



सत्यमेव जयते



झारखण्ड गजट

असाधारण अंक

झारखण्ड सरकार द्वारा प्रकाशित

5 फाल्गुन, 1946 (श०)

संख्या - 105 राँची, सोमवार,

24 फ़रवरी, 2025 (ई०)

मंत्रिमंडल (निर्वाचन) विभाग

अधिसूचना

24 फ़रवरी, 2025

संख्या-02/नि०न्या०वा०-17-09/2020/02 --निर्वाचन अर्जी सं०-07/2020 में दिये गये उच्च न्यायालय, झारखण्ड, राँची के तारीख 27 सितंबर, 2024 के आदेश से संबंधित भारत निर्वाचन आयोग की अधिसूचना संख्या-82/पूर्व अनु०-1/झार०-वि०स०/(07/2020)/2025 दिनांक-10 फरवरी, 2025 को एतदद्वारा सर्वसाधारण की जानकारी हेतु प्रकाशित की जाती है।

झारखण्ड राज्यपाल के आदेश से,

के० रवि कुमार,

मुख्य निर्वाचन पदाधिकारी-सह सचिव।

भारत निर्वाचन आयोग

अधिसूचना

10 फरवरी, 2025/21 माघ, 1946 (शक)

सं० 82/पूर्व अनु-1/झार.-वि.स./ (07/2020)/2025--लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 (ख) के अनुसरण में, भारत निर्वाचन आयोग एतद्वारा निर्वाचन अर्जी सं. 07/2020 में दिये गये उच्च न्यायालय, झारखण्ड, राँची के तारीख 27 सितंबर, 2024 के आदेश को प्रकाशित करता है।

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Election Petition No. 07 of 2020

Naresh Kumar Murmu aged about 53 years, S/o-Ram Chandra Murmu, R/o-50 Tola, Gaitadih, Village-Karandih, Jamshedpur, PO- Tatanagar, PS-Parsudih, District-East Singhbhum, Pin Code-831002

Petitioner

Versus

1. Sanjib Sardar, S/o- Nalin Sardar, R/o- Village- Udal, PO-Bhalki, PS- Kowali, District- East Singhbhum (Jharkhand).
2. Bulu Rani Singh, D/o- Dhananjay Singh, R/o- 63A, Hitku, Sundernagar, Narwapahar, PO & PS- Sundernagar, District- East Singhbhum (Jharkhand), Pin Code-832107.
3. Menka Sardar, D/o Bibhishan Singh Bhumu, R/o- House No. 154, Pauru, Hata, PO-Juri, Potka, PS-Potka, District- East Singhbhum (Jharkhand).
4. Ishwar Soren, S/o- Lakhai Soren, R/o- Village- Balijuri, PO-Kalikapur, PS- Potka, District- East Singhbhum (Jharkhand).
5. Jeetrai Hansda, S/o- Dhanu Hansda, R/o Bagbera, Jatajhopri, PO & PS- Bagbera, District- East Singhbhum, Pin Code- 83102 (Jharkhand).
6. Diku Vesar, S/o- Konda Vesar, R/o- Ranhamatiya, Bara Botla, East Singhbhum, PO & PS- Dumaria, District- East Singhbhum Pin Code-832104 (Jharkhand).
7. Bir Singh Deogam, S/o-Late Sarti Deogam, R /o H.No. 09, Bomro, Village- Bomro, PO- Bankishol, PS- Dumaria, District- East Singhbhum, Pin Code-832104 (Jharkhand).
8. Sirma Dewgam, S /o - Burju Dewgam, R /o - Jangal Block, PO- Bankishol, PS- Dumuria, District- East Singhbhum (Jharkhand).
9. Sunita Murmu, W/o- Ramu Murmu, R/o- Bandhtola Sarjamda, PO- Sarjamda, PS- Parsudih, District - East Singhbhum (Jharkhand).
10. District Election Officer, East Singhbhum, PO and PS: Sakchi Town Jamshedpur, Dist: East Singhbhum

Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY PRASAD

For the Petitioner : Mr. Shresth Gautam, Advocate
For the Resp. Nos. 1 to 9 : None.
For the Resp. No. 10 : Mr. Sachin Kumar, Advocate

C.A.V. on 23/07/2024

Pronounced on 27/09/2024

I.A. No. 5952 of 2022

I.A. No. 5952 of 2022 has been filed on behalf of the petitioner for withdrawal of the instant Election Petition No. 07 of 2020.

2. The above Election Petition No. 07 of 2020 has been filed on behalf of the petitioner under Sections 80 and 81 of the Representation of People Act, 1951 for setting aside the election of the Respondent no. 1 namely Sanjib Sardar duly elected from 46-Potka (Scheduled Tribe) Assembly Constituency held in the month of December, 2019 of the 5th Jharkhand Vidhan Sabha Elections.

