

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

APPLICATION NO.11 OF 2025
IN
ELECTION PETITION NO.23 OF 2025

Mahendra Sadashiv Thorve

....*Applicant*

In the matter between

Sudhakar Parshuram Ghare
alias Sudhakarbhau Ghare

.... *Petitioner*

Versus.

Mahendra Sadashiv Thorve and others

.... *Respondents*

WITH
APPLICATION (L) NO. 25974 OF 2025
ALONGWITH
APPLICATION (LODG.) NO. 26165 OF 2025
IN
ELECTION PETITION NO. 23 OF 2025

Sudhakar Parshuram Ghare
alias Sudhakarbhau Ghare

....*Applicant*

In the matter between

Sudhakar Parshuram Ghare
alias Sudhakarbhau Ghare

.... *Petitioner*

Versus.

Mahendra Sadashiv Thorve and others

.... *Respondents*

Mr. Arif Bookwala, Senior Advocate with Ms. Mahek Bookwala i/b Ms. Pooja Thorat, for Petitioner in Election Petition No. 23/2025 and Respondent in AEP/11/2025.

Mr. Shreekant V. Gavand, a/w. Mr. Sanket J. Bhase, for Applicant in AEP/11/2025 and for Respondent No. 1 in EP/23/2025.

Ms. Neeta Jain *i/b Mr. Alochan Naik, for Respondent No. 4 in EP/23/2025.*

CORAM: SANDEEP V. MARNE, J.

Reserved On: 15 September 2025.

Pronounced On : 24 September 2025.

JUDGMENT :-

1) The Petitioner has filed the Election Petition seeking setting aside of election of Respondent No.1 from 189-Karjat Legislative Assembly Constituency in pursuance of general elections of Vidhan Sabha held on 20 November 2024. Petitioner has also sought his own declaration as duly elected in the said elections. Respondent No.1 has filed Application No.11 of 2025 seeking rejection of Election Petition under the provisions of Order VII Rule 11 of the Code of Civil Procedure, 1908 (**the Code**) as well as for striking off pleadings in paragraph Nos.9 to 30 and grounds A to Q in the Election Petition. After filing of the Application for rejection of Election Petition by Respondent No.1, the Petitioner has filed Application (L) No.25974 of 2025 seeking amplification of the Election Petition as per schedule of amendment.

A. FACTS

2) The term of Maharashtra Legislative Assembly was expiring on 26 November 2024. The Election Commission of India declared general elections for 15th Legislative Assembly of Maharashtra for the period from 2024 to 2029 on 15 October 2024 by declaring the election programme. The election notice was declared in the Gazette

along with Election Schedule on 22 October 2024. The Election Commission of India also declared Model Code of Conduct w.e.f. 15 October 2024. Parties to Election Petition filed their respective nominations as candidate for contesting the election from 189 Karjat Legislative Assembly Constituency. Nine valid nomination forms were received. Respondent No.1 was a candidate of Shiv Sena political party, Respondent No.4 was a candidate of Shiv Sena (Uddhav Balasaheb Thackeray) political party. Petitioner filed his nomination as an Independent Candidate. Petitioner was allotted symbol of Auto Rickshaw. According to the Petitioner, Respondent Nos.2 and 3, who bear resemblance of name with the Petitioner, are workers of Shiv Sena party of which Respondent No.1 was a candidate.

3) The voting was conducted on 20 November 2024. The votes were counted on 23 November 2024 and 2,40,070 votes were found to have been cast. Petitioner polled 89,177 votes. Respondent No.1 polled 94,871 votes. The election results were declared by the Returning Officer on 23 November 2024, in which Respondent No.1 was declared as a Returned Candidate. Petitioner is aggrieved by the result of the election in which Respondent No.1 is declared as a Returned Candidate and has accordingly filed the present Election Petition challenging the election of Respondent No.1 and for seeking a declaration of his own election.

4) Respondent No.1 has appeared and has filed Written Statement opposing the Election Petition. Respondent No.4 has also filed his Written Statement supporting the Election Petition. In addition to filing the Written Statement, Respondent No.1 has filed Application No.11 of 2025 seeking rejection of Election Petition under

the provisions of Order VII Rule 11 of the Code as well as for striking off pleadings therein. Petitioner has filed Affidavit-in-Reply opposing Application No.11 of 2025. Additionally, Petitioner has filed Application (L) No.25974 of 2025 seeking amendment of the Election Petition for amplifying the particulars pleaded in the Election Petition. Both the Applications are taken up for hearing.

B. SUBMISSIONS

5) Mr. Gavand, the learned counsel appearing for Respondent No.1 would submit that the Election Petition does not disclose cause of action for setting aside election of Respondent No.1 on any of the grounds enumerated under Section 100 of the Representation of the People Act, 1951 (**RP Act**). That the Petition neither contains a concise statement of material facts as required under Section 83 (1) (a) nor sets forth full particulars of corrupt practice as required under Section 83(1) (b) of the RP Act. So far as allegation of distribution of sarees is concerned, he would submit that no particulars of names of persons, name of village, exact place, etc. are disclosed. That therefore the Election Petition lacks material particulars of alleged corrupt practice of distribution of sarees. That no particulars of alleged video recording referred to in paragraph 10 of the Election Petition are pleaded. That though names of two ladies are disclosed in paragraph 9 of the Election Petition to whom sarees were allegedly distributed, the complaint of Shri. Ketan Belose does not disclose the names of said two ladies. That therefore, the Petition lacks the pleadings of material particulars in support of ground of corrupt practices. He would submit that there are no pleading as to how alleged conduct of threatening Shri. Manohar Patil has affected the free

exercise of electoral right of the voters. That there are apparent inconsistencies in paragraph No.13 of the Election Petition and the complaint dated 10 November 2024, as the complaint is silent about Respondent No.1 telling Shri. Manohar Patil to work for Shiv Sena party. That the threat was not for dissuading Shri. Manohar Patil from exercising his free electoral right. That even in non-cognizable complaint filed at the instance of Shri. Manohar Patil, there is no allegation of Respondent No.1 asking Shri. Manohar Patil to join Shiv Sena political party. That even video recording relied upon by the Petitioner does not reflect threats given by Respondent No.1 for joining Shiv Sena party. That therefore the allegation of threatening Shri. Manohar Patil are completely vague, lacks material particulars and is insufficient for constituting a valid ground for setting aside election of Respondent No.1 under Section 100 of the RP Act.

6) With regard to the allegation of Respondent Nos.2 and 3 being fielded as candidates with same names by inducing and offering them gratification is concerned, Mr. Gavand would submit that there are no pleadings naming the persons, who have allegedly induced or offered gratification to Respondent Nos.2 and 3. The manner in which the gratification was paid and the date when the same was paid is also not pleaded. That Petitioner did not file his nomination in the name of Sudhakarbhau Ghare but chose to file the same in the name of Sudhakar Parshuram Ghare and cannot be permitted to rely upon pamphlets allegedly distributed calling upon the voters to vote in favour of Respondent No.2 by referring him as Sudhakarbhau Ghare. That there was marked difference between election symbols allotted to Petitioner (Auto Rickshaw) and Respondent No. 2 (Truck). That additional provision was made for reflection of photograph of each

candidate while casting vote so that there was no room for creation of any confusion due to similarity in the names. That Respondent No.1 has won the election by margin of 5694 votes, whereas Respondent Nos. 2 and 3 have secured only 2364 and 715 votes. So far as the allegation of sending Short Message Service (SMS) asking the voters to vote for Sudhakarbhau Ghare at Serial No.8 is concerned, Mr. Gavand would submit that it is not Petitioner's case that the handle/number from which the said message is sent belongs to Respondent No.1. That bulk messages are sent by the concerned service provider and therefore there is material pleading to connect Respondent No. 1 to the concerned SMS. That there is total absence of material to infer that Respondent Nos.2 and 3 were fielded by Respondent No.1 by offering any inducement or gratification to them.

7) With regard to the ground of suppression of pendency of criminal prosecution is concerned, Mr. Gavand would submit that the case involves mere inadvertence in reflecting correct year of the case. That correct case number is R.C.C. No. 318 of '2013' but due to typographical error in the form, the same was indicated as R.C.C. No.318 of '2012'. He would then take me through the relevant case papers to indicate that both the numbers relate to the same case. That the allegation thus does not constitute a valid ground for setting aside election of democratically elected candidate. He would rely on judgment of the Apex Court in Karikho Kri Versus. Nuney Tayang and another¹ in support of his contention that non-disclosure of every fact does not constitute defect of substantial nature warranting setting aside election of candidate. That in any case, the ground of alleged suppression relates to improper acceptance of nomination under

¹ AIR 2024 SC 2121

Section 100(1)(d)(i) which requires pleading and proof of election being materially affected by such improper acceptance of nomination. That Petitioner has failed to plead as to how the election of Respondent No.1 is materially affected on account of reflection of incorrect year of the criminal case. With regard to the allegation of non-counting of votes at Polling Station No. 217, Mr. Gavand would submit that there is no pleading as to how election of Respondent No.1 is materially affected by non-counting of any particular vote. That in case, Petitioner's objection has been rejected by the Returning Officer by a reasoned order. That even concise statement of facts filed alongwith the Election Petition does not make out any valid ground for setting aside election of Respondent No.1. In support of his contentions, Mr. Gavand would rely upon judgment of the Apex Court in Kanimozhi Karunanidhi Versus. A. Santhana Kumar and others² and of this Court in Rajendra Dhedya Gavit Versus. Sudhir Brijendra Jain³ and Prakash Rajaram Surve Versus. Udesb Shantaram Patekar⁴. Mr. Gavand would accordingly submit that Election Petition lacks pleadings of material particulars of corrupt practices as well as pleadings that election of Respondent No.1 is materially affected due to any infirmity. Mr. Gavand would accordingly pray for rejection of Election Petition under the provisions of Order VII Rule 11 of the Code.

8) Though prayed for in the application, Mr. Gavand has not canvassed any submissions for striking off any pleadings in the Election Petition. So far as Application (L) No.25974 of 2025 is concerned, Mr. Gavand would submit that same is filed for filling up the lacuna left in the Election Petition. That opportunity to amplify

² AIR 2023 SC 2366

³ Interim Application (L) No. 5808 of 2025 in Election Petition No. 3 of 2025 decided on 23 June 2025.

⁴ Application No. 3 of 2025 in Election Petition No. 10 of 2024 decided on 1 August 2025

grounds of Election Petition under Section 86(5) of the RP Act cannot be utilised for supplying material particulars of corrupt practices, which are totally absent in the Election Petition. He would submit that the application for amendment is *malafide* and the same is aimed solely at defeating the application of Respondent No.1 seeking rejection of the Election Petition. He would pray for dismissal of Application (L) No.25974 of 2025.

9) *Per contra*, Mr. Bookwala, the learned Senior Advocate appearing for the Petitioner would oppose Application No.11 of 2025 submitting that the Election Petition contains necessary averments for the purpose of taking the same to the stage of trial. That requisite material particulars are pleaded by the Election Petitioner in support of allegations of distribution of sarees to voters, suppression of information relating to criminal prosecution, fielding of persons with similar names, sending of bulk SMS by Respondent No.1 through his own handle calling upon voters to vote in the name of dummy candidate so as to reduce the margin of Petitioner. He would submit that the pleadings of the Petition make out a concise statement of material facts disclosing cause of action and that the evidence need not be pleaded in the Election Petition. He would rely upon judgment of the Apex Court in *Ponnala Lakshmaiah Versus. Kommuri Pratap Reddy and others*⁵ in support of his contention that so long as reading of the Plaint as whole makes out a cause of action for maintaining Election Petition, the same cannot be rejected by having recourse to Order VII Rule 11 of the Code. He would submit that the Apex Court has deprecated the practice of elected candidate seeking rejection of Election Petition on technical pleas by preventing them from being

⁵ (2012) 7 SCC 788

taken to trial. He would submit that Petitioner can lead evidence to substantiate the allegations raised in the Election Petition and that therefore the Petition must be permitted to be taken for trial. Mr. Bookwala would further submit that sufficient averments are made in the Election Petition *qua* the allegation of distribution of sarees. Once the sarees are found to bear stickers with symbol Shiv Sena and photograph of Respondent No.1, the obvious inference is that the same were distributed to bribe the voters. That names of ladies receiving sarees are pleaded in the Election Petition. That therefore an opportunity of leading evidence deserves to be granted to prove the allegation of bribery through distribution of sarees. That it is not necessary that the Petitioner must plead the names of persons distributing sarees. Though even if the Petitioner was to name such persons, Respondent No.1 would simply distance his connection with such persons. That therefore disclosure of name of every person found to have been offering bribe on behalf of the elected candidate is not required for maintaining a valid Election Petition. He would submit that Section 83 of the RP Act also uses expression 'as possible' and that therefore it cannot be contended that failure to name the persons offering bribe would be a ground for rejection of Election Petition under Order VII Rule 11 of the Code.

