



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION IN ELECTION PETITION NO.92 OF 2025
(EXHIBIT-20)

IN
ELECTION PETITION NO.01 OF 2025

Anupbhaiyya Omprakash Agrawal
Age: 50 years, Occu: Social Worker
R/o. 18, Gita Agrawal Nagar, next to
Ganesh Apartment, Malegaon Road, Dhule.

...Applicant
(Orig. Res. No.3)

IN THE MATTER BETWEEN:

Shri. Anil S/o. Umrao Gote @ Anil Anna Gote,
Age: 76 years, Occu: Agriculture & Social Work,
R/o. House No. 1321, Lane No.4, Dhule,
Tq. and District Dhule-424001.

...Petitioner

VERSUS

1. The Election Commission of India,
Nirvachan Sadan, Ashoka Road,
New Delhi-110 001.
2. The Returning Officer for Election of Member of
Maharashtra Legislative Assembly for 07-Dhule City
Assembly Constituency, Dhule, District Dhule.
3. Shri. Anupbhaiyya S/o. Omprakash Agrawal,
Age: 50 years, Occu: Business,
R/o. 18, Gita Agrawal Nagar, Near
Ganesh Apartment, Malegaon Road, Dhule.

...Respondents

...

Mr. Sanjeeva B. Deshpande, Senior Advocate, a/w Mr. Swapnil Joshi, Mr. Swapnil Patnurkar, Mr. Shreyas Deshpande and Ms. Priyanka Deshpande, Advocates for Applicant/Orig. Respondent No.3.

Mr. P. R. Katneshwarkar, Senior Advocate, i/by Mr. K. B. Jadhav and Mr. Vishnu B. Madan, Advocate for Respondent No.1/ Orig. Petitioner.

Mr. Alok Sharma, Standing Counsel for Respondent Nos. 1 and 2 in EP.

CORAM : KISHORE C. SANT, J.

RESERVED ON : 9th JANUARY 2026.

PRONOUNCED ON : 2nd APRIL 2026.

J U D G M E N T :-

1. Heard Mr. Deshpande, the learned Senior Advocate for the Applicant/Orig. Respondent No.3, and Mr. Katneshwarkar, the learned Senior Advocate for the Respondent No.1/Orig. Petitioner. The parties are referred to as per their original status in the Election Petitioner for the purpose of convenience.

2. The present Application (Exhibit-20) under Order VII Rule 11 of the Code of Civil Procedure, 1908 (*hereinafter referred to as "CPC"*) is filed by a Returned Candidate/Original Respondent No.3 in the Election

Petitioner seeking dismissal of the Election Petition. Respondent No.1 in this application is the Original Election Petitioner, respondent No.2 is the Election Commission of India and Respondent No.3 is the Returning Officer.

3. The Election Petition is filed by the Petitioner/Anil Umrao Gote, seeking declaration that the Election of the Respondent No.3/Anupbhaiyya Omprakash Agrawal be declared as null and void on the allegation that the respondent No.3 has committed corrupt practices during the Election campaign, thereby incurring disqualification under Sections 100(1)(b), 100(1)(d)(ii) & (iii) of the Representation of People Act, 1951 (*hereinafter referred to as “R.P Act”*). Initially, the other contesting candidates i.e. Respondent Nos.4 to 9 were also joined as parties. However, the names of those respondents came to be deleted by order dated 28.04.2025 on the application of the petitioner.

4. Election programme of the General Elections to the Legislative Assembly for Constituency-07 Dhule City declared by the Election Commission was as under:-

SCHEDULE	DATE
Date of Issue of Gazette Notification	22.10.2024
Last date of filing nominations	29.10.2024
Date of Scrutiny of nominations	30.10.2024
Date of allotment of Symbol	30.10.2024
Last Date for the withdrawal of candidatures	04.11.2024
Date of Polling	20.11.2024
Date of Counting	23.11.2024
Date of Result	23.11.2024

5. It is the case that the Petitioner and the Respondent No.3 contested the election to the Maharashtra Legislative Assembly from Dhule City -07 Constituency. The petitioner filled in his nomination Form on 29.10.2024. The respondent No.3 filled in his nomination on 24.10.2024. The election result came to be declared on 23.11.2024. The respondent No.3 received 1,16,538 votes. The petitioner received 24,304 votes. Respondent No.7 (deleted) Shah Faruk Anwar (AIMIM) received 70,788 votes. Jitubhau Shirsath (VBA) received 5,241 votes. The other candidates received negligible votes less than 2000. The total votes polled were 2,19,502.

6. In the Election Petition, the allegations are that the respondent or his agents made speeches on religious grounds. The instances are as below:

(i) On 24.10.2024, the respondent No.3 arranged a meeting at Ekta Nagar, Saptshrungi Mandir, Bilali Road, Dhule at about 8 to 9 pm. Respondent No.3 was invited for Pranpratishta program. Wherein he said *“I don’t want their single vote. Don’t vote me. I will make the City Saffron (Bhagwa) with the help of my Hindu brothers and sisters and I am saying this with your support”*. Video is downloaded from official Facebook account anup.agrawal.3766 of respondent No.3. (Pen drive Video 1).

(ii) On 07.11.2024, respondent No.3 arranged meeting at Chinch Mandir, Old Dhule wherein he said *“in order to protect the Hindu and our Dharma, you should vote for BJP. How many Mali, Vanjari, Sonar etc. and now, how many Hindu’s raise hands. Then we should stand together for Hindutwa”*. Video is downloaded from official Facebook account anup.agrawal.3766 of respondent No.3. (Pen drive Video 5).

