



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (CAO) NO. 603 OF 2025
IN
ELECTION PETITION NO. 16 OF 2025

Narayan Dinbaji Jambhule ... PETITIONER

Versus

The Returning Officer-Cum-Sub
Divisional Officer, Bramhapuri,
District Chandrapur & Ors. ... RESPONDENTS

Mr. Narayan Dinbaji Jambhule, Petitioner in person present in Court.
Mr. S. B. Bissa, AGP for Respondent Nos.1 and 5.
Ms. N. G. Chaubey, Advocate for Respondent Nos.2 and 3.
Mr. N. B. Kirtane, Advocate for Respondent No.4.

CORAM : PRAVIN S. PATIL, J.
ARGUMENTS HEARD ON : AUGUST 08, 2025.
PRONOUNCED ON : SEPTEMBER 17, 2025.

ORDER

. Heard.

2. This Application is filed by the Respondent Nos.2 and 3 seeking deletion of their names from the array of Respondents in the Election Petition.

3. It is contended by the Respondent Nos.2 and 3 that as per Section

82 of the Representation of the People Act, 1951 (*for short, 'the Act'*) the statute has provided that who should join as the Respondents to the Election Petition. As such, according to this provision, only the returned candidates or contesting candidates can be impleaded in the Petition or against whom the allegations of corrupt practice are made in the Petition. In support of their submission, the Respondent Nos.2 and 3 have relied upon the Judgments of the Hon'ble Supreme Court in the cases of *Jyoti Basu V/s Debi Gosal, 1982(1) SCC 691*, *B. Sundara Rami Reddy V/s Election Commission of India, 1991 Supp.(2) SCC 624* and *Michael B. Fernandes V/s CK. Jafar Sharief and another, AIR 2002 SC 1041*.

4. In response to the Application filed by the Respondent Nos.2 and 3, firstly the Petitioner has raised preliminary objection with regard to filing reply by the Respondent No.2 under the signature of District Collector, Chandrapur, instead of Respondent Nos.2 and 3. It is his contention that since the Application is filed by the Respondent Nos.2 and 3, same ought to have been sworn either by the Respondent No.2 or Respondent No.3 only. On merits, it is submitted by the Petitioner that the Judgments relied upon by the Respondents are not applicable in the matter, and therefore, present Application deserves to be rejected.

5. While dealing with the present Application, it will be necessary to consider the ground, on which the Election Petition has been filed and the averments made by the Petitioner in the Election Petition.

6. Admittedly, it is the submission of the Petitioner in the Election Petition that the election of Respondent no.4 be cancelled for the reason that Respondent No.1/Returning Officer has accepted improper/illegal affidavit. It is submitted that while tendering the nomination form, Respondent No.4 has furnished the affidavit on the stamp paper which bears the endorsement of vendor indicating that it has been purchased for the purpose of Agreement, however, the said stamp paper has been used for executing affidavit after making unauthorized alteration in the affidavit. Hence, according to him, on this count the Returning Officer should not have accepted his nomination paper. However, since the same had been accepted illegally, the election of Respondent No.4 deserves to be cancelled.

7. In the entire Petition, no specific allegations are made against the Respondent Nos.2 and 3, except the fact that Petitioner has forwarded his objection to the Respondent Nos.2 and 3, and therefore, according to him, they are necessary parties to the present Petition.

8. It is necessary to point out that on objection of Petitioner that application is not filed under the signatures of Respondent Nos.2 and 3, learned Counsel for Respondent Nos.2 and 3 has filed on record the pursis dated 8/8/2025 along with communication dated 19/5/2025 issued by the State Election Officer, Mantralaya, Mumbai as also the communication dated 4/5/2022 issued by the Election Commission of India, wherein the District Collector has been authorized to sworn the affidavit on behalf of the Election Commission. In the circumstances, preliminary objection raised by the Petitioner becomes redundant.

9. After filing pursis by the Respondent Nos.2 and 3, this Application was taken up for hearing by consent of both sides. After hearing both sides, I had perused the record and considered the provision of law and case laws pointed out by Respondent Nos.2 and 3.

10. In the present Petition Section 82 of the Act is very specific, wherein it is clarified that as to who should be the parties to the Petition. In the present Petition, since no allegations are made against the Respondent Nos.2 and 3, I find that as per Section 82 of the Act, Respondent Nos.2 and 3 are not necessary parties in the Petition.

11. In the case of ***Jyoti Basu*** (*supra*) in paragraph 9 of the Judgment the Hon'ble Supreme Court has observed as under :

“9. Section 81 prescribes who may present an election petition. It may be any candidate at such election; it may be any elector of the constituency; it may be none else. Section 82 is headed “Parties to the petition” and clause (a) provides that the Petitioner shall join as respondents to the petition to the returned candidates if the relief claimed is confined to a declaration that the election of all or any of the returned candidates is void and all the contesting candidates if a further declaration is sought that he himself or any other candidate has been duly elected. Clause (b) of Section 82 requires the petitioner to join as respondent any other candidate against whom allegations of any corrupt practice are made in the petition. Section 86(4) enables any candidate not already a respondent to be joined as a respondent. There is no other provision dealing with the question as to who may be joined as respondents. It is significant that while clause (b) of Section 82 obliges the petitioner to join as a respondent any candidate against whom allegations of any corrupt practice are made in the petition, it does not oblige the petitioner to join as a respondent any other person against whom allegations of any corrupt practice are made. It is equally significant that while any candidate not already a respondent may seek and, if he so seeks, is entitled to be joined as a respondent under Section 86(4), any other person cannot, under that provision seek to be joined as a respondent, even if allegations of any corrupt practice are made against him. It is clear that the contest of the election petition is designed to be confined to the candidates at the election. All others are excluded. The ring is closed to all except the petitioner and the candidates at the election. If such is the design of the statute, how can the notion of ‘proper parties’ enter the picture at all ? We think that the concept of ‘proper parties’ is and must remain alien to an

election dispute under the Representation of the People Act, 1951.
Only those may be joined as respondents to an election petition who are mentioned in Section 82 and Section 86(4) and no others. However desirable and expedient it may appear to be, none else shall be joined as respondents.”

In view of the aforesaid Judgment, mere forwarding the representation to Respondent Nos.2 and 3 cannot become a reason to implead them as necessary parties in the present proceeding. Considering the law laid down by the Hon'ble Supreme Court, submissions made by the Petitioner cannot be accepted.

12. Same view has been taken by the Hon'ble Supreme Court in the cases of ***B. Sundara Rami Reddy*** and ***Michael B. Fernandes*** (*supra*).

13. The Petitioner has not pointed out any provision of law to show that Respondent Nos.2 and 3 are necessary parties in the present Petition. Furthermore, no Judgment has been cited by the Petitioner contrary to the aforesaid Judgments, which according to Respondent Nos.2 and 3, is holding the field till date. Hence, I find no merit in the objection raised by the Petitioner. In the circumstances, Civil Application deserves to be allowed, and accordingly, following order is passed.

ORDER

- (1) Civil Application is allowed.
- (2) The names of Respondent Nos.2 and 3 be deleted from the array of the Respondents.
- (3) The necessary correction in the cause-title of Election Petition be carried out within three days from the date of order.
- (4) No order as to costs.

[PRAVIN S. PATIL, J.]