10) Mr. Bookwala further submit that Respondent No.1 fielded Respondent Nos.2 and 3 belonging to far off distances of Jalna and Sindhudurg for the purpose of creating confusion in the minds of voters. That there is specific allegation of offering inducement and gratification to Respondent Nos.2 and 3. That the said allegation would be proved by Petitioner by leading evidence. That there are pleadings of Respondent Nos.2 and 3 being party workers of

Respondent No.1 coupled with allegation of inducement and gratification, which are sufficient for taking the said ground for trial. That in any case, names of persons offering inducement and gratification can always be disclosed while leading evidence and that same need not be averred in the Petition itself. That the factum of popularity of the Petitioner as Sudhakarbhau Ghare is deliberately misused by Respondent No.1 by urging voters to vote in favour of Respondent Nos.2 and 3, who were otherwise likely to vote in favour of Petitioner. He would rely upon screenshot of SMS allegedly sent at the behest of Respondent No.1 to demonstrate that sending of SMS was at the behest of Respondent No.1 who had sent Diwali greetings in his name from same handle. That there are sufficient pleadings in the Election Petition in support of allegation of preventing voters from voting in favour of the Petitioner by misusing his popular name and by sending misleading SMS. In support of ground of threat given to Shri. Manohar Patil, party worker of Petitioner, Mr. Bookwala would submit that whether the threat was actually given or not is a question of trial. That the Election Petition names Respondent No.1, who has given threat to Shri. Manohar Patil. That such threat dissuaded other party workers campaigning in favour of the Petitioner. That the threats were aimed solely at interference with free exercise of electoral rights by the voters. He would rely on provision of Section 123 of the RP Act to demonstrate that threatening a party worker is deemed to be a corrupt practice of undue influence. Lastly, Mr. Bookwala would rely upon judgment of the Apex Court in Krishnamoorthy Versus. Sivakumar and others⁶ in support of his contention that non-disclosing of a pending criminal case constitutes a valid ground for setting aside the election.

⁶ (2015) 3 SCC 467

11) Mr. Bookwala would rely upon Constitution Bench judgment of the Apex Court in Balwan Singh Versus. Lakshmi Narain and others⁷ in support of his contention that it is the duty of the Court to provide opportunity to the Petitioner to amplify the material particulars under Section 86 (5) of the RP Act if the Court concludes that there are no sufficient material particulars pleaded in the Election Petition. That accordingly, Petitioner has filed Application (L) No.25974 of 2025 and therefore Petitioner deserves to be granted opportunity to amplify the grounds already raised in the Election Petition by substantiating the same with the requisite material particulars. He would also rely upon judgment of the Apex Court in Raj Narain Versus. Smt. Indira Nehru Gandhi and another⁸ in support of his plea of amendment under the provisions of Section 86(5) of the RP Act.

12) Mr. Bookwala would accordingly pray that the application for rejection of Election Petition under Order VII Rule 11 of the Code be rejected and in the event this Court coming to a conclusion that the Election Petition lacks material particulars, the Petitioner be granted opportunity to amend the Election Petition by allowing the Application (L) No.25974 of 2025.

⁷ AIR 1960 SC 770

⁸ (1972) 3 SCC 850

13) Ms. Jain, the learned counsel appearing for Respondent No.4 supports the submissions canvassed by Mr. Bookwala.

C. REASONS AND ANALYSIS

14) The Petitioner has challenged the election of Respondent No.1 by filing the present Election Petition under Section 100 of the RP Act. The election of the first Respondent is challenged mainly on five grounds, three of which relate to corrupt practices, one relates to improper acceptance of nomination and the last one relates to improper refusal/rejection of votes by not counting the same. First Respondent has sought rejection of the Election Petition on the ground that the same lacks requisite pleadings so as to constitute a cause of action for setting aside the election under Section 100. Before proceeding further to examine presence of requisite pleadings for taking the Petition to trial, it would be necessary to make a brief reference to the statutory framework of RP Act.

C.1 STATUTORY FRAMEWORK OF THE RP ACT

15) Election of a returned candidate can be challenged by making out one of the grounds enumerated under Section 100 of the RP Act, which reads thus :-

100. Grounds for declaring election to be void.—

(1) Subject to the provisions of sub-section (2) if the High Court is of opinion—

(a) that on the date of his election a returned candidate was not qualified, or was disqualified, to be chosen to fill the seat under the Constitution or this Act or the Government of Union Territories Act, 1963 (20 of 1963); or

(b) that any corrupt practice has been committed by a returned candidate or his election agent or by any other person with the consent of a returned candidate or his election agent; or

(c) that any nomination has been improperly rejected; or

(d) that the result of the election, in so far as it concerns a returned candidate, has been materially affected—

(i) by the improper acceptance or any nomination, or

(ii) by any corrupt practice committed in the interests of the returned candidate by an agent other than his election agent, or

(iii) by the improper reception, refusal or rejection of any vote or the reception of any vote which is void, or

(iv) by any non-compliance with the provisions of the Constitution or of this Act or of any rules or orders made under this Act,

the High Court shall declare the election of the returned candidate to be void.

(2) If in the opinion of the High Court, a returned candidate has been guilty by an agent, other than his election agent, of any corrupt practice but the High Court is satisfied—

(a) that no such corrupt practice was committed at the election by the candidate or his election agent, and every such corrupt practice was committed contrary to the orders, and without the consent, of the candidate or his election agent;

*

*

*

(c) that the candidate and his election agent took all reasonable means for preventing the commission of corrupt practices at the election; and

(d) that in all other respects the election was free from any corrupt practice on the part of the candidate or any of his agents, then the High Court may decide that the election of the returned candidate is not void.

16) Section 81 of the RP Act provides for presentation of Election Petition and provides thus :-

81. Presentation of petitions.—

(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 to the High Court by any candidate at such election or any elector within forty-five days from, but not earlier than the date of election of the returned candidate or if there are more than one returned candidate at the election and dates of their election are different, the later of those two dates.

Explanation.—In this sub-section, “elector” means a person who was entitled to vote at the election to which the election petition relates, whether he has voted at such election or not.

(3) Every election petition shall 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.

17) Section 82 of the RP Act deals with parties to the Election Petition and provides thus :-

82. Parties to the petition.-

A Petitioner shall join as respondents to his petition-

(a) where the petitioner, in addition to claiming a declaration that the election of all or any of the returned candidates is void, claims a further declaration that he himself or any other candidate has been duly elected, all the contesting candidates other than the petitioner, and where no such further declaration is claimed, all the returned candidates; and

(b) any other candidate against whom allegations of any corrupt practice are made in the petition.

18) Section 83 of the RP Act deals with contents of Election Petition and provides thus :-

83. Contents of petition.—

(1) An election petition—

(a) shall contain a concise statement of the material facts on which the petitioner relies;

(b) shall set forth full particulars of any corrupt practice that the petitioner alleges, including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice; and

(c) shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (5 of 1908) for the verification of pleadings:

Provided that where the petitioner alleges any corrupt practice, the petition shall also be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice and the particulars thereof.

(2) Any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition.

19) Section 86 of the RP Act deals with trial of the Election Petitions and provides thus :-

86. Trial of election petitions.—

(1) The High Court shall dismiss an election petition which does not comply with the provisions of section 81 or section 82 or section 117.

Explanation.—An order of the High Court dismissing an election petition under this sub-section shall be deemed to be an order made under clause (a) of section 98.

(2) As soon as may be after an election petition has been presented to the High Court, it shall be referred to the Judge or one of the Judges who has or have been assigned by the Chief Justice for the trial of election petitions under sub-section (2) of section 80A.

(3) Where more election petitions than one are presented to the High Court in respect of the same election, all of them shall be referred for trial to the same Judge who may, in his discretion, try them separately or in one or more groups.

(4) Any candidate not already a respondent shall, upon application made by him to the High Court within fourteen days from the date of commencement of the trial and subject to any order as to security for costs which may be made by the High Court, be entitled to be joined as a respondent.

Explanation.—For the purposes of this sub-section and of section 97, the trial of a petition shall be deemed to commence on the date fixed for the respondents to appear before the High Court and answer the claim or claims made in the petition.

(5) The High Court may, upon such terms as to costs and otherwise as it may deem fit, allow the particulars of any corrupt practice alleged in the petition to be amended or amplified in such manner as may in its opinion be necessary for ensuring a fair and effective trial of the petition, but shall not allow any amendment of the petition which will have the effect of introducing particulars of a corrupt practice not previously alleged in the petition.

(6) The trial of an election petition shall, so far as is practicable consistently with the interests of justice in respect of the trial, be continued from day to day until its conclusion, unless the High Court finds the adjournment of the trial beyond the following day to be necessary for reasons to be recorded.

(7) Every election petition shall be tried as expeditiously as possible and endeavour shall be made to conclude the trial within six months from the date on which the election petition is presented to the High Court for trial.

20) Respondent No.1 has sought rejection of the Election Petition for failure to disclose cause of action by having recourse to the provisions of Order VII Rule 11 of the Code. It is the case of Respondent No.1 that the Election Petition lacks necessary pleadings for making out any of the grounds enumerated in Section 100 of the RP Act and that there is complete non-compliance with the provisions of Section 83 of the RP Act. When seen in the light of provisions of Section 100 of the RP Act, the five pleaded grounds for challenging election of the first Respondent are as under :-

- (i) Allegation of distribution of sarees to the voters attracting corrupt practices constituting a ground of corrupt practice under Section 100(1)(b) read with Section 123.
- (ii) Threatening Shri. Manohar Patil by Respondent No.1 on 10 November 2024 constituting ground of corrupt practice under section 100 (1)(b) read with Section 123(2).
- (iii) Fielding Respondent Nos.2 and 3 bearing similar names by offering inducement in exchange of gratification constituting corrupt practice under Section 100(1)(b) read with Section 123.
- (iv) Non-disclosure of pending criminal prosecution constituting a ground under Section 100(1)(d)(i) and (iv).
- (v) Non-counting of votes casted at Polling Station No.217, constituting a ground under Section 100(1)(d)(iii).

21) By now, it is well settled position of law that Election Petition is a statutory remedy and not a remedy in equity or a remedy in common law and that therefore strict compliance with the provisions of the RP Act is mandatory while exercising the statutory remedy. This position has been reiterated in various judgments of the Apex Court as followed by this Court. (*SEE: Jyoti Basu and others Versus. Debi Ghosal and others*⁹ and *Dharminbhai Kashyap Versus. Babli Shahu and others*¹⁰) Sub-section (1) of Section 86 of the Act provides that an Election

⁹ (1982) 1 SCC 691

¹⁰ (2023) 10 SCC 461

Petition which does not comply with the provisions of Section 81 or Section 82 can be dismissed. By now, it is also well settled position that an Election Petition not complying with the provisions of Section 83 can also be rejected by High Court by having recourse to the provisions of Order VII Rule 11 of the Code. In *Prakash Rajaram Surve* (supra), this Court has decided the issue of permissibility to reject the Election Petition under the provisions of Order VII Rule 11 of the Code for non-compliance with the provisions of Section 83 even though Section 86(1) of the RP Act does not permit dismissal of the Election Petition for non-compliance with the provisions of Section 83. Mr. Bookwala fairly does not dispute this position.

22) Thus, strict compliance with provisions of Sections 81, 82 and 83 of the RP Act is mandatory, failing which Election Petition would entail dismissal under Section 86(1) of the RP Act or rejection under Order VII Rule 11 of the Code. Respondent No. 1 has not set up a case of non-compliance with provisions of Sections 81 or 82 of the RP Act. His case is that the Election Petition does not comply with provisions of Section 83 of the RP Act, warranting its rejection under Order VII Rule 11 of the Code. Thus pleadings raised by the Petitioner need to be examined with reference to the requirement under Section 83 of the RP Act.

23) Under the provisions of Section 83 of the RP Act, every election petition must (i) contain a concise statement of material facts on which the Petitioner relies, (ii) set forth full particulars of any corrupt practice that the Petitioner alleges. There is conscious distinction between requirement of pleadings when election is

challenged on grounds other than corrupt practice and when it is challenged on ground of corrupt practice. When election is called in question on grounds not involving corrupt practice, Section 83(1)(a) requires the petition to contain mere concise statement of material facts. However, when it comes to the ground of corrupt practice, the Petition must contain not just a concise statement of material facts but also full particulars of corrupt practice that the Petitioner alleges. This aspect is also dealt with in judgment of this Court in *Prakash Rajaram Surve* (supra). Thus, if the Court comes to the conclusion that the Election Petition either does not contain concise statement of material facts or in a petition involving ground of corrupt practice, if it does not set forth particulars of corrupt practice, the Election Petition can be rejected by having recourse to the provisions of Order VII Rule 11 of the Code.

