex.P1	Copy of General Elections 2014 schedule obtained from the Election Commission
Ex.P2	Authenticated copy of list of contesting candidates in Form 7-A issued by the RDO, Nalgonda
Ex.P3	Authenticated copy of list of said final result sheet in Form 20 issued by the Returning Officer/RDO, Nalgonda, under RTI Act
Ex.P4	Authenticated copy of certificate of declaration in Form 21-C issued by the Returning Officer/RDO
Ex.P5	Copy of the affidavit of Sri Komati Reddy Venkat Reddy i.e., the first respondent filed before the Returning Officer in 2004
Ex.P6	Copy of the affidavit filed by the first respondent in Form 26 for the year 2009
Ex.P7	Authenticated copy of the accepted nomination paper together with one affidavit (as one set of document) issued by the Returning Officer/RDO obtained under RTI Act
Ex.P8	Authenticated copy of Form 26 affidavit of Sri Komatireddy Venkat Reddy, first respondent, for the year 2014 (2 nd set) obtained under the RTI Act.
Ex.P9	Authenticated copy of Form 26 affidavit of Sri Komatireddy Venkat Reddy, first respondent, for the year 2014 (3 rd set) obtained under the RTI Act.

- Ex.P10 Authenticated copy of Form 26 affidavit of Sri Komatireddy Venkat Reddy, first respondent, for the year 2014 (4th set) obtained under the RTI Act.
- Ex.P11 The original copy of the complaint dated 10.04.2014 of the petitioner to the Returning Officer i.e., 15th respondent
- Ex.P12 Copy of the complaint dated 10.04.2014 of Sri Dubbaka Narsimha Reddy to the Returning Officer
- Ex.P13 The certified copy of the Memo dated 10.04.2014 bearing No.J/600/2014 issued by the fifteenth respondent, Returning Officer.
- Ex.P14 The certified copy of the information dated 12.06.2014 furnished by the Osmania University in respect of Malpractice of the first respondent
- Ex.P15 Certified copy of the information dated 07.06.2014 furnished by the Osmania University in respect of the Marks Memo of the first respondent
- Ex.P16 The copy of the Member information of 11th, 12th and 13th Legislative Assembly of Andhra Pradesh.
- Ex.P17 Copy of the affidavit in W.P.No.12066 of 2014 filed by Sri Dubbaka Narsimha Reddy
- Ex.P18 Copy of the counter affidavit filed in W.P.No.12066 of 2014 by the first respondent
- Ex.P19 Copy of the Andhra Jyothi Telugu Newspaper, Nalgonda Edition, dated 08.04.2014
- Ex.P20 Two photographs with CD in respect of Government Project pylon showing the name of the first respondent as Engineer.
- Ex.P21
And
Ex.P22 Copies of the affidavits filed by the first respondent before the Returning Officer
- Ex.P23
And
Ex.P24 Copies of the book published by the State Assembly for 12th & 13th Legislative Assembly Andhra Pradesh with the caption "Who's Who"
- Ex.P25 Copy of the declaration of result issued by the Returning Officer in Form 21-C
- Ex.P26 Copy of the Return of Election drawn by the Returning Officer in Form 21-E
- Ex.P27 Copy of the information furnished by the Osmania University under RTI Act on 12.05.2010
- Ex.P28 Copy of the complaint of Sri Dubbaka Narsimha Reddy dated 12.04.2014 to the District Collector, Nalgonda District.
- Ex.P29 Copy of the complaint of Sri Dubbaka Narsimha Reddy dated 12.04.2014 to the Chief Electoral Officer, Secretariat, Hyderabad, A.P.

- Ex.P30 Copy of the objection filed by Sri Dubbaka Narsimha Reddy before the Election Officer, Nalgonda Assembly Constituency.
- Ex.P31 Copy of the paper publication in Andhra Jyothi daily on 22.02.2010 with the caption “Munna Bhai MBBS, Komatireddy Venkat Reddy..Beetekku”
- Ex.P32 Three books ‘Who’s Who’ containing (a), (b) and (c) which are original forms of Ex.P16
- Ex.P33 Handbook for Returning Officer, 2014, issued by the Election Commission of India

ON BEHALF OF THE RESPONDENTS

- Ex.R1 Circular dated 26.04.2014 issued by the Election Commission of India
- Ex.R2 Eenadu Telugu Daily newspaper, Nalgonda Edition, dated 13.04.2014.
- Ex.R3 A copy of the bonafide certificate issued to the first respondent for four years B.E course
- Ex.R4 Copy of the order in W.P.No.12066 of 2014, dated 09.07.2014, passed by the Hon’ble High Court of Judicature at Hyderabad, for the State of Telangana and the State of Andhra Pradesh
- Ex.X1 Accepted nomination form of the first respondent i.e., Sri Komatireddy Venkat Reddy, MLA, Nalgonda Constituency
- Ex.X2 Rejected nomination form of Sri Kuthuru Laxma Reddy