



झारखण्ड गजट

असाधारण अंक

झारखण्ड सरकार द्वारा प्रकाशित

संख्या- 251 राँची, मंगलवार, 19 जेष्ठ, 1942 (श०)
9 जून, 2020 (ई०)

मंत्रिमंडल (निर्वाचन) विभाग

अधिसूचना

8 जून, 2020

संख्या-02/नि०न्या०वा०-17-13/2020/09-- भारत निर्वाचन आयोग की अधिसूचना संख्या-82/पूर्व अनु०-1/झार०-वि०स०/ई.पी.(11/2015)/2020 दिनांक-11 फरवरी, 2020 द्वारा निर्वाचन अर्जी सं०-11/2015 में दिये गये उच्च न्यायालय, झारखंड, राँची की तारीख 20 दिसम्बर, 2019 के आदेश से संबंधित अधिसूचना को राजकीय गजट के असाधारण अंक में प्रकाशनार्थ।

झारखण्ड राज्यपाल के आदेश से,
राहुल कुमार पुरवार,
मुख्य निर्वाचन पदाधिकारी-सह सचिव

नोट:- कृपया यहाँ से मुद्रित करें।

भारत निर्वाचन आयोग

अधिसूचना

11 फरवरी, 2020/22 माघ, 1941 (शक)

संख्या- 82/पूर्व अनु०-1/झार०-वि०स०/ई.पी.(11/2015)/2020 -- लोक प्रतिनिधित्व अधिनियम 1951 (1951 का 43) की धारा 106 के अनुसरण में, निर्वाचन आयोग एतद्वारा निर्वाचन अर्जी सं० 11/2015 में दिये गये झारखण्ड उच्च न्यायालय के तारीख 20 दिसम्बर, 2019 के आदेश को प्रकाशित करता है।

(संलग्न आदेश यहाँ छापें)

आदेश से,

अरविन्द आनन्द,

सचिव

भारत निर्वाचन आयोग

ELECTION COMMISSION OF INDIA

NOTIFICATION

11th February, 2020/22 Magha, 1941 (Saka)

No. 82/ES-1/JKD-LA/EP/(11/2015)/2020 - In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes Order dated 20th December, 2019 of the Jharkhand High Court in Election Petition No. 11 of 2015.

(Here print the order attached)

By order,

ARVIND ANAND,
SECRETARY

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Election Petition No. 11 of 2015

Krishna Nand Tripathi Petitioner
 Versus
 Alok Chaurasiya Respondent

CORAM: HON'BLE MR. JUSTICE ANANT BIJAY SINGH

For the Petitioner : Mr. Mahesh Tewari, Advocate For the
 Respondent : Mr. V.P. Singh, Sr. Advocate
 Mrs. Rashmi Kumari, Advocate

C.A.V on : 17/12/2019

Pronounced on: 20/12/2019

1. This Election Petition has been filed under Sections 80, 80 (A) and 81 of Representation of People Act, 1951 wherein the petitioner has challenged the election of the sole respondent, namely, Alok Chaurasia, who has been declared elected as a member of Jharkhand Assembly from 76, Daltonganj Assembly Constituency, Election of which was held on 25th November 2014 in which following pleadings have been made:-

(i) That the S.D.M., Palamau was the Returning Officer of the said Assembly Constituency.
 (ii) That on the basis of the notification issued by the Election Commission of India, the aforesaid Returning officer, issued election programme giving details of the election stages. The details of the election programme are given below:-

- | | | |
|------|---|-------------|
| i. | Issuing notification by the Returning officer | -29.10.2014 |
| ii. | Last date of filing Nomination papers | -05.11.2014 |
| iii. | Date of scrutiny of Nomination Papers | -07.11.2014 |
| iv. | Last date of withdrawal of candidature | -10.11.2014 |
| V. | Date of Poll | -25.11.2014 |

Vi. Date of Counting

-23.12.2014

(iii) That in accordance with the said election programme, the petitioner, respondent and 24 others filed their nomination papers before the Returning Officer the on scheduled date and time till the last date of filing of nomination papers.

(iv). That during the course of scrutiny of nomination papers the Returning Officer was pleased to accept the nomination papers of all the candidates as valid.

(v). That after the expiry the last date of withdrawal the Returning Officer published the names of 26 contesting candidates in prescribed form and allotted symbols to them.

(vi). That the nomination papers the sole respondent was improperly accepted by the Returning Officer ignoring the objection raised by the petitioner and his election agent, namely, Madan Tiwari.

(vii). That it is stated that on the date when the sole respondent had filed his nomination papers the Date scrutiny of his nomination papers by the Returning Officer, the sole respondent was disqualified to contest the election at relevant date on the ground that the sole respondent was underage as his age was much below 25 years.

(viii). That at the time of scrutiny of the nomination papers of the sole respondent an objection as raised by Election petitioner and his election agent, namely, Madan Tiwary, before the Returning Officer to the effect that the sole respondent, namely, Alok Chaurasia was disqualified to contest the election as he was underage as his age was much below 25 years as required under the Constitution of India and is thus disqualified to contest the election under Article 173 (b) of the Constitution of India.

(ix). That on such objection being raised by the now Election Petitioner and his election agent, the Returning Officer over ruled the objection of the petitioner and his election agent on the flimsy ground that ne documentary evidence has been produced but in fact documentary evidence in support of the objection was sent to the Returning Officer but he did not take any notice to it and illegally and improperly accepted the nomination respondent as valid. Papers of the sole respondent as valid.

(x). That it is relevant to state that sole respondent, namely, Alok Chaurasia was born on 15th February, 1995 and as such he was disqualified rather not qualified to become a candidate on the date of presentation of nomination papers.

(xi). That the said Alok Chaurasia was admitted in Class IX in the year 2008 and his date of birth was recorded in the records of the School register is 15.02.1995. In the year 2009 he was registered to the Metric Board and his date of birth as recorded in the Annual Secondary Examination 2010 admission Card of Jharkhand Academic Council, Ranchi was 15th February, 1995.

- (xii). That in the year 2010 itself the sole respondent was admitted in I.Sc. and his date of birth shows as 15t February 1995 in G.L.A. College, Medni Nagar.
- (xiii). That it is also relevant to state here that the Character certificate of Alok Chaurasiya issued by the Head Master of Giribar Uchh Vidyalaya, Medini Nagar, Palamu, also indicate that the date of birth of Alok Chaurasia is 15.02.1995.
- (xiv). That it is stated that in the school leaving certificate issued by the Head Master of Girbar Uchh Vidyalaya, Medini Nagar, Palamu, to Alok Chaurasya son of Anil Chaurasya, the sole respondent, the date of birth of the sole respondent is shown as 15.2.1995 in figure and Fifteen February Nineteen ninety five in words.
- (xv). That it is also significant to state here that Marks Statement of 2010 Annual Secondary Examination 2010 o of Alok Chaurasiya dated May 10, 2010, also shows that the date of birth of Alok Chaurasia is 15.2.1995.
- (xvi). That Jharkhand Academic Council, Ranchi Secondary Examination Registration slip also indicates the date of birth of Alok Chaurasia as 15.2.1995.
- (xvii). That it is submitted that order dated 07.11.2014 of the Returning officer is illegal, arbitrary, mala fide, unseasonable and being unsustainable in the eyes of law and thus the election of the sole respondent is fit to be declared void under section 100 (1) (d) (1) of the Representation of Peoples Act 1951.
- (xviii). That from the facts stated herein before, this is an admitted position in the case that on the date of filing of nomination papers by the sole respondent and on the date of scrutiny of the nomination papers of the candidates, the sole respondent was underage as his date of birth is 15.2.1995.
- (xix). That in view of the aforesaid facts, it is apparently clear that the sole respondent was underage and thus his election as Member of Jharkhand Assembly is fit to be declared void under section 100 (1) (d) (1) the Representation of Peoples Act 1951.
- (xx). That the petitioner also filed complaint petition before the Chief Election Commissioner, Election Commission of India New Delhi along with annexure of the relevant documents regarding the age of Sole respondent.
- (xxi). That since the sole respondent was the nominee of Jharkhand Vikash Morcha and the Returning Officer as well as officials of District Administration were not favourably disposed towards petitioner because he was a Minister in previous Government and the matter of Public Welfare Which annoyed the District Officials hence the Returning Officer arbitrarily rejected the objection of the petitioner and improperly accepted the nomination papers of the sole respondent, the returned candidate.

(xxii). That in view of the aforesaid facts and circumstances the election of the sole respondent is fit to be declared void as it has materially affected the result of the election because the returned candidate is disqualified to contest the election.

(xxiii). That the election petition is accompanied with extra copy of the election petition with annexure duly attested by the petitioner to be the true copy of the election petition under his signature as required under section 81 (3) of the Representation of Peoples Act 1951.

(xxiv). That the petitioner is pressing this election petition before this Hon'ble court within 45 days of the date of declaration of the result as required under section 81 (1) 30 the Representation of Peoples Act 1951.

(xxv). That as per the requirement of Section 117 of the Representation of People Act 1951, the petitioner has already deposited the security of Rs.2,000.00 vide Challan No. dated 6 2527. That the petitioner had earlier filed Election Petition No. 02 of 2015 but it was pointed out by the Registry that it was not presented in accordance with law as held by Hon'ble Supreme Court in C.A. No. 6269/ 2008 and thereafter the said case was withdrawn vide order dated 06.02.2015 passed by Hon'ble Mr. Justice D. N. Upadhyay with liberty to file fresh case thereafter the petitioner has not filed any other Election Petition before this Hon'ble Court for declaring the election of the sole respondent void.

(xxvi) This election petition has been filed on 07.02.2015 and under dated 08.05.2015 notice was issued to the sole respondent. Further, on 04.11.2015 I.A. No. 6327 of 2015 filed for effecting valid service of notice against opposite party through paper publication, was allowed and accordingly, substituted service of notice against sole opposite party was deemed to be validly served.

2. A written statement dated 01.12.2015 has been filed on behalf of the respondent-Alok Chaurasiya stating therein as under:

(a). That this respondent states that the present election petition being Election Petition No. 11 of 2015 is not maintainable as it has been filed beyond the period of limitation, thus fit to be dismissed on this ground alone in view of provisions contained in Section 86(1) of Representation of People, Act 1951. The result of the Election was declared on 23.12.2014 but this election petition being Election Petition No.11 of 2015 has been filed on 7.02.2015 that it beyond the statutory period of limitation of 45 days as provided under section 81(1) of the R.P. Act, 1951.

(b). That this election petition is also not maintainable because from the record of the case is appears that it has not been personally presented by the petitioner himself before Hon'ble High Court as required under section 81(1) of R.P. Act- 1951. Thus on this ground also this

election petition is fit to be rejected under section 86(1) of R.P. Act, 1951 for violation of provisions of section 81(1) of the R.P. Act. 1951.

(c). That this election petition is also fit to be rejected out rightly because no “correct and authenticated copy of election petition” has been served/provided to this respondent. The copy of the election petition which was served on the counsel of this respondent, had the following statutory and legal defects:

(i). The copy of the election petition so served on the counsel of this respondent was not containing any endorsement by the election petitioner in his own handwriting to the effect:- “The copy of the election petition is attested to be true copy of the original election petition” This being the essential and statutory requirement under Section 81(3) of the R.P. Act, 1951.

(ii). The copy of election petition so served on this respondent was not a clear copy and not a fair copy, but marked copy at pages 7, 8, 9, 12, 13, 14, 15 and 16 of the Election petition.

(iii). The copy of the election petition so served on this respondent was not containing signature of the election petitioner on affidavit at page 18 and on verification at pages 19 and 41. Thus, for these legal essential and statutory defects and for violation of provisions of section 83(3) (c) of R.P. Act, 1951, this election petition is fit to be dismissed outright.

(iv). That the election petition as well as contents therein are also fit to be rejected outright because:-

(a). There is no verification to election petition as required under section 83 (1) (C) of R.P. Act, 1951.

(b). There are seven Annexures to the election petition but there is no affidavit and verification attached after each annexure as required under section 83(2) of the R.P. Act, 1951. Thus, for these statutory violation also this election petition is fit to be dismissed as there is /are no valid affidavit and verification in support of the statement/documents attached in the election petition for consideration in the election petition.

(v). That this respondent states that there is no material on the record of the case to show that while presenting the election petition before Hon’ble High Court the Election Petitioner has filed extra copy of election petition as per requirement under section 81(3) of the R.P. Act, 1951.

(vi). That the grounds taken in Election Petition NO. 11 of 2015, do not come within the scope of section 100 of the R.P. Act, 1951, therefore, on this ground this election petition is not maintainable.

(vii). That the Election petitioner has not been able to show valid grounds/reasons for filing the present election petition.

(viii) That in view of the objections raised above about the maintainability of this election petition, it is fit to be dismissed under Order VII, Rule 11 of the Code of Civil Procedure.

(ix). That under provisions of the Representation of the People Act, 1950 read with the Registration of Electors Rules, 1960 “the voter list” of an Assembly Constituency is revised time to time by the Statutory authorities. Before preparation of voter list the statutory authorities considers claims/ objections and then publish provisional voter list and then publish finally voter list including/ deleting/addin any name. The entries in the voter list have statutory presumption to be correct and valid, therefore, the same cannot be allowed to be challenged at this stage. Apart from above, the petitioner is qualified to be member of Legislative Assembly in view of Section 5(c) of R.P. Act, 1951.

(x). That all the statements made in the election petition, which are not specifically admitted hereinafter; shall be deemed to have been denied by this respondent.

(xi). That in view of the objections already made in this written statement the election petitioner is not entitled to challenge the election of this respondent as stated and claimed in paragraph- 1 of the election petition.

(xii). That the statements made in paragraph 2 to 6 and 26 of the election petition to the extent they are based on records, are not denied, but rest of the statements are not admitted rather denied.

(xiii). It is stated that the nomination paper of this respondent was legally and correctly accepted by the Returning Officer as valid as this respondent is qualified to be member of Legislative Assembly in view of Section 5(C) of R.P. Act-1951. The Electoral Roll of 76, Daltonganj Assembly Constituency, which was revised on 01.01.2014 as concerned date and published on 31.07.2014. In the sad final Electoral Roll name of this respondent is at Serial No.-1, having his age 25 years, having his residence Purab Tola, Majhigawan, P.S. Chainpur, Post Office Pathara, District-Palamau, for 76, Daltonganj Assembly Constituency. Thus there was no illegality in accepting nomination and Election of this respondent.