24) Having discussed the legal position, it would now be necessary to deal with the pleadings raised by the Petitioner in the Election Petition so as to examine whether the Petition contains necessary averments as required under Section 83 of the RP Act for making out the grounds enumerated under Section 100.

C.2 GROUND OF DISTRIBUTION OF SAREES

25) In support of the allegation of corrupt practice of distribution of sarees to the voters, Petitioner has raised following pleadings :-

9. On or about 27th October 2024, the party workers and the election agent of the Petitioner discovered that there were sarees being distributed to the women in the Karjat-Khalapur constituency. The said sarees had stickers stating "Witness your second development. Come with me to fill nominations." The sticker also bore the symbol of Shiv Sena and the photograph of Respondent No.1. Certain women who received the said sarees, namely one Tarabai Tanaji Pawar, and one Nazuka Kishore Sarai informed the agents of the Petitioner that the representatives of Respondent No.1 had visited them and said if they would vote for Respondent No.1, they would receive sarees. On them agreeing to do so, the said sarees were handed over to the said Pawar and Sarai.

10. A video showing the sarees bearing the stickers, as described hereinabove was widely circulated and was received by the the party workers and the election agent of the Petitioner. The said video was subsequently downloaded on a pen drive purchased by the Petitioner. The said pen drive is hereto annexed and marked **Exhibit 'B'**. In the said pen drive, annexed and marked as **Exhibit 'B-1'** is the video of the sarees distributed by Respondent No.1.

11. The said incident was also reported by media channels. A channel named Maharashtra News 24 uploaded a video reporting the said incident on their YouTube channel. The said video is found on the link https://youtu.be/t_iqmRL2AJE?=j0tkMaciUI1BJ1Qi. The said video was subsequently downloaded on the pen drive (at Exhibit B hereto). In the said pen drive at Exhibit B annexed and marked as **Exhibit 'B-2'** is video reporting the said incident.

12. By a letter dated 27th October 2024, one Ketan Belose, being the Election Agent of the Petitioner, addressed a letter to the Election Officer, with copies marked to the Collector, Raigad, the Superintendent of Police, Raigad, and the Inspector of Police, Karjat, stating that Respondent No.1, by distributing sarees, as stated hereinabove, has violated the Code of Conduct and that immediate action should be taken.

L. Respondent No.1 by himself or through his agents, or other persons with his knowledge and consent or through his election agent or through his party workers is guilty of committing a corrupt practice by attempting to induce voters to vote for him by the act of distribution of Sarees to the women in the village, which sarees bore a sticker with the photograph of Respondent No.1 and the party symbol.

26) According to the pleadings in the Election Petition, the act of distribution of sarees to two women namely, Tarabai Tanaji Pawar and Nazuka Kishore Sarai, took place on 27 October 2024. Para-9 of the Election Petition alleges that sarees were being distributed to the women in Karjat-Khalapur Constituency. It is further alleged that the sarees had stickers with the message '*Witness your second development. Come with me to fill nominations*'. The stickers allegedly bore the symbol of Shiv Sena party and photograph of the first Respondent. However, the Election Petition is completely silent about the person who distributed the sarees. Under the provisions of Section 123 of the RP Act offering of a gift by a candidate or his agent or any person with the consent of the candidate or of his election agent becomes bribery and a corrupt practice. Under Section 100 of the RP Act, the corrupt practice can be committed by a returned candidate himself or by his election agent or by any other person with the consent of the returned candidate or of his election agent. Alternatively, under Section 100(1)(d)(ii) of the RP Act, corrupt practice can also be committed in the interest of the returned candidate by an agent other than his election agent.

27) Section 83(1)(b) of the RP Act requires the Election Petitioner to set forth full particulars of names of persons who are alleged to have committed the corrupt practice. In the present case, Petitioner has not averred that Respondent No.1 personally distributed the sarees. The name of the person who distributed the sarees is not disclosed. There is no averment as to whether the person who distributed sarees was election agent of Respondent No.1 or a third party distributing the sarees with the consent of Respondent No.1.

Mr. Bookwala has attempted to contend that it is impossible for the Petitioner to know the names of persons indulging in distribution of sarees. He would further submit that since stickers bore the symbol of Shiv Sena Party and photograph of Respondent No.1, it is but obvious that the distribution is at the instance of Respondent No.1. I am unable to agree. Election of a democratically elected candidate cannot be set aside by undertaking an inferential process. In absence of pleading that Respondent No.1 distributed the sarees, the Court cannot presume that such distribution has to be at the instance of Respondent No.1 as the sarees had sticker with the election symbol of Shiv Sena and photograph of Respondent No.1.

28) Section 100 of the RP Act provides for different grounds relating to corrupt practices for setting aside election. The grounds enumerated in Section 100 relating to corrupt practice differ depending on the person who commits the corrupt practice. If the corrupt practice is committed by returned candidate himself or by his election agent in which case, consent of the returned candidate is not required to be established. If however corrupt practice is committed by a person other than the returned candidate or his election agent, the law requires establishment of consent of returned candidate or of his election agent. Also under the ground enumerated under Section 100(1)(b), the moment corrupt practice is established, the election can be set aside without insisting on proving that the result of the election concerning the returned candidate has been materially affected. However, if the corrupt practice is committed in the interest of returned candidate by an agent other than election agent, it becomes mandatory to prove that the result of the election has been materially affected by such corrupt

practice. This is how person who commits corrupt practice assumes importance and different grounds get attracted and different requirements are needed to be pleaded depending on the person who is accused of committing corrupt practice. In that view of the matter, disclosure of name of the person who is alleged to have committed corrupt practice becomes vital. Thus, apart from a specific requirement under Section 83(1)(b) of the RP Act, it is otherwise mandatory to disclose the name of the person who is alleged to have committed the corrupt practice. *Qua* the allegation of distribution of sarees, there is no disclosure of name of the person who has allegedly distributed the sarees. The pleadings thus fall short of requirement of Section 83(1)(b) of the RP Act. The Election Petition therefore deserves to be rejected for a failure to disclose cause of action *qua* the allegation of distribution of sarees.

C.3 ALLEGATION OF THREATENING SHRI. MANOHAR PATIL

29) In support of the ground of giving threats to Shri. Manohar Patil, following pleadings are raised in the Election Petition :-

13. On 10th November 2024, the Petitioner was campaigning at Kadav Market at Karjat. At that time, one Manohar Patil, being a senior party worker of the Petitioner, aged 70 years old, was passing through the said Kadav Market. Respondent No.1 was present alongwith other Shiv Sena party officials and he called out to the said Patil. The said Patil on approaching Respondent No.1 was told by Respondent No.1 to work for Shiv Sena and not the Petitioner. On the said Patil refusing to do so, Respondent No.1 verbally abused the said Patil who said that he shall not remain quiet unless and until he finishes the said Patil. Respondent No.1 proceeded to abuse and threaten the said Patil with profanities to intimidate him, who in fear for his life joined his hands and apologized to Respondent No. 1.

14. The entire altercation between Respondent No.1 and the said Patil was captured on video by media representatives that were present at the site. The said video was widely circulated on social media and news channels. The news channel ABP Majha reported the altercation and uploaded the same to their YouTube channel. The link for the same is https://youtu.be/OiyeMZdp0E?si=5-cCJacxX6_wvJEc. The Petitioner has downloaded the said video on his device from the above said YouTube link and from the said device, the said video is transferred to the Pen Drive (at Exhibit B). In the said pen drive at Exhibit B, annexed and marked as **Exhibit 'B-3'** is video of ABP Majha reporting the said incident.

15. Another channel, Vikas Nama also uploaded the entire altercation on their YouTube channel. The link for the same is <https://youtu.be/ty7Jh1KLthA?si=3nAh3OoJ73911z-h>. The Petitioner has downloaded the said video on his device from the above said YouTube link and from the said device, the said video is transferred to the Pen Drive (at Exhibit B). In the said pen drive at Exhibit B, annexed and marked as **Exhibit 'B-4'** is video of Vikas Nama reporting the said incident.

16. Another Marathi channel, News18 Lokmat reported the incident and uploaded the same on their YouTube channel. The link for the same is <https://youtu.be/qaeoPsWVqTo?si=k-OzAtIR8dvXgB8K>. The Petitioner has downloaded the said video on his device from the above said YouTube link and from the said device, the said video is transferred to the Pen Drive (at Exhibit B). In the said pen drive at Exhibit B, annexed and marked as **Exhibit 'B-5'** is video of News18 Lok Mat reporting the said incident. Hereto annexed and marked as **Exhibit 'C'** is a copy of the sticker that was affixed on the sarees at the time of their distribution. Hereto annexed and marked as **Exhibit 'D'** is a copy of the said letter dated 27th October 2024.

17. As the said Patil feared for his life and sought protection from the Petitioner, the Petitioner addressed a complaint dated 10th November 2024 to the Senior Police Inspector of the Karjat Police Station stating that Respondent No.1 was in breach of the Code of Conduct having intimidated and threatened the agent of the Petitioner and that action regarding the same should be taken. Hereto annexed and marked as **Exhibit 'E'** is a copy of the said complaint dated 10th November 2024. The Karjat Police Station, by letter dated 10th November 2024, forwarded the said complaint to the Returning Officer. Hereto annexed and marked as **Exhibit 'F'** is the said letter dated 10th November 2024 addressed by the Karjat Police Station. By two letters, both dated 11th November 2024, Returning Officer stated that the said complaint was criminal in nature and would be scrutinised in accordance with law and that appropriate action should be taken by the Police. Hereto annexed and marked as **Exhibit 'G'** is copy of the said letter dated 11th November 2024. Hereto

annexed and marked as **Exhibit 'H'** is copy of the said letters dated 11th November 2024.

18. On the basis of the said complaint, on 11th November 2024, a Non-Cognizable Offence Information Report was filed against Respondent No.1. Hereto annexed and marked as **Exhibit 'T'** is a copy of the said Non-Cognizable Offence Information Report.

M. Respondent No.1 by himself or through his agents, or other persons with his knowledge and consent or through his election agent or through his party workers is guilty of committing a corrupt practice by exercising undue influence by directly, time and again, threatening the agents / party workers of the Petitioner.

N. On being so threatened, the party workers of the Petitioner, fearing for their own life, were unable to campaign with full force for the Petitioner making the election campaign suffer and thereby affecting the Petitioner's votes.

O. Respondent No.1 has repeatedly violated the Code of Conduct for which First Information Reports have been filed, however, with no concrete measures being adopted, the Petitioner's votes suffered.

P. But for the votes obtained by Respondent No.1 by corrupt practices the Petitioner would have obtained a majority of the valid votes.

30) The ground of threatening Shri. Manohar Patil by Respondent No.2 is raised for the purpose of establishing corrupt practice of undue influence under Section 123(2) of the RP Act. Sub-section (2) of Section 123 provides thus :-

123. Corrupt practices.—

The following shall be deemed to be corrupt practices for the purposes of this Act:—

(1) ****

(2) Undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any other person with the consent of the candidate or his election agent, with the free exercise of any electoral right:

Provided that—

(a) without prejudice to the generality of the provisions of this clause any such person as is referred to therein who—

(i) threatens any candidate or any elector, or any person in whom a candidate or an elector is interested, with injury of any kind including social ostracism and ex-communication or expulsion from any caste or community; or

(ii) induces or attempts to induce a candidate or an elector to believe that he, or any person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure, shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause;

(b) a declaration of public policy, or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this clause.

31) Thus, any direct or indirect interference or attempt to interfere on the part of the candidate, his agent or by any person with the consent of returned candidate, with free exercise of electoral right becomes undue influence and consequently a corrupt practice. Under Proviso to sub-section (2) of Section 123 of the RP Act, the act of threatening any candidate or any elector or any person in whom any candidate or person is interested is deemed to be an interference with free exercise of the electoral right of the candidate or the elector.

