

29.06.2026
Item No.08
Court No.01
Avijit Mitra

WPA (P) 204 of 2026

Moidul Halder
- Versus -
The Election Commission of India & ors.

Mr. Abhishek Halder,
Mr. Omar Faruk Gazi,
Mr. Rishabh Ahmed Khan
...for the petitioner
Ms. Anamika Pandey
....for the respondent nos.1 to 6
Mr. Dhiraj Trivedi, Ld. D.S.G.
Ms. Swapna Jha,
Ms. Divyanshi Shaw
...for the respondent nos. 7 to 9
Mr. Amajit De
....for the C.B.I.
Mr. Biswaroop Bhattacharyya,
Mr. Jyoti Prakash Chatterjee,
Mr. Saikat Dey
...for the respondent nos.10 to 12

The present writ petition has been preferred by the petitioner claiming himself to be a public-spirited person and stating, *inter alia*, that the respondent no.10 participated in 2026 Assembly Election in the State of West Bengal and in her affidavit dated 6th April, 2026 filed in connection with electoral process, she has declared her annual immovable assets to be 'NIL' and that the purchase value of immovable properties as '*not applicable*'. Such declaration is at variance with certain registered sale deeds of the year

2023 forming part of the public records maintained by the competent registration authority. The said deeds disclose acquisition of immovable property in the name of respondent no.12, who is the daughter of respondent no.10. Such misleading and erroneous declaration attracts the penal provisions of Section 125A of the Representation of People Act, 1950 (hereinafter referred to as the 1950 Act). It has been further stated that the respondent no.10 also participated in the earlier 2021 assembly election filing an affidavit stating, *inter alia*, that her sole and primary source of income was a salary drawn as a school teacher and that her husband had no independent income and as such making it inexplicable as to how immovable property came in the year 2023 in the name of Priyasmita Paul being the daughter of respondent no.10. Detailing such illegalities practised, the petitioner submitted a representation before the respondent nos. 2 and the Returning Officer being the respondent no. 6 on 10th April, 2026 but the same had not been responded to. On the rudiments of such averments, the present writ petition has been preferred, *inter alia*, praying for necessary directions upon the respondents to investigate whether the immovable properties acquired in 2023 in the name of respondent no.12,

daughter of respondent no.10 constitutes a benami transaction and to examine the source of funds utilised for the acquisition of such immovable properties.

Mr. Halder, learned advocate appearing for the petitioner submits that the representation submitted by the petitioner on 10th April, 2026 has not been responded to and the respondents have maintained a deceptive silence. In view of suppression of material facts and concealment of information, it was incumbent upon the Returning Officer to take appropriate action in terms of the 1950 Act.

Mr. Bhattacharya, learned advocate appearing for the respondent nos. 10 to 12 denies and disputes the contention of Mr. Halder and submits that the issues highlighted in the writ petition involved disputed question of facts and the same could have been agitated by a regular election petition as provided under the 1950 Act. In support of the arguments advanced reliance has been placed upon a judgment delivered in the case of *Ajmera Shyam Vs. Kova Laxmi and Others*, reported in (2026) 3 Supreme Court Cases 373.

Mr. Trivedi, learned Deputy Solicitor General enters appearance on behalf of the respondent nos. 7 to 9 and denies the contention of Mr. Halder.

Ms. Pandey, learned advocate appearing for the respondent nos. 1 to 6 submits that the issue involved as to whether in the case of false declaration and concealing of information it would be open to any aggrieved person to move a petition before an appropriate court of competent jurisdiction with a petition under Section 125A of the 1950 Act, is no longer *res integra* and has already been decided by the Hon'ble Andhra Pradesh High Court. Let the judgment reported in *2014 SCC Online 544* and a memo dated 17th September, 2014, as placed, be kept on record.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

It has been urged that while submitting affidavits before the competent Election Officer at the time of participation in the election, the respondent no.10 had submitted false declaration and had also suppressed material facts. In such circumstances, the petitioner ought to have approached the appropriate Court of competent jurisdiction with a petition under Section 125A of the 1950 Act.

The petition involves disputed questions of fact and travelling into the area to adjudicate such

factual dispute would be a wrongful exercise of public interest jurisdiction.

In the said conspectus, we are unable to grant any relief as prayed in the present writ petition and the same is, accordingly, dismissed.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, A.C.J.)