3. It has been stated that the petitioner was one of the contesting candidate from Jharkhand Vikash Morcha (Prajantrik) and there were total 10 candidates for the election and after the polling on 23.12.2019 through Electronic Voting Machine (in short E.V.M.) the counting was done and thereafter the Respondent no. 1 was declared

as an elected candidate for the said constituency, although objections were made on behalf of the petitioner by Miss Poma Soren, Member Panchayat Samiti, Village, Potka, Jamshedpur.

4. It has also been stated that the respondent no. 1 has suppressed the material fact and nomination has been improperly accepted by the Returning Officer and hence, the enquiry should be conducted and the candidature of the respondent no. 1 should be cancelled.

5. It has also been stated that objection was made by the petitioner as follows:-

- (i) The Respondent No. 1 has concealed the material fact that in the lifetime of his first wife Smt. Budhni Sardar he has married with Ranita Sardar on 27th May, 2016 and since then the Respondent No. 1 - Sanjiv Sardar has two living wife Smt. Budhni Sardar and Smt. Ranita Sardar.
- (ii) In the Nomination Paper the Respondent No. 1 has shown his first wife as his only wife and has concealed the fact of his marriage with Ranita Sardar, his Second Wife.
- (iii) The Respondent No. 1 has concealed the assets, properties, financial status and income of his second wife namely Ranita Sardar in the Nomination Form for which he is liable to be disqualified from being a member of 5th Jharkhand Legislative Assembly, and his Election from 46- Potka (Scheduled Tribe) Assembly Constituency is fit to be set aside.
- (iv) The Respondent No. 1 has concealed the information about the Criminal Cases against him in the affidavit filed with the Nomination Form to contest the election as a candidate for 46-Potka (Scheduled Tribe) Assembly Constituency to the 5th Jharkhand Legislative Assembly held in November December, 2019 which makes his election and declaration as elected candidate on 23.12.2019 illegal and fit to be set aside.
- (v) The Criminal Cases mentioned in his Nomination Form are not as per the directions of the Hon'ble Supreme Court as per the Judgment dated 25.09.2018 passed in W.P.(Civil) No. 536 of 2011- Public Interest Foundation and Ors. Vs. The Union of India & Anr. which has been prescribed in the Format C-1 which deals about the declaration of the criminal cases by the candidate and by the Political Party as prescribed in the Format C-2 in which the Political Party has to publish the criminal antecedent of its candidate set up by the said Political Party in its website, Newspaper, Television with a note at the bottom of the C-2 Format stating that:-
- (a) The above information shall be published State wise for each State/UT.
- (b) The matter in Newspaper should be published in font size of atleast 12.

whereby and whereunder the said Directions of the Hon'ble Supreme Court has not been complied in its true letter and spirit by the candidate nor its Political Party under whose Political symbol the Respondent No. 1 had contested the election and Returned as successful candidate. The candidate has not published the Criminal Antecedents against him in the leading Newspaper which is in wide circulation in the

locality nor in the State wide whereas the Appeal to his votes has been published in almost all the leading Newspaper of the locality and State wide.

(vi) The Respondent No. 1 had concealed the complete Information and mislead the voter of his locality by non-disclosure of the punishment levied against him for the recovery of the assets which has been destroyed/ damaged during the Band (Protest) dated 25.11.2016 by the Sub Divisional Officer, Dhalbhum (Jamshedpur), District- Singhbhum East, in which criminal case was instituted and registered as G.R. No. 3459 of 2016 arising out of Potka P.S Case No. 0042 of 2016 under Section 147/148/149/341/342/307/379/431/337/435/353/332/109 I.P.C as accused No. 7 therein.

(vii) The Notice of Show Cause issued by Election Officer 46-Potka (ST) Legislative Assembly Constituency, East Singhbhum, Jamshedupur vide Letter No. 82 dated 05.12.2019, to the Respondent No. 1 that since he has failed to provide details of expenditure which was incurred in publishing his criminal antecedent/ conviction thrice

in Daily Newspaper and thrice telecast in the local Channels has not been presented before the Election Officer, 46-Potka (ST) Assembly Constituency, therefore a Show Cause within 24 hours is warranted as to why such non-compliance of mandates of Representations of Peoples Act be not invoked against him for violation of Law, Rule,

Orders and as such orders passed thereof. The same was complied by the Respondent No. 1 beyond the stipulated time period, on 09.12.2019 after the delay of 3-4 days.

6. Heard Mr. Shresth Gautam, learned counsel for the petitioner. However, none appears on behalf of the respondents.

7. Learned counsel for the petitioner has submitted that although the petitioner has preferred the instant Election Petition by challenging the election of Sanjib Sardar i.e. the respondent no. 1. However, more than four (4) years have elapsed and hence, he is not interested in contesting and pursue the above Election Petition and hence, the petitioner may be given liberty to withdraw the instant Election Petition No.07 of 2020 as the petitioner does not intend to pursue the instant Election Petition.