32) Shri. Manohar Patil is described as senior party worker of the Petitioner. There is no averment that Shri. Manohar Patil was a voter or that the act of threatening has resulted in interference with his free exercise of electoral right. The allegation in para-13 of the Election Petition is that Respondent No.1 told Shri. Manohar Patil to work for Shiv Sena Party and not for Petitioner and thereafter Respondent No.1 verbally abused Shri. Manohar Patil and threatened him. In ground

clause (N), it is alleged that on account of threats so issued to Petitioner's party worker, other party workers were unable to campaign with full force for the Petitioner thereby affecting his votes. However, allegation of threatening a person who is the elector must necessarily result in direct or indirect interference with free exercise of the electoral right. Therefore, it was necessary for the Petitioner to aver in the Petition that either Shri. Manohar Patil was an elector/voter and the alleged act of threats given by Respondent No.1 interfered with free exercise of his electoral right. There is no averment that Shri. Manohar Patil did not cast his vote in the election or voted against the Election Petitioner. In absence of such an averment, the ground of corrupt practice under Section 123(2) and 100(1)(b) of the RP Act, cannot be said to be made out. Additionally, there appears to be inconsistency between the pleadings in the Election Petition and contents of complaint lodged on 10 November 2024 and N.C. registered on 11 November 2024. Both in the written complaint dated 10 November 2024 as well as in the N.C. there is no allegation that Respondent No.1 told Shri. Manohar Patil to work for Shiv Sena Party and not for the Petitioner or that threats were given after Shri. Manohar Patil refused to do so. In my view, therefore even the pleadings alleging threats given to Shri. Manohar Patil are insufficient for making out the ground of corrupt practice for setting aside the election of Respondent No.1 under Section 100(1)(b) of the RP Act.

C.4 CONTEST OF ELECTIONS BY RESPONDENT NOS. 2 AND 3 WHO RESEMBLE PETITIONER'S NAME

33) Before proceeding to deal with this ground, it must be observed that Petitioner is not the only victim of candidates having

similar name contesting the election. There was a candidate bearing similar name as that of Respondent No.1 in the fray. Petitioner has contended that he is widely recognised as Sudhakarbhau Ghare but had filed the nomination in the name of Sudhakarbhau Parshuram Ghare. It is claimed that Respondent No.2-Sudhakar Yadavrao Ghare is not a resident of Karjat nor is involved in politics. Petitioner has claimed that since second Respondent's first and last name is same as Petitioner, he was induced in exchange of gratification by Respondent No.1 to contest the election to confuse the voters. It is contended that symbol allotted to Respondent No.2 of 'Truck' strongly resembled the symbol of the Election Petitioner of 'Auto Rickshaw'. That Respondent No.2 campaigned by distributing pamphlets in the name of Sudhakarbhau Ghare. It is further contended that on 18 November 2024, SMS were received by voters in Karjat urging to vote for Sudhakarbhau Ghare at Serial No.8, where name of Respondent No. 2 was indicated in the voter sheet. It is claimed that the said SMS were sent from same handle from which Diwali greetings were earlier sent on behalf of Respondent No.1. The relevant averments in the Election Petition in this regard are as under :-

21. Respondent No.2 is neither a resident of Karjat nor has been involved in Politics at any point. Since Respondent No.2 has the same first and last name as the Petitioner, he was induced in exchange of gratification by Respondent No.1 to stand as a candidate at the said Election. In a bid to prejudice and confuse the voters who are predominantly villagers, Respondent No.2 made his party symbol a truck that strongly resembles the symbol of Petitioner and also distributed pamphlets seeking votes for Serial No.8 as Sudhakarbhau Ghare. Hereto annexed and marked as **Exhibit 'L'** is a side by side comparison of the party symbols of the Petitioner and Respondent No. 2.

22. On or about 15th November 2024, the party workers of the Petitioner discovered a campaign leaflets and badges being

distributed in Karjat seeking votes for "Sudhakarbhau Ghare". The said leaflets and badges did not have the photograph of Respondent No.2 but sought that votes be cast in favour of Serial No.8. The Petitioner immediately addressed a letter dated 15th November 2024 to the Returning Officer complaining that Respondent No.2 had violated the Code of Conduct by showing his name as Sudhakarbhau Ghare on his campaign leaflets whereas his nomination papers have been filed in the name of Sudhakar Yadavrao Ghare. Hereto annexed and marked as **Exhibit 'M'** is copy of the said letter dated 15th November 2024 Hereto annexed and marked as **Exhibit 'N'** is the campaign leaflets distributed by Respondent No. 2 .

23.On the basis of the said Complaint, on 17th November 2024, a First Information Report was filed by the officer in-charge of the Neral Police Station. Hereto annexed and marked as **Exhibit 'O'** is a copy of the said First Information Report dated 17th November, 2024. More than 4000 pamphlets and badges were seized by the Police and the same are presently in the custody of the Police.

24.By a letter dated 18th November 2024, the said complaint dated 15th November 2024 and the First Information Report were forwarded to the District Election Officer and Collector, Raigad, Alibaug by the Returning Officer. Hereto annexed and marked as **Exhibit 'P'** is a copy of the said letter dated 18th November 2024.

25.On 18th November 2024, bulk Short Message Service (SMS) were received by the voters in Karjat stating that in order to vote for Sudhakarbhau Ghare, one must cast their vote in favour of Serial No.8, bearing the Truck symbol. It is pertinent to note that the handle from which the said. SMS was sent, also sent Diwali Greetings on behalf of Respondent No.1. The Petitioner has also received the said messages on his phone. One of the voters viz. one Harshad Narayan Damse having the phone number 8087253666 has taken a screenshot of both the SMS received by him and forwarded the same to the election agent of the Petitioner. Hereto annexed and marked as **Exhibit 'Q'** is a screenshot of the said SMS.

34) Though no specific averment is made *qua* Respondent No. 3 either under the heading 'Facts of the case', under the heading 'Grounds', following pleadings are made:-

B. Respondent No.1 by himself or through his agents, or other persons with his knowledge and consent or through his election agent or through his party workers is guilty of committing a corrupt practice by inducing Respondent Nos.2 and 3 to stand as candidates

at the said Election in order to prejudice and confuse the voters and thereby split and deplete the votes of the Petitioner.

C. Respondent Nos.2 and 3 have at no point in time been involved in the welfare of the people of Karjat nor are they involved in local politics.

D. Respondent No.1 took advantage of the fact that voters identified the Petitioner as Sudhakarbhau Ghare and misled the voters by projecting Respondent No.2 as the Petitioner by campaigning for him as Sudhakarbhau Ghare.

E. Respondent No.1 by himself or through his agents, or other persons with his knowledge and consent or through his election agent or through his party workers is guilty of committing a corrupt practice by publishing pamphlets and badges in the name of Sudhakarbhau Ghare seeking votes for Respondent No.2, knowing fully well that the Petitioner is widely known as Sudhakarbhau Ghare; and in doing so, Respondent No.1 confused the voters and prejudiced the prospects of the Petitioner's election.

F. Respondent No.1 by himself or through his agents, or other persons with his knowledge and consent or through his election agent or through his party workers is guilty of committing a corrupt practice by showing the name of Respondent No.2 as Sudhakarbhau Ghare on his campaign leaflet whereas his nomination papers have been filed in the name of Sudhakar Yadavrao Ghare.

G. Respondent No.1 by himself or through his agents, or other persons with his knowledge and consent or through his election agent or through his party workers committed a corrupt practice by sending out messages that were misleading and false.

H. The messages sent at the behest of Respondent No.1 misled the receiver of the message into believing that the candidate at Serial No.8 was the Petitioner, Sudhakarbhau Ghare, a name that was synonymous with the Petitioner.

I. The handle from which the false and misleading messages were sent is the same handle from which Respondent No.1 sent a Diwali greeting SMS; this clearly indicates that it was Respondent No.1 by himself or through his agents, or other persons with his knowledge and consent or through his election agent or through his party workers that sent the false and misleading messages to voters misleading them into believing that the candidate at Serial No.8 was the Petitioner.

J. Despite the filing of the First Information Report for distributing pamphlets in the name of Sudhakarbhau Ghare, Respondent No.1 by himself or through his agents, or other persons with his knowledge

and consent or through his election agent or through his party workers committed a corrupt practice by sending messages (SMS) seeking votes for Sudhakarbhau Ghare, misleading voters into voting for Respondent No.2.

K. Respondent Nos. 2 and 3 have only received votes by confusing and misleading the voters as the said Respondents have the same first and last name as the Petitioner and have, at no point been involved in the welfare of the villagers or been involved in local politics.

35) The Election Petition alleges that Respondent No.2 was induced in exchange of gratification by Respondent No.1 to stand as a candidate in the election. It is also contended that the SMS urging the voters to vote in favour of Respondent No.2 were sent from same handle from which Diwali greetings were sent on behalf the first Respondent. These are the only pleadings to connect Respondent No.1 with Respondent No.2. Otherwise, Petitioner apparently did not raise any objection about filing of nomination of Respondent Nos.2 and 3 who bear similarity to the name of the Election Petitioner. It appears that there was a candidate bearing similar name as that of Respondent No.1 at Serial No.5 viz. Mahindra Laxman Thorve. Mere contest of election by a person bearing same name or surname cannot be a reason for setting aside the election of the returned candidate. However, Petitioner has alleged that Respondent Nos.2 and 3 were fielded as candidates in the election by Respondent No.1.

36) So far as allegation of inducement in exchange of gratification by Respondent No.1 for contest of election by Respondent No.2 is concerned, the Election Petition lacks material particulars as to when, how and who paid any gratification to Respondent No.2. Section 83(1)(b) of the RP Act requires setting forth of full particulars of corrupt practice, such as name of the person who committed

corrupt practice, date on which the same is committed, the place at which the same is committed etc. However, the allegation of inducement in exchange of illegal gratification is totally vague in absence of particulars as contemplated in Section 83(1)(b) of the RP Act.

37) So far as the allegation of sending of bulk SMS to the voters from same handle from which Diwali greetings were sent on behalf of Respondent No.1 is concerned, in my view, the said pleading is not sufficient so as to satisfy the requirement of Section 83(1)(b) of the RP Act. The bulk SMS are sent by third parties and in the present case, bulk SMS were apparently sent from “CP-pCMpcn”. The messages are not sent from any telephone connection of Respondent No.1. The same appears to have been sent by third parties. The person urging casting of votes is Shri. Sudhakarbhau Ghare. There is no pleading in the Election Petition that Respondent No.1 approached the agency for sending of bulk SMS for voting in favour of Respondent No.2. Petitioner has not pleaded that the concerned SMS are sent at the instance of Respondent No.1. In ground clause I, Election Petitioner has undertaken an inferential process that since the two messages were sent from same handle, the concerned SMS must have been sent by Respondent No.1 or by his agent or with his consent. Since the concerned SMS are sent by a bulk SMS service provider, it was necessary to plead that Respondent No.1/his election agent/ a person with consent of Respondent No.1 made the concerned bulk SMS service provider send the said SMS. There is thus no material pleading to make out a case of corrupt practice by Respondent No.1 by sending the concerned SMS urging the voters to vote in favour of Respondent No.2.

38) In para-26 of the Election Petition, Petitioner has declared the total number of votes polled by each candidate. It appears that Respondent No.2 polled 2,361 votes which are substantially lower as compared to the votes polled by Petitioner (89,177), Respondent No.1 (94,871) and Respondent No.4 (48,736). Even if all votes earned by Respondent No.2 (2,361) and Respondent No.3 (715) are counted in the account of the Petitioner, still he would not secure highest number of votes. Thus, the ground of similarity in the names of Respondent Nos.2 and 3 vaguely raised in the Election Petition, otherwise does not make out a case for setting aside election of a democratically elected candidate.

39) In my view therefore even *qua* the ground of similarity in name of Respondent Nos. 2 and 3, the Election Petition lacks material particulars as contemplated under Section 83(1)(b) of RP Act for making out a ground of challenge to the election of Respondent No.1 under Section 100 of the RP Act.

C.5 ALLEGATION OF NON-DISCLOSURE OF CRIMINAL CASE

40) It is contended by the Petitioner that Respondent No.1 did not disclose criminal case filed by Shri. Tej Narayandas Guru Mahant Shyamaldas in his nomination form. What Petitioner disclosed is pendency of R.C.C. No.318/2012. It appears that Shri. Tej Narayandas Guru Mahant Shyamaldas has lodged R.C.C. No.318/2013 in the Court of Judicial Magistrate First Class, Ulhasnagar *inter-alia* against Respondent No.1. While filling the

nomination form, instead of declaring the number of the case as 'R.C.C. No.318/2013', Respondent No.1 has inadvertently indicated the number of the case as 'RCC No.318/2012'. Thus, there was error in describing the year to which the criminal case pertains. It is not the case of the Petitioner that RCC No.318/2012 is also pending against Respondent No.1. Thus, it appears to be a clear typographical error in describing the year to which the criminal case pertains. Otherwise, there is full disclosure of the concerned criminal case lodged by Shri. Tej Narayandas Guru Mahant Shyamaldas. Petitioner is attempting to seek disadvantage of error in describing the year. It therefore cannot be contended that the pleadings in the Election Petition make out a case of improper acceptance of nomination of Respondent No.1 or of corrupt practice.

