

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL ORIGINAL JURISDICTION

ELECTION PETITION NO.1 OF 2024

Mahendra Tulshiram Bhingardive

...Petitioner

Versus

Anil Yashwant Desai And Ors.

...Respondents

Adv. Mahendra T. Bhingardive, Petitioner appears in-person.

Adv. Ankit Lohia a/w Rubin Vakil, Manish Doshi & Isha Thakur i/b Vimadlal & Co. for Respondent No. 1.

Coram : Sharmila U. Deshmukh, J.

Date : August 26, 2024.

P. C. :

- 1.** Heard.
- 2.** The Election Petition seeks order of nullifying and declaring as invalid, null and void nomination papers of Respondent No.1 as well as of Respondent Nos. 2 to 4 and for declaring the Petitioner as elected candidate to the general election of 2024 from 30-South Central Mumbai Parliamentary Constituency.
- 3.** Summons were issued by this Court on 29th July, 2024 pursuant to which, the Respondent No. 1 has filed an appearance.
- 4.** Mr. Lohia, learned counsel for Respondent No. 1 would submit

that the Petition is required to be dismissed under Section 86 of the Representation of the People Act, 1951 for non compliance of the provisions of Section 81 and 83 of the Representation of the People Act, 1951. He points out Exhibit G of the Petition which is stated to be true copy of the affidavit filed by Respondent No. 1 before the returning officer and would point out that the same is not a true copy as there are certain markings as well as the question marks and certain blank spaces which is not part of the original affidavit filed by Respondent No. 1. He would submit that the Petitioner has verified the document as the true copy of the affidavit of Respondent No. 1 and the handbook for candidate issued by the Election Commission of India.

5. Admittedly, Exhibit G which is the affidavit of Respondent No. 1 is not a photo copy of the affidavit filed by Respondent No. 1 and Mr. Bhingardive, appearing in-person does not have any explanation for the same.

6. Section 86 of the Representation of the People Act, 1951 provides that the Court may dismiss an election petition which does not comply the provisions of Section 81 or 82 or 117 of the Representation of the People Act, 1951.

7. Section 83 which deals with the contents of the election

petition provides that any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition.

8. Upon repeated query by this Court, Mr. Bhingardive would concede that the copy of the affidavit which was annexed at Exhibit G is not the true copy of the affidavit filed by Respondent No. 1 and seeks time to file application for amendment.

9. As regards the service upon the other Respondents, Mr. Bhingardive tenders the affidavit of service. The same is taken on record. Bailiff's report indicates that Respondent Nos. 2 to 5, 11 and 13 have not been served.

10. Petitioner is directed to take appropriate steps for effecting service upon the unserved Respondents.

11. All rights and contentions as regards Section 86 of the Representation of the People Act, 1951 are expressly kept open.

12. List the Petition on **9th September, 2024**.

[Sharmila U. Deshmukh, J.]