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सं. 15]	नई दिल्ली, सितम्बर 13—सितम्बर 19, 2026, शनिवार/ भाद्र 22—भाद्र 28, 1948
No. 15]	NEW DELHI, SEPTEMBER 13—SEPTEMBER 19, 2026, SATURDAY/ BHADRA 22—BHADRA 28, 1948

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (iii)
PART II—Section 3—Sub-section (iii)

केंद्रीय अधिकारियों (संघ राज्यक्षेत्र प्रशासनों को छोड़कर) द्वारा जारी किए गए साधारण आदेश और अधिसूचनाएं
Orders and Notifications issued by the Central Authorities (Other than the Administrations of Union Territories)

भारत निर्वाचन आयोग
अधिसूचना

नई दिल्ली, 10 सितम्बर, 2026

आ.अ. 108.—लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण में, निर्वाचन आयोग वर्ष 2024 की निर्वाचन याचिका संख्या 3 में माननीय उच्च न्यायालय, इलाहाबाद (लखनऊ) के दिनांक 14 अगस्त, 2024 के निर्णय को एतद्वारा प्रकाशित करता है।

(संलग्न निर्णय यहाँ छापें)

[फा. सं. 82/उ0प्र0-लो0स0/3/2024(लख.)]

अजय कुमार वर्मा, सचिव

ELECTION COMMISSION OF INDIA**NOTIFICATION**

New Delhi, the 10th September, 2026

O.N. 108.—In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the Judgement dated 14th August, 2024 of the Hon'ble High Court of Judicature at Allahabad (Lucknow) in Election Petition No. 3 of 2024.

(HERE PRINT THE JUDGEMENT ATTACHED)

[F. No. 82/UP-HP/3/2024(LKO.)]

AJAY KUMAR VERMA, Secy.

HIGH COURT OF JUDICATURE AT ALLAHABAD (LUCKNOW)

A.F.R.

Neutral Citation No. - 2024:AHC-LKO:56237

Judgment reserved on 05.08.2024

Judgment delivered on 14.08.2024

Reserved**Case :- ELECTION PETITION No. - 3 of 2024**

Petitioner :- Maneka Sanjay Gandhi

Respondent :- Rambhual Nishad And Others

Counsel for Petitioner :- Prashant Singh Atal, Amit Jaiswal Ojus Law,

Dr. Pooja Singh, Vijay Vikram Singh

Hon'ble Rajan Roy, J.

1. Heard Mr. Siddharth Luthra, learned Senior Advocate assisted by Mr. Prashant Singh Atal, Mr. Amit Jaiswal, Dr. Pooja Singh and Mr. Vijay Vikram Singh for the election-petitioner.

2. This Election Petition has been filed by the petitioner-Maneka Sanjay Gandhi challenging election of the returned candidate-Rambhual Nishad as Member of Parliament from Sultanpur 38-Lok Sabha constituency and that the same be declared as null and void and be set aside.

3. It is admitted case of the petitioner herein that the returned candidate was elected on 04.06.2024 and the result of was

declared on 06.06.2024. This election petition has been filed on 27.07.2024.

4. As per Section 81 of the Representation of People Act, 1951 (hereinafter referred as 'Act 1951') such an election petition can be filed within 45 days from, but not earlier than the date of election of the returned candidate or if there are more than one returned candidate at the election and dates of their election are different, the later of those two dates.

5. The election petition has apparently been filed beyond the period of 45 days prescribed in Section 81 of the Act 1951. Section 86 of the Act 1951 provides that the High Court shall dismiss an election petition which does not comply with the provision of Section 81 or Section 82 or Section 117 of the Act 1951.

6. Apparently, Section 86 (1) of the Act 1951 referred hereinabove is mandatory and in the event an election petition is filed beyond the period of 45 days prescribed in Section 81 of the Act 1951 the High Court does not have any option but to dismiss the election petition in view of provision contained in Section 86

(1) of the Act 1951. There is no provision under the Act 1951 which permits condonation of such delay and extension of the

limitation proscribed in Section 81 of the Act 1951 on any ground.

7. On being confronted, Mr. Luthra who joined the proceedings through Video Conferencing and argued the election petition submitted that the law has evolved and now Section 33-A has been added in the Act 1951 which requires a disclosure by the candidate about the criminal cases against him. The said provision gives a corresponding right to the elector etc. to information with regard to the person whom he is required to vote for. This right, according to him, is in fact part of the constitutional right as held in various decisions and in this context he relied upon decisions of Hon'ble Supreme Court of India in *Vidyacharan Shukla vs. Khubchand Baghel and others*; (1964) 6 SCR 129, *Hukumdev Narain Yadav vs. Lalit narain Mishra*; (1974) 2 SCC 133, *Hari Shanker Tripathi vs. Shiv Harsh and Others*; (1976) 1 SCC 897, *Mangu Ram vs. Municipal Corporation of Delhi*; (1976) 1 SCC 392, *Bengal Chemists & Druggists Assn. vs. Kalyan Chowdhury*; (2018) 3 SCC 41, *Krishnamoorthy vs. Sivakumar and others*; (2015) 3 SCC 467, *Union of India vs. Assn. for Democratic Reforms and another*; (2002) 5 SCC 294, *People's Union for Civil Liberties (PUCL) and another vs. Union of India and*

another; (2003) 4 SCC 399, *Lily Thomas vs. Union of India and others*; (2013) 7 SCC 653, *Resurgence India vs. Election Commission of India and another*; (2014) 14 SCC 189, *Public Interest Foundation and others vs. Union of India and another*; (2019) 3 SCC 224, *N. Balakrishnan vs. M.*