41) Election Petitioner has relied upon judgment of the Apex Court in *Krishnamoorthy* (supra) in support of the contention of non-disclosure of pendency of criminal case. The Apex Court has held that when a candidate does not disclose the criminal cases in respect of heinous or serious offences of moral turpitude or corruption, the same amounts to undue influence and as a fallout to corrupt practice. However, the present case does not involve non-disclosure of criminal case instituted at the instance of Shri. Tej Narayandas Guru Mahant Shyamaldas. Pendency of the said case is clearly disclosed by Respondent No.1 and Petitioner is only attempting to take disadvantage of an error in indicating the year to which the same criminal case pertains. In this regard, reliance by Respondent No.1 on judgment of the Apex Court in *Karikho Kri* is apposite in which it is held in para-40 as under :-

40. Having considered the issue, we are of the firm view that every defect in the nomination cannot straightaway be termed to be of such character as to render its acceptance improper and each case would have to turn on its own individual facts, insofar as that aspect is concerned. The case law on the subject also manifests that this Court has always drawn a distinction between non-disclosure of substantial issues as opposed to insubstantial issues, which may not impact one's candidature or the result of an election. The very fact that Section 36(4) of the Act of 1951 speaks of the Returning Officer not rejecting a nomination unless he is of the opinion that the defect is of a substantial nature demonstrates that this distinction must always be kept in mind and there is no absolute mandate that every non-disclosure, irrespective of its gravity and impact, would automatically amount to a defect of substantial nature, thereby materially affecting the result of the election or amounting to 'undue influence' so as to qualify as a corrupt practice.

(emphasis added)

42) Thus, every defect in the nomination cannot always be termed to be of such character so as to render its acceptance improper. In my view, mere error in describing the year to which criminal case pertains, would not constitute substantial defect so as to infer improper acceptance of nomination. Also, Petitioner has not made any averment that election of Respondent No.1 is materially affected on account of improper acceptance of nomination containing non-disclosure of pendency of criminal case.

43) For setting aside the election on the grounds enumerated under Section 100(1)(d)(i) to (iv) of the RP Act, it is necessary for the Petitioner to plead and prove that the result of the election of the returned candidate is materially affected on account of said enumerated grounds. The importance of pleading in the Petition showing that the result of the election is materially affected has been highlighted in judgment of the Apex Court in Mangani Lal Mandal

Versus. Bishnu Deo Bhandari¹¹, Shambhu Prasad Sharma Versus. Charandas Mahant and others¹², Mairembam Prithviraj alias Prithviraj Singh Versus. Pukhrem Sharatchandra Singh¹³ and Durai Muthuswami Versus. N. Nachiappan¹⁴. In absence of a pleading of result of the election in so far as returned candidate being materially affected, the ground for setting aside the election under Section 100(1)(d) of the RP Act cannot be made out. Absence of such an averment entails rejection of Election Petition by having recourse to the provisions of Order VII Rule 11 of the Code. There is no pleading in the entire Election Petition as to how the election in relation to Respondent No.1 is materially affected on account of alleged improper acceptance of his nomination form. Thus, both for reasons of the error in indicating the year of criminal case not constituting a substantial defect in the nomination form and absence of the requisite averment in the Petition, the Election Petition is liable to be rejected even *qua* the alleged ground of failure to disclose pendency of criminal case.

C.6 NON-COUNTING OF VOTES AT POLLING STATION NO. 217

44) The relevant pleadings in support of this ground are in paras-26 and 27 of the Election Petition, which read thus :-

26. After the said Election was conducted on 20th November 2024, the counting of the votes commenced on 23rd November 2024. The total number of votes cast were 2,40,070 (*this does not include votes cast at Polling Station No. 217 for the reasons more particularly stated hereinafter*). The parties to the present Petition received votes as follows:

¹¹ (2012) 3 SCC 314

¹² (2012) 11 SCC 390

¹³ (2017) 2 SCC 487

¹⁴ (1973) 2 SCC 45

Petitioner : 89,177
Respondent No. 1: 94,871
Respondent No. 2 : 2,361
Respondent No. 3 : 715
Respondent no. 4: 48,736
Respondent no. 5: 1,059
Respondent no. 6: 369
Respondent no. 7: 226
Respondent no. 8: 329
NOTA : 1946

The election results were declared by the Returning Officer on 23.11.2024.

27. The EVM machine at Polling Station No. 217 suffered a technical error and the votes cast at the said Polling Station could not be counted. The Petitioner made a representation on 23rd November 2024 before the Returning Officer demanding counting of the votes cast in the said polling station. However, by an order dated 23rd November 2024, the said request was rejected for the reasons more particularly stated in the said Order. Hereto annexed and marked as Exhibit 'R' is a copy of the said Order dated 23rd November 2024. Hereto annexed and marked as Exhibit 'S' is a copy of final result of election of 189 Karjat Constituency as declared on the website of Election Commission of India.

45) Petitioner has pleaded that Polling Station No.217 suffered technical error and the votes cast at the said polling station could not be counted. It appears that Petitioner's complaint has been rejected by the Election Officer by order dated 23 November 2024. Perusal of the order dated 23 November 2024 would indicate that Polling Station No.217 had registered casting of 1,014 votes whereas difference in the votes polled by Respondent No.1 and Petitioner is 5,694.

46) Petitioner has not pleaded that non-counting of votes at Polling Station No.217 has materially affected result of the election in so far as Respondent No.1 is concerned, which is the mandatory

requirement under Section 100(1)(d) of the RP Act. Therefore, even if Petitioner's contention of non-counting of votes of Polling Station No.217 is accepted as factually correct, the same does not make out a valid ground of improper rejection of vote under Section 100(1)(d)(iii) of the RP Act.

C.7 EFFECT OF NON-COMPLIANCE WITH PROVISIONS OF SECTION 83 OF THE RP ACT

47) Election Petition, being a statutory remedy, strict compliance with the provisions of Section 83 of the RP Act becomes mandatory. In *Kanimozhi Karunanidhi* (supra), the Apex Court has summarised the legal position in para-28 of the judgment as under:-

28. The legal position enunciated in afore-stated cases may be summed up as under:—

i. Section 83(1)(a) of RP Act, 1951 mandates that an Election petition shall contain a concise statement of material facts on which the petitioner relies. **If material facts are not stated in an Election petition, the same is liable to be dismissed on that ground alone, as the case would be covered by Clause (a) of Rule 11 of Order 7 of the Code.**

ii. The material facts must be such facts as would afford a basis for the allegations made in the petition and would constitute the cause of action, that is every fact which it would be necessary for the plaintiff/petitioner to prove, if traversed in order to support his right to the judgment of court. **Omission of a single material fact would lead to an incomplete cause of action and the statement of plaint would become bad.**

iii. Material facts mean the entire bundle of facts which would constitute a complete cause of action. Material facts would include

positive statement of facts as also positive averment of a negative fact, if necessary.

iv. In order to get an election declared as void under Section 100(1)(d)(iv) of the RP Act, the Election petitioner must aver that on account of non-compliance with the provisions of the Constitution or of the Act or any rules or orders made under the Act, the result of the election, in so far as it concerned the returned candidate, was materially affected.

v. The Election petition is a serious matter and it cannot be treated lightly or in a fanciful manner nor is it given to a person who uses it as a handle for vexatious purpose.

vi. **An Election petition can be summarily dismissed on the omission of a single material fact leading to an incomplete cause of action, or omission to contain a concise statement of material facts on which the petitioner relies for establishing a cause of action, in exercise of the powers under Clause (a) of Rule 11 of Order VII CPC read with the mandatory requirements enjoined by Section 83 of the RP Act.**

(emphasis added)

48) Similarly, in Karim Uddin Barbhuiya Versus. Aminul Haque Laskar and others¹⁵, the Apex Court has held in para-13 as under :-

13. **It hardly needs to be reiterated that in an Election Petition, pleadings have to be precise, specific and unambiguous, and if the Election Petition does not disclose a cause of action, it is liable to be dismissed in limine.** It may also be noted that the cause of action in questioning the validity of election must relate to the grounds specified in Section 100 of the RP Act. As held in Bhagwati Prasad Dixit 'Ghorewala' v. Rajeev Gandhi⁴ and in Dhartipakar Madan Lal Agarwal v. Rajiv Gandhi³, if the allegations contained in the petition do not set out the grounds as contemplated by Section 100 and do not conform to the requirement of Section 81 and 83 of the Act, the pleadings are liable to be struck off and the Election Petition is liable to be rejected under Order VII, Rule 11 CPC.

(emphasis added)

¹⁵ 2024 SCC OnLine SC 509

49) The above principles are reiterated by this Court in judgments in *Ravindra Dattaram Waikar Versus. Amol Gajanan Kirtikar and others*¹⁶ and *Prakash Rajaram Surve* (supra).

50) As observed above, in *Prakash Rajaram Surve* this Court has held that Election Petition can be rejected by having recourse to the provisions of Order VII Rule 11 of the Code even though provisions of Section 86(1) of the RP Act do not provide for dismissal of the petition on account of non-compliance with the provisions of Section 83(1) of the Act. In *Prakash Rajaram Surve* this Court rejected the plea that an opportunity must be extended to the Election Petitioner for leading evidence even if the Petition does not set forth full particulars of corrupt practice. By referring to the judgment of the Apex Court in *Azhar Hussain Versus. Rajiv Gandhi*¹⁷, this Court held in paras-82 to 85 as under :-

82) It is contended by Mr. Nair that the pleading in the Petition are sufficient for taking the Petition for trial and that a microscopic enquiry need not be conducted into the allegations of corrupt practices at this stage for virtually deciding the merits of the allegations. This Court is not going into the merits of the allegations of corrupt practices. All that is being examined at this stage is whether the election petition sets forth full particulars of the corrupt practices, which is the mandatory requirement of Section 83(1)(b) of the Act. Once the Court is satisfied that the petition is sans the full particulars of corrupt practices, recourse can be had to the provisions of Order VII Rule 11 of the Code for rejection of the Petition.

83) As has been observed above, filing of Election Petition seeking setting aside election of a democratically elected candidate is a special remedy created by the Statute and that all requirements stipulated therein must be scrupulously met with. The Apex Court has repeatedly held that even a single omission to plead the mandatory information would lead to rejection of election petition by having recourse to the provisions of Order VII Rule 11 of the Code. The objective is to nip in the bud casually filed election petitions, which are not worthy of trial. In *Azhar Hussain* (supra) the Apex Court has

¹⁶ Application (L) No. 29930 of 2024 decided on 19 December 2024.

¹⁷ 1986 (Supp) SCC 315

held that no amount of evidence can cure the basic defect in the pleadings. It is held thus :-

22. The principle laid down is that the pleading in regard to matters where there is scope for ascribing an alleged corrupt practice to a returned candidate in the context of a meeting of which dates and particulars are not given would tantamount to failure to incorporate the essential particulars and that inasmuch as there was a possibility that witnesses could be procured in the context of a meeting at a place or date convenient for adducing evidence, the High Court should not even have permitted evidence on that point. **In other words, no amount of evidence could cure the basic defect in the pleading and the pleading as it stood must be construed as one disclosing no cause of action.** In the light of the aforesaid principle laid down by the Supreme Court which has held the field for more than 15 years, the High Court was perfectly justified in reaching the conclusion called into question by the appellant.

(emphasis added)

Therefore, the Petition cannot be taken to trial under a hope that the Petitioner would lead evidence to fill in the gaps in the pleadings. The defect in pleadings cannot be cured by leading evidence. If there are no pleadings about Respondent No.1 knowing the named person or giving them instructions for commission of alleged acts or about Respondent No.1 having atleast the knowledge that the alleged acts were being committed by the named person for his benefit, it is incomprehensible as to how Petitioner would lead evidence in absence of pleadings.

84) I am also not impressed by the submission of Mr. Nair that use of the expression 'if High Court is of opinion' in Section 100(1) of the RP Act means that the opinion can be formed only at end of the trial. To pass the initial threshold of maintaining a valid election petition, the requisite pleadings must be raised in the Petition. If the Court finds, on meaningful reading of the election petition, that the same is manifestly vexatious and does not disclose right to sue, it is Court's duty to bring to an instant end such baseless litigation rather than subjecting the democratically elected candidate to the rigmarole of a lengthy trial.

85) In the present case, clever drafting has created only an illusion of cause of action, when in fact there is none. Mere repeated use of word 'consent' in the election petition by way of clever drafting without disclosing any particulars of such consent would not bring the challenge to election of Respondent No. 1 within the ambit of requirement of Section 83 of the Act. in my view therefore the Petitioner has failed to cross the threshold for taking the election petition for trial, warranting its rejection under Order VII Rule 11 of the Code.