(iii) On 15.11.2024, one Rajvardhan Kadambande, agent of Respondent No.3, in a meeting at Swarajya Mill Parisar, Dhule, addressed a speech with *“if voters want to protect the Hindutwa, then vote for Respondent No.3. If you want to stop the Islamic state, then, vote for Respondent No.3”*.

(iv) One Appasaheb Hiranman Gawali, in the presence of Respondent No.3, appealed and stated that in 1992, they

demolished Babri Masjid as all the Hindus came together, and that it was celebrated on 22.01.2024 i.e. the date when the Ramlalla was made to sit in the temple. *“They quashed Article 370. How many Maratha, Mali, Vanjari, Dhobi raise hands, now, how many Hindus.... Hence, we should stand together as Hindu to vote for”*.

(v) One Shital Mohan Nawale in a speech said as to who distributed the utensils and whether all had received, stating that those utensils were distributed by respondent No.3. He also distributed sarees. On telling this, she asked to whom people would vote for. It is alleged that it was also asked in the meeting as to how many people have received utensils and sarees, and that they should vote for Respondent No.3.

(vi) On 16.11.2024, the respondent No.3 called the meeting at Dandewala Baba Nagar, Mohadi Up-Nagar, Dhule. One Ashok Patole representative of BJP and agent of respondent No.3 under his instructions delivered speech *“it is aim of Anupbhaiya Agrawal to protect the Hindu Dharma and he is said to be protector of Hindu Dharma..... at any cost, we should not left our Dharma and we should protect our Hindu Dharma..... I appeal to the public at large under the garb of Hindu Dharma by casting your vote for Anupbhaiya Agrawal”*. Video is downloaded from official Facebook account anup.agrawal.3766 of respondent No.3. (Pen drive Video 3).

(vii) On 17.11.2024, the respondent No.3 called meeting at Nakane Road, Dhule. Jayashri Kamlakar Ahirrao representative of BJP said *“the sisters who have received the benefits of Ladki Bahin, have also been distributed with the gifts of Sari and Choli at the behest of Anupbhaiya and therefore, you are obliged to vote for”*.

Video is downloaded from official Facebook account anup.agrawal.3766 of respondent No.3. (Pen drive Video 4). On 18.11.2024 a meeting of Pradip Mishra *“wake up Sanatani, leave your house and vote for Sanatan Dharma”*. (Pen drive Video 6).

(viii) On 16.11.2024, meeting near Khuni Ganpati Mandir Old Dhule. On 10.11.2024 also had arranged meeting in the temple which is not permissible as per Chapter 4 Annexure 10 of the Handbook 2023. (Pen drive Video 8).

7. It is further alleged that initially while filling up the form name of respondent No.3 was shown as Anupbhaiya Agrawal which is changed to Agrawal Anupbhaiya. This was allowed to be carried by respondent No.2. It is alleged that because of this, the election results have materially been affected. This change made the name of respondent No.3 to appear at Serial No.1 in the EVM. This change was done without any notice to the petitioner.

8. It is further alleged that the respondent No.7 had also appealed for votes in the name of religion. It is alleged that the respondent No.3 generated one link spreading message that *“everyone living in Pune having their voter ID and are eligible to vote in Dhule are requested to*

join the group and travelling will be taken care by respondent No.3.” It is also alleged that the EVM machines were not properly kept after polling. The standby EVM machines were also kept with the EVM machines those were used for polling. The VVPAT and votes polled on the EVM did not match. The complaint in this regard was also made on 20.11.2024. The petition is thus filed alleging corrupt practices. It is further alleged that the respondent No.3 has influenced voters during voting and thus the result is materially affected. On this basis, the election petition came to be filed.

9. After filing of the Election Petition, the names of Respondent Nos.4 to 9 came to be deleted. Now, the present application (Exh.20) is filed by Original Respondent No.3 on the following grounds:

(i) The affidavit in Form-25 is defective and, in view of Section 83(1)(c) of the R.P. Act, the petition deserves to be dismissed as the affidavit is not properly verified.

(ii) The allegations of corrupt practices are vague and without stating any material particulars or a concise statement of facts.

(iii) Appeal in the name of religion cannot be said to be a ground of corrupt practice.

(iv) The statements that the petitioner do not want any single vote from them and wants to make the city saffron with the help of Hindu brothers and sisters cannot be said to be an appeal in the name of religion.

(v) The petition suffers from non-joinder of parties.

10. So far as meetings and the statements in the meetings by other persons are concerned, they are not clearly stated. The copies of video given to the respondent No.3 do not show that those are matching with the statements stated to have been made in the petition. Mr. Rajvardhan Kadambande, Appasaheb Gawali and Shital Nawale were never agents or election agents of the respondent No.3. Therefore, the alleged statements made by them cannot be said to be the statements on behalf of respondent No.3. No particular material has been provided to show that they were agents. One Jayashri Ahirrao is also not an agent. There is no averment in the petition that Jayashri Ahirrao was an agent. About meeting addressed by one Pradip Mishra (renowned saint in India)

cannot be said that respondent No.3 had any relation with the said meeting. There are no material particulars provided. The application is filed on such and other grounds.

