

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

ELECTION PETITION NO.12 OF 2014

Ramesh Dhanyakumar Kasture	Petitioner
versus	
Gautam Sukhdeo Chabukswar	Respondent

WITH
APPLICATION NO.18 OF 2015

Gautam Sukhdeo Chabukswar	Applicant
versus	
Ramesh Dhanyakumar Kasture	Respondent

AND
APPLICATION NO.2 OF 2017

Ramesh Dhanyakumar Kasture	Applicant
versus	
Gautam Sukhdeo Chabukswar	Respondent

Mr.Ramesh Sawant i/by Mr.Sachin Dhakephalkar for Petitioner and for Applicant in Application No.2 of 2017.

Mr.Siddheshwar Biradar with Mr.Shyamsundar Solanke i/by Pramod Nanasaheb Patil for Respondent and for Applicant in Application No.18 of 2015.

CORAM : PRAKASH D. NAIK, J.

DATE : 11th November 2019

PC :

1. Heard learned counsel for Petitioner and learned counsel for Respondent. It is pointed out that the Legislative Assembly is already dissolved and the election petition has become infructuous. The Petitioner has challenged the election of legislative assembly which was held on 15th October 2014. It is submitted that subsequent legislative assembly elections are held on 21st October 2019.

2. Learned counsel for petitioner submits that withdrawal of this petition is not possible in view of tedious procedure laid down in Sections 109 and 110 of the Representation of People Act, 1951. However, according to him, this Election Petition can be disposed of as assembly has been dissolved and secondly issues raised in this petition are merely of academic interest. For this purpose, he has relied upon the judgment of Hon'ble Supreme Court in case of **Loknath Padhan Vs. Birendra Kumar Sahu (1974)1-SCC-526**, wherein it was held that if the allegations made in the election petition are not of corrupt practice, then the election petition on any other ground or allegation, if the Legislature is dissolved in the meantime, becomes merely an issue of academic interest and hence it could be disposed of as having become infructuous. He also relied on order passed by this Court in Election Petition No.21 of 2009 which was disposed of as infructuous in similar situation vide order dated 27th September 2016.

3. Learned counsel for Petitioner submits that the election petition was filed under Section 100(1)(d)(i) of Representation of People Act, 1951, which read thus :

“100. Grounds for declaring election to be void :

(1) Subject to the provisions of sub-section (2) if (the High Court) is of opinion -

(a) that on the date of his election a returned candidate was not qualified, or was disqualified, to be chosen to fill the seat under the Constitution or this Act [or the Government of Union Territories Act 1963]; or

(b)

- (c)
- (d)
 - (i) by the improper acceptance or any nomination, or
 - (ii)
 - (iii)
 - (iv)

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

5. Application Nos.18 of 2015 and 2 of 2017 do not survive and stand disposed of.

(PRAKASH D. NAIK, J.)

MST