

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

**APPLICATION NO. 25 OF 2025
IN
ELECTION PETITION NO. 26 OF 2025**

Daulat Bhika Daroda

...Applicant/Orig.
Respondent No.3

IN THE MATTER BETWEEN

Pandharinath Dnyaneshwar Jadhav

...Petitioner

V/s.

Election Commission of India and Ors.

...Respondents.

Adv. Kiran Joshi, advocate for the Applicant/Orig. Respondent No.3.
Adv. Khalid Ansari, Advocate for the Petitioner.

CORAM : N.R. BORKAR, J.
DATE : 18.12.2025.

P.C. :

1. By this application under Order VII Rule XI of the Civil Procedure Code, respondent No.3 (returned candidate) seeks rejection of the Election Petition for want of cause of action.

2. I have heard the learned counsel for the respondent No.3 and the learned counsel for the petitioner.

3. The petitioner has filed the present election petition, inter-alia, on the ground of improper rejection of his nomination paper, which was submitted by him to contest Legislative Assembly election from Sahapur constituency.

4. The learned counsel for the respondent No.3 submits that there are no allegations against respondent No.3 of either corrupt practice or any other nature. The learned counsel for the respondent No.3 thus submits that there is no cause of action to file the Election Petition against Respondent No.3.

5. On the other hand, the learned counsel for the petitioner submits that the petitioner has filed the Election Petition as according to the petitioner, rejection of his nomination paper was improper. It is submitted that petitioner is not required to plead anything else against the returned candidate. It is submitted that the application, therefore, deserves to be rejected.

6. The Hon'ble Supreme Court in ***Rejendra Kumar Meshram vs. Vanshmani Prasad Verma***¹ has observed thus :

¹ 2017(2) Mh.L.J. 508
Pramod S.Lakare

9. Under section 100 (1)(d), an election is liable to be declared void on the ground of improper acceptance of a nomination if such improper acceptance of the nomination has materially affected the result of the election. This is in distinction to what is contained in section 100(1)(c) i.e. improper rejection of a nomination which itself is a sufficient ground for invalidating the election without any further requirement of proof of material effect of such rejection on the result of the election, The above distinction must be kept in mind. Proceeding on the said basis, we find that the High Court did not endeavor to go into the further question that would be required to be determined even if it is assumed that the appellant-turned candidate had not filed the electoral roll or a certified copy thereof and, therefore, had not complied with the mandatory provisions of section 33(5) of the 1951 Act. In other words, before setting aside the election on the above ground, the High Court ought to have carried out a further exercise, namely, to find out whether the improper acceptance of the nomination had materially affected the result of the election petition. This has not been done notwithstanding Issue No. 6 framed which is specifically to the above effect. The High Court having failed to determine the said issue i.e.

Issue No. 6, naturally, it was not empowered to declare the election of the appellant returned candidate as void even if we are to assume that the acceptance of the nomination of the returned candidate was improper.

7. The Hon'ble Supreme Court has held that improper rejection of nomination form is itself a sufficient ground for invalidating the election. In that view of the matter, the petitioner has to only prove that rejection of his nomination paper was improper and he is not required to prove anything else.

8. The application is, therefore, rejected.

[N.R.BORKAR, J.]