(xiv). That it is stated that entries in Voter List duly published by statutory authority prepared under provisions of the Representation of the People Act, 1950 read with the Registration of Elector Rules-1960 is final and cannot allowed to be challenged during and after the election. The entries in voter list/electoral roll could have been challenged only under provisions of the Representation of the People Act, 1960 read with the Registration of Electors Rules, 1960 at the time of revision of Voter List/Elector Rolls and not otherwise.

Thus, this election petition is also not maintainable at all on the ground of age of this respondent, which is as per voter list.

(xv). That it is also denied that the election petitioner and /or his election agent Madan Tiwari raised any objection against acceptance of nomination paper of this respondent as stated in paragraph 7 of the election petition. A part from there is valid affidavit and documents in support of above statements about raising of said objection against acceptance of nomination paper of this respondent. Moreover said objection was not legally tenable at all.

(xvi). That the statements in paragraph 8 of the Election Petition about disqualification of this respondent to contest the Election apart from being vague is not correct, hence denied. It is stated that this respondent was fully qualified and competent to contest the Election in question as stated above.

(xvii). That the statements made in paragraph 9 of the Election petition is false and incorrect, hence denied. The statements made in paragraph-9 of the Election Petition are neither supported by affidavit nor by verification. The Election Petitioner has also not enclosed any document in support of above statements. It is denied that the election petitioner and his election agent namely, Madan Tiwary raised any objection against acceptance of nomination paper of this respondent or against qualification of this respondent to contest the election. It is stated and asserted that this respondent was above 25 years of age at the time of revision of voter list as well as at the time of start of election process.

(xviii). That the statements made in paragraph 10 of the election petition are totally false and incorrect hence denied. The statements in this paragraph appears to be made after thought after result of the election. The statements in this paragraph are repetition of earlier statements made in paragraphs 7 to 9.

This respondent, instead of repeating the statements already made hereinabove reiterates the statements already made in paragraph 19 to 23 of this written statement.

(xix). That the statements made in paragraph 11 to 17 of the election petition are not correct hence denied.

(a). Before replying above statements this respondent states and submits that Annexure-1 to Annexure-6 enclosed to the Election Petition cannot be taken into consideration because each of the Annexures were separately required to be supported by affidavit and verification as provided under Section 83(2) of the R.P. Act, 1951. Since the Annexures 1 to 6 attached to the Election Petition were not supported separately by the affidavit and verification, therefore, they cannot be looked into or considered in this case.

(b). The Election petitioner has also not disclosed the source from where and when he has got copy of above Annexure-1 to 6 attached to the election petitioner. Since the source of obtaining above incorrect documents have not been disclosed by the petitioner in the election petition, therefore, the above annexure-1 to 6 cannot be looked into and considered in this election petition.

(XX). That this respondent further states that statements in paragraph 11 to 17 of election petition and annexure 1 to 6 attached thereto contains incorrect and wrong date of birth of this respondent as 15.02.1995 hence the same is denied that date of birth of this respondent is 15.02.1995. This respondent states and asserts that this correct date of birth is 15.02.1988. This respondent was fully eligible and qualified to contest the election in question and all

objections of the election petitioner on that ground was false, incorrect and afterthought, therefore, they are fit to be rejected.

In support of his date of birth as 15.02.1988, this respondent states as follows:-

- (a). That on 16.05.2007 the guardian of this respondent for his admission in A.A. High School, Guria Damar, Lesliganj, Palamau in Class-VIII has submitted an application disclosing his date of birth as 15.02.1988.
- (b). The admission register of A.A. High School, Guria Damar, Lesliganj, Palamau also shows the date of birth of this respondent as 15.02.1988.
- (c). The school leaving certificate dated 15.04.2008 by above school also shows the date of birth of this respondent as 15.02.1988.
- (d). When this respondent found that his date of birth has not been correctly recorded in his some of the certificates, he applied for correction in the year, 2011-12 to Jharkhand Academic Council, Ranchi.
- (e). Letter No. JAC7229/12 dated 17.10.2012, Jharkhand Academic Council, Ranchi to the Head Master of Giriwar High School, Daltonganj asking various documents for correction of date of birth etc of this respondent. Accordingly, his all certificates were corrected by the competent authority, Jharkhand Academic Council, Ranchi.
- (f). The Secondary Examination Registration Slip issued by Jharkhand Academic Council contains the date of birth of this respondent as 15.02.1988.
- (g). Annual Secondary Examination-2010 Admission Card issued by Jharkhand Academic Council also shows date of birth of this respondent as 15.02.1988.
- (h). Marks statement of Annual Secondary Examination, 2010 issued by Jharkhand Academic Council, Ranchi, also contains date of birth of this respondent as 15.02.1988.
- (i). Provisional Certificate about passing of Annual Secondary Examination 2010 issued by Jharkhand Academic Council, Ranchi including Migration Certificate also shows date of birth of this respondent as 15.02.1988.
- (j). Character Certificate issued by G.L.A, College, Medani Nagar, Palamau dated 08.11.2014 also shows the date of the birth of this respondent as 15.02.1988.

(XXI). That the statements made in paragraph 19 and 20 of the election petition are not correct hence denied. It is denied that this respondent was under age as his date of birth was 15.02.1995. It is stated and asserted that the date of birth of this respondent is 15.02.1988 and he was not underage and he was above 25 years on 01.01.2014. This respondent also reiterates the statements already made in paragraph-28 of this written statement. Accordingly, it is stated that nomination paper of this respondent was validly accepted and his election from 76 Daltonganj Assembly Constituency is also legal and valid.

3. A rejoinder and replication on behalf of petitioner to the written statement of the respondent has been filed on 08.01.2016 stating therein:

(a) That as regards the statement made in paragraph 2 of the written statement filed by the respondent to the extent that the present election petition no. 11 of 2015 is not maintainable as it has been filed beyond the period of limitation is completely on distorted fact, in view of the fact that prior to this, election petition no. 2 of 2015 had been filed before this Hon'ble High Court, which was allowed to be dismissed as withdrawn with a liberty to withdraw the present application for its proper representation before the Court as required under the law vide order dated 06.02.2015 passed by Hon'ble Mr. Justice D.N. Upadhyay.

(b) That in paragraph 27(i) of the written statement filed by the respondent, the respondent has mentioned that on 16.05.2007, his guardian for his admission in Class VIII in A.A High School, Guaria Damar, Lesliganj, Palamau had submitted an application disclosing his date of birth as 15.02.1988. Also, the name of his guardian has not been mentioned. What date of birth was recorded when he was admitted in Class-1. In any case, he has admitted that he jointed Class VIII in academic session 2007-08. Also it has not been denied by the respondent that he passed the Class-X examination in academic session 2009-10. His age in the respective academic session from Class-1 to Class X with date of birth as 15.02.1988 and 15.02.1995 comes out as under:

SI No.	Academic Session	Class (Passing)	Age with date of birth as	
			15.02.1988	15.02.1995
1	2009-10	X	22	15
2	2008-09	IX	21	14
3	2007-09	VIII	20	13
4	2006-09	VII	19	12
5	2005-06	VI	18	11
6	2004-05	V	17	10
7	2003-04	IV	16	09
8	2002-03	III	15	08
9	2001-02	II	14	07
10.	2000-01	I	13	06

(c). That further a publication dated 22nd July, 2014 on "Selected Information on school Education in India 2011-12" by Sri B.N. Tiwari, Deputy Director General, Government of India, Ministry of Human Resource Development Department of Higher Education, New Delhi provides state wise information on various aspects of school education for a academic year. As regards age for admission in pre-primary/age restriction, it provides as follows:

"Duration (In years) prescribed for pre-primary level/age restriction for admission to Class-1.

The minimum age of admission to Class-1 for primary school stage is generally 5 and 5+years or 6 and 6+ years in 20 states"

(d). That still further, the Kednriya Vidyalay Sanghan (HQ), New Delhi has framed guidelines for admission to its schools situated all over India. It prescribes the following minimum and maximum age limits for admission in respective classes: "Eligible age for admission"

A child must be 5 years old as on 31 March, in the academic year in which admission is sought for Class -1 (Child born on 1st April should also be considered).

A. The minimum and maximum age limit for admission in Kendriya Vidyalayas in various classes is given below:

Class	Minimum age on 31 st March of the year in which admission is sought	Maximum age on 31 st March of the year in which admission is sought
1.	5 years	7 years
II.	6 years	8 years
III	7 years	9 years
IV	8 years	10 years
V	9 years	11 years
VI	10 years	12 years
VII	11 years	13 years
VIII	12 years	14 years
IX	13 years	15 years
X	14 years	16 years

(e)...That the above submissions establish firmly that a student has to be in the age group of 14-16 years when he/she passes class-10th examination. As such, the respondent was of 15 years of age when he passed Class-X examination in 2009-10 academic sessions and 22 years.

(f). That the alternation/change/correction made in the certificate of the Jharkhand Academic Council, Ranchi are completely illegal as the same is against the principle enshrined in the Jharkhand Academic Council Act and Rules without there being any basis, nor it has been altered for clerical mistake, the same is also liable to be quashed/set aside by this Hon'ble Court. The manner by which the respondent has his record change/replaced is liable to be set aside by this Hon'ble Court.

(g). That as such, his date of birth is 15.02.1995 which has been altered illegally by the authorities of the Jharkhand Academic Council, Ranchi.

(h). That the petitioner has enclosed photocopy of admission card for Annual Secondary Examination 2010 (Roll No. 0298 with Reg. No. and year as 31044-13854-09 and serial no. 3014675) issued by the Jharkhand Academic Council, Ranchi, Mark Sheet 10th May, 2010 of the Council, School Leaving Certificate issued by Giriwar Inter High School, Medininagar Palamau, Registration Slip issued by Jharkhand Academic Council, Ranchi on 2009, the registration data copy of Jharkhand Academic Council, Ranchi, photocopy of

tempered admission register, transfer certificate of A.A. High School, Guriya Damar All this documents indicates the date of birth of the respondent as 15.02.1995.

(i). That further a perusal of the relevant page of the tabulation register of Jharkhand Academic Council, Ranchi for the Class X examination 2009-10 reveals that his classmates which appeared and passed the said examination were of 15 years as illustrated below:-

Roll No.	Registration NO.	Name	Father Name	Date of Birth
0290	31044/13846/09	Anuj Kumar Singh	Ayodhya Singh	07.12.95
0291	31044/13847/09	Md Warish Nayat	Md. Alimuddin Ansari	31.12.95
0292	31044/13848/09	Mithilesh Singh	Bishwanath Singh	12.08.95
0293	31044/13849/09	Purushotam Kumar Singh	Krishna Murari Singh	19.05.95
0294	31044/13850/09	Nankishore Lakra	Amresh Lakra	26.06.95
0295	31044/13851/09	Satyawant Kumar	Ramnivas Singh	27.10.95
0296	31044/13852/09	Vivek Kumar	Ganuri Paswan	03.10.95
0297	31044/13853/09	Manish Gupta	HIranand Prasad Gupta	22.12.95
0298	31044/13854/09	Alok Chaurasia	Anil Chaurasiya	15.02.95
0299	31044/13855/09	Md. Sarfaz Ahmad	Dilmuhmmad Ansari	19.02.95
0300	31044/13856/09	Rajeev Ranjan	Ram Lakhan Ram	15.12.95

(j). That if his date of birth was 15.02.1988, he alone would be odd man out in his class with 22 years of age which cannot be the case. Also, he was not a mentally

retarded/physically challenged child to have been admitted in the school at the age of 12 years. It clearly indicates that his date of birth is 15.02.1995.

(k). That the respondent has submitted that he got his certificates correct when he found that this certificates correct when he found that his date of birth was not correctly recorded in some of the certificates he applied for correction. This submission is not correct. It is not a case of correcting but changing the date of birth from 15.02.1995 to 15.02.1988. The date of birth has been changed to an earlier date by seven years with ulterior motives in mind. A correction is made when there is a clerical error. However, this is not a case of clerical error but a well thought with a view to become eligible for contesting the assembly election. He was required to follow the due process of law in getting his date of birth changed and only then approached the Jharkhand Academic Council, Ranchi for incorporating his new date of birth in their records/certificate. Since, the respondent has not followed the law prescribed for the purpose, the changes made in his certificate by the Council and subsequent inclusion of his name in voter list has not validly in law and election contested on such voter identity is void.

(l). That it may be relevant to add that had the respondent born on 15.02.1988, he would have completed 18 years of age on 14.02.2006 and got his name included in the voter-list in 2006/2007 and voted for his father who contested 2009 assembly election. But, the respondent being born on 15.02.1995 was not eligible to get his name included in voter list even in 2009, therefore, he did not apply for including of his name in the voter list at that time. He completes 18 years in 2012.

4. It appears that on 08.01.2016, I.A. No. 100 of 2016 filed by the sole respondent with Xerox copy of certain documents and it was ordered that this issue will be considered at the time of final hearing.

5. Further, it appears that vide Order No. 14 dated 19.02.2016 I.A. Nos. 378/2016, I.A. No. 350 of 2016, I.A. No. 851 of 2016 and I.A. No. 1000 of 2016 stood disposed of and **following issued were framed:**

(i). Whether the election petition has been filed beyond 45 days challenging the declaration of result of election dated 23.12.2014 from 76, Daltonganj Assembly Constituency, therefore, not maintainable in view of Section 81(1) of the (3) Representation of People Act, 1951 ?

(ii). Whether the present election petition is maintainable at all challenging the entries made in final voter list prepared in accordance with the provision of the (3) Representation of People Act, 1950 read with Registration of Electors' Rules, 1950?

(iii). Whether the election petition was defective, therefore, fit to be rejected as there was no verification to the election petition as required under Section 83(1)(c) (3) Representation of People Act, 1950 ?

(iv). Whether the 7 (Seven) annexures to the election petition are fit to be ignored as there is no affidavit and verification attached after each annexures as required under Section 83(20) of the (3) Representation of People Act, 1951 and also fit to be not considered as the source of those annexures have not been disclosed.

(v). Whether the election petition contains concise statement of material facts or it is based on vague, false, incorrect and distorted facts ?

(vi). Whether the sole opposite party is disqualified under Article 173(b) of the Constitution of India read with Section 100(1) (a) (d) (1) of the (3) Representation of People Act, 1951, being under-age i.e. below 25 years on the date of publication of the final voter list i.e. 31.07.2014 on the date of filing of his nomination, the date of scrutiny as well as on the date of declaration of the result i.e. 05.11.2014, 07.11.2014 and 23.12.2014 respectively.

