

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.

CIVIL APPLICATION NO. 238 OF 2021 IN
ELECTION PETITION NO. 23 OF 2019

(Mr. Sadukar Laxman Hatwar Vs. The Returning Officer, Kamptee and anr.)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri S.S. Sarda, Advocate h/f Shri R.M. Bhangde, Advocate
for the petitioner.

Shri H.D. Dangre, Advocate for respondent No. 2.

CORAM:- PUSHPA V. GANEDIWALA, J.

DATED :- MARCH 10, 2021.

Heard.

2. Considering the nature of the proposed issues, the application is allowed and the following preliminary issues are framed under Order XIV Rule 2(2) (b) of the Code of Civil Procedure and till the decision on these issues, the settlement of other issues is postponed.

6. (i) *Whether the Election Petition filed by petitioner is barred by the period of limitation as provided under Section 81 of the Representation of the People Act, 1951?*

(ii) *Whether for not disclosing the cause of action which can be said as materially affecting the result of the election, bars the present Election Petition more particularly under clause (a) of*

Order VII Rule 11 of the Code of Civil Procedure, 1908?

(iii) Whether for lack of concise statements of the material facts, as to how the alleged omission materially affecting the result of the election and lead the election as void required as per Section 83 of Representation of the People Act, 1951 the present Election Petition needs to be dismissed?

(iv) Whether for non-compliance of Rule 94-A of the Conduct of Election Rules, 1961 for not filing affidavit in conformity with prescribed Form No. 25 the present Election Petition needs to be dismissed?

(v) Whether the Election Petition filed by petitioner is bad for non-joinder of necessary party i.e. Election Commission?

(vi) Consequently, whether present election petition is liable to be rejected and summarily dismissed as per Order VII Rule 11 of the Code of Civil Procedure, 1908 and for non-compliance of Sections 81, 82 & 83 of the Representation of the People Act, 1951 and as per Section 86 of the said Act?

(vii) Whether the present Election Petition needs to be dismissed for want of locus to the petitioner to file present petition?

3. Put up this matter on 15/03/2021 for hearing on preliminary issues.

JUDGE

**DB*