Krishnamurthy; (1998) 7 SCC 123 and *Gopal Sardar vs. Karuna Sardar*; (2004) 4 SCC 252. Relying upon the same, he also contended that much water has flown down the river and the law has evolved immensely since the decision in the case of *Hukumdev Narain Yadav* (supra) and the said decision as also the later decisions following it had not taken into consideration the insertion of Section 33-A in the Act 1951 and its impact. His submission was that the returned candidate had not disclosed four criminal cases pending against him and had submitted a false affidavit. It was also his submission that limitation should not legalize such illegal non-disclosures, as, ultimately the election was to the Parliament of India and considering the consequences on the functioning of the polity this by itself should be a ground for entertaining the election petition and for this Court to decide the same on merits.

8. The issue which has arisen in this election petition is no longer *res integra*. A three Judge Bench of Hon'ble Supreme

Court of India in the case of *Hukumdev Narain Yadav* (supra) had the occasion to consider the same. Question of applicability of Section 5 of the Limitation Act to an election petition was specifically an issue before the Supreme Court in the said case, apart from other issues involved. It is, therefore, fruitful to refer to relevant extracts of the said judgment, especially as the Supreme Court also considered the provision of Section 86 (2) of the Act 1951 and its impact on the election petition in the said context. It held as under:

"16. In *K. Venkateswara Rao and Anr. v. Bekkam Narasimha Reddi & Ors.*; AIR 1969 SC 872 to which we shall refer more fully later, *Vidyacharan Shukla's case* (supra) was attempted to be pressed into service, but this Court repelled it and observed at pp. 688-689:

"In our view, the situation now obtaining in an appeal to this Court from an order of the High Court is entirely different. There is no section in the Act as it now stands which equates an order made by the High Court under Section 98 or Section 99 to a decree passed by a Civil court subordinate to the High Court. An appeal being a creature of a statute, the rights conferred on the appellant must be found within the four corners of the Act. Sub-Section (2) of the present Section 116-A expressly gives this Court the discretion and authority to entertain an appeal after the expiry of the period of thirty days. No right is however given to the High Court to entertain an election petition which does not comply with the provisions of Section 81, Section 82 or Section 117."

17. Though Section 29(2) of the Limitation Act has been made applicable to appeals both under the Act as well as under the Code of Criminal Procedure, no case has been brought to our notice where Section 29(2) has been made applicable to an election petition filed under Section 81 of

the Act by virtue of which either Sections 4, 5 or 12 of the Limitation Act has been attracted. Even assuming that where a period of limitation has not been fixed for election petitions in the Schedule to the Limitation Act which is different from that fixed under Section 81 of the Act, Section 29 (2) would be attracted, and what we have to determine is whether the provisions of this section are expressly excluded in the case of an election petition. It is contended before us that the words "expressly excluded" would mean that there must be an express reference made in the special or local law to the specific provisions of the Limitation Act of which the operation is to be excluded. As usual the meaning given in the Dictionary has been relied upon, but what we have to see is whether the scheme of the special law, that is in this case the Act, and the nature of the remedy provided therein are such that the Legislature intended it to be a complete code by itself which alone should govern the several matters provided by it. If on an examination of the relevant provisions it is clear that the provisions of the Limitation Act are necessarily excluded, then the benefits conferred therein cannot be called in aid to

supplement the provisions of the Act. In our view, even in a case where the special law does not exclude the provisions of Sections 4 to 24 of the Limitation Act by an express reference, it would nonetheless be open to the Court to examine whether and to what extent the nature of those provisions or the nature of the subject-matter and scheme of the special law exclude their operation. The provisions of Section 3 of the Limitation Act that a suit instituted, appeal preferred and application made after the prescribed period shall be dismissed are provided for in Section 86 of the Act which gives a peremptory command that the High Court shall dismiss an election petition which does not comply with the provisions of Sections 81, 82 or 117. It will be seen that Section 81 is not the only section mentioned in Section 86, and if the Limitation Act were to apply to an election petition under Section 81 it should equally apply to Sections 82 and 117 because under Section 86 the High Court cannot say that by an application of Section 5 of the Limitation Act, Section 81 is complied with while no such benefit is available in dismissing an application for non-compliance with the provisions of Sections 82 and 117 of the Act, or

alternatively if the provisions of the Limitation Act do not apply to Section 82 and Section 117 of the Act, it cannot be said that they apply to s. 81. Again, s. 6 of the Limitation Act which provides for the extension of the period of limitation till after the disability in the case of a person who is either a minor or insane or an idiot is inapplicable to, an election petition. Similarly, Sections. 7 to 24 are in terms inapplicable to the proceedings under the Act, particularly in respect of the filing of election petitions and their trial."