51) Thus, the Apex Court and this Court has repeatedly held that Election Petition must strictly comply with the provisions of the Section 83 of the RP Act. Omission of even a single material fact leads to an incomplete cause of action and the statement of the plaint becomes bad. The Election Petition can be summarily dismissed on omission of a single material fact or omission to contain a concise statement of material facts. An Election Petition not disclosing the cause of action is liable to be dismissed by having recourse to the provisions of Order VII Rule 11 of the Code. In the present case, Petitioner has failed to plead full particulars of corrupt practice alleged in the Election Petition, which is a mandatory requirement of Section 83(1)(b) of the RP Act. So far as the other two grounds of non-disclosure of criminal case and non-counting of votes casted at Polling Station No.217, there is no averment in the Election Petition that the result of the election in so far as Respondent No.1 is materially affected. In my view, therefore in absence of setting forth full particulars of corrupt practice under Section 83(1)(b) and in absence of requisite pleadings in the form of concise statement of material facts under Section 83(1)(a), the Election Petition does not disclose the cause of action warranting its rejection by having recourse to the provisions of Order VII Rule 11 of the Code.

52) Petitioner has relied upon the judgment of the Apex Court in *Ponnala Lakshmaiah* (supra) which has been considered by this Court in *Prakash Rajaram Surve*. The judgment in *Ponnala Lakshmaiah* deals with tendency on the part of the returned candidates charged with commission of corrupt practices or illegalities or irregularities to seek dismissal of Election Petition in *limine*. The judgment cannot be

cited in support of an abstract proposition that even if Election Petition does not disclose cause of action on account of absence of concise statement of material facts and/or full particulars of corrupt practice, it cannot be dismissed/rejected only on account of general tendency of returned candidates to seek rejection/dismissal of Election Petition.

C.8 PETITIONER'S PRAYER FOR AMENDMENT OF THE ELECTION PETITION

53) Petitioner has filed Application (L.) No.25974/2025 seeking to amend the Election Petition. The Election Petition was lodged on 7 January 2025. Respondent No.1 filed Application No.11 of 2025 seeking rejection of Election Petition under Order VII Rule 11 of the Code on 9 July 2025. Petitioner filed Reply to the said application on 29 July 2025. Only after realising that the Election Petition is likely to be rejected for failure to include concise statement of material facts under Section 83(1)(a) and full particulars of corrupt practice under Section 83(1)(b), Petitioner thought of filing Application (L.) No.25974/2025 on 18 August 2025 for amendment of the Election Petition. The proposed amendment is comprehensive as the Schedule to the Amendment runs into seven pages and which now seeks to add pleadings, which are totally absent in the Election Petition. Sub-section (5) of Section 86 permits amendment of the Election Petition by allowing particulars of any corrupt practice alleged in the petition to be amended or amplified for ensuring a fair and effective trial of the petition.

54) Mr. Bookwala has submitted on behalf of the Petitioner that it is the duty of the Court to permit the Petitioner to amend the election petition in the event it is found that the petition lacks the requisite pleadings. He has relied upon judgment of the Apex Court in *Raj Narain* (supra), which in turn refers to Constitution Bench judgment in *Balwan Singh* (supra). In *Raj Narain*, the Apex Court held in paras-18 and 19 as under :-

18. From these two provisions, it follows that if the allegations made regarding a corrupt practice do not disclose the constituent parts of the corrupt practice alleged, the same will not be allowed to be proved and further those allegations cannot be amended after the period of limitation for filing an election petition; but the court may allow particulars of any corrupt practice alleged in the petition to be amended or amplified. The scope of these provisions has been considered in several decisions of this Court. The leading decision on this point is *Harish Chandra Bajpai v. Triloki Singh* [AIR 1957 SC 444 : 1957 SCR 370] . It is not necessary to go to that decision as the ratio of that decision has been elaborately explained by this Court in *Samant N. Balkrishna. v. George Fernandez* [(1969) 3 SCC 238 : (1969) 3 SCR 603] Dealing with the scope of Sections 83 and 86(5), this Court observed that Section 83 requires that the petition must contain a concise statement of the material facts on which the petitioner relies and the fullest possible particulars of the corrupt practice alleged. “Material facts” and “particulars” may overlap but the word “material” shows that the ground of corrupt practice and the facts necessary to formulate a complete cause of action must be stated. The function of the particulars is to present as full a picture of the cause of action as to make the opposite party understand the case he will have to meet. **Under Section 86(5), if corrupt practice is alleged in the petition, the particulars of such corrupt practice may be amended or amplified for ensuring a fair and effective trial, that is, more and better particulars of the charge may be given later, even after the period of limitation; but if a corrupt practice is not previously alleged in the petition, an amendment which will have the effect of introducing particulars of such a corrupt practice will not be permitted, after the period of limitation, because, it would tantamount to making a fresh petition.** The same view was taken by this Court in *Hardwari Lal v. Kanwal Singh*. [(1972) 1 SCC 214] From these decisions, it follows that facts stated in the petition relating to any corrupt practice must be sufficient to constitute a cause of action. In other words the facts must bring out all the ingredients of the corrupt practice alleged. If the facts stated fail to satisfy that requirement then they do not give rise to a triable issue. Such a defect cannot be cured by any amendment after the period of limitation for filing the election petition. But even if all the material facts are stated in

the election petition, for a proper trial better particulars may still be required. If those particulars are not set out in the election petition, they may be incorporated into the election petition with the permission of the court even after the period of limitation. The controversy in this case is whether the election petition discloses a cause of action for trying Issue 1. We think it does. The allegations made in paragraphs 2, 5 and 6 of the petition, if read together do show that the allegation against the respondent is that she obtained the assistance of Yashpal Kapur, a Gazetted Officer to support her candidature by organising her electioneering work. These allegations bring out all the ingredients of the corrupt practice alleged though they are lacking in better particulars such as the date on which the respondent became a candidate and the date on which Yashpal Kapur was entrusted with the responsibility of organizing the electioneering work of the respondent. The absence of those particulars does not per se invalidate the charge. They can be supplied even now with the permission of the Court. In this connection it is necessary to mention that the respondent in her written statement did not say that the allegations in question did not raise a triable issue. No such objection appears to have been taken at the time of the framing of the issues or in any of her pleadings. It seems that the objection was taken up for the first time when the petition to set aside the interrogatories was heard. We are saying all these only to show as to how the parties understood the allegations at the earlier stages, of the proceedings.

19. Rules of pleadings are intended as aids for a fair trial and for reaching a just decision. An action at law should not be equated to a game of chess. Provisions of law are not mere formulae to be observed as rituals. Beneath the words of a provision of law, generally speaking, there lies a juristic principle. It is the duty of the court to ascertain that principle and implement it. **What then is the principle underlying Section 86(5)? In our opinion the aim of that section is to see that a person accused of a corrupt practice must know precisely what he is accused of so that he may have the opportunity to meet the allegations made against him. If the accusation made is nebulous and is capable of being made use of for establishing more than one charge or if it does not make out a corrupt practice at all then the charge fails at the very threshold. So long as the charge levelled is beyond doubt. Section 86(5) is satisfied; rest is mere refinement. They either pertain to the region of particulars or evidence. That section is not designed to interdict a mere clumsy pleading like the petition before us. The purpose of that section is to see that every charge of corrupt practice should be brought before the court before the prescribed period of limitation and none thereafter so that the trial of the case may not be converted into a persecution by adding more and more charges or by converting one charge into another as the trial proceeds. The best illustration of the problem that Section 86(5) tries to meet is found in *Hardwari Lal case*. The allegations made in para 16 of the petition therein were as Follows:**

“That the respondent committed the corrupt practice of obtaining and procuring or attempting to obtain and procure the assistance for

the furtherance of the prospects of his election from the following persons who are in the service of the Government and belonging to the prohibited classes within the meaning of Section 123(7) of the Act —

- (1) Shri Chand Ram Rathi, Lecturer in Political Science, Government College, Gurgaon.
- (2) Shri Gulab Singh, B.A., B. Ed., Government High School, Jharsa (Gurgaon).
- (3) Pt. Bhim Singh, Assistant Sub-Inspector, Police Security Lines, Lytton Road, New Delhi.
- (4) Ch. Chhatar Singh, M.A., B.T., Teacher, V. and P.O. Bharai via Bahadurgarh, District Rohak.
- (5) Ch. Mukhtiar Singh, Inspector of Police, Delhi.
- (6) Ch. Raghbir Singh, M.A., B.T., Bahadurgarh.

The respondent has written letters under his own signatures to the above Government servants soliciting their help and assistance in furtherance of the prospects of his election.”

(emphasis added)

55) In *Balwan Singh*, the Apex Court has held in paras-9 and 10 as under :-

9. By the Representation of the People Act, 1951, as amended by Act 27 of 1956, a penalty of dismissal of a petition or the striking out of the plea of a corrupt practice merely because particulars in that behalf are not set out is not imposed. By Section 90, clause (5) of the Act the Tribunal is authorised to allow particulars of any corrupt practice alleged in the petition, to be amended or amplified in such manner as may, in its opinion, be necessary for ensuring a fair and effective trial of the petition. By Section 90(1) of the Act every election petition is, subject to the provisions of the Act and Rules made thereunder to be tried as nearly as may be in accordance with the procedure applicable under the Civil Procedure Code to the trial of suits : and for failure to furnish particulars after being so ordered but not before the Tribunal may strike out a defective plea. The practice to be followed in cases where insufficient particulars of a corrupt practice are set forth in an election petition is this. **An election petition is not liable to be dismissed in limine merely because full particulars of a corrupt practice alleged in the petition, are not set out. Where an objection is raised by the respondent that a petition is defective because full particulars of an alleged corrupt**

practice are not set out, the Tribunal is bound to decide whether the objection is well-founded. If the Tribunal upholds the objection, it should give an opportunity to the petitioner to apply for leave to amend or amplify the particulars of the corrupt practice alleged; and in the event of non-compliance with that order the Tribunal may strike out the charges which remain vague. Insistence upon full particulars of corrupt practices is undoubtedly of paramount importance in the trial of an election petition, but if the parties go to trial despite the absence of full particulars of the corrupt practice alleged, and evidence of the contesting parties is led on the plea raised by the petition, the petition cannot thereafter be dismissed for want of particulars, because the defect is one of procedure and not one of jurisdiction of the Tribunal to adjudicate upon the plea in the absence of particulars. The appellate court may be justified in setting aside the judgment of the Tribunal if it is satisfied that by reason of the absence of full particulars, material prejudice has resulted; and in considering whether material prejudice has resulted failure to raise and press the objection about the absence of particulars before going to trial must be given due weight.

10. Assuming that in the case before us, the petition was defective because particulars as to the persons between whom the contract of hiring was entered into, and the date and place thereof, have not been set out, the High Court was right in holding that no material prejudice was occasioned thereby. In the written statement to the petition as originally filed, it was not expressly contended that because of the absence of particulars as to the names of the persons between whom the contract of hiring took place, and the date and place of the contract, the appellant was unable to meet the charges made against him. Even after the petition was amended, no such objection was raised by the appellant. Before the Tribunal, at the hearing of the argument, a plea that the petition was defective, because of lack of particulars relating to the names of the persons who entered into the contract of hiring, and the time and place thereof was apparently raised. But all the evidence relating to the hiring and the time and place thereof, was without objection admitted on the record. It is not even suggested that because of the absence of the particulars, the appellant was embarrassed in making his defence, or that he could not lead evidence relevant to the plea of corrupt practice set up by the first respondent. We are therefore unable to hold that any material prejudice was occasioned because of the absence of those particulars in the petition.

(emphasis and underlining added)

56) The case before the Apex Court in *Balwan Singh* involved allegation of hiring and procurement of bullock cart and tractors for

conveying women electors to and fro the Polling Station. The returned candidate had denied the allegation in the Written Statement. In addition, it was contended in the Written Statement that the Election Petitioner had not disclosed the names of the voters or particulars of conveyances and that therefore pleadings were defective. The Election Petitioner applied for leave to amplify particulars set out in the Election Petition. The application was rejected by the Election Tribunal. The Apex Court held that corrupt practice alleged was of hiring or procuring vehicles for conveyance of the electors and so long as full particulars of conveying of vehicles or electors are given, requirement under Section 83 is duly complied with, even if particulars of contract of hiring are not complied. Both in *Balwan Singh* and *Raj Narain*, the Election Petitions were taken to trial and the issue before the Election Tribunal was whether to permit amplification of particulars of corrupt practice already pleaded for effective trial of the petition. In *Balwan Singh*, which is based on interpretation of then existing Section 90 of the RP Act (which now stands deleted), the Constitution Bench has held that insistence upon full particulars of corrupt practices is of paramount importance in the trial of an Election Petition, but if the parties go to trial despite the absence of full particulars of the corrupt practice alleged, and evidence of the contesting parties is led on the plea raised in the petition, the petition cannot thereafter be dismissed for want of particulars. Thus the observations of the Constitution Bench in *Balwan Singh* about Court's duty to provide opportunity to amend pleadings in Election Petition need to be appreciated in the context in which the same are made. When the Election Petition is taken to trial, if the Court notices that some particulars of corrupt practice need to be amplified in pleadings so that the evidence is supported by pleadings, such opportunity to amend needs to be granted

for effective trial of the election petition. The observations in *Balwan Singh* about Court's duty to provide opportunity to amend pleadings cannot be read to mean that the Election Petitioner can file a sketchy or perfunctory petition and then exercise his 'right' to convert a defective petition into perfect one. The observations of the Constitution Bench, in any case, cannot be read to mean that an application for rejection of election petition under Order VII Rule 11 of the Code can be defeated by introducing amendment application at the last minute, which is the case here.

