

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

ELECTION PETITION NO.15 OF 2025

Rohan Ramdas Satone)...Petitioner
V/s.
Union of India and Others)...Respondents

None for the Petitioner.
Mr. Amit A. Karande for the Respondent No.6.

CORAM : ABHAY AHUJA, J.
DATE : 8th APRIL, 2025

PC. :

1. Pursuant to the order dated 24th March, 2025, today when the matter is called out, Mr. Karande, learned Counsel appears for the Respondent No.6 viz. the returned candidate in the subject election and at the very outset submits that the Petition deserves to be dismissed under Section 86(1) of the Representation of the People Act, 1951 (the “said Act”).

2. Referring to Section 86(1), Mr. Karande submits that under the said provision the High Court is mandatorily required to dismiss an election petition which does not comply with the provisions of the Section 81 or Section 82 or Section 117. Mr. Karande submits that under Section 81(1) an election petition calling in question any

election may be presented on one or more of the grounds specified in Sub-Section (1) of Section 100 and Section 101. Mr. Karande submits that none of the grounds taken in the Petition fall within the grounds mentioned in Section 100 (1) and 101.

3. Drawing this Court's attention to prayer Clause 14.(a), which seeks the election of the Respondent No.5 from 158 Jogeshwari East Assembly Constituency of the Maharashtra Legislative Assembly to be declared void and set aside, does not seek declaration of the returned candidate to be void as the Respondent No. 5 is not a returned candidate but the Respondent No.6 is the returned candidate.

4. Mr. Karande submits that since there is no prayer to declare the election of the returned candidate is void, the Petition does not comply with Section 81(1) and therefore, ought to be dismissed under Section 86.

5. Mr. Karande further submits that under Section 81(3), every election petition is mandatorily required to be accompanied by as many copies thereof as there are respondents mentioned in the petition and every such copy shall be attested by the Petitioner under his own signature to be a true copy of the Petition.

6. Learned Counsel submits that a bare visual perusal of the Petition served upon him indicates that the same is only a photocopy and not a true copy of the Petition attested by the Petitioner under his own signature. Mr. Karande submits that, therefore, there is no compliance of Section 81(3) of the said Act as well, as only a photocopy has been served, which is not in accordance with Section 81(3).

7. In support, Mr. Karande relies upon the decision of a Single Judge of this Court, Nagpur Bench (Coram: A. H. Joshi, J., as His Lordship then was) and in particular refers to paragraph 23 of the said decision and submits that in the said matter as well, where on a visible view by naked eyes, as in this case, it was observed that the copy delivered for service on the Respondent was not attested as a true copy, this Court has held that there was failure to comply with Section 81(3) of the said Act and that the defect goes to the root of the case and was fatal and cannot be purged or rectified and thereby, the said petition was dismissed.

8. Mr. Karande accordingly submits that this Petition also deserves to be dismissed under Section 86(1) of the said Act.

9. I have heard Mr. Karande, learned Counsel for the Respondent No.6.

10. However, since none appears for the Petitioner, in all fairness to the Petitioner, I deem it appropriate to list this matter on **21st April, 2025 on the supplementary board**, so as to offer an opportunity to the Petitioner to deal with the submissions made by the learned Counsel for the Respondent No.6.

11. It is made clear that if none appears for the Petitioner, this Court will pass orders on the basis of the submissions on behalf of the Respondent No.6.

(ABHAY AHUJA, J.)