



2026:DHC:2043



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of decision: 9th March, 2026

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W.P.(C) 634/2026 with CM APPL. 12421/2026**SHRI BALAJI**

.....Petitioner

Through: Mr. Gautam Narayan, Sr. Advocate
with Mr. Shinoj K. Narayanan, Mr.
Nishad L. S. and Mr. Aditya Verma,
Advocates.

versus

ELECTION COMMISSION OF INDIA

.....Respondent

Through: Mr. Sanjay Vashishtha, Mr. Ashish
Shukla and Mr. Siddhartha Goswami,
Advocates.

CORAM:**HON'BLE MR. JUSTICE AMIT BANSAL****AMIT BANSAL, J. (Oral)**

1. The present writ petition has been filed seeking the following reliefs:

“a) Issue a Writ of Certiorari or any other appropriate writ, order, or direction to quash and set aside the Impugned Order No. 113/1/2025/REGISTRY/18455 dated 05.12.2025 (Annexure P-1) passed by the Respondent;

b) Issue a Writ of Mandamus or any other appropriate writ, order, or direction, directing the Respondent to reconsider the Petitioner's application dated 14.08.2025 afresh on its merits, in accordance with the law, and after taking into consideration the Petitioner's good conduct, premature release, and social contributions;”

2. Brief facts which are necessary for deciding the writ petition are set out hereinafter:



- i) The petitioner was convicted by the Supreme Court of India on 30th March, 2017 for an offence under Section 326 read with Section 149 of the Indian Penal Code, 1860 ('IPC'), which was committed in 1993, and sentenced for 7 years' imprisonment.
 - ii) Consequent to the conviction of the petitioner and sentence of imprisonment for a term exceeding two years, the petitioner was disqualified under Section 8(3) of the RP Act, 1951.
 - iii) On 8th February, 2021, the Jail Advisory Board recommended premature release of the petitioner owing to his good conduct under Rule 462 of the Kerala Prisons and Correctional Services (Management) Rules, 2014.
 - iv) On 24th June, 2021, the petitioner was granted premature release from prison.
 - v) On 14th August, 2025, the petitioner filed an application before the respondent/Election Commission of India ('ECI') under Section 11 of the Representation of the People Act, 1951 (hereinafter the 'RP Act, 1951'), seeking reduction of the period of the petitioner's disqualification, citing his good conduct, premature release, and extensive social and public service post-conviction.
3. The respondent/ECI passed the impugned order dated 5th December, 2025 rejecting the petitioner's application.
4. Aggrieved by the same, the petitioner has filed the present writ petition.
5. Mr. Gautam Narayan, Senior Counsel appearing on behalf of the petitioner has made the following submissions:



5.1. ECI has narrowly construed the discretion to be exercised by ECI under Section 11 of the RP Act, 1951. The legislature has not mandated that the aforesaid discretion should be exercised only in exceptional circumstances.

5.2. The impugned order has been passed without considering the case of the petitioner on merits and is an unreasoned order.

5.3. The offence was committed by the petitioner as far back in 1993, when he was only 30 years of age and otherwise the petitioner does not have any criminal antecedents. The impugned order is against the fundamental ethos of the criminal justice system of reformation.

5.4. Reliance placed by the respondent on *Sarat Chandra Rabha v. Khagendranath Nath*, 1960 SCC OnLine SC 130 is misplaced. The said judgment does not deal with exercise of discretionary powers under Section 11 of the RP Act, 1951.

6. A counter-affidavit has been filed on behalf of the respondent/ECI, wherein it is stated that the impugned order has been passed after examining all relevant facts and circumstances, including the statutory provisions.

7. Mr. Sanjay Vashishtha, Counsel appearing on behalf of the respondent/ECI has made the following submissions:

7.1. Exercise of discretionary power conferred on a body under a statute would not create a vested right in favour of a person to demand its exercise in his favour.

7.2. The contention of the petitioner that premature release granted to the petitioner would lead to removal of his electoral disqualification is misconceived. In this regard, the respondent/ECI has placed reliance upon



judgment of Constitution Bench of the Supreme Court in *Sarat Chandra Rabha v. Khagendranath Nath* (supra).

8. I have heard the counsel appearing on behalf of the parties.

9. Section 8 of the RP Act, 1951 provides for disqualification of a person from contesting elections on account of conviction for an offence with imprisonment of at least 2 years. It also provides that such a person would be disqualified for a period of 6 years from the date of release. For ease of reference, Section 8(3) of the RP Act, 1951 is set out below:

“8. Disqualification on conviction for certain offences.—

...
(3) *A person convicted of any offence and sentenced to imprisonment for not less than two years [other than any offence referred to in sub-section (1) or sub-section (2)] shall be disqualified from the date of such conviction and shall continue to be disqualified for a further period of six years since his release.”*

10. It is an undisputed fact that in the present case, the petitioner was convicted by the Supreme Court for the offences under Section 326 read with Section 149 of the IPC and was awarded imprisonment of 7 years.

11. Section 11 of the RP Act, 1951 grants a discretionary power to ECI to remove or reduce the period of disqualification. Section 11 of the RP Act, 1951 is set out below:

“11. Removal or reduction of period of disqualification.—The Election Commission may, for reasons to be recorded, remove any disqualification under this Chapter (except under section 8A) or reduce the period of any such disqualification.”