9. Hon'ble the Supreme Court opined in the said case that the applicability of the provisions of the Limitation Act by virtue of Section 29 (2) thereof is to be judged not from the terms of the limitation Act but by the provisions of the Act relating to filing of election petition and their trial to ascertain as to wherein it is complete code in itself which does not admit application of any provisions of the Limitation Act mentioned in Section 29 (2) of that Act.

10. Referring to various earlier decisions of Hon'ble Supreme Court of India including those wherein it has been held that the Act 1951 was a complete Code and also taking into consideration various amendments made by the Legislature in the said Act, especially Section 81 thereof, and the earlier existing Section 85 which empowered the Election Commission in its discretion to condone the delay in presentation of the election petition and also taking into consideration the decision of Hon'ble the Supreme Court in the case of Charan Lal Sahu vs.

Nand Kishor Bhatt; 1973 (2) SCC 530 wherein it had been held that there is no question of any common law right to challenge an election as such any discretion to condone the delay in presentation of the petition or to absolve the petitioner from payment of security for costs can only be provided under the statute governing election disputes and if no such discretion was conferred in respect of any of these matters none can be exercised under any general law or any principles of equity and if for non compliance of the provisions of Section 82 and 117 which is mandatory, the election petition has to be dismissed under Section 86 (1) of the Act 1951, presentation of election petition within the period prescribed in Section 81 of the Act 1951 would be equally mandatory, non-compliance of which visits the penalty of the petition being dismissed, it was held, for all the reasons mentioned, therein that provisions of Section 5 of the Limitation Act do not govern the filing of election petitions or their trial.

11. It also considered the plea that if the petitions were to be dismissed allegation of serious corrupt practices cannot be inquired into and purity of the elections cannot be maintained and found the answer to this plea in the judgment of Justice G.K. Mitter in *K. Venkateswara Rao and Anr. v. Bekkam Narasimha Reddi & Ors.*; AIR 1969 SC 872 wherein his

Lordship opined that this is however a matter which can be set right only by the Legislature. It is worthy of note that although the Act has been amended on several occasions, a provision like Section 86(1) as it now stands has always been on the statute book but whereas in the Act of 1951 the discretion was given to the Election Commission, to entertain a petition beyond the period fixed if it was satisfied as to the cause for delay no such saving clause is to be found now. The legislature in its wisdom has made the observance of certain formalities and provisions obligatory and failure in that respect can only be visited with a dismissal of the petition.

12. Their Lordships also took into consideration that since the decision in *K. Venkateswara Rao* (supra) decided in August, 1968, though the Parliament has made certain amendments in the Act 1969, it has not considered it necessary to amend the Act to confer, on persons challenging the election, benefits similar to those available to them under the proviso to the repealed Section 85 of the Act 1951, for, as it did not want delays to occur in the disposal of election petitions as in the past. Under the repealed Section 85 there was a provision for condonation of delay in filing election petition but there is no such provision in the Act 1951 existing as of now.

13. It is not out of place to mention that in *Hukumdev Narain Yadav* (supra), Hon'ble the Supreme Court also considered the constitution bench judgment in the case of *Vidyacharan Shukla* (supra).

14. Hukumdev Narain Yadav (supra) has been followed in various later decisions such as 1976 (1) SCC 897 (Harishankar Tripathi vs. Shiv Harsh and others); 2018 (9) SCC 808 (Suman Devi vs. Manisha Devi and others).

15. Another three Judge Bench of Hon'ble the Supreme Court in Lachhman Das Arora vs. Ganeshi Lal and others; 1999 (8) SCC 532 construed the provisions of Section 81 (1) of the Act 1951 and has held as under:

"7. On its plain reading, Section 81(1) lays down that an election petition calling in question any election may be presented on one or more of the grounds specified in sub-section (1) of Section 100 and Section 101 of the Act to the High Court by any candidate at such election or by an elector within forty-five days from, but not earlier than, the date of election of the returned candidate, or if there are more than one returned candidate at the election and the dates of their election are different, the later of those two dates. The Act is a special code providing a period of limitation for filing of an election petition. No period for filing of an election petition is prescribed under the Indian Limitation Act. The Act insofar as it relates to presentation and trial of election disputes is a complete code and a special law. The scheme of the special law shows that the provisions of Sections 4 to 24 of the Indian Limitation Act do not apply. If an election petition is not filed within the prescribed period of forty-five days, Section 86(1) of the

Act, which provides that the High Court shall dismiss an election petition which does not comply with the provisions of Section 81 or Section 82 or Section 117, is straightaway attracted."

This decision has been followed in the subsequent decision in Suman Devi (supra).

16. From the aforesaid discussion it is apparent that the Limitation Act, 1963, especially Section 5 thereof, is not applicable to election petitions. In fact, the applicability appears to be specifically excluded in view of the provision of Section 86

(1) of the Act 1951 which makes it mandatory for the High Court/ Election Judge to dismiss the election petition if it is not in conformity with the provision of Section 81 of the Act 1951.