11. While deciding the application, the following questions/points would therefore need to be decided:

Sr. No.	Points	Answer
1	Whether a <i>prima facie</i> case is made out by the petitioner to proceed with the trial.	No
2	Whether sufficient particulars are given in support of allegations in the petition.	No
3	Whether petition deserves to be dismissed for non-joinder of parties as per Section 82(b) of the RP Act.	Yes
4	Result	As per Final Order

12. Mr. Deshpande, the learned Senior Advocate for the Applicant/Respondent No.3, vehemently argued that in the present case, there is no compliance of mandatory provisions of Section 82(b) of the R. P. Act. The allegations are also made against one Shah Faruk Anwar

(Respondent No.7). However, names of some of the respondents, including Respondent No.7 are now deleted. When the allegations are against Respondent No.7 and he is not a party, it is fatal to the petition. Even in the reply to the application, it is asserted that the respondent No.7 is not a necessary party, which is not legally tenable. In that case, it was necessary to delete paragraph No.14 containing allegations against Mr. Shah (R-7). Rule 94-A of the Conduct of Election Rules, 1961 provides specific format of the affidavit. The filing Form-25 cannot be said to be an empty formality, and therefore, the particulars are required to be given. The averments are also only on personal knowledge. However, without giving particulars of acquiring knowledge, allegations are made. No details of corrupt practices are given. There is no allegation of bribery in Form-25. There is no material to support the allegation that an undue influence are exerted upon the Election Officer. About hiring of the vehicles, though allegations are made, no particulars are given in Form-25 which is fatal. Only one ground is stated in Form-25. There is nothing stated about the other grounds. Four corrupt practices alleged in the petition are not mentioned in Form-25, which is

mandatory. When the petition is not supported by proper affidavit, it cannot be said to be a complete election petition. In view of Section 86 of the R. P. Act, the petition deserves to be rejected. No particulars are given. The pamphlets are not a part of record. It was necessary to specifically plead that the statements were made with the consent of the returned candidate. No particulars of free gifts are given. When such non-compliance is shown, the Election Petition needs to be dismissed under Section 86 of the R. P. Act. In the verification, no particulars are given of corrupt practices. Though the defects are curable, those are not removed till 01.10.2025. Petition is thus incomplete. There is no cause of action. The source of information are not disclosed. There is nothing in the pleadings to show that the respondent No.3 was present in the meetings where the statements were made.

13. In support of his submissions, Mr. Deshpande, the Senior Advocate relied upon the following Judgments:

- (i) *Kanimozhi Karunanidhi Vs. A. Santhana Kumar and Ors.*
[AIR 2023 SC 2366];

- (ii) *Tankadhar Tripathy Vs. Dipli Das [AIR 2025 SC 3958];*
- (iii) *Regu Mahesh @ Regu Maheswar Rao Vs. Rajendra Pratap Bhanj Dev [AIR 2004 SC 38];*
- (iv) *R. P Moidutty Vs. P T. Kunju Mohammad [AIR 2000 SC 388];*
- (v) *V. Narayanaswamy Vs. C. P. Thirunavukkarasu [AIR 2000 SC 694];*
- (vi) *C. P. John Vs. Babu M. Palissery and Ors. [AIR 2015 SC 16];*
- (vii) *L. R. Shivaramagowda Vs. T. M. chandrashekar [AIR 1999 SC 252];*
- (viii) *Shrirang Appa Chandu Barne Vs. Election Commission of India [2025 DGLS (Bom.) 299];*
- (ix) *Abraham Kuriakose Vs. P. T. Thomas [AIR 1992 (Ker.) 19];*
- (x) *Krishan Chander Vs. Ram Lal [AIR 1973 Sc 2513];*
- (xi) *Udhav Singh Vs. Madhav Rao Scindia [AIR 1976 SC 744];*
- (xii) *Patangrao Kadam Vs. Prithviraj Sayajirao Yadav Deshmukh [AIR 2001 SC 1121];*
- (xiii) *Kallappa Laxman Malabade [AIR 1996 (Bom.) 5];*
- (xiv) *Dhartipakar Madanlal Agarwal Vs. Rajiv Gandhi [AIR 1987 Sc 1577];*
- (xv) *Udesh Shantaram Patekar and Ors. Vs. Prakash Rajaram Surve and Ors. [manu/mh/4585/2025];*
- (xvi) *Manohar Joshi Vs. Nitin Bhaurao Patil and Ors. [AIR*

1996 SC 796];

(xvii) Association for Democratic reforms Vs. Election Commission of India and Anr. [AIR 2024 Sc 2203];

(xviii) Azambhai Fakhirbhai Pansare Vs. Gajanan Dharamshi Babar and Ors. [2000 (3) Bom. C.R.778].

14. Mr. Katneshwarkar, the learned Senior Advocate for the Respondent No.1/original petitioner, argued opposing the application. He submits that the Election Petition is rightly filed. Sufficient particulars are given. Specific statements showing that the persons whose speeches are quoted are the agents of the returned candidate. The statements clearly show that the statements were made appealing to voters on the ground of religion. There are clear statements about distribution of utensils by the returned candidate/applicant. A clear case of adoption of corrupt practices is thus made out. He submits that the grounds and pleadings are different. The allegations need not be reproduced in the affidavit. The defects are curable and those can be cured even now. The affidavit is clearly in prescribed format. Once a case is made out to go for trial, it is necessary to conduct the trial. Election

petition cannot be lightly dismissed when a case is made out to go for trial.

