

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

CIVIL APPLICATION(O) Nos.1719, 1776 and 1783/2019
in ELECTION PETITION NO.12/2019

Md. Nafis s/o Shifat Khan

Vs.

The Election Commission of India through Chief Election
Commissioner and others.

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

Court's or Judge's Order

Mrs. Ketki Joshi, Assistant Government Pleader for applicant in C.A.No.1719/19.
Ms. Neerja Chaubey, Advocate for applicant in C.A.No.1776/19.
Shri N.C. Phadnis, Advocate for applicant in C.A.No.1783/19.
Shri S.V. Purohit, Advocate non applicant/petitioner.

CORAM :- A. S. CHANDURKAR, J.

Date on which the arguments were heard : 05.02.2021

Date on which the order is passed : 26.02.2021

Since identical prayers are made in these Civil Applications which are at Exhibit Nos. 6-A, 7 and 8 respectively, they are being decided together by this common order.

The applicant in each civil application seeks deletion of his name from the array of the respondents in the election petition on ground that the applicant is neither necessary party nor a proper party to the proceedings in the light of the provisions of Section 82 and 86(4) of the Representation of the People Act, 1951 (for short, the Act of 1951). In that regard reliance is placed on the decision in *Jyoti Basu and others Vs. Debi Ghoshal and others* (1982) 1 SCC 691.

The applications are opposed by the learned counsel for the election petitioner on the ground that presence of these parties as respondents is necessary for fair and proper adjudication of the election petition.

Admittedly, each applicant in these applications was not a candidate to the election in question which has been challenged by the present election petitioner. The law as to who are necessary parties in an election petition is well settled and reliance has been rightly placed by the learned counsel for the applicants on the decision in *Jyoti Basu* (supra). It has been held therein that only those parties who are mentioned in Sections 82 and 86(4) of the Act of 1951 are required to be joined as respondents to the election petition. There is no concept of “proper parties” in an election petition.

In view of the aforesaid legal position, the prayer made in each civil application seeking deletion of the names of the respective applicant is liable to be granted. Civil Application Nos. 1719/2019(Exhibit 6-A), 1776/2019(Exhibit 7) and 1783/2019(Exhibit 8) are allowed. The election petitioner shall delete the names of respondent nos. 1, 2 and 3 from the election petition within a period of ten days.

The civil applications are allowed in aforesaid terms.

JUDGE

Andurkar.