8. Having heard the learned counsel for the petitioner and from perusal of the records of this case, it appears that the above Election Petition has been filed on 05.02.2020 before the High Court of Jharkhand and on 19.02.2020, the petitioner was directed to remove the defects, as pointed by the Stamp Reporter within six weeks.

9. It appears that in the meantime COVID-19 pandemic started and the case was heard through Video Conferencing on 13.04.2020 and as such, the petitioner was again directed to remove the defects within four weeks after the lockdown period is over. However, the defects were not removed by the petitioner.

10. Thereafter, this case was placed before the Co-ordinate Bench of this Court on 15.06.2022 and 29.06.2022 and again, two weeks' time was allowed to remove the defects, as pointed out by the office. However, other defect nos. 2 to 6 were removed, but the defect no. 1 was not removed.

11. Thereafter the matter was placed before this Court on 02.02.2024 and this Court had directed the Joint Registrar (List & Computer) to submit his report within one week from today as to why the case has not been listed after 29.06.2022. Office of the learned Registrar General was also directed to call for explanation from the concerned Assistant Registrar, Section Officer and Dealing Assistant.

12. After receipt of the respective explanation of the persons concerned, the case was again placed on 21.02.2024, however, still defect no. 1 was not removed. Thereafter the matter was placed on 05.03.2024 and the explanation furnished by by Kamal Bara, Section Officer – cum-D.A. I/c, Supreme Court Appeal Section, Mritunjay Kumar Madhur, Assistant Registrar-cum- Section Officer I/c, Supreme Court Appeal Section and Santosh Kumar, the then Assistant Registrar, Supreme Court Appeal Section, presently posted in Centralised Filing Section, were accepted with direction to the persons concerned to remain careful in future and the matter was placed on 04.04.2024.

13. Then, the matter was placed before this Court on 25.04.2024 and on that date, I. A. No. 64 of 2021 filed on behalf of the Intervenor for impleading the District Election Officer, East Singhbhum, was allowed by this Court and the matter was posted in the next week.

Thereafter the matter was heard on 09.05.2024 and on that date, learned counsel for the petitioner has sought permission to withdraw the instant Election Petition. However, none had appeared on behalf of the Respondent Nos. 1 to 9 on that date. Thereafter, this Court in light of the provisions of Section 109 read with Section 110 of the Representation of People Act, 1951, directed for sending the notice before withdrawal of the Election Petition.

14. This Court in light of the provisions of Section 109 read with Section 110 of the Representation of People Act, 1951 directed the learned Registrar General to take steps for

publication of Notice in the Official Gazette of State of Jharkhand fixing the date of hearing of I.A. No. 5952 of 2022 on 21st June, 2024.

15. It also appears that in the meantime, the notice was published in the Official Gazette of the State of Jharkhand on 13.05.2024, which has been kept at Flag-N.

16. However, when the matter was placed before this Court on 21.06.2024, none had appeared on behalf of the respondents and as such,, the case was fixed on 18.07.2024 awaiting appearance of the respondents. Thereafter, the order of this case was reserved on 23.07.2024.

17. At this stage, it is relevant to refer Section 109 and Section 110 of the Representation of the Peoples Act, 1951, which read as follows:

“Section 109:- Withdrawal of election petitions.—

(1) An election petition may be withdrawn only by leave of the High Court.

(2) Where an application for withdrawal is made under sub-section (1), notice thereof fixing a date for the hearing of the application shall be given to all other parties to the petition and shall be published in the Official Gazette.

Section 110:- Procedure for withdrawal of election petitions.—

(1) If there are more petitioners than one, no application to withdraw an election petition shall be made except with the consent of all the petitioners.

(2) No application for withdrawal shall be granted if, in the opinion of the High Court, such application has been induced by any bargain or consideration which ought not to be allowed.

(3) If the application is granted— (a) the petitioner shall be ordered to pay the costs of the respondents therefore incurred or such portion thereof as the High Court may think fit; (b) the High Court shall direct that the notice of withdrawal shall be published in the Official Gazette and in such other manner as it may specify and thereupon the notice shall be published accordingly; (c) a person who might himself have been a petitioner may, within fourteen days of such publication, apply to be substituted as petitioner in place of the party withdrawing, and upon compliance with the conditions, if any, as to security, shall be entitled to be so substituted and to continue the proceedings upon such terms as the High Court may deem fit.”