15. In support of his submission, Mr. Katneshwarkar, learned Senior Advocate, has relied upon the following judgments:

- (i) *A. Manju Vs. Prajwal Revanna* [(2022) 3 SCC 269];
- (ii) *G. M. Siddeshwar Vs. Prasanna Kumar* [(2013) 4 SCC 776];
- (iii) *Umesh Challiyil Vs. K. P. Rajendran* [(2008) 4 SCC 740];
- (iv) *Ponnal Lakshmaiah Vs. Kommuri Reddy* [(2012) 7 SCC 788];
- (v) *Sardar Harcharan Singh Brar Vs. Sukh Darshan Singh* [(2004) 11 SCC 196];
- (vi) *Saritha S. Nair Vs. Hibi Eden* [(2021) 14 SCC 148];
- (vii) *Harkirat Singh Vs. Amrinder Singh* [(2005) 13 SCC 511];
- (viii) *Dr. Ramesh Prabhoo Vs. Prabhakar Kunte and Ors.* [(1996) 1 SCC 130];
- (ix) *Suryakant Mahadik Vs. Saroj Sandesh Naik* [(1996) 1 SCC 384];
- (x) *Harmohinder Singh Pradhan Vs. Ranjeet Singh* [(2005) 5 SCC 46];
- (xi) *Abhiram Singh Vs. C. D. Commachen* [(2017) 2 SCC 629];
- (xii) *Manohar Joshi Vs. Nitin Patil and Anr.* [(1996) 1 SCC 169];

(xiii) Daulat Ram Chauhan Vs. Anand Sharma [(1984) 2 SCC 64];

(xiv) Kimneo Haokip Hangshing Vs. Kenn Raikhan and Ors. [2024 SCC OnLine SC 2548];

16. In rejoinder, the learned Senior Advocate Mr. Deshpande, submits that the argument of the petitioner is against the pleadings. There is no answer about deletion of name of respondent No.7. There is specific allegation against the respondent no.7, whose name is now deleted. Thus, the case is covered under Section 82(b) of the R. P. Act. The compliance of Section 82 of the RP Act is mandatory. When a case is made out that no sufficient particulars are given and the Form-25 is incomplete, there is no discretion left to the Court but to dismiss the petition with the aid of Section 86(1) of the R. P. Act. He also relied upon Section 86(6) of the RP Act. Nothing is argued on the ground of Section 82(a) and (b) of the RP Act. No argument is advanced about deleting the averments in view of deletion of the parties. The petitioner has not asserted that the petition is without defects. There cannot be contradictory pleadings in the election petition. It needs to be seen as to whether there is substantial compliance. The source of information is not

argued. In the case of *Tankadhar Tripathy (supra)* to show that as to what is substantial compliance. Now, after about a year, it is not permissible to cure the defects. The written statement was filed on 08.05.2025, however, till July, no attempts were made to cure the defects showing that the petitioner is taking the petition lightly. He submits that the election petition deserves to be dismissed.

17. Before considering the averments in the present petition and the application, this Court finds it necessary to go through legal position as appearing from various pronouncements relied upon by the parties.

18. In the case of *Kanimozhi Karunanidhi (supra)*, the Hon'ble Apex Court considered Section 83(1)(a) of the R. P. Act which mandates that an election petition shall contain a concise statement of material facts on which petitioner relies, and the facts constituting cause of action. It is held that omission of a single material fact would lead to an incomplete cause of action. In the said case, it was held that there was no averment made as to how there was non-compliance with the provisions of the

Constitution or of the R.P. Act or of the Rules or orders made thereunder. It is also further observed that there were no averments as to how such non-compliance had materially affected the result of the election. It was held that Section 100(1)(d)(iv) of the RP Act was not complied with, and ultimately the petition was held to be liable to be dismissed.

19. In the case of *Tankadhar Tripathy (supra)*, the Hon'ble Apex Court remanded the matter back to the High Court with directions to identify and enumerate the defects in Form-25 affidavit and assess whether such defects were curable. It was further directed to consider the same as preliminary issues and to consider whether the requirements of Form-25 as regards allegation of corrupt practice, had been duly complied with and whether the defects were of a substantial character. In the event that the defects could not be cured, the High Court was to consider whether supplementary affidavit could be permitted within the period of limitation. Whether the Court possessed the power to condone the delay and permit the election petitioner to file election petition in prescribed format beyond limitation. One additional factor considered was whether

defective pleadings ought to be struck out, and thereafter, whether the petitioner could still proceed with the petition after such striking out.

20. In the case of *Reghu Mahesh @ Regu Maheswar Rao (supra)*, the Hon'ble Apex Court emphasized the importance of proper verification in the election petition. It was held that the importance of setting out the source of information, at the time of presentation of the petitioner, is to give the other side notice of the contemporaneous evidence on which the election petition is based and to test the genuineness and veracity of the source of information. The verification based on best of knowledge, information and belief of the person is not sufficient. The verification should be in tune with Order XIX Rule 3 of CPC. The casual approach of the petitioner was noted, and it was held that the petition was rightly dismissed.

21. In the case of *R. P. Moidutty (supra)*, it was a case that where the affidavit filed by the petitioner did not satisfy the requirement of proviso to sub-Section (1) of Section 83 of the RP Act and From 25 under Rule 94-A. It was not specifically mentioned which allegations were true to

the personal knowledge of the petitioner and which of the allegations are based on the information which he believed to be true. By considering the defects in the verification, the election petition was dismissed. The said order came to be upheld by the Hon'ble Apex Court. It was held that unless the defects in verification were rectified, the petition could not have been tried for want of affidavit in required form, and also that, for lack of particulars, the allegations of corrupt practice could not have been inquired into and tried at all.

22. In the case of *V. Narayanaswamy* (supra), the Hon'ble Apex Court considered the requirement of 'full particulars' under Sections 83 and 123 of the RP Act when the petitions are filed on the ground of corrupt practices. It was observed that the High Court has power to permit amendment of the petition for supply of better material particulars. However, there is no duty of the High Court to *suo moto* direct furnishing of material particulars. It is the responsibility of the petitioner to furnish full particulars of alleged corrupt practices and to file a petition in full.