(vii). Whether the Jharkhand Academic Council being a statutory authority, is legally authorized to change the date of birth of the opposite party by a period of seven years at any point of time and for any length of time without having any cogent evidence for the same?

(viii). Whether legality of the change in the date of birth of opposite party which has accommodated him to file nomination declaring him to be above age of 25 years, can be decided in this election petition ?

(ix). Whether the opposite party has or had intentionally got his date of birth in his academic certificate changed from 15.02.1995 to 15.02.1988 only for the purpose of filing his nomination to contest Assembly Election of 76, Daltonganj Constituency ?

6. It appears that I.A. No. 1517 of 2016 filed on behalf of the respondent on the maintainability of the election petition on the ground that this election petition has been filed after expiry of 45 days, and the said I.A. N. 1517 of 2016 was rejected vide order dated 18.03.2016.
7. It appears that I.A. No. 2355 of 2016 filed with a prayer to delete the issue nos. 7 and 9 and also for addition of two more issues described in para 11 of the interlocutory application and under order dated 22.04.2016, prayer to delete the issue no. 7 was rejected and I.A. No. 2355 of 2016 was rejected.
8. In support of his case, election petitioner has examined as many as 11 witnesses which are as follows:

Sl. No.	Witness No.	Name of witnesses	Date	Sheet	Exhibit Marked
1	P.W. 1	Madan Tiwary	28.04.2016	1-2	x
2	P.W. 2	Sanjeev Kr. Tiwari	29.04.2016	1-2	
3	P.W. 3	Krishna Nand	06.09.2016	1-6	y

		Tripathi Krishna Nand Tripathi	07.09.2016	7-8	
4	P.W. 4	Chandrabali Choubey	09.09.2016	1-8	1,2,3,4,5,6
5	P.W. 5	Dr. Jaigopaldhan Dubey	09.09.2016	1-3	7,8,9,10 & B
6	P.W. 6	Rajnikant Verma Rajnikant Verma	16.09.2016 17.09.2016	1-4 5-7	11, 12, 13, 14 and 15
7	P.W. 7	Shanti Kr. Pandey	18.11.2016	1-3	18, 19, z-9
8	P.W. 8	Eugine Minz	18.11.2016	1-6	20, 21, 22, 23, 24, 25, 26 and 27
9	P.W. 9	Kaushal Kr. Dubey	06.01.2017	1-2	z-1, z2, z- 3, z-4, z-5 and z-6
10	P.W. 10	Dhruv Kr. Pandey	06.01.2017	1-2	
10.	P.W.11	Nandgopal Tripathi	06.01.2017	1-2	z-7

9. That the following documents have been marked exhibited by the petitioner:

1.	Exhibit No. 1	Original copy of transfer certificate of Alok Chourasia from Guriadamar School Leshilaganj (Kept in part v) dated 09.09.2016)	1 sheet in T.C Register (Ext-4)
2	Exhibit No. 2 y & y1 for identification	Letter No. 177 (B) dated 04/01/2016 of Giriwar inter school Palamau (RTI Copy)	1 sheet +13 sheets+1 sheet
3.	Exhibit no. 3 & y2 to y5 for identification	Seal and Signature of Head Master I/c in transfer certificate of Giriwar +2 High	1 sheet +3 sheets

		School, Medinanagar, Palamau dated 09.09.2016	
4	Exhibit no. 4	Guard file containing T.C documents from SI No. 638 to 725 of Giriwar High School (kept in part v) dated 09.09.2016	Guard file
5	Exhibit no. 5	School leaving certificate of Giriwar High School bearing SI No. 490 in bundle of school leaving certificate dated 09.09.2016	1 sheets in bundle of certificate
6	Exhibit no. 6	Admission Register of Giriwar High School kept in part v ,blue register 1.242 pages dated 09.09.2016	One register
7	Exhibit 7	Letter no. GIA=G 248/15 dated 2/1/205 GLA College, Medinaagar dated 09.09.2016	7 sheets
8	Exhibit 8	Admission Form of I.S.C Sessions 2010-12 of Alok Chaurasia of I.S.C from G.L.A. College Medininagar dated 09.09.206	1 sheet
9	Exhibit 9	School leaving certificate issued by Giriwar High School, dated 09.09.2016	1 sheet
10	Exhibit no. 10	Character certificate issued by Giriwar High School cancelled	1 sheet
11	Z-10 for identification	Photocopy of mark statement issued by JAC dated 09.09.2016	1 sheet
12	Exhibit no. 11	Application of Alok	1 sheet

		Chaurasia regarding correction of D.O.B+ photocopy of voter I.D dated 16.09.2016	
13	Exhibit 12	Affidavit filed along with Exhibit 11 in support of D.O.B of Alok Chaurasia dated 16.09.2016	1 sheet
14	Exhibit 13	Receipt regarding deposition of amount Rs. 400 for correction of D.O.B dated 16.09.2016	1 sheet
15.	Exhibit No. 14	Copy of Admission registers attested by the headmaster I/C Gariwar High School dated 16.09.2016	1 sheet
16	Exhibit 15	Letter No. JAC/RTI/976/16-235/16 dated 17.03.2016 of signature issued by JAC dated 16.09.2016 only signature	Same sheet of exhibit 20
17	Exhibit No. 16	Note sheet of file no. JAC/Palamau Kosang / 19494 / 12 maintained in JAC dated 17.09.2016.	Page 1 to 11
18	Exhibit No. 17 & Z/7 for identification	JAC/RTI/832/15-117/16 dated 12.02.2016 of JAC dated 17.09.2016	Page 21 to 34
19	Exhibit No. 18 & z 9 for identification	Memo No. 202 dated 02.05.2016 received from information officer-cum-Deputy Election Officer, Palamau	1 sheet
20	Exhibit No. 19 19/1 to 19/2	Letter No., 203 dated 02.5.2016 with enclosures V/o dated 18.11.2016	18 sheets
21	Exhibit No. 20	Letter dated 17.03.2016	3 sheets

		issued by Deputy Secretary JAC v/o dated 17.09.2016	
22	Exhibit No. 21	True copy of the original page of register tabulation register of JAC dated 17.09.2016	2 sheets
23	Exhibit No. 22	True Copy of the original page of register list of candidate in the year, 2009 for annual examination 2010 dated 17.09.2016	2 sheets
24	Exhibit No. 23	Secondary examination registration slip 2009 issued by JAC dated 17.09.2016	2 sheets
25	Exhibit 24	Original admission card of annual secondary exam-2010 issued by JAC dated 27.09.2016	1 sheet
26	Exhibit no. 25	Original marked statement of Annual secondary Exam-2010 issued by JAC dated 17.09.2016	1 sheet
27.	Exhibit no. 26	Original provisional certificate of annual secondary examination 2010 issued by JAC dated 17.09.2016	1 sheet
28.	Exhibit no. 27	Original passed certificate of annual secondary examination 2010 issued by JAC dated 17.09.2016	1 sheet
29	Exhibit no. 28	Photostat copy of the attendance register or annual secondary examination 2010 issued by JAC dated 23,04,.2017	94 sheet

30.	Exhibit no. 29 & 30	Signature of Alok Chaurasiya & Anil Chaurasiya at the back of Exhibit 8 dated 30.06.2017	Same sheet of exhibit 8
31	Exhibit 31	Letter dated 08.03.2018 received from I/C Head Master, Adiwasi Awasiya Uchha Vidyalaya, Guridamar, Lesliganj 3.4.2018	1 Sheet
32	Exhibit 32	Letter dated 12.03.2018 received from I/C Head Master, Adiwasi Awasiya Uchha Vidyalaya, Guridamar, Lesliganj 3.4.2018	1 Sheet

10. In support of his case, election petitioner has examined as many as 11 witnesses which are as follows:

Sl. No.	Respondent witness no/namely	Date of witness	No. of sheets	Kept at Flag
1	01/Kashi Prasad	03.03.2017 24.03.2017	03	A
2	02/Surendra Kumar Verma	07.04.2017	03	B
3	03/Sachindra Pandey	05.05.2017	03	C
4	04/Raja KUwar	09.06.2017	02	D
5	05/Sunil Chourasia	09.06.2017	02	E
6	06/Shiv Shankar Prasad	09.06.2017	01	F
7	07/Ashesh Chaurasia	30.06.2017	01	G
8	08/Bhism Prasad Chaurasia	30.06.2017 21.02.2018 26.02.2018	01 03 01	H
9	09/Alok Kumar Chourasiya @ Alok Chourasia	13.03.2018 10.05.2018 18.06.2018 20.06.2018	01 04 02 02	I
10	10/Ramdip Ram	03.04.2018	05	J
11	11/Bishwanath Prasad	24.04.2018 02.05.2018	02 01	K

11. Several documents have been mark exhibited on behalf of respondents which are as follows:-

1.	Exhibit No. A	Copy of the Election Petition	42 sheets
2	Exhibit No. B	Character certificate issued by GLA College, Daltonganj on 8.11.2014 dated 09.09.2016	1 sheet
3	Exhibit No. C	Original Secondary Exam Registration slip issued by JAC dated 17.09.2016 Secondary	1 sheet
4	Exhibit No. D	Admission Card of Annual Secondary Exam 2010 dated 17.09.2016	1 sheet
5	Exhibit No. E	Original Mark statement for Annual Secondary Examination 2012 issued by JAC dated 17.09.2016	1 sheet
6	Exhibit No. F	Original Annual Secondary Exam 2010 issued by JAC dated 17.09.2016	1 sheet
7	X for identification	Application of Madan Tiwari	1 sheet
8	Exhibit No. G	Original admission-cum-Declaration of guardian form relating to the student Alok Chaurasiya dated 03.03.2017.	1 sheet
9	Exhibit no. H	Entire serial no. 86 in the admission register 03.03.2017	1 sheet
10	Exhibit No. H/1	Entire Row of Ranjeet Kr. Singh in exhibit 1 at SI No 43 red admission register of the school v/dated 20.06.2018	IN exhibit 1 red register
11	Exhibit No. H/2	Entire Row of Maharaj Kr. Singh in exhibit 1 at SI No 90 red admission register of the school v/dated 20.06.2018	In exhibit 1 red register
12	Exhibit No. I	Admission register relates to the year, 2007	1 register
13	Exhibit No. J	Certified copy of revised voter list 2004 part iv of Annexure1 of IA. No. 1969 /17 07.04.2017	2 sheets
14	Exhibit No. K	The horoscope 07.04.2017	1 sheet
15	Exhibit No. L & L/1	Signature of Alok Chaurasiya in Exhibit G	Same sheet of exhibit G.
16	Exhibit No. M	Certified copy & O/s certified of E.P. 2/15 v/o dated 26.02.2018	4+38
17.	Exhibit No. N	Certified copy of O/s certified of E.P. 10/15 v/o dated 26.02.2018	82
18	Exhibit No. O	Original copy of application for information of JHC dated 01.04.2016	1

		SI. 147 of copying deptt. JHC	
19	Z-1	Attested copy of character certificate v/o dated 06.0-9.2016 cancelled	
20.	Z-2	Attested copy of school leaving certificate issued by Giriwar interval High School v/o dated 06.09.2016	
21	Z-3	Secondary Examination Registration Slip Reg. No. 3013854/09 JAC v/o dated 06.09.2016	
22	Z-4	Attested copy of Admission Card JAC SI No. 3014675 v/dated 06.09.2016	
23	Z-5	Attested copy of marksheet of Alok Chaurasiya SI No. 251709	
24	Z-6	Attested copy of Admission form of Alok Chourasiya V/ dated 06.09.2016	
25	Z-7	Letter No. JAC RTI/832/15-117/16 dated 12.02.2016 received from JAC by his brother Nand Gopal Tripathi v/o dated 06.09.2016	
26	Z-8	Letter No. 976/16/235/16dated 17.03.2016 containing voter card of Alok Chaurasiya v/o dated 06.09.2016	
27.	Z-9	Letter No. 202 dated 02.05.2015 from the office of D.E.O-cum-D.C Palamau containing voter slip and voter list of bhag no. 226 of 2009 v/o dated 06.09.2016	
28.	Z-11 for identification	Attested photo copy of proceeding prepared by S.D.O Simdega R.W2 while scrutinizing the nomination paper 07.04.2017.	4 sheets

FINDINGS

12. Issue Nos. 6, 7, 8 and 9 are interlinked hence, the same are being taken up and discussed together

13. Election Petitioner Witness No. 3-Krishna Nand Tripathy: This witness has stated in his examination in chief that he had received document from Giriwar Inter level School, Daltonganj, Palamau through R.T.I., his second P.W. Dhurv Narayan Pandey on my instruction received it from the said school on 4th January, 2016, bearing letter No. 177b. The said letter contains six documents which are as follows:

(i) Copy of the Admission Register of 2008 of Giriwar High School.

- (ii) Copy of Guard File of Transfer Certificates, two in number
- (iii) The certified copy of the Registration Data issued by the Jharkhand Academic Council.
- (iv) The certified copy of the Marklist of Alok Chourasia issued by the Jharkhand Academic Council.
- (v) The certified copy of the School Leaving Certificate No. 490 of 2010 issued by the Giriwar Inter-level School. He has stated that he identified these documents. These documents are marked as 'Y' series for identification. This document I have received from G.L.A. College, Medininagar, Palamau, through my P.A. Kaushal Kishore Dubey, which is letter No. GLA-G-248/15, dated 2nd January, 2015, under R.T.I. Act which is an information regarding Alok Chourasia. This contains six documents which are as follows:
- (a) Attested Photocopy of Admission Form filled up by Alok Chourasia and counter signed by his father Late Anil Chourasia on oath.
 - (b) Attested Photocopy of Character Certificate of Alok Chourasia issued by Giriwar Intermediate High School.
 - (c) Attested Photocopy of School Leaving Certificate issued by Giriwar Interlevel High School bearing No. 490 of 2010.
 - (d) Attested Photocopy of the marks statement of Shri Alok Chourasia bearing serial No. 251709, Roll No. 0298, Registration No. 3104413854/09, Roll Code No. 31044.
 - (e) Attested photostat copy of the Admission Card issued by Jharkhand Academic Council bearing serial No. 3014675, Registration No. 3104413854/09, Roll No. 0298, Roll Code 31044.
 - (f) Secondary Examination Registration Slip, Registration No. 3013854/09 issued by Jharkhand Academic Council.

This witness has stated that all the aforesaid six documents bearing date of birth of Shri Alok Chourasia as 15.02.1995.