57) It appears that before the amendment of the RP Act by Act 27 of 1956, sub-section (3) of Section 83 provided for amendment of an Election Petition in so far as particulars of corrupt practice were concerned. After the amendment by Act 27 of 1956, the provision for amendment in Section 83(3) was replaced by Section 90(5). Section 90 was deleted from RP Act and the provision for amendment came to be introduced by way of sub-section (5) in Section 86 by Act 47 of 1966.

58) Sub-section (5) of Section 86 of the RP Act empowers the High Court to allow the particulars of any corrupt practice alleged in the Election Petition to be 'amended' or 'amplified' in such a manner as may be necessary for ensuring a fair and effective trial of the petition. Such amendment or amplification is however subject to a caveat. The amendment, which has the effect of introducing particulars of corrupt practice not previously alleged in the Election Petition, cannot be permitted. Furthermore, what can be amended or amplified are only 'particulars of any corrupt practice'. Thus, the amendment or amplification is impermissible in respect of the pleadings which do not

involve allegation of corrupt practice. When provisions of Section 86(5) are read in conjunction with provisions of Section 83 of the RP Act, it becomes clear that no amendment or amplification is permissible in concise statement of material facts as envisaged under Section 83(1)(a). What can be amended or amplified is only 'particulars of corrupt practice' of which there is a requirement of setting full particulars under Section 83(1)(b) of the RP Act. This fine distinction has been noted in the Apex Court judgment in *F.A. Sapa and others Versus. Singora and others*¹⁸ in which it is held in paras-19 as under :-

19. Before the amendment of the R.P. Act by Act 27 of 1956, Section 83(3) provided for an amendment of an election petition insofar as 'particulars' of corrupt practice were concerned. By the 1956 amendment this provision was replaced by Section 90(5) which the turn came to be deleted and transferred as sub-section (5) of Section 86 by the Amendment Act 47 of 1966. Section 86(5) as it presently stands empowers the High Court to allow the 'particulars' of any corrupt practice alleged in the petition to be amended or amplified provided the amendment does not have the effect of widening the scope of the election petition by introducing particulars in regard to a corrupt practice not previously alleged or pleaded within the period of limitation in the election petition. In other words the amendment or amplification must relate to particulars of a corrupt practice already pleaded and must not be an effort to expand the scope of the inquiry by introducing particulars regarding a different corrupt practice not earlier pleaded. Only the particulars of that corrupt practice of which the germ exists in the election petition can be amended or amplified and there can be no question of introducing a new corrupt practice. **It is significant to note that Section 86(5) permits 'particulars' of any corrupt practice 'alleged in the petition' to be amended or amplified and not the 'material facts'. It is, therefore, clear from the trinity of clauses (a) and (b) of Section 83 and sub-section (5) of Section 86 that there is a distinction between 'material facts' referred to in clause (a) and 'particulars' referred to in clause (b) and what Section 86(5) permits is the amendment/amplification of the latter and not the former. Thus the power of amendment granted by Section 86(5) is relatable to clause (b) of Section 83(1) and is coupled with a prohibition, namely, the**

¹⁸ (1991) 3 SCC 375

amendment will not relate to a corrupt practice not already pleaded in the election petition. The power is not relatable to clause (a) of Section 83(1) as the plain language of Section 86(5) confines itself to the amendments of 'particulars' of any corrupt practice alleged in the petition and does not extend to 'material facts'. This becomes crystal clear on the plain words of the closely connected trinity of Sections 83(1)(a), 83(1)(b) and 86(5) and is also supported by authority. See *Samant N. Balakrishna v. George Fernandez* [(1969) 3 SCC 238 : (1961) 3 SCR 603] and *D.P. Mishra v. Kamal Narayan Sharma* [(1970) 2 SCC 369 : (1971) 1 SCR 8] . In *Balwan Singh v. Lakshmi Narain* [(1960) 22 ELR 273 : (1960) 3 SCR 91 : AIR 1960 SC 770] this Court held that if full particulars of an alleged corrupt practice are not supplied, the proper course would be to give an opportunity to the petitioner to cure the defect and if he fails to avail of that opportunity that part of the charge may be struck down. We may, however, hasten to add that once the amendment sought falls within the purview of Section 86(5), the High Court should be liberal in allowing the same unless, in the facts and circumstances of the case, the court finds it unjust and prejudicial to the opposite party to allow the same. Such prejudice must, however, be distinguished from mere inconvenience, vide *Raj Narain v. Indira Nehru Gandhi* [(1972) 3 SCC 850, 858 : (1972) 3 SCR 841 : AIR 1973 SC 1302, 1307] . This much for the provisions of Section 83(1) (a) and (b) and Section 86(5) of the R.P. Act.

(emphasis and underlining added)

59) In *F.A. Sapa*, the Apex Court has noted the ratio of the judgment in *Balwan Singh* (supra) about grant of opportunity to the Petitioner to cure the defect of not setting forth full particulars of alleged corrupt practice. However, grant of such opportunity is qualified on account of observations in *F.A. Sapa* that allowing amendment or amplification should not be unjust and prejudicial to the opposite party.

60) Following the ratio of the judgment in *F.A. Sapa* (supra), the Apex Court further held in *Sethi Roop Lal Versus. Malti Thapar*¹⁹ as under :-

¹⁹ (1994) 2 SCC 579

10. The fasciculus of sections appearing in Chapter III of Part VI of the Act lays down the procedure for trial of election petitions. Sub-section (1) of Section 87 thereof provides that subject to the provisions of this Act and of any rules made thereunder, every election petition shall be tried by the High Court, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure ('Code' for short). That necessarily means that Order VI Rule 17 of the Code which relates to amendment of pleadings will afortiori apply to election petitions subject, however, to the provisions of the Act and of any rules made thereunder. Under Order VI Rule 17 of the Code the Court has the power to allow parties to the proceedings to alter or amend their pleadings in such manner and on such terms as may be just and it provides that all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties. But exercise of such general powers stands curtailed by Section 86(5) of the Act, when amendment is sought for in respect of any election petition based on corrupt practice. Since Section 87 of the Act — and, for that matter, Order VI Rule 17 of the Code — is subject to the provisions of the Act, which necessarily includes Section 86(5), the general power of amendment under the former must yield to the restrictions imposed by the latter.

11. Indubitably, therefore, if the amendment sought for in the instant case related to corrupt practice we might have to consider the same in conformity with Section 86(5) of the Act as interpreted by this Court in the case of *F.A. Sapa* [(1991) 3 SCC 375] and accept the findings of the learned Judge as recorded in the impugned order; but then, the learned Judge failed to notice that the amendments, the appellant intends to bring in his election petition, do not relate to any corrupt practice and, therefore, it has to be considered in the light of Section 87, and de hors Section 86(5) of the Act. For the foregoing reasons the impugned order dated May 28, 1993 cannot also be sustained.

61) A Proviso came to be inserted below sub-section (1) of Section 83 by Act 40 of 1961 which makes it mandatory to file Affidavit in prescribed form in support of 'allegation of corrupt practice' and 'the particulars thereof'. Thus, the Affidavit contemplated in Proviso to Section 83(1) must support both, 'allegation of corrupt practice' and 'particulars' thereof. When provisions of Section 86(5)

are read in conjunction with the Proviso to Section 83(1), it becomes clear that a new particular of corrupt practice cannot be added but a particular already pleaded can either be amended or can be amplified. This is because particular of a corrupt practice pleaded in the Election Petition is already supported by an Affidavit as required under Proviso to Section 83(1) of the RP Act. If fresh particulars are permitted to be added in respect of a pleaded corrupt practice, such fresh particulars would also need an Affidavit under Proviso to Section 83(1). Section 86(5) does not contemplate filing of a fresh Affidavit after amendment or amplification of particulars of the corrupt practice. This would mean that a new particular in respect of a pleaded corrupt practice cannot be added. The particulars already pleaded can either be amended by correcting the errors therein or can be amplified i.e. by inclusion of any missing details. To illustrate, if the corrupt practice alleged is distribution of money and particular already pleaded in the Election Petition is about distribution of money on a particular date, such particular can be amplified by specifying the place at which or the time at which the monies were distributed. However, under broad allegation of distribution of money, a new particular of distribution on a different date or at a different place, than the one originally pleaded, cannot be added.

62) I am fortified in my view that new particulars in respect of pleaded corrupt practices cannot be added by branding the same as ‘amplification’ under Section 86(5) of the RP Act by observations in the Constitution Bench judgment of the Apex Court in Manubhai Nandlal Amorsey Versus. Popatlal Manilal Joshi and Others²⁰. The case before the Apex Court involved challenge to the election of returned

²⁰ (1969) 1 SCC 372

candidate by an elector in the Constituency who alleged number of corrupt practices. In the petition, the charge was that several persons with consent of returned candidate/his election agent induced the electors to believe that if they voted for Congress party candidate, they would become object of divine displeasure and spiritual censure. It was alleged that in public meetings held at named places, one Shambhu Maharaj told the electors that if they voted for Congress party candidate, they would commit the sin of cow slaughter and urged them in the name of Mother Cow to take a vow and not to vote for Congress party candidate. It was alleged that several members of the audience publically took the vow. At the stage of trial of Election Petition, High Court permitted Election Petitioner to amend the Election Petition by adding fresh particulars of corrupt practices. The substance of new charge was that said Shambhu Maharaj induced the elector to believe that the religious Head Jagadguru Shankaracharya had commanded them not to vote for Congress and that contravention of his command would be a sin and would be visited by spiritual censure and divine displeasure. The issue before the Apex Court was whether High Court could have permitted the amendment for adding new particulars of corrupt practices. In majority Judgment delivered by His Lordship R.S. Bachawat, J. (*as he then was*), it is held in para-5 as under :-

5. The first question is whether the trial Judge should have allowed the amendment. Section 83(1)(b) provides that “An election petition shall set forth full particulars of any corrupt practice that the petitioner alleges, including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice”. The section is mandatory. Where a corrupt practice is charged against the returned candidate the election petition must set forth full particulars of the corrupt practice so as to give the charge a definite character and to enable the court to understand what the charge is. The charge must be substantially proved as laid down and evidence cannot be allowed to be given in respect of a charge not disclosed in the

particulars. On a charge of telling the electors that by giving their vote to the Congress candidate, they would commit sin of Go-hatya, evidence cannot be led to prove the charge of telling them that they would commit a sin of Brahma-hatya or the sin of disobeying the command of their religious leader. Section 86(5) allows amendment of the particulars. It provides that “the High Court may, upon such terms as to cost and otherwise as it may deem fit, allow the particulars of any corrupt practice alleged in the petition to be amended or amplified in such manner as may in its opinion be necessary for ensuring a fair and effective trial of the petition, but shall not allow any amendment of the petition which will have the effect of introducing particulars of a corrupt practice not previously alleged in the petition”. In *Harish Chandra Bajpai v. Triloki Singh* [1956 SCC OnLine SC 23 : 1957 SCR 370] , the court held that though under the English law the petitioner was not obliged to give the particulars of the corrupt practice in his petition the difference was a matter of form and not of substance and that under Section 83(3) as it stood before 1955 the court could allow an amendment introducing fresh instances of the corrupt practice alleged in the petition. Referring to the English practice the court observed at p. 382: “it is sufficient if the particulars are ordered to be furnished within a reasonable time before the commencement of the trial”. Section 83(3) has been repealed and is now replaced by Section 86(5) which forbids any amendment introducing particulars of a corrupt practice not previously alleged in the petition. Assuming that the amendment of March 7, 1967, was permissible under Section 86(5), the question is whether the High Court rightly allowed it. Normally an application for amendment under Section 86(5) should be made within a reasonable time before the commencement of the trial. The Court has power to allow an amendment even after the commencement of the trial, but as a rule leave to amend at a later stage should be given in exceptional cases where the petitioner could not with reasonable diligence have discovered the new facts earlier. Leave to amend will not be given if the petitioner is not acting in good faith or has kept back the facts known to him before the trial started.