23. In the case of *C. P. John* (supra), it is held that the Court should be in a position to know exactly as to what corrupt practice is alleged against the party, without leaving any room for doubt as to the nature of such allegations. The format of affidavit as prescribed in Form-25 gives requirement of specifically mentioning the paragraphs where the statement of facts are contained and also other paragraphs where the material particulars relating to such corrupt practices are alleged. It is further requirement to state as to which of the allegations are based on personal knowledge and which are based on information received by the petitioner which he believes to be true. By considering this, the dismissal order passed by the High Court came to be uphold.

24. In the case of *L. R. Shivaramagowda* (supra), it was held that the allegations of corrupt practices must be properly pleaded and both material facts and particulars should be provided in the petition itself so as to disclose a complete cause of action. The court considered the judgment in the case of *Gajanan Krishanaji Bapat and Anr. Vs. Dattaji Raghobaji Meghe and Ors. [(1995) 5 SCC 347]* wherein it is stated that the corrupt practice must be specifically alleged and strictly proved to

have been committed by the returned candidate himself, or his election agent, or any other person with the consent of the returned candidate or by his election agent. It was further held that suspicion however strong cannot take place of proof. Both material facts and particulars provided in petition are required to disclose a complete cause of action. The petition must contain a concise statement of material facts on which the petitioner relies and further that he must set forth full particulars of alleged corrupt practice. The petitioner is obliged to disclose source of information in respect of commission of corrupt practice. The High Court could not have allowed the evidence to be led beyond the pleadings of the parties. The evidence cannot cure the defects in pleadings. The Court considered Form-25 and found that there was failure to comply with Rule 94-A of the Conduct of Election Rules. The judgment of the High Court in the said case was set aside holding that the petitioner failed to prove any of the allegations of corrupt practice.

25. In the case of *Shrirang Appa Chandu Barne* (supra), this Court considered the aspect of verification. It was only stated that whatever is stated in the petition in paragraphs is true and correct to the best of

petitioner's knowledge and information. It was held that the contents of the affidavit were not in accordance with prescribed Form-25. Considering judgment in the case of *C. P. John (supra)*, it was held that the petitioner failed to specifically plead and alleged corrupt practices had materially affected the election result. The application under Order VII Rule 11 of CPC thus came to be allowed by dismissing election petition.

26. In the case of *Abraham Kuriakose (supra)*, the Court considered the affidavit of the petitioner. There was no specific statement as to which of the facts were within the petitioner's personal knowledge. There was no statement that he had knowledge of those facts. He also did not specifically mention as to which facts were based on his information. Petition was held to be defective and was dismissed.

27. In the case of *Krishan Chander Vs. Ram Lal (supra)*, the allegations were made against the person who was not made a party and against whom corrupt practices could not be proved at the trial. In the said case also the allegations were made against the candidate other

than the candidates who are elected and against whom no relief was prayed. One of the voters in the constituency filed election petition making the only elected candidate as a party while in the petition the allegation of corrupt practices were made even against other candidates as well without making them as a party. The High Court dismissed the petition on the ground that even other candidates were necessary party against whom the allegations of corrupt practices were made. It was held that the natural justice requires that the person against whom allegations are made should be afforded an opportunity to contest the petition. This was considered in view of provision of Section 82(b) of the RP Act. The same was upheld by the Hon'ble Apex Court holding that the concept of fair trial requires that all the candidates indulge in corrupt practice should be made a party. It is only with that object under Section 82(b) has been enacted.

28. In the case of *Udhav Singh Vs. Madhav Rao Scindia* (supra), it is held that it is necessary to establish the existence of a cause of action to state material facts. Failure to plead even single material fact was held to

amount to disobedience of mandate of Section 83(1)(a) of the RP Act. The Court considered both material facts and material particulars. In the present case, this Court is concerned with Section 82 (b) of the RP Act. The Hon'ble Apex Court held that on failure of making the candidates against whom the allegations of corrupt practices are made is a necessary party and when there is such allegations, the petition must be dismissed under Section 86 of the RP Act.

29. In the case of *Patangrao Kadam Vs. Prithviraj Sayajirao Yadav Deshmukh* (supra), in that case also the effect of non-impleadment of party was considered. The petition was dismissed by high Court and the said order was upheld by the Hon'ble Apex Court.

30. In the case of *Kallappa Laxman Malabade* (supra), it is held that the Court has to consider the question of applicability of Section 86 of the RP of the Act right at the time the election petition is presented to the Court and examine as to whether election petition is liable to be dismissed for non-compliance with Section 82 of the Act. It is held that

no subsequent exercise can save the petition from dismissal. This was based on the judgment in the case of *Inamati Basappa Vs. Desai Basavaraj Ayyappa and Ors. (1958 AIR SC 698)*.

31. In the case of *Dhartipakar Madanlal Agarwal Vs. Rajiv Gandhi* (supra), there the statement was made that the workers of the elected candidate, with his consent, tried to transport voters in truck for casting votes and drop them back at their houses. It was held that the contents only show that some voters were brought to the polling station in truck without charging any fare and the truck was used by the workers of elected candidate. It was held that first ingredient is the consent of the person. Second essential is that the vehicle was used for conveyance of the voters is free of any charge. All these ingredients must be pleaded to make out a case of corrupt practice under Section 123(5) of the R. P. Act. If all the ingredients are not pleaded, it would be no pleading of corrupt practice. The rejection of the petition by the High Court was thus upheld.