14. This witness has identified all these documents which have been marked as 'Z' series for identification.

15. He has stated that this is the document received from Jharkhand Academic Council through R.T.I. This is letter No. 832/15/117/16 received by my brother Shri Nand Gopal Tripathi which has been replied by the Council Authority contained in 24 pages. He has identified the documents. Marked as 'Z/7' for identification. He has stated that this is letter No. 76/16/235/16 dated 17.03.2016, received by my brother Shri Nand Gopal Tripathi which contains three

pages i.e. voter identity card of Shri Alok Chourasia bearing No. KGV1703202 and affidavit signed by none. (with objection) This witness has identified this document. Marked as 'Z/8' for identification. He has stated that another bunch of documents received from the office of the District Election Officer-cum- Deputy Commissioner, Palamau bearing letter No. 202 dated 2.5.2016 received by my brother Shri Nand Gopal Tripathi, which contains voter slip of Shri Shailendra Chourasia bearing EPIC No. KGV1703202 Father's Name Lal Bahadur Chourasia and Voter list of Bhag Number 226 of year 2009 of village-Majhigawa, Block Chainpur, Daltonganj, Palamau, which does not contain the name of Alok Chourasia. This relates to 76 Daltonganj Assembly constituency. (with objection)

16. He has identified the same which has been marked as 'Z/9' for identification.

17. In his cross-examination this witness has stated that he was in politics since last 16 years. He fought four Assembly Elections in the past from Daltonganj itself. He won one Assembly Election in the year 2009. He knew the procedure for preparation of the voter list. I had not filed any objection against the inclusion of the name of Shri Alok Chourasia in the voter list of Daltonganj Assembly Constituency. The witness again voluntarily states that he had not made any objection against any name included in the voter list.

18. This witness has identified that this is the copy duly signed by me which was served upon the sole respondent Alok Chourasia in pursuance of the Court's order. This is marked as 'Exhibit-A'. It is not written in this copy served upon the sole respondent that it is attested to be true copy of its original. Pages No. 7, 8, 9 & 12 to 16 of this copy are marked but presently I was not in a position to say that when I signed this document those pages were marked or not. 19. This witness voluntarily states that he had signed all the four copies of the Election Petition at the same time.

19. This witness has stated that he had also filed one Election Petition against the sole respondent but the same was presented by my Advocate and not by him personally. Accordingly, with the permission of the Court, I withdrew the earlier Election Petition with the liberty to file the fresh Election Petition and thereafter the present Election Petition has been filed. I don't remember the number of the Election Petition. I don't know whether my Advocate had filed any application for withdrawing the earlier election petition or the prayer was orally made.

20. This witness has stated he did not remember the number of criminal cases mentioned by me in my nomination paper which he had filed for contesting this election. he did not consider it necessary to mention about the criminal cases lodged against me by one Mrs. Rekha Singh of Bokaro and the other by the Vice-Principal of Secret Heart School Chiyanki, Daltonganj as the first case was discharged by the Court finding no merit in the case and the other case was compromised with the Vice Principal of the Secret Heart School, Chiyanki, Daltonganj.

21. In question, whether it is a fact that the criminal case cheated against you by Mrs.

Rekha Singh is still pending and the warrant of arrest was issued against you, this witness has stated that at the time of filing the nomination paper he was already discharged in the case by the Court but pursuant to politically motivated revision filed against the said order before the Sessions Judge, the matter has again been sent to the Court of Magistrate.

22. Further, in question whether it is a fact that you had filed the nomination in the month of November, 2014 whereas you were discharged on 23rd of May, 2015 this witness has stated that he was discharged in the said criminal case even on the date prior to the filing of the nomination paper and on the date of filing the nomination paper I stood discharged from the criminal case, but he don't remember the date as to when I was discharged in the criminal case prior to filing of the nomination paper. It is a fact that I was discharged in the criminal case, twice. This witness has stated that he was not present at the time of scrutiny of the nomination papers of the candidates. My election agent was present on my behalf. My election agent informed me that at the time of scrutiny of the nomination papers of the candidates he had made objection about the acceptance of the nomination paper of the sole respondent objecting his age but the objection was not entertained by the Returning Officer.

23. In cross examination, this witness has stated that his Election Agent, Shri Madan Tiwari, had informed me about the objection made by him on the same day of scrutiny, in the evening when we met. I did not make any complain about the wrong acceptance of the nomination papers of the returned candidate to the District Election Officer, who is the Deputy Commissioner of the District or to the Observer appointed by the Election Commission. The witness voluntarily says that he became busy in the Election Process which kept him busy from morning to night.

24. This witness has stated that he made complain about the wrong acceptance of the nomination paper of the returned candidate through my Election Agent after the counting of the votes at about 9:00P.M. in the night due to which the declaration of the result was withheld and ultimately the result of the returned candidate was declared at about 10:P.M. in the night. Even at the time of counting I was not present. I have nothing to say about the presence of the Election Observer and about the videography of the scrutiny as well as the counting process.

25. This witness has stated that he has nothing to say about the fact that the nomination is filed on the basis of the final voter list and scrutiny is also done on the same basis.

26. This witness has stated that he has no idea as to when the final voter list of Daltonganj Assembly Constituency for Election of the year 2014 was published.

27. This witness has stated that he has cordial relationship with the late father of Late Sri Alok Chourasia. I had also visited the house of Sri Alok Chourasia to pay my tributes to the dead body of the father of Sri Alok Chourasia. The witness volunteers to say that there only for the first time he came to know that Sri Alok Chourasia was a minor. There were hundred available there when the

dead body of the late father of Sri Alok Chourasia was kept in the house and there was a general talk amongst the people that his elder son i.e. Sri Alok Chourasia was still a minor. I cannot specifically name the person who had informed me about the minority of Sri Alok Chourasia. It was on 16th of June, 2012 at day time I had visited the house of Sri Alok Chourasia to pay tribute to his late father at his village home. I had no personal knowledge about the date of birth of Sri Alok Chourasia accept the knowledge derived from the certificate.

28. This witness has stated that the contents of the Election Petition before filing the same in the High Court. He has not stated in the Election Petition that the documents enclosed with the Election Petition were obtained under R.T.I. The witness volunteers to say that he had received all the documents under R.T.I. It is not the fact that I have obtained after framing of the issues in this matter.

29. It is not a fact that I have not made any statement in my Election Petition which I have stated in paragraph-7 of my Examination in Chief.

30. This witness has stated that it is not a fact that I have not made any statement in my Election Petition which I have stated in the first four and half lines of paragraph-8 of my Examination in Chief.

31. This witness has stated that it is a fact that the statements made in first fourteen and half lines of paragraph -9 of my Examination in Chief are not stated in the Election Petition. The witness volunteers to state that this statement has been made in paragraph-9 of my Examination in Chief after the information was collected by me upon going through the written statement filed on behalf of the sole respondent.

32. This witness has stated that similarly, most of the statements made in paragraphs 10 to 19 in my Examination in Chief are also not stated in the Election Petition as these statements have been made after the information were collected by me upon going through the written statement filed on behalf of the sole respondent.

33. This witness has stated that it is not a fact that I have falsely stated that I have derived most of the information after going through the written statement filed on behalf of the sole respondent.

34. This witness has stated that there was a difference of about four thousand votes between the number of votes of the returned candidate and himself.

35. This witness has stated that he it is not a fact that only in order to fill up the lacunae in my Election Petition I have stated new facts in my deposition and have brought additional documents.

36. This witness has stated that it is not a fact that since I have lost the Election I have filed the Election Petition with false statement and given the false evidence.

37. Election petitioner witness No. 1-Madan Tiwary, who evidence in examination in chief

has been filed on affidavit in which it has been stated that Shri Alok Chourasia was disqualified from contesting the election since he was underage being less than 25 years of age. This witness has stated in examination-in-chief on oath that on 07.11.2014 he has created scrutiny of the said Assembly in the office of Returning Officer- cum.-S.D.O, Daltonganj. He was the Election agent of election petitioner K.N. Tripathy, who was the member of Congress Party. He has stated that he produced the photocopy of school leaving certificate and character certificate of Alok Chourasia to the Returning Officer, but he refused to accept, in which the date of birth of Alok Choursiya was 15.02.19965. He has made objection that the age of the Alok Chourasiya is below 25 years. This witness has stated that he has made written objection. He has proved the writing and signature on the objection letter on which Returning Officer has signed but he cannot say the name of Returning Officer.

38. In cross-examination, this witness has stated that he is working as Advocate since thirty years. He has knowledge of law. He has stated that he has no knowledge that he became the election agent of Krishna Nand Tripathy, filed or not. He has stated that he was four times observer and in the said election, he was also observer. This witness has denied the suggestion that on being the election agent four times, he is giving evidence in favour of Krishna Nand Tripathy.

39. Election Petitioner Witness No. 2 Sanjeev Kumar Tiwary, has stated that he was member from the Jharkhand Mukti Morcha from Daltongaong-Chainpur-Bhandariya Legislative Assembly. He has stated that the election Agent namely of Krishnand Tripathy, namely, Madan Tiwary was making objection with regard to birth certificate. In cross- examination this witness has stated that the date of notification of election is not in his knowledge and how many candidates were there in the said election, he has no knowledge.

40. Election Petitioner witness No. 4: Chandrabali Choubey working as Incharge Headmaster, Giriwar High School, Daltonganj, Palamau has stated in Examination in Chief, on oath that he had received the summons for bringing some documents in Court in pursuance of which I am present in the Court. He has stated that the transfer certificate issued in favour of the student Alok Chourasia, Son of Sri Anil Chourasia, showing his date of birth as 15.02.1988. This certificate has been issued by the Headmaster of Adivasi Awasiya Uchch Vidyalaya, Guriyadamar, Lesliganj, District-Palamau, which was received in my school. I am posted as Incharge Headmaster in the school since March, 2015. In this transfer certificate the date of admission of the student in the previous school has been shown as 16.05.2007 and the date of leaving the school is shown as 15.04.2008. At the time of leaving the school the student was studying in class-IX. The reason for leaving the previous school was shown as the guardian's desire. In normal course of the transaction of the administration of the school this transfer certificate has also been maintained in the Guard file of the school, which I identify. The transfer certificate has been marked as Exhibit-1.

41. This witness has stated that this letter No. 177(B) dated 4.1.2016 addressed to Sri

Dhruv Narayan Pandey supplying him six documents under the R.T.I. is in my pen and signature, which I identify. Letter marked as Exhibit-2. Along with the letter which he had identified as Exhibit-2, I had also supplied the photostat copy of another transfer certificate of Sri Alok Chourasia, issued by the same school on 15.04.2008. This photostat copy also bears my signature and seal, which he identified.

42. The seal and signature of the witness has been marked Exhibit-3. This witness has stated another transfer certificate dated 15.04.2008 on which he had identified my seal and signature is presently not available in the guard file of the school.

43. He did know as to how the original of the aforesaid transfer certificate is missing from the guard file, but at the time of supplying the documents under the R.T.I. the said certificate was in the same guard file.

44. This witness has stated that this guard file, from which I have identified Exhibit-1, is maintained in my school in the normal course of administration.

45. This guard file is of the year 2008 showing serial Numbers 638 to 725. In this guard file the documents maintained at Sl Nos. 708, 715 and 721 are missing. I identify the guard file. The guard file has been marked Exhibit-4.

46. This witness has stated that this school leaving certificate has been issued by him school i.e. Giriwar Interlevel High School, Medninagar, Palamau, which bears serial No. 490 of the year 2010 and it relates to the student Alok Chourasia. Mother's name – Usha Devi and Father's name Anil Chourasia. This certificate shows the date of birth of the student as 15.02.1995, both in digits and words.

47. This certificate has been issued under the seal and signature of Smt. Maya Verma, the then Headmistress of the school, which I identify. I also identify the signature of the Clerk Sri Arjun Prasad in the said certificate. Both Smt. Maya Verma and Sri Arjun Prasad have since retired. Certificate marked as Exhibit-5.

48. This witness has stated that the admission register of the school for the year 2007 and 2008, which contains 245 pages. In this admission register the name of Sri Alok Chourasia appears at serial 707 showing that Sri Alok Chourasia showing admission in this school on 01.05.2008 in Class-IX.

49. In this admission register the date of birth of Sri Alok Chourasia has been shown as 15th February, but the year of birth is erased. The S.L.C. number has been shown as 490 of 2010. The normal entries in this register regarding Sri Alok Chourasia is in the handwriting of the then Clerk of the school Shri Arjun Prasad, since retired, whose handwriting I identify.

50. In page number 187 the date of birth of the students are written in a different handwriting and in the columns in which they were not required to be written.

51. He has stated that he did not identify the handwriting in which the date of birth in words are written. This page also shows that the year of birth of other students except Sri Alok

Chourasia varies from the year 1994 to 1996. I identify the normal entries made in the register in the handwriting of the aforesaid clerk Sri Arjun Prasad, since retired and I also identify the signatures of the then Head master of the school Sri Harihar Singh, except the entries about the date of birth which he does not recognize.

52. He also identified the admission register which is maintained in the school in course of normal business of the school.

53. In cross-examination, this witness has stated that he received the summons from this Court to appear as witness on 7.09.2016 at 4:30 P.M. in the school.

54. The official documents of the school are usually kept in the school but not under my lock and key.

55. This witness has stated that he did not remember the date of retirement either of Smt. Maya Verma or of Sri Arjun Prasad.

56. He does not identify the handwriting on the coverpage of the guard file. The documents maintained in this guard file (Exhibit-4) are old documents and some of them are in torn condition. The numbering of the documents kept in the guard file is made by the clerk of the school.

57. This witness has stated that he did not had any knowledge to the fact whether any correction in the date of birth as mentioned in Exhibit-5 was subsequently made.

58. This witness has stated that he did not come from Daltonganj either with the Election Petitioner or any of his associates.

59. This witness has stated that in the admission register (Exhibit-6) the entry regarding the year of birth of Sri Alok Chourasia is erased but by its side the date of birth is written as 15.02.1988, both in digits and in words.

60. The entries regarding the dates of birth in words of the students in pages 187 and 189 of the admission register (Exhibit-6) are in the same handwriting. The last entry in this admission register is at page 189.

61. There are three clerks working in the school and they maintain the documents of the school, including the admission register. The documents which I have proved in the Court were not written in my presence.