17. It is not out of place to mention that the High Court while hearing an election petition operates as an Authority under Article 329 (b) of the Constitution of India whose jurisdiction is circumscribed by the statutory provisions contained in the Act 1951. The legal position in this regard has been settled by a three Judge Bench in the case of Thampanoor Ravi vs. Charupara Ravi and Others; (1999) 8 SCC 74. The said judgment has been followed by a Division Bench of this Court on a reference made by a learned Single Judge in the context of an election petition bearing Election Petition No. 7 of 2022

(Sheshmani Nath Tripathi (S.N. Tripathi In Short) vs. Shri Dinesh Rawat, The Returned Candidate. The High Court while hearing an election petition does not function as a Constitutional Court per se nor does it have extraordinary constitutional or inherent powers as has been held in Thampanoor Ravi (supra) and the Division Bench of this Court in Sheshmani Nath Tripathi (supra), therefore, the contention of Mr. Luthra that the violation of constitutional right to right to information should be considered is not acceptable. Unless and until the election petition is maintainable and is not barred by limitation, the merits of the matter cannot be considered. In fact such a plea has already been considered in Hukumdev Narain Yadav (supra) with reference to opinion of Justice Mitter in K. Venkateswara Rao's case as already referred earlier.

18. For all these reasons, this election petition being barred by Section 81 read with Section 86 of the Act 1951 and Order VII Rule 11(d) of the Code of Civil Procedure is liable to be dismissed. It is accordingly dismissed.

RAJAN ROY, J

Order Date :- 14.08.2024

अधिसूचना

नई दिल्ली, 10 सितम्बर, 2026

आ.अ. 109.—लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण में, निर्वाचन आयोग वर्ष 2024 की निर्वाचन याचिका संख्या 4 में माननीय उच्च न्यायालय, इलाहाबाद के दिनांक 31 मार्च, 2026 के निर्णय को एतद्वारा प्रकाशित करता है।

(संलग्न निर्णय यहाँ छापें)

[फा. सं. 82/उ०प्र०-लो०स०/4/2024(इला.)]

अजय कुमार वर्मा, सचिव

NOTIFICATION

New Delhi, the 10th September, 2026

O.N. 109.—In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the Judgement dated 31st March, 2026 of the Hon'ble High Court of Judicature at Allahabad in Election Petition No. 4 of 2024.

(HERE PRINT THE JUDGEMENT ATTACHED)

[F. No. 82/UP-HP/4/2024(Alld.)]

AJAY KUMAR VERMA, Secy.

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

ELECTION PETITION NO. 4 OF 2024

(Under Section 80/81 of Representation of People Act, 1951)

(DISTRICT : RAMPUR)

Ghanshyam Singh Lodhi, Son of Late Doli Ram Lodhi,
Resident of Village Khairullapur, Post Bhot,
Rampur City, District Rampur.

----- Petitioner

Versus

Mohibbullah Son of Mohammad Ali, Resident of Village Raza
Nagar, Tehsil Swar, District Rampur.

----- Respondent

HIGH COURT OF JUDICATURE AT ALLAHABAD**ELECTION PETITION No. - 4 of 2024**

Ghanshyam Singh Lodhi

.... Petitioner(s)

Versus

Mohibbullah

.... Respondent(s)

Counsel for Petitioner(s)

: In Person, Madhur Prakash, Sharad Sharma

Counsel for Respondent(s)

: Narendra Kumar Pandey

Reserved On:12.2.2026**Delivered On:31.3.2026****Court No. – 55****HON'BLE CHANDRA KUMAR RAI, J.****In Re: Civil Misc. Application No.4 of 2025**