32. In the case of *Udesh Shantaram Patekar and Ors. Vs. Prakash Rajaram Surve and Ors.* (supra), the allegations were made that the corrupt practices were adopted with the consent of the respondent therein. It was held that mere reproduction of the words “with the consent of respondent no.1” is not sufficient. The petitioner has to plead full particulars of such consent. On this basis, the petition came to be dismissed.

33. In the case of *Manohar Joshi Vs. Nitin Bhaurao Patil and Ors.* (supra), The Court considered that “Hindutva” does not amount to Hindu religion. The word “Hindutva” cannot invariably be taken to mean Hindu religion.

34. In the case of *Karim Uddin Barbhuiya Vs. Aminul Haque Laskar and Ors.* (supra), it was held that the pleadings have to be precise, specific and unambiguous. If no grounds are set-up as contemplated under Section 100, those do not conform to the requirements of sections 81 and 83 of the Act. The petition is liable to be rejected. Any

incomplete cause of action or omission to contain concise statement would entail rejection of election petition under Order VII Rule 11 of CPC.

35. In the case of *Azambhai Fakhirbhai Pansare Vs. Gajanan Dharamshi Babar and Ors.* (supra), this judgment is on the Form-25 under Rule 94-A of the Conduct of Election Rules, by considering earlier judgments. It is necessary that the affidavit be in Form-25.

36. In the case of *Association for Democratic Reforms Vs. Election Commission of India and Anr.* (supra), this Court hardly finds any substance in the allegation so far as EVM machines are concerned, as the used of EVMs is now well accepted part of the election procedure.

37. In the case of *A. Manju Vs. Prajwal Revanna* (supra), the Hon'ble Apex Court held that the election law is technical in nature. It was the case of non-disclosure of assets in Form 26 by respondent No.1 therein, which was alleged to be a corrupt practice. In that view, the Court examined as to whether it is mandatory for the petitioner to file affidavit

in Form-25 and the consequences of not filing such affidavit. By considering judgment in the case of *Murarka Radhey Shyam Ram Kumar Vs. Roop Singh Rathore (1964 AIR 1545)*, wherein it was held that the defects in verification of an affidavit cannot be a sufficient ground for dismissal of the petitioner's petition summarily. The affidavit can be permitted to be filed at a later point of time. Non-compliance of provision under Section 83-A was taken as not fatal to the maintainability of election petition. The defects, as held, could be remedied it. The election petition can still be called as election petition. In this case, the High Court had dismissed the petition for non-submission of Form-25. It was held that the petition could not have been dismissed on that ground. The order passed by the High Court was set aside.

38. In the case of *G. M. Siddeshwar Vs. Prasanna Kumar* (supra), it was summarized that Section 83(1)(c) of the RP Act merely requires the petitioner to sign and verify the contents of the election petition in the manner prescribed by CPC. There is no requirement of election

petitioner to file the affidavit in support of the averments made in the election petition, except when allegations are of corrupt practices.

39. In the case of *Umesh Challiyil Vs. K. P. Rajendran* (supra), it was observed that the defects pointed out were too innocuous to result in dismissal of the election petition on the basis of preliminary objection. The Court has to give whether such objection goes to the root of the matter or they are only cosmetic in nature. It is held that the election petition should not be summarily dismissed on small breaches of procedure. Section 87 itself shows that the election petition should contain material facts. The Court ultimately held that the defects pointed out in that case were not material enough to entail dismissal of the election petition. The judgment of the High Court dismissing election petition was set aside and matter remanded back for trial.

40. In the case of *Ponnala Lakshmaiah Vs. Kommuri Reddy* (supra), it was held that the absence of any provision making breach of the proviso to Section 83(1) a valid ground of dismissal of election petition at the threshold. Paragraph No. 31 of the judgment reads as under:

“31. Suffice it to say, that in the absence of any provision making breach of the proviso to Section 83(1), a valid ground of dismissal of an election petition at the threshold, we see no reason why the requirement of filing an affidavit in a given format should be exalted by a judicial interpretation to the status of a statutory mandate. A petition that raises triable issues need not, therefore, be dismissed simply because the affidavit filed by the petitioner is not in a given format no matter the deficiency in the format has not caused any prejudice to the successful candidate and can be cured by the election petitioner by filing a proper affidavit.”

. It is thus held that the petition in which tribal issues are raised should not be dismissed simply because an affidavit filed by the petitioner is not in the prescribed format. When this does not cause any prejudice to the successful candidate, the defects can be cured by election petitioner by filing proper affidavit.

41. In the case of *Sardar Harcharan Singh Brar Vs. Sukh Darshan Singh* (supra), the high Court had dismissed the writ petition, concluding that the averments made in the petition were deficient in material facts. The test laid down in the case of *Raj Narain Vs. Smt. Indira Nehru Gandhi and Anr. [(1972) 3 SCC 850]*, the Court was satisfied that the facts necessary to formulate a complete cause of action were stated. It was held that, if at all, the court feels that the particulars

are deficient, in any manner, the petitioner can be directed to supply the particulars and make the deficiency good. It is further held that in any case, a deficiency in particulars could not have been a ground for dismissal of the election petition at the threshold. Order passed by the High Court was set aside, and matter was remanded for trial.

