
IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

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

Dilip Bhausahab LandeApplicant

IN THE MATTER BETWEEN

Arif Lalan Khan S/O Lalankhan

Alias Naseem KhanPetitioner

Versus

Dilip Bhausahab Lande & Ors.Respondents

Mr. Virendra Tulzapurkar, Senior Advocate *a/w. R.D. Soni & Sakshi Agarwal i/b. Bipin Joshi, for Petitioner.*

Ms. Naira Jejeebhoy *a/w. Arun Panickar, Tanmay Pawar & Vinay Nair, for Respondent No.2 in EP/9/2025 and Applicant in AEPL/26326/2025.*

Mr. Shardul Singh *a/w. Ninad Thikekar i/b. SMS Chambers, for Applicant in AEPL/12012/2025 and for Respondent No.1 in EP/9/2025.*

CORAM: SOMASEKHAR SUNDARESAN, J.

DATE : FEBRUARY 5, 2026

ORDER :

1. Submissions on the Interim Application seeking rejection of the Election Petition filed invoking Order VII, Rule 11 of the Code of Civil Procedure, 1908 ("**CPC**") have been concluded.

2. Learned Senior Counsel on behalf of the Petitioner has instructions to submit that the prayer under Section 101 of the Representation of the People Act, 1951 i.e. the prayer of the Petitioner to be declared as a returned candidate is not being pressed and the Petition is restricted to declaring the outcome as not complying with law under Section 100 of the Act.

3. On the facet of testing of the electronic voting machines (“*EVMs*”), Ms. Naria Jeejebhoy, Learned Counsel on behalf of Respondent No.2, the Election Commission, points to instructions issued by the Election Commission of India dated June 17, 2025, which requires that the process of checking and verification of the electronic voting machines would not be carried out when an Election Petition is pending, and that such exercise would be carried out only if there is a direction from the Court to do so.

4. Since it seems to be a Standard Operating Procedure issued after the judgement of the Supreme Court in *Association For Democratic Reforms*¹, in which such entitlement to demand a random audit is stipulated in Paragraph 76.2, and taking into account the submission of Learned Senior Counsel on behalf of the Petitioner that he would press for such verification of the results to be provided, it is directed that as per the Application made by the Petitioner on November 28, 2024

¹ *Association For Democratic Reforms & v. Election Commission of India & Anr.* – 2025 2 SCC 732

(Exhibit 'G' to the Petition), the verification in compliance with the Supreme Court's decision of *Association For Democratic Reforms* shall be carried out and a report shall be placed for the Court's consideration.

5. Mr. Singh, Learned Counsel on behalf of Respondent No.1, the returned candidate, submits that regardless of the results of the EVM testing, and simply on the basis of the pleadings in the Petition, the application under Order VII Rule 11 deserves to be allowed and the Plaintiff deserves to be rejected.

6. Stand over to *February 12, 2026* to get an update as to the timeline of the completion of EVM verification, so that a holistic picture would be available while deciding the Interim Application in the Election Petition that was substantially heard today.

7. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]