1. Heard Mr. Narendra Kumar Pandey, learned counsel for the applicant/respondent on the Application under Order 7 Rule 11 of Civil Procedure Code, 1908 and Mr. Madhur Prakash, learned counsel for the election petitioner.
2. The instant application has been filed on behalf of respondent/ Mohibullah under Order 7 Rule 11 of Civil Procedure Code, 1908 (hereinafter referred to as "C.P.C.") with the prayer that election petition be dismissed as it does not disclose any cause of action.
3. This Court granted time to learned counsel for the election petitioner to file reply accordingly, reply has been filed on behalf of election petitioner.
4. By means of instant election petition, election petitioner has challenged the election of respondent / Mohibullah as Member of Parliament from 07 Rampur Parliamentary Constituency of District- Rampur on the ground of Commission of corrupt practice under Section 123 (7) of The Representation of People Act, 1951 (hereinafter referred to as "R.P. Act") and non-compliance of the provision of Section 33 and 33 (4) of R.P. Act as well as on the ground of improper acceptance of nomination paper of returned candidate.
5. Mr. Narendra Kumar Pandey, learned counsel for the applicant/ respondent / Mohibullah submitted that the election petition is bereft of material facts and does not disclose any cause of action. He further submitted that the averment made in the election petition do not amount to alleging or stating any ground for setting aside the election, as such, election petition should be dismissed on the ground of provisions contained under Order 7 Rule 11 of C.P.C. He further submitted that election petition contains vague, general and misconceived allegations which do not amount to alleging or stating any material fact, as such, the election petition should be dismissed on the basis of provisions contained under Order 7 Rule 11 of C.P.C. He further submitted that the ground has been taken in the election petition for improper acceptance of nomination paper of returned candidate but there is no pleading as to how the election is materially affected. He further submitted that perusal of document which is annexed at page no.97 & 98 of the election petition clearly demonstrate that the name of respondent/ Mohibullah was corrected in the electoral roll but election petitioner is making misconceived statement for making roving inquiry in the matter. He further submitted that notarial affidavit of respondent dated 27.3.2024 & 28.3.2024 very much demonstrate that there is no illegality in the acceptance of nomination paper of respondent. He further submitted that Rule 8 of the Conduct of Election Rules, 1961 (hereinafter referred to as "Conduct of Election Rules") prescribed that if a candidate name is incorrectly spelt or incorrectly shown then before list of contesting candidate is clear, can furnish in writing to the returning officer in proper form and spelling of his name, therefore, the averment made in Para nos.12 to 18 of the election petition are totally misconceived and does not construe any cause of action. He further submitted that affidavit in form 26 of the returned candidate filed at page nos.48 to 64 of the election petition clearly demonstrate that answering respondent has disclosed of his pending criminal cases, as such, there is no question of concealment of any information relating to pending criminal cases. He further submitted that in paragraph nos.24 to 26 of the election petition statement has been made that since returning officer improperly accepted the nomination paper of respondent, therefore, committed corrupt practice under Section 123 (7) of R.P. Act but while reading the contents of para nos.24 to 26 of the election petition along with provisions of Section 123 (7) of R.P. Act it is clear that there is no pleading of consent in the entire paragraph of the election petition, therefore, filing of election petition on the basis of grounds setup in the petition is abuse of process of law and the same is liable to be dismissed under Order 7 Rule 11 of C.P.C. He further submitted that pleading in the election petition from para nos.7 to 26 are frivolous and irrelevant as well as does not disclose any cause of action, as such, the application filed under Order 7 Rule 11 of C.P.C. on behalf of respondent should be allowed. He placed reliance on the following judgements of Apex Court as well as this Court in support of his argument:
 - i. AIR 2020 supreme court 3310, Dahiben versus Arvindbhai kalyanji bhanusali (gajra) (D) Thr Lrs and others.
 - ii. 2025 SCC Online SC 1723, Ajmera Shyam versus Kova Laxmi and others.
 - iii. AIR 1969 SC 1201, Samant N. Balakrishna etc. versus George Fernandez and others etc.
 - iv. AIR 1986 SC 1253, Azhar Hussain versus Rajiv Gandhi.
 - v. AIR 1977 SC 2421, T. Arivandandam versus T.c V. Satyapal and another.
 - vi. AIR 1982 SC 983, Jyoti Bsu and other versus Debi Ghosal and others.
 - vii. AIR 1987 ALLAHABAD 279, Ram Autar Shastri versus Khursid Alam Khan and another.
 - viii. Writ B 2910 of 2018, Phool Chand (deceased) through L/R and others versus D.D.C."
6. On the other hand, Mr. Madhur Prakash, learned counsel for the election petitioner submitted that the application filed under Order 7 Rule 11 of C.P.C. is totally misconceived, as such, the same is liable to be rejected. He further submitted that the proper averment has been made in the election petition and proper ground has been taken for declaring the election of respondent as null & void. He further submitted that in view of the averment made in the election petition and ground taken in the election petition, application under Order 7 Rule 11 of C.P.C. filed by

respondent cannot be allowed rather election petition should be decided on merit after framing issues and giving opportunity to parties to lead evidence in accordance with law. He placed the provisions of R.P. Act in order to demonstrate that the election petition has been rightly filed to set aside the election of respondent and declaring the election as null & void. He placed reliance upon the following judgements in support of his argument:

- "1. Election Petition No. 4 of 2017 Jay Veer Singh versus Hari om Yadav.
2. Election Petition No. 9 of 2012 Raj kumar Singh versus Vijay Kumar Misra and others.
3. AIR 2016 SC 3282, R K Roja Versus U S Rayudu & Another."
7. I have considered the argument advanced by learned counsel for the parties and perused the records.
8. In order to appreciate the controversy involved in the matter and for deciding the application under Order 7 Rule 11 C.P.C., provision relating to Contents of Election Petition as provided under Section 83 of R.P. Act, provision relating to trial of Election Petition as provided under Section 86 of R.P. Act and provision relating to procedure for deciding the Election Petition as provided under Section 87 of R.P. Act will be relevant for perusal which are as under:-

83. Contents of petition.—(1) An election petition.—

- (a) shall contain a concise statement of the material facts on which the petitioner relies;
- (b) shall set forth full particulars of any corrupt practice that the petitioner alleges, including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice; and
- (c) shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (5 of 1908) for the verification of pleadings:

[Provided that where the petitioner alleges any corrupt practice, the petition shall also be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice and the particulars thereof.]