42. In the case of *Saritha S. Nair Vs. Hibi Eden* (supra), the Hon'ble Apex Court held that Section 86(1) empowers the high Court to dismiss the election petition. It does not comply with the provision of Sections 81, 82 and 117 of the RP Act. However, it does not include Section 83 of the RP Act. The question was therefore considered as to whether the petition can be dismissed which does not satisfy the requirement of Section 83 before going for a trial. The Court considered various judgments and concluded on the facts of that case that the prayer made by the petitioner was a curable defect. The words "as void" were allowed to be included as otherwise prayer would have been of no meaning. In the said case, the High Court had noted defects in the election petition that (i) there was no proper verification in terms of Section 83(1)(c)

read with Order VI Rule 15 of the CPC, as the petitioner had not signed in the declaration portion of verification of the election petition. (ii) petitioner had not signed the in verification portion in respect of annexures, affidavit and petition. It was stated that the index has been verified instead of annexures, affidavit and petition. (iii) The annexures were not verified by the petitioner as mandated and instead of verification annexure, the same were certified as true copies. Those defects were considered to be incurable and the relief sought was incomplete. In that view, it was held that the petition should have been given an opportunity to cure the defects. Order dismissing the petition was upheld.

43. In the case of *Harkirat Singh Vs. Amrinder Singh* (supra), the Court considered as to what are the 'material facts' which are not defined in the Act. By considering various dictionary meanings, it was held that material facts are the facts upon which the plaintiff's cause of action or defendant's defence depends. The material facts would depend upon the circumstances of each case, and no rule of universal

application can be laid down. The distinction between “material facts” and “material particulars” was considered. It was ultimately held that the material facts must be pleaded by the parties in support of the case set up by him. The object is to give to other side a fair idea of the case of the petitioner. In the facts of that case, it was held that the material facts of corrupt practices had been set out in the petition with full particulars. In that case, the allegations were that one gazetted officer of class-I in the Government of Panjab assisted the respondent by doing several acts. One police officer while holding the post of Superintendent of Police helped the respondent by organizing a meeting and distributing posters. The correct and proper accounts of election expenses were not maintained. On these allegations, the high court had held that these facts were not material facts and thus do not disclose any cause of action. It was held that the High Court appreciated the evidence and by entering into the merit dismissed the petition. The high court’s order was set aside. The trial was directed to proceed.

44. In the case of *Dr. Ramesh Prabhoo Vs. Prabhakar Kunte and Ors.* (supra), there was an appeal made by the candidate on the ground of

religion. The appeal was made to the Hindu voters to vote for candidate because he happens to be Hindu. The derogatory references were made to Muslims by calling them as 'snake' and referring to them as 'lande'. It was held that the said amounted to be an attempt to promote feelings of enmity or hatred between that Hindus and the Muslims on the ground of religion. The Court ultimately concluded it to be corrupt practices.

45. In the case of *Suryakant Mahadik Vs. Saroj Sandesh Naik* (supra), the speeches were given in *Akhand Harinam Saptah* to the congregation of Hindu devotees. It was held to be clearly an appeal to the voters on the ground of religion, amounting to corrupt practice under sub-Section (3) of Section 123 of the RP Act. On that finding, the election petition was allowed, and the Hon'ble Apex Court sustained the order of the High Court. The election petition was held to be void.

46. In the case of *Harmohinder Singh Pradhan Vs. Ranjeet Singh* (supra), it is held that some religious leaders had appealed voters in the name of religion. It was held that the appeal simplicitor to vote or

refrain from voting made by religious leaders which may benefit a particular candidate is distinct from the appeal to vote or to refrain from voting on the ground of religion by such leaders. In that case, the appeal can be said to be attributable to the candidate within the meaning of Section 123(3) of the Act. In the said case, the election petition was dismissed at the threshold as no cause of action was disclosed. The said order was made based on the facts of the case.

47. In *Abhiram Singh Vs. C. D. Commachen* (supra), was also a case where the allegations were made of appealing the voters on the ground of religion and seeking votes. It was held that the appealing on the ground of religion amounts to corrupt practice. It is a judgment of the full bench of seven judges and this assumes importance. It is delivered after considering the various judgments.

48. In the case of *Manohar Joshi Vs. Nitin Patil and Anr. (supra)*, it was held that the ingredients constituting corrupt practices must be pleaded and proved. It was held that the case of corrupt practice of appealing votes on the religious ground must be pleaded and proved.

The election was declared to be void under Section 100(1)(b) of the Act. The Hon'ble Apex Court further held that ordinarily, the consent of candidate is implied or the leader may play a subservient role. It is held to be difficult to ascribe an acknowledged leader of the party a role subservient to the candidate set up by that party. The candidates ordinarily is not in a position to control the action of his leader. In such cases, even without his consent, if the candidate has received benefits from the leader's acts in a manner which materially affects the election favourably, the candidate's election is liable to be set aside under Section 100(1)(d)(ii), unless, as provided in sub-section (2) of Section 100, to further discharge the onus placed upon him that in spite of his opposition and taking due precautions that act had been committed for which he cannot be held responsible.

49. In the case of *Daulat Ram Chauhan Vs. Anand Sharma* (supra), the defeated candidate had filed election petition on the ground of corrupt practices. The High Court on holding trial concluded that the allegation of corrupt practices were proved and set aside the election. The main

question that was considered as to whether the persons committing corrupt practices had committed the same with the consent of the elected candidate and still such person were not made a party to the election petition, in such cases, the High Court should have dismissed the election petition in limine under the provisions of Section 82 r/w 86 of the RP Act. Two candidates who were also candidates in the party committed corrupt practice, however they were not made party to the election petition. The petition was dismissed as the said persons were not made party. The question was whether the allegations made against them amounted to corrupt practices as defined under Section 123 of the RP Act. The Court considered that those were not corrupt practices under Section 123 and not joining such persons as parties is not fatal to the maintainability of the election petition.