62. Election Petitioner Witness No. 5 Dr. Jaigopal Dhar Dubey working as Professor Incharge in Ganesh Lal Agarwal College, Daltonganj has stated in examination in Chief, on oath that the letter has been issued in the signature of Sri Amal Kumar Pandey, who is the Information Officer under the R.T.I. Act in my college, my which certain documents were supplied to Sri Kaushal Kishore Dubey under the R.T.I. Act on 02.01.2015. I identify this letter which is in usual course of official business of the college and is under the signature of the Information officer of my college. Letter marked as Exhibit-7.

63. This witness has stated that the admission form is of his college relating to Sri Alok

Chourasia, bearing Form No. 3089, relating to his admission in I.Sc. of session 2010-2012. In this admission form the applicant has filled up his date of birth as 15.02.1995.

64. This admission form also bears the photograph of Sri Alok Chourasia. This admission form also bears the signature of Sri Alok Chourasia, which he identified. The column of signature of guardian bears the signature of Anil Chourasia but he did not identify the signature. This admission form is maintained in the usual course of business of the college and I identify the same. Admission Form marked Exhibit-8.

65. This witness has stated that the school leaving certificate issued by Giriwar Interlevel High School, Medininagar, Palamau, bearing No. 490 of 2010, relating to Sri Alok Chourasia. In this school leaving certificate the date of birth of Sri Alok Chourasia is mentioned as 15.02.1995, both in digits and words.

66. This school leaving certificate was submitted in my college at the time of admission of Sri Alok Chourasia, which is maintained in his college in usual course of business of the college and I identify the same. The school leaving certificate is marked as Exhibit-9.

67. This witness has stated that he did not the Character Certificate of Sri Alok Chourasia, issued by the same school and submitted by Sri Alok Chourasia at the time of admission in this college, alongwith the admission form. In this certificate the date of birth of Sri Alok Chourasia is mentioned as 15.02.1995 and his mother's name has been shown as Smt. Usha Devi and Father's name is shown as Sri Anil Chourasia.

68. This character certificate has been cancelled in my college, so that it cannot be reused. He identified the Character Certificate which was also submitted along with the admission form and is maintained as a record in the usual course of business of the college, which I identify. Character Certificate marked as Exhibit-10.

69. This witness has stated that along with the admission form Sri Alok Chourasia had also attached the photostat copy of his marks statement, issued by Jharkhand Academic Council, which also contains his photograph and the date of birth is 15.02.1995. This marks statement was compared with its original at the time of admission. The copy of the marks statement is marked as 'Z-10' for identification.

70. In cross-examination this witness has stated that he has to come to depose before this Court on the summons issued by this Court. I became the Professor Incharge in the college in March, 2012. I was not the Professor Incharge in the college at the time of admission of Sri Alok Chourasia.

71. The admission form (Exhibit-8) was not filled up in my presence. This character certificate has been issued from my college and it has been signed by Sri D.C.Dubey, who is the Bursar of the college and he has put his signature on behalf of Professor Incharge. I identify his signature. In this Character Certificate the date of birth of Sri Alok Chourasia is mentioned as 15.02.1988 and the character certificate has been issued on 8.11.2014. This character certificate

has been issued in normal course of the business of the college and he identified the same. The Character Certificate marked as Exhibit-‘B’. He does not know on what basis the character certificate, (Exhibit-B) was issued.

72. Election Petitioner No. 6:- is Rajnikant Verma working as Secretary, Jharkhand Academic Council, Ranchi has stated in Examination in Chief, on oath has stated that there is a provision for accepting and considering the applications for change of date of birth of the examinees who had appeared in the examination conducted by the Jharkhand Academic Council, within five years of the sessions in which he or she had appeared in the examination.

73. This provision was made in Bihar School Examination Board, by communiqué number 38 of 1996 whereby the Bihar School Examination Board’s communiqué No. 30 of 1996 was partially modified, which after the bifurcation of the State is being followed by the Jharkhand Academic Council also. He cannot produce the original communiqué number 30 of 1996 issued by the Bihar School Examination Board.

74. This witness has stated that the application in original submitted by the applicant Alok Chourasia for change of date of his birth which was received in the office of Jharkhand Academic Council on 28.08.2012 and it bears the signature of the Jharkhand Academic Council also, acknowledging that it was received on 28.08.2012. It also bears the counter signature of O.S.D. of the Academic Council, Sri Shivcharan Marandi, which he identify. He identify this document which has also been maintained in the office of the Jharkhand Academic Council in usual course of business. Marked Exhibit-‘11’. Alongwith this document two documents were attached by way of proof of date of birth i.e. photocopy of voter I.D. card bearing number KGV1703202 and an affidavit in support of date of birth.

75. This witness has stated that the other document i.e. the affidavit in original in support of date of birth which was filed alongwith the application does not bear either the signature of the L.T.I. of the deponent. He identify this affidavit in original which was filed alongwith the application (Exhibit-11) and maintained in the office of the Jharkhand Academic Council in ordinary course of business. Affidavit marked Exhibit-‘12’.

76. This witness has stated that this is the counter foil issued by the Bank of India, Namkum Branch, Ranchi and relating to Jharkhand Academic Council, showing the deposit of Rs.400/- for correction by the applicant Alok Chourasia. This counter foil is also maintained in the office of the Jharkhand Academic Council in normal course of business, which he proved and Marked as Exhibit-‘13’.

77. This witness has stated that when an application is made for change of date of birth in the prescribed fee is paid, the Jharkhand Academic Council calls for the photostate copy of the concerned page of the Admission Register duly signed by the Headmaster of the concerned school as also the concerned District Education Officer.

78. In the present case also the photostate copy of the Admission Register relating to Alok Chourasia was received which is attested by the concerned I/c Headmaster of the school, and it also bears the signature of the concerned District Education Officer. This document does not bear the signature of the District Education Officer near the date of birth of the student. This is the said document received from the school and which is maintained in the officer of the Jharkhand Academic Council in ordinary course of business and I identify this document. Marked Exhibit-‘14’. (With objection).

79. This witness has stated that document bearing letter No. JAC/RTI/976/16-235/16 dated 17.03.2016 has been issued from Jharkhand Academic Council under the signature of the Deputy Secretary of the Council namely Sri E. Minz, whose signature I identify. The other handwritings in the letter I am not able to identify. Signature marked Exhibit-‘15’.

80. This witness has stated that the application for change of date of birth of Alok Chourasia was allowed by the Chairman of the Jharkhand Academic Council on the basis of the documents called for from the concerned school. The file shows that there is an order of the Vice Chairman of the Jharkhand Academic Council on 18.01.2014 for re-enquiry in the matter. The file shows that there was no re-enquiry in the matter.

81. This witness has stated that he can produce the file No. JAC/Palamau Koshang/Ma./19494/12. I cannot tell right now whether there is any employee named Dilip in Jharkhand Academic Council. The original of the tabulation register is available in the Jharkhand Academic Council.

82. In Cross-Examination, this witness has stated that he had joined in Jharkhand Academic Council on 05.07.2016. He gathered the application for correction in date of birth was submitted on 28.02.2012. This witness has stated that in relation to the Exhibit 14, He told that the signature of the concerned District Education Officer is required to be taken at only on place.

83. In Cross-examination on behalf of the election petitioner, he has stated that I do not identify the signature written as K.K. R and the adjoining signature on the note. This witness has stated that Exhibit “C” to F which he had proved, contain the date of birth of Alok Chourasia after correction. The earlier original certificates should be available in the office of the Jharkhand Academic Council.

84. Election Petitioner No. 7 Shanti Kumar Pandey has stated in his examination in chief that he was working as District Panchayat Raj Officer at Palamau. He was incharge of Deputy Election Officer, Palamau. He has received the Dasti Summons from this Court. This witness has proved the letter which has been marked as Exhibit 18. This witness has proved the letter with two enclosures in separate sheets which has been marked as Exhibit 19, 19/1. This witness has stated that EPIC number which is once allotted to a voter, shall always remain the same.

85. In cross-examination, this witness has stated that he has not having the receipt to show the deposit of the prescribed fee before issuing the letter contained marked as Exhibit 19 series but the receipt is in his office. IN the letter, marked exhibit 19 it is not mentioned that the prescribed fee for supplying the information had been realised. Presently, looking into exhibit-19 series, I cannot say whether this whether this information was supplied to the person concerned hand to hand or dispatched to his address through post.

86. Generally the information in shape of a document is supplied by supplying the Photostat copy of the same duly certified by him under the seal and signature. The documents marked exhibit 19 series are attested by him under his signature. The documents proved as Exhibits 18 and 19 series do not bear any seal of his office.

87. Election Petitioner Witness No. 08-Eugene Minj has stated in his examination-in-Chief that he was working as Deputy Secretary, Jharkhand Academic Council, Ranchi. This witness has stated that letter already marked as Exhibit 17 has been issued under his signature and it bears the signature of Assistant of his office also.

88. This witness has proved the letter dated 17.03.2016 which has been marked as Exhibit 20. This witness has proved original page of register bearing Roll No. 0298, Roll Code 31044 relates to Alok which has been marked as Exhibit 21. This witness has produced the true Photostat copy of the relevant page of the original register, which was marked as Exhibit 22. Original Secondary Examination registration slip issued to the candidate Alok Chourasia by Jharkhand Academic Council Ranchi, which has been marked as Exhibit 23. This petitioner has proved the original admission card of annual secondary examination, 2010 issued by Jharkhand Academic Council, Ranchi which has been marked as Exhibit 24.

89. In this admission card also the date of birth of the candidate was originally mentioned as 15.02.1995, which was subsequently corrected to 15.02.1988. The original marks- statement of 2010 Annual secondary examination issued by the Jharkhand Academic Council Ranchi to the Candidate Alok Chourasia was marked as Exhibit 25.

90. This witness has proved the original provisional certificate of the candidate Alok Chourasia issued by Jharkhand Academic Council, Ranchi which has been proved as marked Exhibit 26. . The original certificate issued by Jharkhand Academic Council to the candidate Alok Chourasia certifying that he passed the 2010 Annual Secondary Examination, was proved and marked as Exhibit 27.

91. In cross-examination, this witness has stated that Exhibit 21, the date of birth of the candidate Alok Chourasia was corrected from 15.02.1995 to 15.02.1988 by the order of the Chairman, passed in the concerned file. He has further stated that there is no rule in the Jharkhand Academic Council to the effect that the correction in the date of birth is necessity to be made within fifteen days only. Further, he has stated that if a corrected certificate is issued to the

candidate after the change in the date of birth it is not necessary to mention the earlier date of birth in the corrected certificate. In case of issuance of the fresh corrected certificate, the certificate is issued showing the same date, on which the earlier certificate was issued.

92. Election Petitioner Witness No. 9-Kaushal Kishore Dubey has stated that he had applied for six documents from G.L.A college, Medininagar Palamau which were supplied to him vide letter dated 2.1.2015. This witness has proved the photocopies of the documents marked Z-1 to Z-6 for identification and states that these are the Photostat copies which were supplied to him, which he handed over to the election petitioner.

93. In cross-examination, this witness has stated that he was working as Personal Secretary of the Election petitioner since the year, 2010. He had handed over the documents to the election petitioner prior to the filing of the election petition. The witness again states that he does not remember whether he had handed over those documents prior to filing of the election petition or after that. This witness has stated that, it is not a fact that he had handed over more documents to the election petitioner than those six documents, which he had received from the college under the RTI Act. Those documents he had taken under the RTI Act under the instruction of the election petitioner after the election, he do not remember the date when he was instructed to get those documents under the RTI Act.

94. Election Petitioner Witness No. 10 Dhruv Kumar Pandey has stated in his examination-in-chief that under the instruction of the election petitioner, he had obtained some documents under the RTI Act from over Giriwar Inter College, Medninagar. The witness identifies Exhibit-2 and states that this is the letter, through, which, he was supplied the documents under the RTI Act from Giriwar Inter College, Medinagar. The witness identifies the Photostat copies of the documents earlier marked for identification s Y to Y/5 and states that these are the documents, which were supplied to him under the RTI Act. After getting those documents, I had handed them to the election petitioner.

95. In cross-examination, this witness has stated that he was working as personal secretary of the election petitioner since 2010. He does not remember the date when he was instructed by the election petitioner to get the documents under the RTI Act. He was instructed to get the documents under the RTI Act but as the result of the election, but he does not remember whether the instructions was given prior to filling the election petition or after that. I do not remember the date when I had filled the application under the RTI Act for getting the documents. He does not recollect all the documents that I was instructed to get under the RTI Act.

96. In the letter dated 04.01.2016 (Exhibit-2), there is no mention of two transfer certificates, but in Act, he was supplied two transfer certificates, but in fact, he was supplied two transfer certificates. It is not a fact that he was not supplied two transfer certificates.

97. Election Petitioner Witness No. 11 Nand Gopal Tripathi The witness identifies exhibit 17 and

stated that this is the letter through which he was supplied the documents under the RTI Act from Jharkhand academic Council. The Witness also identified the documents marked Z/7 for identification and states that these were the documents which were supplied to him under the RTI Act.

98. The witness identified exhibit 20 and states that this is the letter to which also he was supplied some documents under the RTI Act from Jharkhand Academic Council, Ranchi. The witness also identifies that two documents attached with Exhibit-20 (Marked Z/8 for identification) and states that these are those documents which were supplied under the RTI Act.

99. The witness identified Exhibit-18 and states that this is the letter to which he was supplied and the document in 33 pages from the office of the District Election Officer cum deputy Commissioner, Palamau under the RTI Act. The witness also identifies Exhibit 19, 19/1 and 19/2 and states that these are the documents which have been supplied to him under the RTI Act along with Exhibit-18. After getting the documents, he handed them over to the election petitioner.

100. In Cross- Examination this witness has stated that the election Petitioner is the Elder Brother. He was along with him in the Election Process. He does not remember whether prior to filling of the election Petition he had asked me to get the documents under the RTI Act, which he has identified today, or he had asked him to get the documents after filling of the election petition. It is not the fact that only to fill up the lop holes left in the election Petition he was instructed to get the documents under the RTI Act much after filing of the election petition.

101. Learned counsel for the respondent relied on following witnesses:

102. Respondent Witness No. 1 Kashi Prasad has stated in his examination in chief that he was working as the Headmaster of A.A. High School, Guriadamar since 2nd January, 1983. For admission in his school, there is an admission form as also a declaration form by the guardian. He was asked in the *Dasti Summons* issued by this Court to bring two documents, which he has brought with me today. This witness has stated that on 16.5.2007 Sri Sunil Chaurasiya, who claimed to be the guardian of Alok Chaurasiya had submitted an admission-cum-declaration of guardian form for admission of Alok Chaurasiya in the school.