- (2) Any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition].

86. Trial of election petitions.

[(1) The High Court shall dismiss an election petition which does not comply with the provisions of section 81 or section 82 or section 117.

Explanation.—An order of the High Court dismissing an election petition under this sub-section shall be deemed to be an order made under clause (a) of section 98.

- (2) As soon as may be after an election petition has been presented to the High Court, it shall be referred to the Judge or one of the Judges who has or have been assigned by the Chief Justice for the trial of election petitions under sub-section (2) of section 80A.
- (3) Where more election petitions than one are presented to the High Court in respect of the same election, all of them shall be referred for trial to the same Judge who may, in his discretion, try them separately or in one or more groups.
- (4) Any candidate not already a respondent shall, upon application made by him to the High Court within fourteen days from the date of commencement of the trial and subject to any order as to security for costs which may be made by the High Court, be entitled to be joined as a respondent.

Explanation.—For the purposes of this sub-section and of section 97, the trial of a petition shall be deemed to commence on the date fixed for the respondents to appear before the High Court and answer the claim or claims made in the petition.

- (5) The High Court may, upon such terms as to costs and otherwise as it may deem fit, allow the particulars of any corrupt practice alleged in the petition to be amended or amplified in such manner as may in its opinion be necessary for ensuring a fair and effective trial of the petition, but shall not allow any amendment of the petition which will have the effect of introducing particulars of a corrupt practice not previously alleged in the petition.
- (6) The trial of an election petition shall, so far as is practicable consistently with the interests of justice in respect of the trial, be continued from day to day until its conclusion, unless the High Court finds the adjournment of the trial beyond the following day to be necessary for reasons to be recorded.
- (7) Every election petition shall be tried as expeditiously as possible and endeavour shall be made to conclude the trial within six months from the date on which the election petition is presented to the High Court for trial.

Section 87. Procedure before the High Court.

(1) Subject to the provisions of this Act and of any rules made thereunder, every election petition shall be tried by the High Court, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908 (5 of 1908) to the trial of suits:

Provided that the High Court shall have the discretion to refuse, for reasons to be recorded in writing, to examine any witness or witnesses if it is of the opinion that the evidence of such witness or witnesses is not material for the decision of the petition or that the party tendering such witness or witnesses is doing so on frivolous grounds or with a view to delay the proceedings.

(2) The provisions of the Indian Evidence Act, 1872 (1 of 1872), shall, subject to the provisions of this Act, be deemed to apply in all respects to the trial of an election petition.]

9. Perusal of Section 33 (1) (2) (3) (4) and Section 123 (7) of R.P. Act will be also relevant which are as under:-

"33. Presentation of nomination paper and requirements for a valid nomination.

(1) On or before the date appointed under clause (a) of section 30 each candidate shall, either in person or by his proposer, between the hours of eleven O'clock in the forenoon and three O'clock in the afternoon deliver to the returning officer at the place specified in this behalf in the notice issued under section 31 a nomination paper completed in the prescribed form and signed by the candidate and by an elector of the constituency as proposer:

Provided that a candidate not set up by a recognised political party, shall not be deemed to be duly nominated for election from a constituency unless the nomination paper is subscribed by ten proposers being electors of the constituency:

Provided further that no nomination paper shall be delivered to the returning officer on a day which is a public holiday:

Provided also that in the case of a local authorities' constituency, graduates' constituency or teachers' constituency, the reference to an elector of the constituency as proposer shall be construed as a reference to ten per cent. of the electors of the constituency or ten such electors, whichever is less, as proposers.]

(1A) Notwithstanding anything contained in sub-section (1), for election to the Legislative Assembly of Sikkim (deemed to be the Legislative Assembly of that State duly constituted under the Constitution), the nomination paper to be delivered to the returning officer shall be in such form and manner as may be prescribed:

Provided that the said nomination paper shall be subscribed by the candidate as assenting to the nomination, and

(a) in the case of a seat reserved for Sikkimese of Bhutia-Lepcha origin, also by at least twenty electors of the constituency as proposers and twenty electors of the constituency as seconders;

(b) in the case of a seat reserved for Sanghas, also by at least twenty electors of the constituency as proposers and at least twenty electors of the constituency as seconders;

(c) in the case of a seat reserved for Sikkimese of Nepali origin, by an elector of the constituency as proposer:

Provided further that no nomination paper shall be delivered to the returning officer on a day which is a public holiday.]

(2) In a constituency where any seat is reserved, a candidate shall not be deemed to be qualified to be chosen to fill that seat unless his nomination paper contains a declaration by him specifying the particular caste or tribe of which he is a member and the area in relation to which that caste or tribe is a Scheduled Caste or, as the case may be, a Scheduled Tribe of the State.

(3) Where the candidate is a person who, having held any office referred to in 4[section 9] has been dismissed and a period of five years has not elapsed since the dismissal, such person shall not be deemed to be duly nominated as a candidate unless his nomination paper is accompanied by a certificate issued in the prescribed manner by the Election Commission to the effect that he has not been dismissed for corruption or disloyalty to the State.

