



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

19 CRA NO. 167 OF 2024

Bhalchandra Narayanrao Chate

VERSUS

Kashinath Manmath Honrao And Another

...

Advocate for applicant : Mr. Madde Shrikant B

AGP for Respondents: Mr. V S Badakh

Advocate for Respondents : Mr. Sontakke Sandeep B.

...

AND

20 CRA NO. 168 OF 2024

Dhanraj Omkarappa Kore

VERSUS

Vivekanand Prabhakar Shinde And Others

...

Advocate for the Petitioner : Mr. A.V. Indrale Patil

AGP for Respondents: Mr. V S Badakh

Advocate for Respondents : Mr. Ashtekar R. K.

...

CORAM : S. G. CHAPALGAONKAR, J.

Dated : February 26, 2025

ORDER :-

1. Heard Mr.Patil a/w Mr. Madde, learned advocate appearing for the applicant/s in both Civil Revision Applications.

2. The applicant/s have filed application below Exhibit 29 in Election Petition No.2 of 2023 and application at Exhibit 25 in Election Petition No.1 of 2023 respectively, seeking rejection

of Election Petitions invoking provisions of Order 7 Rule 11 of the Civil Procedure Code.

3. Learned Advocate Mr. Patil submits that, section 15 contemplates filing of election dispute only on the ground of corrupt practice, which has been defined under sub clause (6) of section 15 of the Act. He would urge that, Election Petition does not disclose any such ground and, therefore, petitioners have no cause of action to file the Election Petition.

4. Mr. Ashtekar, learned advocate appearing for the respondent invites attention of this Court to the judgment of this Court in case of **Sayabai Gulab Patil Vs. The Returning Officer (Civil Revision Application no.10 of 2019)** to contend that application seeking rejection of Election Petitions under order 7 rule 11 of the CPC would not be maintainable.

5. Per contra, Mr. Patil, learned counsel appearing for the applicant relies upon judgment of Supreme Court in case of **Karim Uddin Barbhuiya Vs. Aminul Haque Laskar and others** reported in 2024 AIR SCW 2193 to contend that in Election Petition, Court is empowered to exercise powers under Order 7 Rule 11 of the Civil Procedure Code.

6. On perusal of the application/s Exhibit 25 and 29 filed by the applicant/s in respective Election Petitions, it appears that the ground argued before this court was not raised before Trial Court. Even from perusal of the impugned order, it is not discernible that aspect of scope of Election Petition and absence of pleading as to corrupt practice was argued or pressed into service before Trial Court.

7. At this stage, Mr. Patil, learned advocate appearing for the applicant/s submits that the applicant may be permitted to file comprehensive application/s containing all such grounds before Trial Court in pending Election Petition, so also he may be permitted to not press cryptic applications Exhibit-25 and 29 in respective Election Petitions.

8. Considering the aforesaid submissions, applicants are permitted to withdraw/not press application below Exhibit-29 in Election Petition No.2 of 2023 and application at Exhibit-25 in Election Petition No.1 of 2023, with liberty to file comprehensive application seeking rejection of Election Petitions. If such applications are filed within four weeks from today, Trial Court shall consider same on its own merits. The

objection as to maintainability of such applications is kept open.

9. In that view of the matter, Civil Revision Applications stand **disposed of**, with the aforesaid liberty.

(S. G. CHAPALGAONKAR)
Judge

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AAA/-