12. Merely because a statutory authority such as ECI has been vested with discretionary power in terms of Section 11 of the RP Act, 1951 would not mean that there is a vested right in favour of the petitioner for the aforesaid



right to be exercised in his favour.

13. In the present case, ECI has rejected the petitioner's application under Section 11 of the RP Act, 1951. A perusal of the impugned order would show that ECI has considered the case of the petitioner in its entirety and has come to the conclusion that the petitioner is not entitled to the benefit of the discretion provided under Section 11 of the RP Act, 1951. The relevant findings as mentioned in paragraph 5 of the impugned order is set out below:

"5. NOW, THEREFORE, the Commission records its consideration and decision as under:

i. At the outset, it is reiterated that the power conferred upon the Commission under Section 11 of the RP Act, 1951 to remove or reduce the period of disqualification is an extraordinary and discretionary power, intended to be exercised sparingly and only in exceptional circumstances. The provision does not create any vested or automatic right in favour of a convicted person.

ii. It is a matter of record that such power has been exercised by this Commission only in three exceptional cases over several decades, namely, the cases of Shri Shyam Narain Tiwari, Shri Mitrasen Yadav, and Shri Prem Singh Tamang. Each of the said cases was decided on its own peculiar facts and circumstances and does not constitute a general precedent for routine invocation of Section 11 of the RP Act, 1951.

iii. In so far as reliance placed by the Applicant on the decision of this Commission in the case of Shri Prem Singh Tamang is concerned, it is observed that the said decision was rendered in materially different factual and legal circumstances, including considerations relating to the legal position prevailing at the time of commission of the offence and the protection under Article 20(1) of the Constitution of India. Further, the said decision is presently under consideration before the Hon'ble Supreme Court and the matter is sub judice. Accordingly, the said case cannot be relied upon as a precedent in the present matter.

iv. In the present case, the Applicant has been convicted for serious offences involving violence and sentenced to seven years of rigorous imprisonment, which squarely attracts disqualification under Section



8(3) of the RP Act, 1951. The disqualification so incurred flows directly from the statute and does not call for reconsideration in the absence of exceptional circumstances.

v. The Commission further observes that good conduct after conviction, premature release on remission, and social or public contributions, by themselves, do not constitute exceptional circumstances warranting exercise of the extraordinary jurisdiction under Section 11 of the RP Act, 1951. Acceptance of such grounds would dilute the statutory scheme of disqualification envisaged under Section 8 of the RP Act, 1951.

vi. The Commission is also of the considered view that it is not open to this Commission, while exercising powers under Section 11 of the RP Act, 1951, to re-examine the merits of the conviction, the nature of the offence, or the proportionality of sentence, particularly when the conviction has attained finality up to the Hon'ble Supreme Court.

vii. Upon due consideration of all relevant facts and circumstances, the Commission finds that the Applicant has not been able to demonstrate any exceptional or extraordinary circumstances warranting exercise of powers under Section 11 of the RP Act, 1951.”

14. In my considered view, the mandate of the RP Act, 1951 with regard to the disqualification of a candidate on conviction for offences is clear from a reading of Section 8. Section 11 of the RP Act, 1951 is in the nature of an exception to the disqualifications under Section 8.

15. It is a settled position of law that an exception to a statute has to be strictly interpreted. [Please see ***Project Officer, IRDP v. P.D. Chacko***, (2010) 6 SCC 637]

16. Therefore, no fault can be found with the decision of ECI that discretion under Section 11 of the RP Act, 1951 should be exercised only in exceptional and extraordinary circumstances.

17. A perusal of the extracts from the impugned order as set out above shows that ECI has exercised this power only in three exceptional cases over



several decades.

18. ECI has also distinguished the case of Shri Prem Singh Tamang, which was relied upon by the petitioner in his application under Section 11 of the RP Act, 1951. It was observed in the impugned order that the case of Shri Prem Singh Tamang cannot be treated as a precedent and it was based on materially different factual circumstances.

19. Accordingly, ECI has come to the conclusion that since the petitioner has been convicted for serious offence involving violence and has been awarded 7 years' rigorous imprisonment, this would not be a fit case for exercise of discretion under Section 11 of the RP Act, 1951 in favour of the petitioner. Merely because the petitioner has shown good conduct after his conviction cannot be a ground for reduction of the disqualification period prescribed under Section 8 of the RP Act, 1951. If the submission of the petitioner is accepted, it would dilute the mandate of Section 8 of the RP Act, 1951.

20. Mr. Vashishtha, counsel appearing on behalf of the respondent/ECI, has placed reliance on the observations made by the Supreme Court in ***Public Interest Foundation v. Union of India***, (2019) 3 SCC 224, wherein the Supreme Court has laid emphasis on the need for reform of electoral process and decriminalisation of politics. It was noted in the said judgment that rampant increase in the number of candidates with criminal antecedents contesting elections, is a menace to the democracy and substantial efforts need to be made to prohibit such persons from entering public life.

21. In view of the discussion above, no grounds for interference under Article 226 of the Constitution of India are made out.



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22. Accordingly, the writ petition is dismissed.
23. The pending application also stands disposed of.

MARCH 9, 2026/rr

AMIT BANSAL, J

Signature Not Verified

Signed By: AAPZOO
Signing Date: 12.03.2026
15:00:37

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