(4) On the presentation of a nomination paper, the returning officer shall satisfy himself that the names and electoral roll numbers of the candidate and his proposer as entered in the nomination paper are the same as those entered in the electoral rolls:

Provided that no misnomer or inaccurate description or clerical, technical or printing error in regard to the name of the candidate or his proposer or any other person, or in regard to any place, mentioned in the electoral roll or the nomination paper and no clerical, technical or printing error in regard to the electoral roll numbers of any such person in the electoral roll or the nomination paper, shall affect the full operation of the electoral roll or the nomination paper

with respect to such person or place in any case where the description in regard to the name of the person or place is such as to be commonly understood; and the returning officer shall permit any such misnomer or inaccurate description or clerical, technical or printing error to be corrected and where necessary, direct that any such misnomer, inaccurate description, clerical, technical or printing error in the electoral roll or in the nomination paper shall be overlooked.]

Section 123 of Representation of People Act, 1951

Section 123. Corrupt practices.The following shall be deemed to be corrupt practices for the purposes of this Act:--

(7) The obtaining or procuring or a betting or attempting to obtain or procure by a candidate or his agent or, by any other person 11 [with the consent of a candidate or his election agent], any assistance (other than the giving of vote) for the furtherance of the prospects of that candidates election, 14 [from any person whether or not in the service of the Government] and belonging to any of the following classes, namely:--

- (a) gazetted officers;
- (b) stipendiary judges and magistrates;
- (c) members of the armed forces of the Union;
- (d) members of the police forces;
- (e) excise officers;
- (f) revenue officers other than village revenue officers known as lambardars malguzars, patels, deshmukhs or by any other name, whose duty is to collect land revenue and who are remunerated by a share of, or commission on, the amount of land revenue collected by them but who do not discharge any police functions; and
- (g) such other class of persons in the service of the Government as may be prescribed:

Provided that where any person, in the service of the Government and belonging to any of the classes aforesaid, in the discharge or purported discharge of his official duty, makes any arrangements or provides any facilities or does any other act or thing, for, to, or in relation to, any candidate or his agent or any other person acting with the consent of the candidate or his election agent, (whether by reason of the office held by the candidate or for any other reason), such arrangements facilities or act or thing shall not be deemed to be assistance for the furtherance of the prospects of that candidates election];

(h) class of persons in the service of a local authority, university, government company or institution or concern or undertaking appointed or deputed by the Election Commission in connection with the conduct of elections.]

10. In view of the provision contained under Section 83 of R.P. Act as quoted above it is very much established that Election Petition shall contain statement of material fact on which petitioner relies and full particulars of any corrupt practice that petitioner alleges including full statement as possible of the names of the parties alleged to have committed such practice as well as date and place of the commission of each such practice.

11. Section 87 of R.P. Act provides for applicability of provision of C.P.C., as such, provision Order 7 Rule 11 C.P.C. will be applicable in the Election Petition.

12. So far as scope of Election law are concern Apex Court in the case of Jyoti Basu (supra) has held that an election petition is not an action at common law nor in equity. It has also been held that it is a special jurisdiction and a special jurisdiction has always to be exercised in accordance with the statute creating it.

13. This Court in the recent case reported in 2025 SCC OnLine All 3279, Prempal Singh vs. Prempal Singh Dhangar and 12 Others has dismissed the Election Petition for non-disclosure of cause of action on the basis of application filed under Order 7 Rule 11 (a) of C.P.C.

Paragraph nos.41 & 42 of the judgement rendered in Prempal Singh (supra) will be relevant for perusal which is as under:-

"41. Order VII Rule 11(a) clearly provides for rejection of a plaint in case of non disclosure of cause of action. Similarly, in an election petition, if the petitioner does not disclose the material fact, it leads to an inevitable conclusion that an incomplete cause of action has been set up and the petition become bad and liable to be dismissed. The defect is not curable as it leads to the root of the case, while it is not the same in case of non disclosure of entire material particulars.

42. Thus, looking from this angle, the amendment application moved by petitioner cannot be allowed as it introduces totally a new case. The argument advanced by petitioner's counsel that Section 86(1) does not envisage a case of dismissal as only non compliance of Section 81, 82 or 117 would lead to dismissal of an election petition is totally

misconceived. Non disclosure of material fact is an incurable defect which leads to an inevitable conclusion that an election petition is not maintainable."