103. This witness has stated on the basis of that admission-cum- declaration of guardian form the student one Alok Chaurasiya was admitted on school on 16.5.2007 vide serial No. 86 in the Admission Register of that period.

104. This witness has stated that in the normal course of the business of the school, the admission-cum- declaration of guardian forms are maintained in the school.

105. This witness has stated that in this admission-cum- declaration of guardian form, the date of birth of Alok Chaurasiya is mentioned as 15.2.1988. This witness has stated that this is the Admission Register of the relevant period, in which, at Serial No. 86, the name of Alok Chourasia finds mentioned showing that he had taken admission.

106. This register is also maintained in my school in the normal course of business. The entry at Serial No. 86 relating to Alok Chourasiya is in the handwriting of Sri Satyanarayan Prajapati, who was working as Assistant Teacher in my school and I identify this writing.[Entire Serial No. 86 in the register marked Exhibit-H].

107. This witness has stated that in the admission register also, the date of birth of Alok Chaurasiya is mentioned as 15.2.1988 on the basis of the admission-cum- declaration of guardian form.

108. This witness has stated that Alok Chaurasiya left my school on 15.4.2008 vide T.C. No. 60, which is also mentioned in the Admission Register itself.

109. This witness has stated that this Admission Register relates to the year 2007 and it contains 38 pages. I identify this Register. [Marked Exhibit-I].

110. This witness has stated that this School Leaving Certificate has been issued from my school and it also bears my signature. I identify this certificate, which is already marked Exhibit-1.

111. In cross examination this witness has stated that his date of birth is 20.9.1956. I was appointed in the school on 2nd January, 1983 and I am working as founder Headmaster of the school since then.

112. This witness has stated that Sri Ramdip Ram was never the Headmaster of the school prior to him. My school is a *Government Aided School*. I have not brought my appointment letter today as there was no such instructions in the *Dasti Summons*. After attaining the age of 60 years, I have been allowed by the governing body of the school to continue as Headmaster, but I have not brought that document also, as there was no such instructions in the *Dasti Summons*.

113. Respondent Witness No. 2:-Surendra Kumar Verma has stated that at the time of the Assembly Elections of the year 2014 I was posted as Sub-Divisional Officer at Daltonganj and in that capacity I had worked as Returning Officer of 76 Daltonganj Assembly Constituency.

114. The Deputy Commissioner of the District used to be the District Election Officer of the concerned Election Constituency. An observer was also appointed for this Election Constituency by the Election Commission of India. I had scrutinized the nomination papers of the candidate fighting the said election in the capacity of the Returning Officer and in presence of the Observer and the concerned candidate or his Election Agent. While scrutinized the nomination paper of the candidate Alok Chourasia I had not received any objection against the same.

115. This proceeding which is in attested photocopy was got prepared by me. Marked-Z-11, for identification. In the proceeding the present candidate or their election agents and the observer had also put their signature. This witness has further stated that at the time of accepting the nomination of the candidate the name and age of the concerned candidate are tallied

from the voter list the name of the proposer is also tallied from the voter list.

116. This witness has further stated this is the certified copy of the voter list of the year 2014 which also contains the name of the candidate Alok Chourasia. Marked as Exhibit-J. In the voter list the age of eligibility of the persons mentioned in the voter list is 01.01.2014 and the age of the candidate Alok Chourasia is mentioned as 25 years. I had accepted the nomination paper of Alok Chourasia after finding it in accordance with law.

117. In Cross-Examination this witness has stated that this Exhibit -J, is the revised voter list published in the year 2014. The process of revision was started some times in the year 2014 and it was published in the month July, 2014. The witness had earlier stated that the process of revision started some times in June, 2014 but again he stated that he is not sure about it. The voter list is prepared under the supervision of the District Election Officer. I was involved in the process of the revision of the voter list but I had no knowledge as to when the name of Sri Alok Chourasia was entered in the voter list. The house number of Alok Chourasia is not mentioned in the voter list though it is mentioned in the name of other persons. I am not in a position to say whether the age of any person mentioned in the voter list is on the basis of any age proof or not.

118. This witness has further stated whatever I have deposed before this Court except about Exhibit-J, I have deposed on the basis of my memory.

119. Respondent Witness No. 3:-Sachinand Pandey has stated that I had prepared the Horoscope of Alok Chourasiya. This is the Horoscope of Sri Alok Chourasiya, which was prepared by me and it is in my handwriting, which I identify. The Horoscope is marked as "Exhibit-K".

120. This witness has stated that according to this Horoscope the date of birth of Sri Alok Chourasiya is 15.2.1988, according to English Calender, corresponding to Samwat 2044 Krishna Paksha Falgun Trayodashi, according to Hindu Calender.

121. In Cross-Examination this witness has stated that he does remember as to whose else's Horoscopes I have prepared in the family of Sri Alok Chourasiya.

122. This witness has stated that Sri Alok Chourasiya's grand-father were two brothers Late Ramjanam Mahto and Late Munsaf Mahto. Now they have changed their title to Chourasiya. Late Ramjanam Mahto had two sons, who are Sri Ram Lav Chourasiya and Sri Suresh Chourasiya. Late Munsaf Mahto had six sons, out of whom two are dead and four are alive. Father of Sri Alok Chourasiya was the fourth son of Late Munsaf Mahto, who is also dead. I have prepared three to four Horoscopes of the family of Sri Alok Chourasiya, but I do not remember those names.

123. This witness has stated that I had prepared the Horoscope of Sri Alok Chourasiya after about five to six months of his birth. Prior to that I had also prepared the Tippet of Sri Alok Chourasiya. This Horoscope does not contain my signature nor it contains the date, on which it

is prepared. My grand- father also used to prepare Horoscopes.

124. This witness has stated that It is not the fact that the Horoscope of Sri Alok Chourasiya was prepared by me only for the purpose of this case.

125. This witness has stated that the date and time of birth of Sri Alok Chourasiya were informed to me by his grand-father, on the basis of which, I prepared the Tippan and on that basis, I prepared the Horoscope. When the aforesaid information was given by the grand-father of Sri Alok Chourasiya, his father was not present there.

126. This witness has stated that it is not a fact that I have given the false evidence at the request of Sri Alok Chourasiya.

127. Respondent witness no. 4: Raja Kuwar has stated that I have come to this court as witness at the request of Sri Alok Chourasia. I know the entire family of Sri Alok Chourasia. Alok Chourasia has four brothers. I had worked as Dagreen at the time of birth of the children of the uncles of Alok Chourasia also. The eldest uncle of Sri Alok Chourasia has two daughters, the elder being about 35 years of age. I do not know her name. The second uncle of Sri Alok Chourasia has two sons and two daughters. I do not know the age of his youngest child. The third Uncle Sri Alok Chourasia has two sons, but I cannot say the age.

128. This witness has further stated that Sri Alok Chourasia is the eldest among the five brothers and two sisters. The youngest of them is the daughter. I cannot say her age. This witness has further stated that Sri Alok Chourasia is presently aged about 27-28 years and he is about six months younger than my son. I do not remember the year of their birth.

129. This witness has further stated that during my life time, there had been six droughts in the district of Palamau. It is not a fact that I have given false evidence.

130. Respondent Witness No. 5:- Sunil Chaurasia has stated that This is the application dated 16.5.2007, which I had submitted in the school at the time of admission of Sri Alok Chaurasia, which is earlier marked Exhibit – G.I identify my two signatures on this application. Signatures marked as Exhibits - L and L/1.

131. In Cross-Examination this witness has stated that he had got Sri Alok Chaurasia admitted in the school in class – VIII. At that time, both his parents were alive. I had not got him admitted in class – XI. I do not know who got him admitted in Class – XI. I had got him admitted only in class – VIII. At the time of admission in class – VIII, Sri Alok Chourasia was aged 19 years. His education prior to class – VIII was in private school. I have no knowledge about the school. I do not remember what proof I had given about the date of birth of Sri Alok Chourasia at the time of his admission in the school in class – VIII. I had informed Sri Alok Chourasia that his date of birth as given at the time of his admission in class – VIII was 15.2.1988, but I do not remember when I had given that information to Alok Chourasia.

132. This witness has stated that In Exhibit – 8, there is signature of Sri Alok Chourasia as also the signature of his father Late Anil Chourasia, which I identify. Exhibit – 11 also contains the signature of Sri Alok Chourasia. It is not a fact that I have given false evidence. It is not a fact that the admission form, exhibit – G, is a forged document.

133. Respondent witness no. 6 Shiv Shankar Prasad has stated that in the year 2009, Sri Alok Chaurasia was aged about 20 years. I do not remember whether the name of Sri Alok Chourasia was there in the voter list at that time or not. His father had fought the election of Legislative Assembly on three occasions, but I do not remember the years when he had contested the elections. The age of Sri Alok Chourasia was mentioned as 25 years in the voter list of the year 2014 on the basis of the *janam kundli* prepared by the *Pandit* and on the basis of the school certificate.

134. This witness has stated that he was also the proposer of Sri Alok Chourasia in his nomination form for the election in the year 2014, on the basis of the voter list. There was no objection at the time of scrutiny of the nomination paper by anybody. There was no objection even at the time of declaration of result and there was no delay in the declaration of result on the basis of any objection. It is not a fact that I have given false evidence.

135. Respondent witness no. 7 Ashesh Chaurasia has stated that he has come to depose in the court at the request of Sri Alok Chaurasia about his age. It is not the fact that he has given the false evidence.

136. Respondent witness no. 8 Bhishm Prasad Chaurasia has stated that he has come to depose at the request of Sri Alok Chaurasia. He is his cousin and his father was his uncle. ON the back page of Exhibit 8 there is signature of Anil Chaurasia in the left side and the signature of Alok Chaurasia on the right side which has been identified. Signature of Alok Chaurasia was marked as Exhibit 29 and signature of Sri Anil Chaurasia was marked as Exhibit 29 and signature of Sri Anil Chaurasia was marked as Exhibit 30.

137. Respondent No. 9 Alok Kumar Chaurasia has stated that this is the certified copy of the Voter List of 76 Daltonganj Assembly Constituency. At serial number 1, my name is mentioned on 01.01.2014 as Alok Kumar Chourasiya @ Alok Chourasia, my age is mentioned as 25 years. It has been published on 31.07.2014. The document is earlier marked as Exhibit-J.

138. This witness has stated that he had also filed documents which reveals that my uncle Sunil Chaurasia got me admitted in Class-VIII on 16.05.2007 in Adivasi Awasiya Ucch Vidyalaya Guria Damar, Lesliganj. At the time of admission, my uncle had given declaration on affidavit wherein my date of birth is mentioned as 15.02.1988 and on the basis of that declaration on affidavit, my date of birth is mentioned as 15.02.1988 in the school admission register. The declaration is earlier marked as Exhibit –G.

139. This witness has stated that in Adivasi Awasiya Ucch Vidyalaya Guria Damar, Lesliganj

where I was admitted in Class- VIII and I was a student of Section-B (with Objection). This witness has stated that this is my Transfer Certificate issued on 15.04.2008 by the Adivasi Awasiya Uchh Vidyalaya Guria Damar, Lesliganj. I had left the school in class-IX and my date of birth in it is mentioned as 15.02.1988, which is earlier marked as Exhibit-1.

140. This witness has stated that on basis of the aforesaid Transfer Certificate I got my admission in Nationalized Girwar Inter Level High School where my date of birth is mentioned as 15.02.1988, which is earlier marked as Exhibit-6.

141. This witness has stated that in Exhibit-6 at serial number 707, my name is reflected wherein my date of birth is mentioned as 15.02.1988 (with objection). Apart from numerals, my date of birth is also mentioned in words in it under the said serial.

142. This witness has stated that on 28.08.2012, I had filed an application through Girwar High School to the Jharkhand Academic Council for getting my date of birth corrected which is earlier marked as Exhibit-11 and I had also deposited the necessary fees for it. The document relating to deposition of fees in the Jharkhand Academic Council is marked as Exhibit-13.

143. This witness has stated that this is the Secondary Examination Registration Slip issued by Jharkhand Academic Council after correction of my date of birth wherein my date of birth is mentioned as 15.02.1988. This document is earlier marked as Exhibit-C.

144. This witness has stated that this Admit Card has been issued by Jharkhand Academic Council pertaining to class-X of Examination Year 2010 wherein my date of birth is mentioned 15.02.1988 which is earlier marked as Exhibit-D.

145. This witness has stated that this is the Marks Statement of Class-X, marks obtained by me and issued by Jharkhand Academic Council wherein my date of birth has been mentioned as 15.02.1988, which is earlier marked as Exhibit-E.

146. This witness has stated that this is the Certificate issued by Jharkhand Academic Council certifying that I have appeared in Class-X Examination conducted by Jharkhand Academic Council in the year 2010 from Girwar High School, Daltonganj, wherein my date of birth is mentioned as 15.02.1988. This document is earlier marked as Exhibit-F.

147. This witness has stated that this is the copy of petition filed in Election Petition No. 11 of 2015, which is earlier marked as Exhibit-A.

148. This witness has stated that this is the entire file consisting of six pages pertaining to correction of my date of birth by Jharkhand Academic Council. This entire file is earlier marked as Exhibit-16.

149. This witness has stated that I.A. No. 1969/2017 has been filed by me on 02.03.2017 wherein I have annexed certified copy of the Election Petition No. 02 of 2015 which was filed by Sri Krishna Nand Tripathi, the present Election Petitioner before this Court on 20.01.2015 under

Sections 82 and 93 of the R.P. Act read with Sections 76 and 77 of the Indian Evidence Act. This Election Petition No. 02 of 2015 is marked as Exhibit- M.

150. This witness has stated that he has also annexed the certified copy of Election Petition No. 10 of 2015 filed by one Arbind Manjhi on 03.02.2015. This Election Petition No. 10 of 2015 is marked as Exhibit-N.

151. This witness has stated that after looking to Exhibit-K, respondent witness no. 9 Alok Chourasiya says that this is my horoscope.

152. This witness has stated that he has two brothers and two sisters. I am the eldest amongst them. This witness has further stated that the School Leaving Certificate issued by Adivasi Awasiya Ucch Vidyalaya Guria Damar, Lesliganj, which is earlier marked as Exhibit-1 in which my date of birth is mentioned as 15.02.1988. This school leaving certificate is tagged with the Guard File of Adivasi Awasiya Ucch Vidyalaya Guria Damar, Lesliganj.

