



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

904 ELECTION PETITION NO. 7 OF 2025

SHRI. RAJABHAU SHRIRAM PHAD

VERSUS

SHRI. DHANANJAY PANDITRAO MUNDE AND OTHERS

...

WITH

APPLICATION IN EP NO. 42 OF 2025
IN EP/7/2025

WITH

APPLICATION IN EP NO. 105 OF 2025
IN EP/7/2025

WITH

APPLICATION IN EP NO. 106 OF 2025
IN EP/7/2025

WITH

APPLICATION IN EP NO. 133 OF 2025
IN EP/10/2025

WITH

APPLICATION IN EP NO. 130 OF 2025
IN EP/10/2025

WITH

APPLICATION IN EP NO. 155 OF 2025
IN EP/7/2025

WITH

APPLICATION IN EP NO. 172 OF 2025
IN EP/7/2025

WITH

APPLICATION IN EP NO. 17 OF 2025
IN EP/7/2025

**WITH
APPLICATION IN EP NO. 81 OF 2025
IN EP/7/2025**

**WITH
APPLICATION IN EP NO. 191 OF 2025
IN EP/7/2025**

**WITH
ELECTION PETITION NO. 10 OF 2025**

...
Advocate for the Applicants in EPAP/172/2025 & EPAP133/2025 :
Mr. Alok Sharma
Advocate for Petitioner in EP/10/2025: Mr. C. V. Thombre
Advocate for Petitioner in EP/7/2025: Mr. S. B. Yawalkar
Advocate for Respondent No.3 in EP/7/2025 & Respondent No.11
in EP/10/2025: Mr. R. B. Wankhede h/f. Mr. N. L. Jadhav
Advocate for Respondent No.2 in EP/10/2025 & Respondent No.1
in EP/7/2025: Mr. M. S. Karad
...

CORAM : ARUN R. PEDNEKER, J.

DATE : 03.02.2026

PER COURT:

1. Heard.
2. Application in Election Petition No.172 of 2025 in Election Petition No.7 of 2025 is filed by respondents no.12, 13 and 14. Mr. Alok Sharma, learned counsel for the applicants submits that he appears for respondents no.12 and 14 in election petition i.e. the Chief Election Commissioner, so also, the Returning Officer.

Application in Election Petition No.133 of 2025 in Election Petition No.10 of 2025 is filed by respondent no.1. Mr. Alok

Sharma, learned counsel for the applicant submits that he appears for respondent no.1 in the election petition i.e. the Returning Officer.

3. Mr. Alok Sharma, learned counsel for the applicants submits that the applicants are not the necessary parties to the election petition/s and in view of Section 82 of the Representation of the People Act, 1951 the applicants cannot be added as parties to the election petition/s. He also relies upon the Judgments of the Hon'ble Supreme Court in the cases of **Jyoti Basu and others Vs. Debi Ghosal and others, (1982) 1 SCC 691** and, **Michael B. Fernandes Vs. C. K. Jaffer Sharief and others, (2002) 3 SCC 521**.

4. Mr. C. V. Thombre, learned counsel has raised objection for allowing the applications. He submits that he has raised specific objections as to the role of the Election Officer and, thus, he is added as party to the proceedings.

5. Considered rival submissions. For ready reference, Section 82 of the Representation of the People Act, 1951 is noted below:

"REPRESENTATION OF THE PEOPLE ACT, 1951

Section 82 - Parties of the petition

A petitioner shall join as respondents to his petition-

(a) where the petitioner, in addition to claiming 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.”

Section 82 provides for parties to the petition. If the petitioner, in addition to claiming 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 shall join as respondents to his petition.

6. In the case of **Jyoti Basu** (*supra*), the Hon'ble Supreme Court while dealing with Section 82 of the Representation of the People Act, 1951 relating to parties to the election petition has observed that Clause (a) of Section 82 provides that the petitioner shall join as respondents to the petition 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 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 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.

7. In the case of Michael (*supra*), the Hon'ble Supreme Court has specifically observed that, in case where allegations are made against the Returning Officer or the Chief Electoral Officer

with regard to the conduct of the election, they cannot be impleaded as parties to the Election Petition.

8. Considering that only the petitioner along with the Returning candidates or all the contesting candidates could be parties to the election petition, The Chief Election Commissioner as well as The Returning Officer are directed to be deleted as parties in the respective Election Petitions. Necessary amendment to be carried out in the respective Election Petitions.

9. Application in Election Petition No.172 of 2025 and Application in Election Petition No.133 of 2025 stand accordingly disposed of.

10. The learned counsel appearing for the Returning Candidate submits that he would file an application under Order VII Rule 11 of the CPC, on the next date.

11. List these Election Petitions, on 25.02.2026.

[ARUN R. PEDNEKER, J.]

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