14. It is material to mention that Section 33-A of R.P. Act provide for filing an affidavit in Form 20 as provided under Rule 4-A of the Conduct of Election Rules, 1961 by a candidate in election along with the nomination paper which has been properly followed by applicant/ respondent. The affidavit of applicant/ respondent is annexed along with election petition which fully demonstrate that from pancard upto revenue record including bank record, the name of candidate is mentioned as Mohibullah. So far as mentioning of the name of Mohabe Ali in electoral list is concern, applicant/ respondent has filed an affidavit dated 28.3.2024 before District Election Officer, which is as under:-

सेवा में,

श्रीमान जिला निर्वाचन अधिकारी महोदय, जनपद रामपुर।

शपथ पत्र

मिनजानिव मोहिबुल्लाह पुत्र मोहम्मद अली निवासी ग्राम रजानगर तहसील स्वार जिला रामपुर का हूं जो कि शपथपूर्वक निम्नलिखित बयान करता हूं:-

1. यह कि हालिफ उपरोक्त पते का निवासी है।
2. यह कि हालिफ ने 7 लोकसभा निर्वाचन क्षेत्र रामपुर से समाजवादी पार्टी प्रत्याशी के रूप में आवेदन किया है।
3. यह कि हालिफ ग्राम रजानगर विधानसभा 35 चमरवा, तहसील स्वार जिला रामपुर का निवासी है।
4. यह कि हालिफ के वोट लिस्ट ग्राम रजानगर, विधानसभा 35 चमरवा तहसील स्वार रामपुर में क्रमांक सं0-454 भाग सं0-9 में नाम मोहब्बे अली पुत्र मौ० अली मकान सं0-100 अंकित है, हालिफ ने अपने नाम में संशोधन करा लिया है तथा वोटर लिस्ट में भी संशोधन कराया था परन्तु जिला निर्वाचन कार्यालय से जो हालिफ की सत्यप्रतिलिपि जारी हुई है उसमें नाम मोहब्बे अली आ रहा है जबकि जो हालिफ ने ऑनलाईन पहचान पत्र नेट से निकाला है, उसमें हालिफ का नाम मोहिबुल्लाह पुत्र मोहम्मद अली आ रहा है, हालिफ का सही नाम मोहिबुल्लाह है।
5. यह कि दोनों नाम ही हालिफ के ही है।

हालिफ

मोहिबुल्लाह

सत्यापन: उपरोक्त शपथ पत्र का पैरा नं0-1 ता 5 मेरे निजी ज्ञान व विश्वास के अनुसार सही व सत्य है। इसमें न कुछ झूठ है और न ही कुछ छिपाया पाया गया है जिसकी तस्दीक आज दिनांक 28.03.2024 को जिला कचहरी रामपुर में की गई।

ईश्वर मेरी मदद करे।

हालिफ

मोहिबुल्लाह

15. Perusal of Paragraph nos. 24, 25 & 26 of the election petition will be relevant which is as under:-

"24. That the Returning Officer illegally accepted the nomination paper of the respondent which was not filed in consonance with the provisions contained Under Section 33 of R.P. Act without assigning any reasons/satisfaction about the different name of the respondent mentioned in the voter list under the influence and undue pressure of the respondent which amounts to be a corrupt practice as defined Under Section 123(7) of the R.P. Act.

25. That the aforesaid corrupt practice has been committed by the respondent himself, his workers and supporters with the consent of the Returning Officer.

26. That in the aforesaid manner, the respondent has committed corrupt practice, for the furtherance of prospects of his election, as contemplated Under Section 123(7) of the R.P. Act as detailed in the preceding paragraphs of this election petition and as such the election of the respondent is void and is liable to be declared void."

16. Perusal of the averment made in Paragraph Nos.4 to 26 of Election Petition specially paragraph nos.24, 25 & 26 as quoted above fully demonstrate that there is no compliance of the mandatory provisions contained under Sections 83 (1) (a), 83 (1) (b) of R.P. Act which will be fatal for Election Petition.

17. Apex Court in the case of T. Arivandandam (supra) in respect to matter under Order 7 Rule 11 of C.P.C. arising out of civil suit has held that trial Court should insist imperatively on examining the party at the first hearing so that bogus litigation can be shot down at the earliest stage. Paragraph no.5 of the judgement rendered in T. Arivandandam (supra) will be relevant for perusal which is as under:-

"5. We have not the slightest hesitation in condemning the petitioner for the gross abuse of the process of the court repeatedly and unrepentently resorted to. From the statement of the facts found in the judgment of the High Court, it is perfectly plain that the suit now pending before the First Munsif's Court, Bangalore, is a flagrant misuse of the mercies of the law in receiving complaints. The learned Munsif must remember that if on a meaningful — not formal - reading of the plaint it is manifestly vexatious, and meritless, in the sense of not disclosing a clear right to sue, he should exercise his power under Order 7, Rule 11 CPC taking care to see that the ground mentioned therein is fulfilled. And, if clever drafting has created the illusion of a cause of action, nip it in the bud at the first hearing by examining the party searchingly under Order 10, CPC. An activist Judge is the answer to irresponsible law suits. The trial courts would insist imperatively on examining the party at the first hearing so that bogus litigation can be shot down at the earliest stage. The Penal Code is also resourceful enough to meet such men, (Cr. XI) and must be triggered against them. In this case, the learned Judge to his cost realised what George Bernard Shaw remarked on the assassination of Mahatma Gandhi:

"It is dangerous to be too good."

18. Considering the aforementioned facts and circumstances of the case, the application under Order 7 Rule 11 of C.P.C. is allowed and election petition is dismissed for non-disclosure of any cause action.

CHANDRA KUMAR RAI, J

March 31, 2026