50. In the case of *Kimneo Haokip Hangshing Vs. Kenn Raikhan and Ors.* (supra), the election petition was filed on the ground of non-disclosure of assets in the nomination papers and allegations that the candidate had engaged in corrupt practices. Application under Order VII

Rule 11 of CPC read with 86 of the Act came to be filed. The same was dismissed. In the challenge to the dismissal order, the court considered compliance of Section 94-A of form of affidavit, the Hon'ble Apex Court held that what is mandatory in such cases is that there should be substantial compliance. If substantial compliance in terms of furnishing all that is required under law has been given, the petition cannot be summarily dismissed. The Court considered the judgment in the case of *Hangjam Arunkumar vs. Yumkham Erabot Singh [(2023)11 SCR 392]* wherein it was held that the requirement to file affidavit in proviso to section 83(1)(c) is not mandatory and substantial compliance is sufficient. It was further held that if the defects are curable and opportunity needs to be given to file necessary affidavit.

51. On these, the court has to consider the submissions in the light of averments made in the present petition.

52. The grounds in the present application are (i) defects in Form-25 under Rule 94-A of the Conduct of Election Rules. (ii) whether the

respondent No.3 indulged into corrupt practices of distributing gifts to voters. (iii) Whether appeals to voters to cast votes in the name of religion. (iv) Whether petition suffers from non-joinder of parties in view of Section 82(b) of the RP Act. The instances of such appeals speeches by Mr. Rajvardhan Kadambande, Appasaheb Gawali, Shital Nawale, Jayashri Ahirrao and Pradip Mishra. Some of these meetings were held in temples and religious places. So far as defects in Form-25 is concerned, this Court need to consider as to whether the material facts are presented in the proper format and whether the defects are curable and can be rectified by giving an opportunity to the petitioner/respondent No.1.

53. The vehicles were provided to the voters travelling from Pune to Dhule. Whether there are sufficient averments made to substantiate allegation of corrupt practice disclosing cause of action to proceed with the election petition. Whether the deletion of name of respondent No.7 without deleting the allegations against him, affect the maintainability of the petition for non-joinder of the necessary party.

54. It is mainly seen that on the above grounds court need to proceed. If the statements clearly appears to be an appeal by Rajvardhan Kadambande, Appasaheb Gawali, Shital Nawale in the name of religion and the meetings were held in the religious places, these allegations need to be considered. So far as allegation of providing vehicles is concerned, there are averments. The question is as to whether there are sufficient averments showing that all these acts were done with the consent and knowledge of respondent No.3. It is seen that the averment is only that a whats-app link was created by the respondent No.3 for voters from Pune. The voters were requested to join the said whats-app link and give details. The vehicle was to be arranged for such voters to come to Dhule for voting. No name of the person or agent is mentioned in this paragraph. How the consent was given by respondent No.3 is also not stated in the said paragraph. It is only stated that on 09.11.2024, the petitioner lodged a complaint before respondent No.2 pointing out the corrupt practice adopted by Respondent No.3. It is only mentioned that one Satish Awalkanthe is supporter of petitioner who is a member of the said whats-app group. This Court hardly finds that the particulars can be

said to be sufficient enough to come to the conclusion that there was a consent of the respondent No.3 and by his agent. Only because, some of the members of said whats-app group happen to be supporter of respondent No.3 need not lead to a conclusion that the said group is created by agent with the consent of respondent No.3. The allegation to that effect cannot be said to be sufficient to come to any such conclusion.

55. In the case of *Dhartipakar Madanlal Agrawal* (supra), the Hon'ble Apex Court held that the contents in the election petition therein only show that some voters were brought to the polling station in a truck without charging any fare and the truck was used by the workers of elected candidate. The court considered as to what are the essentials for such allegations. This Court finds that considering the said judgment, it cannot be said that a case is made out to go for trial on this allegation.

56. The averments made in the petition in paragraph No.14 shows that the allegation against respondent No.7 was that he made appeal to public at large to vote for religion. It is further alleged that he uttered

the words that “if necessary, we will pick weapons for the religion”. This Court finds that after filing of the petition it is the petitioner himself who made an application specifically praying for leave to delete the name of Respondent Nos. 4 to 9. While arguing, it was argued that no allegation was made against Respondent Nos. 4 to 9 of corrupt practice. The Court accepting the submissions of the petitioner had allowed the said application by order dated 28.04.2025 at Exh.18.

57. This Court finds that the allegations of corrupt practices are in fact made sufficiently enough to go for trial. However, this Court has to mainly consider the grounds raised in the application under Order VII Rule 11 of the CPC that the respondent No.7 though was initially made a party is deleted by the petitioner after filing of the petition. As on today, the respondent No.7- candidate namely, Shah Faruk Anwar, is not a party though there are allegations in paragraph No.14 of the petition against him of resorting to corrupt practice. In view of judgment in the cases of *Krishan Chander Vs. Ram Lal* (supra) and *Udhav Singh Vs. Madhav Rao Scindia* (supra), this Court finds that this Court has no option but to

dismiss the election petition for non-compliance of Section 82 (b) of the RP Act. In the result, the election petition stands dismissed.

58. Hence, following order:

ORDER

- (i) Application No.92 of 2025 (Exhibit-20) filed under Order VII Rule 11 of CPC in Election Petition No.01 of 2025, stands allowed and consequently, Election Petition No.01 of 2025 stands dismissed. No order as to costs.
- (ii) In view of dismissal of Election Petition, pending applications, if any, do not survive and accordingly stand disposed off.

[KISHORE C. SANT, J.]