This witness has stated that when I was admitted to Nationalized Girwar Inter Level High School, Medininagar, Palamau, my School Leaving Certificate was tagged in the Guard File of Adivasi Awasiya Ucch Vidyalaya Guria Damar, Lesliganj.

153. In cross-examination this witness has stated that Examination-in-chief which has been filed on affidavit, I have mentioned this fact in Para-7 that due to mistake, my date of birth was mentioned as 15.02.1995 in the Secondary Examination Registration Slip and so, in the Admission Form of Board Examination, I have mentioned my date of birth as 15.02.1995.

154. This witness has stated that when I had received the Secondary Examination Registration Slip, then I learnt that my date of birth is wrongly mentioned as 15.02.1995.

155. This witness has stated that he has also mentioned in my Examination-in-chief filed on affidavit in Para-7 that I had no knowledge how to correct my date of birth and I had shortage of time as I got busy in preparation of my examination. So, the wrong entry of my date of birth as 15.02.1995 remained as it was.

156. This witness has stated that he has also mentioned in my Examination-in-chief that on the basis of the Class 10 certificate issued by Jharkhand Academic Council, I was admitted in G.L.A. College, Medininagar, Palamau and my date of birth was mentioned as 15.02.1995.

157. This witness has stated that it is not correct to say that my date of birth is still mentioned as 15.02.1995 in the School Leaving Certificate granted by Girwar High School, Daltonganj.

158. This witness has stated that this is the School Leaving Certificate issued by Girwar High School, Daltonganj which is earlier marked as Exhibit-5 in which my date of birth is mentioned as 15.02.1995.

159. This witness has stated that he cannot say that in the School Leaving Certificate issued by

Girwar High School, Daltonganj, my date of birth is still mentioned as 15.02.1995.

160. This witness has stated that he cannot say in which certificate, my date of birth is still mentioned as 15.02.1995. Suo moto says that I had filed an application before Jharkhand Academic Council for making correction of my date of birth. This witness has stated that in Exhibit-8 which is the Admission Form submitted in I.Sc., Session 2010-12 in G.L.A. College, Medininagar, Palamau, my date of birth is mentioned as 15.02.1995 which bears my signature and signature of my father and I was admitted in the said college on 07.08.2010. Suo moto said that I have taken steps for getting my date of birth corrected in all the certificates and forms only in the year 2012.

161. This witness has stated that Exhibit-23 is the Registration Slip where my date of birth is mentioned as 15.02.1995. Foot Note:-3 in the Registration Slip mentions that if there is any discrepancy in the Registration Slip, it has to be corrected within 15 days after receipt of Registration Slip.

162. This witness has stated that he cannot remember the date on which I had received the Registration Slip. This witness has stated that he cannot remember that I had read the Foot Note-3 or not. Only on 28.08.2012, I had submitted an application before Jharkhand Academic Council through Girwar High School, Daltonganj for making correction in my date of birth.

163. This witness has stated that I myself, neither my father, nor my mother, nor any of my relative had submitted any application for making correction in my date of birth within 15 days as stipulated in the Foot Note : 3 of Registration Slip. This witness has stated that his father has died on 16.06.2012.

164. This witness has stated that I had submitted application on 28.08.2012 for correction of my date of birth to the Jharkhand Academic Council through Girwar High School, Daltonganj.

165. This witness has stated that this is the application which I had submitted to the Jharkhand Academic Council through Girwar High School, Daltonganj which has been earlier marked as Exhibit-11.

166. This witness has stated that in this Exhibit-11, I have mentioned the fact that my actual date of birth is 15.02.1988 and in support of this assertion, I had annexed my Voter Identity Card and an affidavit.

167. This witness has stated that he has his Voter Identity Card, but he has not brought today with me.

168. This witness has stated that I cannot say with certainty that this is the photostate copy of my Voter Identity Card which is enclosed with the application and is already marked as Exhibit-11 (marked with objection on behalf of sole respondent).

169. This witness has stated that I cannot say with certainty about the contents of Exhibit-12.

170. This witness has stated that Usha Kunwar is my mother. Attention of sole respondent was

drawn to Exhibit-12 where he admits that the place provided for signature of the deponent is left blank.

171. This witness has stated that in the Column where the Notary Public has signed, the name of the deponent is mentioned as Usha Kunwar and the date is mentioned as 27.08.2012.

172. This witness has stated that in Exhibit-11 which is my application addressed to Jharkhand Academic Council sent through Girwar High School, Daltonganj, the date of its forwarding is mentioned as 17.08.2012, date of receipt by Jharkhand Academic Council is mentioned as 28.08.2012 and the affidavit is dated 27.08.2012 (Exhibit-12).

173. This witness has stated that he has not brought my Voter Identity Card. I have left it in my home. I have not gone to my home recently.

174. This witness has stated that in Exhibit-11, my date of birth is mentioned as 15.02.1988 which is written in ink, whereas the entire application is typed.

175. This witness has stated that in Exhibit-12 at Paragraph-1, the date of birth is given as 01.01.1988. Suo moto said that this is an affidavit sworn by my mother Usha Kunwar, but my date of birth was not corrected by the Jharkhand Academic Council on the basis of this affidavit.

176. This witness has stated that Exhibit-11 is his application addressed to Jharkhand Academic Council through Girwar High School, Daltonganj for correction of my date of birth. Exhibit-12 is annexed with Exhibit-11.

177. This witness has stated that In Exhibit-11, my date of birth is mentioned as 15.02.1988. I have also mentioned that along with the Exhibit-11, I have annexed my Voter Identity Card, and an affidavit which is earlier marked as Exhibit-12. My date of birth was corrected by Jharkhand Academic Council not on the basis of Exhibit-12, rather it was corrected on the basis of the records of my school.

178. This witness has stated that we are two brothers and two sisters. I am the eldest one. My brothers and sisters used to study in local village school and thereafter, they have studied in local college in Daltonganj.

179. This witness has stated that he has studied in Adibasi High School, Guriadamar, Lesliganj, Palamau which is a residential school. I took admission in Adibasi High School, Guriadamar, Lesliganj, Palamau in Class-VIII in the year 2007. But he had left the school and had taken admission in Girwar High School, Daltonganj in Class-IX in the year 2008. This witness has stated that Adibasi High School, Guriadamar, Lesliganj, Palamau is situated 50 kms away from my native village. There is one Government school in my native village. I studied in Adibasi High School, Guriadamar, Lesliganj, Palamau only for one year.

180. This witness has stated that he can recollect the names of my two colleagues namely, Maharaj Singh and Ranjit Singh who were cheros.

181. This witness has stated that I cannot say the age of Maharaj Kumar Singh and Ranjit

Kumar Singh mentioned in the School Register which is earlier marked as Exhibit-I.

This witness has stated that in Exhibit-I at Serial No.43, the name of Ranjit Kumar Singh is mentioned and in the column of date of birth, his date of birth is mentioned as 07.12.1995. The entire row of Ranjit Kumar Singh is marked as Exhibit-H/1.

182. This witness has stated that in Exhibit-I at Serial No.90, the name of Maharaj Kumar Singh is mentioned and in the column of date of birth, his date of birth is mentioned as 18.01.1995. The entire row of Maharaj Kumar Singh is marked as Exhibit-H/2.

183. This witness has stated that in Exhibit-I at Serial No.86, my name is mentioned and in the column of date of birth, my date of birth is mentioned as 15.02.1988. The entire row of Serial No.86 is earlier marked as Exhibit-H.

184. This witness has stated that in Adibasi High School, Guriadamar, Lesliganj, Palamau, I was admitted by my uncle and not by my father or mother.

185. This witness has stated that the years of birth of most of the students in the School Register are mentioned as 1995 and my date of birth is mentioned as 15.02.1988.

186. This witness has stated that this witness has stated that on the date of admission, I was major, but my uncle had accompanied me to the school as my guardian.

187. This witness has stated that it is not correct to say that my father and mother have never stated before any forum that my date of birth is 15.02.1988. This witness has stated that his father had contested the elections from 76, Daltonganj Assembly Constituency for four times.

188. This witness has stated that he has never casted my vote when my father had contested the elections.

This witness has stated that he cannot say when my name was included in the Voter List of 76, Daltonganj Assembly Constituency.

189. This witness has stated that his name was not included in the Voter List of 76, Daltonganj Assembly Constituency in the year 2009.

190. This witness has stated that in 2014, my name was included in the Voter List of 76, Daltonganj Assembly Constituency which is earlier marked as Exhibit-J. This witness has stated that when the electoral roll was revised, on my oral request, my name was included in the Voter List of 76, Daltonganj Assembly Constituency and my age was recorded as 25 years.

191. This witness has stated that he cannot remember whether I had given any document in order to include my name in the Voter List.

192. This witness has stated that in the year 2014, the election was declared and I had filed my nomination. I cannot say the age of my mother which was mentioned in the Voter list. This witness has stated that except the School Register, I have not filed any other document to show my date of birth as 15.02.1988.

193. This witness has stated that it is not correct to say that I have never taken admission in

Adibasi High School, Guriadamar, Lesliganj, Palamau.

194. This witness has stated that it is not correct to say that when I had taken admission, my date of birth was mentioned as 15.12.1995.

195. This witness has stated that it is not correct to say that in 2009, I had received the registration certificate of Jharkhand Academic Council where my date of birth was recorded as 15.12.1995 and the same is also recorded in the college and in School Leaving Certificate.

196. This witness has stated that it is not correct to say that after death of my father in the year 2012, when I was to contest election, I had taken steps for getting my date of birth corrected. Suo moto says that my date of birth has been corrected in accordance with law on the basis of recommendation of Girwar High School, Daltonganj to the Jharkhand Academic Council.

197. This witness has stated that it is not correct to say that only on my oral submission, my name was included in the Voter List in the 2014 and my date of birth was mentioned.

This witness has stated that it is not correct to say that in 2014, my name did not reflect in the voter list and I have filed forged Voter Identity Card.

198. Respondent No. 10-Ramdip Ram has stated that he was posted in Adibasi High School, Guriadamar, Lesliganj, Palamau.

199. This witness has stated that he had joined in service in the year 1983 as Assistant Teacher in History subject in the aforesaid school. In July, 2017, I was promoted as Headmaster of the school.

200. This witness has stated that this is the original Attendance Register of Class-8B of Adibasi High School, Guriadamar, Lesliganj, Palamau of Session 2007-08, consisting of 25 pages. Photocopy of the attendance register is earlier marked as Exhibit-28 and this is the original Attendance Register.

201. This witness has stated that the name of Alok Chourasiya figures at Page-6, Serial No.85, of the Attendance Register of Class-8B of Session 2007-08 which shows that he had attended the classes.

202. This witness has stated that At Page-8 (June), 10 (July), 12 (August), 14 (September), 16 (October), 18 (November), 20 (December), 22 (January), 24 (February) and 26 (March), the name of Alok Chauraiya figures which shows that he had attended the classes.

203. In Cross-Examination of Witness No.10, Ramdip Ram has stated that he was working as Headmaster-in-charge since July, 2017. I had taken over the charge of the post of Headmaster from my predecessor namely, Prem Prakash Singh who had superannuated from the post of Headmaster on 30.06.2017.

204. This witness has stated that Sri Kashi Prasad is the present Secretary of the aforesaid School. I cannot say since how long he is secretary. Sri Kashi Prasad was also the Headmaster of the School since 1983 and he superannuated from the post of Headmaster in the month of

November, 2016 and he had handed over the charge to Prem Prakash Singh in 2017. I have taken over charge, but Kashi Prasad is still working as the Secretary of the School.

205. This witness has stated that on the summons issued by this court, I have come to depose in this case.

This witness has stated that this is the Letter dated 08.03.2018 written by me addressed to the Registrar General, Jharkhand High Court. Pursuant to the letter of this Court dated 07-03-2018 calling for the original Attendance Register of Session 2007-08 of Class-8 of the School, I had informed that I have assumed the charge of Headmaster of the School in June, 2017, but the Attendance Register is not available in the school and I have made inquiry from my predecessor Prem Prakash Singh who disclosed that he has not received the attendance Register. This Letter is marked as Exhibit-31.

206. This witness has stated that the letter dated 12.03.2018 addressed to Register General whereby I have informed that during course of search, the original Attendance Register of school has been located and thereafter, I am submitting the Attendance Register to this Court. This Letter is marked as Exhibit-32.

207. This witness has stated that I could locate the Attendance Register in the school premises with the help of Prem Prakash Singh and thereafter, I had sent the Attendance Register. The Attendance Register was found in the Almirah of the school premises.

208. This witness has stated that The Attendance Register was handed over to me by Prem Prakash Singh during the search.

209. This witness has stated that The Exhibit-4 is the Guard File containing Transfer Certificate documents from Serial Nos. 638 to 725 (kept in Part-V).

210. This witness has stated that At Serial No.60, transfer certificate of Alok Chaurasiya is kept which is earlier marked as Exhibit-1 and the seal of the school is smaller.

211. This witness has stated that the seal of the school is larger in size in the transfer certificate of other students in the aforesaid Guard File.

212. This witness has stated that other students who have obtained transfer certificates were the students of Class-8, whereas Alok Chaurasiya was student of Class-9 when he had obtained the transfer certificate.

213. This witness has stated that from perusal of the Guard File, it appears that it was not maintained in seriatim and the serial numbers are broken.

214. This witness has stated that From perusal of the transfer certificates issued to other candidates, it appears that the reasons for obtaining transfer certificate was for getting higher education in different institutions, whereas the reason for obtaining transfer certificate of Sri Alok Chaurasiya has been given as desired by his guardian.

215. This witness has stated that I have assumed the charge of Headmaster of the school on the

basis of my seniority. The governing body had not appointed me as the In-charge, Headmaster of the school.

216. This witness has stated that the documents and records of the school pertaining to the affairs of the school, as per my knowledge, has to be remained with the Headmaster, but in my school, documents are either with the Headmaster or with the Secretary.

217. This witness has stated that when I wrote the first letter to Jharkhand High Court, I had not consulted the Secretary before writing the letter. Later on, I had consulted the Secretary.

218. This witness has stated that it is incorrect to suggest that he has no personal knowledge of the affairs pertaining to this case of Alok Chourasiya and I have falsely deposed in this case.

219. The Respondent witness no. 11 Bishwanath Prasad has stated that I am working as an Advocate Clerk of Mrs. Amrita Kumari, Jharkhand High Court, Ranchi and my Renewal Registration Number is 99/2018. This witness has stated that on 01.04.2016, I had filed application for information in Election Petition No. 11 of 2015. I had sought information pertaining to the defects pointed out by the stamp reporter with date of stamp reporting.