(emphasis and underlining added)

63) Thus in *Manubhai Nandlal Amorsey* the Apex Court, after relying on its decision in *Harish Chandra Bajpai Versus. Triloki Singh*²¹ held that Court cannot allow an amendment introducing fresh instances of corrupt practices alleged in the petition. It is further held

²¹ (1957) SCR 371

that Section 86(5) forbids any amendment introducing particulars of a corrupt practices not previously alleged in the petition.

64) Thus as held by the Apex Court in *Manubhai Nandlal Amorsey* it is impermissible for High Court to allow amendment introducing fresh instances of corrupt practices alleged in the petition. Thus Section 86(5) of the RP Act prohibits not only introduction of new corrupt practices by way of amendment but even fresh particulars/fresh instances of corrupt practices already alleged in the petition.

65) After all, amendment or amplification of particulars of corrupt practice can be permitted only for ensuring fair and effective trial of the petition based on particulars of corrupt practice already pleaded. If the Courts find that the allegation of a corrupt practice is likely to fail on account of non-pleading of time or place of event, the Court may permit amplification of particular of corrupt practice. The provision under Section 86(5) is aimed essentially at saving the Election Petition at the stage of trial, as held by the Constitution Bench in *Balwan Singh*. However, provision of Section 86(5) cannot be used in such a manner that the Election Petitioner vaguely alleges a corrupt practice of say distribution of money without any particulars and then seeks to add all the particulars by way of amplification. What can be amplified is 'particulars of corrupt practice'. Therefore, *sine qua non* for applying for amendment or amplification under Section 86(5) is existence of particulars in the original Election Petition, which can only be amplified. If Election Petition contains no particulars at all, there is no question of any amplification and the amendment

application under Section 86(5) in such circumstances would meet the fate of rejection.

66) Having considered the broad statutory framework of amendment of Election Petition under Section 86(5) of the RP Act, I now proceed to examine the contents and schedule of amendment application (Interim Application (L.) No. 25974/2025) filed by the Petitioner meets the requirement of Section 86(5) of the RP Act.

67) The first amendment in the schedule is by way of addition of para-8A by which names of 10 party workers, alleged to be of Shiv Sena party and who were proposers of Respondent Nos.2 and 3, are sought to be added. However, apart from setting forth their names, there is no pleading to indicate as to how any particulars of corrupt practice already pleaded in the Election Petition would get amplified by addition of their names. In the Election Petition, the corrupt practice alleged is that Respondent No.2 was induced in exchange of gratification by Respondent No.1 to stand as a candidate in the election. For this allegation of corrupt practice, addition of names of proposers of Respondent No.2 cannot amount to amplification of particulars already pleaded. As observed above, there are absolutely no pleadings *qua* Respondent No.3 under the heading 'facts of the case'. However, in ground clause (K), it is vaguely pleaded that Respondent No. 3 received votes by confusing and misleading the voters on account of similarity in the first and last name of the Election Petitioner. In my view, therefore addition of para-8A is outside the scope of amplification of particular corrupt practice already pleaded and the

said amendment falls beyond the purview of Section 86(5) of the RP Act.

68) The second amendment proposed is for adding paras-9A, 9B and 9C in the Election Petition, which read thus :-

9A. The Petitioner states that the sarees were distributed on 27th October 2024 between morning at around 11:00 am to 4:00 pm. in the afternoon, at Kashele and Saraiwadi villages in Karjat Taluka. The distribution was carried out by party workers of the Shiv Sena and active supporters of Respondent No.1. The said persons specifically introduced themselves as representatives of Respondent No.1 and informed the women that they were distributing these sarees on behalf of Respondent No.1 to secure their votes.

9B. The video showing the sarees bearing the stickers was widely circulated on social media at the residence of Tarabai Tanaji Pawar in Kashele village, Karjat Taluka and the residence of Nazuka Kishoire Sarai in Saraiwadi village, Karjat Taluka.

9C. The Petitioner states that the party workers, who distributed the sarees, were acting with the knowledge and consent of Respondent No.1 and his election agent. This is evident from the fact that the sarees distributed bore stickers with Respondent No.1's photograph and party symbol, which could only have been authorized by Respondent No.1 or his election agent.

69) One of the allegations of corrupt practice on the part of Respondent No.1 as alleged in the Election Petition is distribution of sarees on 27 October 2024. Now time of '11 a.m. to 4 p.m.' is sought to be added to amplify the particulars of corrupt practice. The names of villages 'Kashele' and 'Saraiwadi' in Karjat Taluka are also sought to be added. However, even in the proposed amended paras-9A to 9C, the name of the person who distributed the sarees is missing. As observed above, Section 83(1)(b) requires disclosure of name of person who is

alleged to have committed corrupt practice while setting forth full particulars. Also, there are different requirements under Section 100 depending upon the person who has allegedly committed the corrupt practice, which again requires naming of such person. Therefore, even if this Court was to allow amendment by incorporating paras-9A to 9C in the Election Petition relating to allegation of corrupt practice of distribution of sarees, the Election Petition would still fall short of requirement of Section 83(1)(b).

70) The next amendment sought to be added is to add paras-18A, 18B and 18C in the Election Petition relating to alleged corrupt practice of threatening Shri. Manohar Patil on 10 November 2024. Now what is sought to be added are names of active party workers of Petitioners in the Constituency who allegedly reduced the campaigning activities after learning about the threat incident of Shri. Manohar Patil. The manner in which the party workers of the Petitioner withdrew from election campaigning is now sought to be added by way of adding paras-18A to 18C in the Election Petition. However, as observed above, there is no pleading that the act of threatening has interfered with free exercise of electoral right of either Shri. Manohar Patil or persons now sought to be named in paras-18A to 18C. No doubt, Proviso to Section 123(2) contains a deeming fiction where mere act of threatening any candidate or any elector or any person in whom candidate or person is interested, becomes interference with free exercise of electoral right of such candidate or elector. However, the Election Petition must contain a pleading that the alleged act of threatening a person in whom a candidate is interested has interfered with free exercise of electoral right of that person. Even in the

proposed amendment, there is no averment that either Shri. Patil or the named persons did not or could not vote or out of fear they did not vote for Petitioner. By adding names of persons who allegedly reduced the campaigning or refrained from campaigning on account of alleged threats given to Shri. Manohar Patil is not sufficient. The threat was admittedly not given to the persons whose names are now sought to be added in paras-18A to 18C. Therefore, there is no question of any interference being caused with free exercise of electoral right of the persons now sought to be named in paras-18A to 18C. In my view, therefore even if the amendment in paras-18A to 18C is to be allowed, the same would still not fulfill the requirement of pleading under Section 83(1)(b) of the RP Act.

71) The next amendment sought to be incorporated is by adding paras-21A and 21B in the Election Petition. The proposed amendment has connection with allegation of corrupt practice of fielding of Respondent Nos.2 and 3 in the election with a view to confuse the voters on account of similarity in the first and last name with that of the Petitioner. Para-21 of the Election Petition, contains a vague allegation that '*Respondent no.2... was induced in exchange of gratification by Respondent No.1 to stand as a candidate at the said Election*'. Now following pleadings are sought to be added :-

21A. The Petitioner submits that Respondent Nos. 2 and 3 were directly induced by Respondent No. 1 to stand as candidates in the election to cause confusion among voters due to the similarity in names with the Petitioner. Respondent No. 1, through his party workers Mr. Pravin Motiram Rasal, Vijay Ganpat Bhagat, Masane Sachin Dharma and Dabhane Devendra Jagannath approached Respondent Nos. 2 and 3 and offered them financial incentives to file their nominations. The Petitioner has learned from reliable sources

that each of Respondent Nos. 2 and 3 were paid substantial amount as consideration for standing in the election, with a promise of an additional gratification if the Petitioner lost the election.

21B. The Petitioner states that the proposers of Respondent Nos. 2 and 3 were all active party workers of Shiv Sena and supporters of Respondent No. 1. Specifically, the proposers for Respondent No. 2 were: (1) Pravin Motiram Rasal, who has actively participated in Shiv Sena party activities and has been seen at multiple campaign events of Respondent No. 1. Similarly, the proposers for Respondent No. 3 were: (1) Masane Sachin Dharma, (2) Patil Rohan Shriram, (3) Salvi Suraj Appa, (4) Kad Pravin Vasudev, (5) Kad Pravin Vasudev, (6) Dabhane Devendra Jagannath, (7) Gharat Uttam Tanaji, (8) Karle Pramod Maruti and (9) Jadhav Vaibhav Ramesh, who are also known party workers of Shiv Sena and have been actively involved in Respondent No. 1's campaign.

72) Though, the allegation in para-21 was inducement in exchange of gratification only of Respondent No.2 by Respondent No.1, now proposed amended paras-21A and 21B seek to add pleadings in connection with Respondent No.3 as well. The original Election Petition does not contain any allegation of Respondent No.3 being induced in exchange of gratification by Respondent No.1. However, by proposed amendment, it is sought to be alleged that even Respondent No.3 was induced by Respondent No.1 by offering financial incentive. This cannot be permitted under Section 86(5) of the RP Act.

73) Even *qua* Respondent No.2, the original allegation is inducement in exchange of gratification by Respondent No.1. Now what is sought be added is the pleading that '*Respondent No.1, through his party workers....approached Respondent Nos.2 and 3 and offered them financial incentives to file their nominations*'. While original pleading against Respondent No.1 was of directly inducing Respondent No.2 in

exchange of gratification, now the story sought to be set forth is that the inducement was through named party workers. There is no allegation of 'financial incentives' in the original pleadings which is now sought to be added. It is further sought to be vaguely contended in para-21A that the Election Petitioner has learnt from reliable sources that Respondent Nos.2 and 3 were paid substantial amounts as consideration for standing in the election, with a promise of additional gratification if Election Petitioner lost the election. There is no such allegation in the original pleadings and now fresh allegation of corrupt practice of payment of substantial amount as consideration to Respondent Nos.2 and 3 cannot be permitted to be added under Section 86(5) of the RP Act.

74) Petitioner has also sought to add as many as nine additional grounds in the Election Petition mainly based on the statement of facts contained in original pleadings, as well as in the proposed amended pleadings. Since statement of facts in the original pleadings, as well as proposed amended pleadings fall short of requirement under Section 83(1)(a) and 83(1)(b) of the RP Act, permitting addition of new grounds would not make the case of the Election Petitioner any better.

75) Also, the stage at which Petitioner has moved application for amendment cannot be ignored. The Election Petition was lodged on 7 January 2025. Respondent No.1 filed his Written Statement on 27 June 2025. He has also filed application for rejection of Election Petition under Order VII Rule 11 of the Code on 4 July 2025. Petitioner filed Affidavit-in-Reply opposing the said application on

29 July 2025. Application No.11/2025 came up for hearing on 23 July 2025 but was adjourned on account of request made by the counsel appearing for Respondent No. 1 to 19 August 2025. One day before the date of hearing of Application No. 11/2025, Election Petitioner lodged Application (L) No.25974/2025 for amendment of the Election Petition. The amendment Application is aimed solely at defeating the Application No. 11/2025 filed by Respondent No.1 for rejection of the Election Petition under Order VII Rule 11 of the Code. In *F. A. Sapa*, the Apex Court has held that if amendment is unjust and prejudicial to the opposite party the same cannot be allowed. Considering the fact that the application for amendment is filed at a belated stage with the sole objective of defeating Application No.11/2025 filed by Respondent No.1, this would be yet another ground why this Court would be loathe in granting the amendment. In any case, even if some of the amendments are treated as amplification of already treated particulars of corrupt practice, even those amended pleadings fall short of requirement of Section 83 read with Section 100 of the RP Act. In my view therefore the proposed amendments are partly impermissible and even if are partly granted, would not save rejection of Election Petition under Order VII Rule 11 of the Code.

D. ORDER

76) The Respondent No.1-Applicant has thus made out a case for rejection of the Election Petition by having recourse to provisions of Order VII Rule 11 of the Code. I accordingly proceed to pass the following order:-

- (i) Application No.11 of 2025 filed in Election Petition No.23 of 2025 is allowed.
- (ii) Application (L.) No. 25974 of 2025 for amendment of the Election Petition is rejected.
- (iii) Consequently, Election Petition No. 23 of 2025 is rejected.
- (iv) With rejection of Election Petition, nothing would survive in Application (L) No. 26165 of 2025, and the same is disposed of.

NEETA
SHAILESH
SAWANT

Digitally
signed by
NEETA
SHAILESH
SAWANT
Date:
2025.09.25
12:01:36
+0530

[SANDEEP V. MARNE, J.]