220. This witness has stated that the aforesaid application for information was supplied to me on 20.04.2016 by the Section Officer, Jharkhand High Court, Ranchi.

221. This witness has stated that the application for information was filed in one copy. The certified copy of the application for information was filed in I.A. No. 1969 / 2017 and the original copy is not before me. This witness has stated that the original copy of the application for information which he had filed on 01.04.2016 seeking information regarding the defects in the Election Petition No. 11 of 2015. No information was supplied to me. The original copy of the application for information filed on 01.04.2016 is marked as Exhibit – O.

222. In cross-examination this witness has stated that on the instruction of the learned Advocate-on-record, I had filed the application for information. This witness has stated that the defects in the election petition were not supplied to me through the application for information filed by him. This witness has stated that he had handed over the application for information to the learned Advocate-on-record.

Arguments

223. Learned counsel for the election petitioner, during course of arguments, referred to the oral evidences, written notes and submitted that Issue Nos. 6, 7, 8 and 9 are interlinked and referred the evidence of P.W.3-Krishna Nand Tripathy-Election Petitioner which have been discussed hereinabove categorically demonstrating that the date of birth of the respondent-Alok Chourasia is mentioned as 15.02.1995 in School Leaving Certificate-Exhibit-5 & Exhibit-9 on the basis of school record and Jharkhand Academic Council, 2009. Learned counsel for the petitioner further referred to the evidence of respondent witness no. 9-Alok Chourasia who has stated that he had never sought to change the date of birth earlier. His father died on

16.06.2012 and thereafter, he took steps for getting his date of birth changed.

224. Learned counsel for the election petitioner further referred to Exhibit-23 which is changed Registration Slip of the respondent-Alok Chourasia wherein in Column No. 3, it has been mentioned that if there is any defect in Registration Slip, steps be taken to get it corrected within 15 days, but the respondent- Alok Chourasiya has not taken any step within 15 days to get his date of birth corrected and after much delay of time he took step.

225. Learned counsel for the election petitioner referred to the evidence of respondent witness no. 9-Alok Chourasiya and submitted that he himself in para-7 has stated that on 28.08.2012, he had filed an application through Girwar High School to the Jharkhand Academic Council for getting his date of birth corrected.

226. Learned counsel for the petitioner referring to para 29 of the evidence of the respondent witness no. 9-Alok Chourasiya and submitted that the respondent himself has stated that in Exhibit 23-which is Registration Slip, his date of birth is mentioned as 15.02.1995. Foot-note-3 in the Registration Slip mentions that if there is any discrepancy in the Registration, it has to be corrected within 15 days after receipt of Registration Slip.

227. Learned counsel for the petitioner referring to para 52 of the evidence of the respondent witness no. 9-Alok Chourasiya has submitted that the respondent himself has admitted that neither he, nor his father, nor his mother, nor any of his relatives had submitted any application for making correction in his date of birth within 15 days as stipulated in the Foot-Note-3 of Registration Slip and this fact has also been supported in the evidence of Election Petitioner Witness No. 6-Rajnikant Verma and also in the evidence of Election Petitioner Witness No. 8-Eugene Minj.

228. Learned counsel for the election petitioner relied upon the judgment of the Hon'ble Supreme Court passed in the case of **"Sushil Kumar Vs. Rakesh Kumar"** reported in **(2003) 8 SCC 673** and submitted that on the filing of nomination paper the respondent was under the age of 25 years. The Paragraph Nos. 32, 51 and 79 of the said judgment are being reproduced below :

"32. The age of a person in an election petition has to be determined not only on the basis of the materials placed on record but also upon taking into consideration the circumstances attending thereto. The initial burden to prove the allegations made in the election petition although was upon the election petitioner but for proving the facts which were within the special knowledge of the respondent, the burden was upon him in terms of section 106 of the Evidence Act. It is also trite that when both parties have adduced evidence, the question of the onus of proof becomes academic. Furthermore, an admission on the part of a party to the lis shall be binding on him and in any event a presumption must be made that the same is taken to be established.

51. In both the aforementioned documents the age of the respondent was stated to be 24 years as on 1.1.1995. According to the respondent he was born in 1968 and,

thus, on the said date he could have been more than 24 years of age. Why such an inconsistency crept in, has not been explained. The High Court, however, did not give much importance to the said fact and proceeded on the basis that these documents go to show that the respondent was a major on that day. It is conceded by Mr. Mullick, learned counsel appearing on behalf of the respondent that the date of birth of a voter contained in the voter list and the election identity card issued by the Election Commission of India is not conclusive. They are recorded as per the statements made by the person concerned. Be that as it may, it was for the High Court and consequently, for this Court in appeal to consider the said materials on record in their proper perspective. We may, however, observe that the said documents do not conclusively show that the respondent was a major on that day.

79. The Election Tribunal while determining an issue of this nature has to bear in mind that Article 173 (b) of the Constitution of India provides for a disqualification. A person cannot be permitted to occupy an office for which he is disqualified under the Constitution. The endeavour of the court therefore, should be to see that a disqualified person should not hold the office but should not at the same unseat a person qualified therefor. The court is required to proceed cautiously in the matter and, thus, while seeing that an election of the representative of the people is not set-aside on flimsy grounds but would also have a duty to see that the constitutional mandate is fulfilled.”

229. On the other hand, learned senior counsel for the respondent during the course of arguments referred to para 7, 8, 9, 10 & 11 of the evidence of Election Petitioner Witness no. 3-Krishna Nand Tripathy and submitted that in para 9-Election petitioner has categorically deposed that at the time of scrutiny of nomination paper of sole respondent, objection was raised with regard to the electoral paper by his Election Agent-Madan Tiwary before the Returning Officer that the respondent is below the age of 25 years and he is not eligible to contest the election, but the same was not considered. But in para 32 of the evidence of Election Petitioner Witness No. 9-Krishna Nanda Tripathy, the election petitioner himself has stated that he was not present at the time of scrutiny of the nomination papers of the candidates. His election agent was present on his behalf and his election agent had made objection about the acceptance of the nomination papers of the sole respondent objecting his age, but the objection was not entertained by the Returning Officer.

230. Referring to the evidence of Election Petitioner witness no. 3, Para 37, the learned senior counsel for the respondent further submitted that election petitioner has stated that he has no personal knowledge about the date of birth of Sri Alok Chourasia except the knowledge derived from the certificate.

231. The learned senior counsel for the respondent further referred to para 39, 40 and 41 of the evidence of Election Petitioner Witness No.3-Krishna Nand Tripathy and submitted that different

version has been given regarding the date of birth of the respondent.

232. Learned senior counsel for the respondent referring to evidence of Election Petitioner Witness No. 6-Rajnikant Verma- Secretary, Jharkhand Academic Council, Ranchi, submitted that this witness has stated that there is a provision for accepting and considering the applications for change of date of birth of the examinees who had appeared in the examination conducted by the Jharkhand Academic Council within five years of the Sessions in which he or she had appeared in the examination and this provision was made in Bihar School Examination Board by Communique No. 38 of 1996 whereby the Bihar School Examination Board's Communique No. 30 of 1996 was partially modified, which after the bifurcation of the State is being followed by the Jharkhand Academic Council also, but he could not produce the original communique number 30 of 1996 issued by the Bihar School Examination Board.

233. The learned senior counsel for the respondent submitted that accordingly, respondent had appeared in the Annual Secondary School Examination, 2010 conducted by Jharkhand Academic Council and had filed an application on 28.08.2012 through appropriate authority before the Jharkhand Academic Council within time. Further 15 days period as mentioned in the Registration Slip has not been overright on Bihar School Examination Board by Communique No. 38 of 1996.

234. Learned senior counsel for the respondent referred para 13 of the evidence of Election Petitioner Witness No. 8-Eugene Minj in which this witness has categorically stated that there is no rule in the Jharkhand Academic Council to the effect that the correction in the date of birth is necessarily to be made within fifteen days only.

235. Learned senior counsel for the respondent further submitted that so far as the case of **“Sushil Kumar Vs. Rakesh Kumar” (Supra)** is concerned, he referred para 61 and 62 of the said judgment and submitted that in that case, respondent had taken a plea for date of birth in bail application showing that he was below age of 16 years in the year 1996.

236. Learned counsel for the respondent while referred to evidence of respondent witness no. 1-Kashi Prasad-Head Master and Secretary, A.A. High School, Guriadamar who had brought admission register and submitted that in the admission register of the relevant period, the name of Alok Chourasia finds mentioned at serial no. 86 showing that he had taken admission and identified the writing, serial no. 86 in the register which has been marked as Exhibit-H. This witness has proved the original admission-cum- declaration of guardian form relating to the student Alok Chourasiya which has been marked as Exhibit G. This witness has stated that in the admission register also, the date of birth of Alok Chourasiya is mentioned as 15.02.1988. So, it is submitted that there is compliance of Section 35 of Indian Evidence Act.

237. Learned counsel for the respondent has submitted that no objection was given by the petitioner at the time of publication of voter list and further no objection was made by the petitioner at the time of scrutiny of nomination papers.

238. The learned senior counsel for the respondent has further submitted that Petitioner Witness No. 1 Madan Tiwary has stated in his examination-in-Chief that in course of scrutiny, he had made objection, but no document was produced. He has stated that he has made objection before the Deputy Commissioner, Palamau which has been marked 'X' for identification. But in his cross-examination, this witness has stated that after declaration of result of respondent-Alok Chourasiya, he has made objection before the Deputy Commissioner, Palamau which has been marked 'X' for identification, so, this falsifies that any objection was taken up at the time of scrutiny and the fact that the case of the election petition is decided on the material brought on record.

239. Learned senior counsel for the respondent relied on the provision of Section 2(F) read with Section 85 of the Bihar Reorganization Act, 2000 and submitted that fresh notification has been issued by Jharkhand Academic Council and the Bihar Secondary School Examination Board, Communique 38, 1996 has force of law for correction of date of birth.

240. Under Section 103 of Indian Evidence Act, the burden of proof lies on the petitioner; but nothing has been brought on record to suggest that change of date of birth of respondent was done in mechanically by filing application.

241. In reply, the learned counsel for the petitioner submitted that Jharkhand Academic Council had no authority to initiate the process of change in date of birth of Alok Chaurasiya (after 15 days as mentioned in Registration Slip-Ext.-23), after Jharkhand Academic Council came into existence in 2002. The Communique has relied upon by the respondent which has come in para-1 of the evidence of Election Petitioner Witness No. 6- Rajnikant Verma- Secretary, Jharkhand Academic Council. So, respondent has not taken steps for getting correction in date of birth within 15 days in view of the latest judgment of the Hon'ble Supreme Court in the case of **"State of Madhya Pradesh & Others Vs. Lafarge Dealers Association & Ors."** as reported in **(2019) 7 SCC 584**. In view of the judgment the Bihar School Examination Board Notification ceased to have the force of law.

242. On the other hand, learned counsel for the respondent submitted that the Judgment reported in (2019) 7 SCC 584 is concerned, the Hon'ble Supreme Court has partly overruled it by the judgment passed in the case of **"Swarn Rekha Cokes and Coals (P) Ltd."** as reported in **(2004) 6 SCC 689** and further submitted that the case which has been relied upon is with regard to intra state sale and held that no sooner State of Madhya Pradesh and Chhatisgarh came into existence, the sale-in-question is interstate and not intra state. The Bihar School Examination Board Communique 38, 1996, has force of law.

243. In absence of any other circular issued by the Jharkhand Academic Council, Communique 38, 1996 of Bihar School Examination Board has the force of law.

244. After hearing the learned counsel for the parties, I am of the considered opinion that in absence of any Circular issued by the Jharkhand Academic Council, Communique, 38, 1996 of

Bihar Secondary School Examination Board, has force of law and accordingly Jharkhand Academic Council has adopted the correct procedure for correction of date of birth of the respondent.

245. Having heard the learned counsels for the parties, after going through the judgments cited on their behalves, after going through the evidences, oral and documentary, and the pleadings of the parties, I find considerable force in the submissions of the learned counsel for the respondent due to the following reasons:

- (i). The petitioner has not filed any objection with regard to electoral voter list so published regarding the respondent;
- (ii). At the time of scrutiny of nomination papers, no objection was raised, as per the material available on record, either by the election petitioner or by his agent.
- (iii). Only after declaration of the election result in favour of the respondent, the petitioner collected all the papers through R.T.I. and filed the instant election petition basing on taking plea that on the date of filing of nomination papers, the respondent was below 25 years of age and is disqualified under Article 173 of the Constitution of India.
- (iv). The judgement relied upon by the learned counsel for the election petitioner in the case of “**Sushil Kumar Vs. Rakesh Kumar** (supra)” is not applicable as in that case respondent had made submission about mentioning of the date of birth of the respondent in his bail application, but this is not the fact here.
- (v). Further, the petitioner although in terms of Section 103 of the Indian Evidence Act has to prove the fact which is available, but he has not brought anything on record to indicate 38 Communique, 1996 issued by the Bihar School Examination Board which deals with correction fixing 5 years and has been over-ruled.
- (vi). Exhibit 23 is Registration Slip where time for correction has been mentioned as 15 days in view of the provision under Section 2(f) r/w Section 85 of Bihar Reorganization Act and in view of evidence of Election Petitioner; Witness No. 6- Rajnikant Verma-Secretary, Jharkhand Academic Council, Ranchi read with evidence of Election Petitioner Witness No. 8-Eugene Minj r/w evidence of respondent witness No. 2- Surendra Kumar Verma-Returning Officer and evidence of respondent witness no. 9-Alok Chourasia, I am of the opinion that correction of date of birth of respondent-Alok Chourasiya has rightly been made and petitioner has failed to prove his case.

246. Accordingly, interlinked Issue Nos. 6, 7, 8 and 9 are decided in favour of the respondent. So far as Issue No. 1 is concerned, the same has already been decided vide order

dated 18.03.2016 passed by this Court. So far as the remaining Issue Nos. 2, 3, 4 and 5 are concerned, in view of the evidence recorded, no finding is being recorded on these issues.

247. Accordingly, this Election Petition is devoid of merit and is hereby **dismissed**. There shall be no order as to costs.

248. Registrar General is directed to send an authenticated copy of this judgment to the Election Commission of India and also, the substance of the decision to the Hon'ble Speaker, Jharkhand Legislative Assembly, Ranchi.

Anant Bijay Singh, J.,

Jharkhand High Court,

Ranchi Dated: 20/12/2019

Satyarthi/-N.A.F.R.