18. Although, none of the Respondent No. 1 to Respondent No. 9 have appeared in this case. However, it would appear from the pleadings made in the Election Petition No. 07 of 2020 that the Respondent no. 1, Sanjib Sardar has suppressed in the nomination paper regarding the second marriage and he is said to have given false declaration to the effect that he has married with only one namely Smt. Budhni Sardar. Although he is said to have performed another marriage with one Ranita Sardar on 27.05.2016 and photocopy of the marriage card and photographs of the marriage of the respondent no. 1 with Ronita have also been enclosed.

19. It further appears from the pleadings made in the election petition at paragraph-8 (vi) that the respondent no. 1 has also suppressed the institution of the pendency of criminal case bearing G.R. No. 3459 of 2016 arising out of Potka P.S. Case No. 0042 of 2016 for the offences under Sections 147/148/149/341/342/307/379/

431/337/435/353/332/109 I.P.C. as accused no. 7 in the FIR. Photocopy of the FIR of the said case and charge sheet of Potka P.S. Case No. 0042 of 2016 dated 25.11.2016 have also been enclosed with Election Petition. Even the photocopy of the Election Petition from page 25 to 50 have been enclosed. The petitioner has enclosed the photocopy of the objection filed on behalf of Poma Soren regarding concealment of his second marriage from Ranita Sardar as he has declared the name of Smt. Budhni Sardar enclosed at page 52 to 63 and page-62 of the Election Petition reveals that Smt. Budhni Sardar is his wife at serial no. 2. However, page-64 of the Election Petition is with regard to the said criminal case in which he has been made accused in Potka P.S. Case No. 0042 of 2016 corresponding to G.R. No. 3459 of 2016 for the offences under Sections 147/148/149/341/342/307/379/431/337/435/ 353/332/109 I.P.C.

20. It further reveals from page-66 of this Election Petition that he has given details of another FIR bearing Potka P.S. Case No. 44 of 2012 corresponding to G.R. No. 2827 of 2012 for the offences under Sections 147/149/323/504/ 506/427 I.P.C.

21. The order sheet dated 21.06.2024 passed by this Court reads as under:-

“Pursuant to the order dated 09.05.2024 passed by this Court Notification dated 13.05.2024 has been published in the official Gazette of the State of Jharkhand kept at Flag-N.

2. Let it be kept on record.

3. Put up this case on 18.07.2024 awaiting appearance of the respondents.”

22. It further transpires from the office note that defect no. 1 has not been removed till date by the petitioner by which it has been pointed out that statement regarding earlier moving before this Court may be mentioned by filing the supplementary affidavit.
23. It appears that the petitioner is not interested in pursuing this case.
24. Under the circumstances, the Election-Petitioner is permitted to withdraw Election Petition No. 07 of 2020 at his own risk.
25. Accordingly, Election Petition No. 07 of 2020 is dismissed as withdrawn on payment of cost of Rs. 5,000/-, which may be deposited by the Election-Petitioner before the JHALSA within three weeks from today and the petitioner shall file the receipt before the Registry and which may be verified by the Registry and its Office concerned.
26. Although the petitioner has not proved the case of bigamy of the Respondent no. 1, Sanjib Sardar. However, this question requires consideration by the Election Commission of India as well as State Election Commission and also by the District Election Officer in future. If the respondent no. 1, Sanjib Sardar has concealed his identity with regard to second marriage with one Ranita Sardar, then it will be open to the Election Commission of India as well as State Election Commission and the Returning Officer to take necessary decision at its own level in light of the Judgment dated 25.09.2018 passed in W.P.(Civil) No. 536 of 2011- Public Interest Foundation and Ors. Vs. The Union of India & Anr. by the Hon'ble Supreme Court.
27. However, it will be open to the above mentioned Authorities to look into the matter and may take necessary steps in accordance with law, if so required for the present and in future also and a proper guidelines should be made in this regard in future also before accepting the Nomination Paper of any candidate.
28. Accordingly, Election Petition No. 07 of 2020 is dismissed as withdrawn with the observations made hereinabove.
29. Pending I. A., if any, stands disposed of.

(Sanjay Prasad, J.)

Kamlesh/N. A. F. R.

आदेश से,

अरविन्द आनन्द,

प्रधान सचिव

भारत निर्वाचन आयोग

ELECTION COMMISSION OF INDIA**NOTIFICATION**10th February, 2025/21 Magha, 1946 (Saka)

No. 82/ES-1/JKD-LA/(07/2020)/2025 - In pursuance of Section 106(B) of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the Order dated 27th September, 2024 of the High Court of Jharkhand, Ranchi in Election Petition No. 07 of 2020.

IN THE HIGH COURT OF JHARKHAND AT RANCHI**Election Petition No. 07 of 2020**

Naresh Kumar Murmu aged about 53 years, S/o-Ram Chandra Murmu, R/o-50 Tola, Gaitadih, Village-Karandih, Jamshedpur, PO- Tatanagar, PS-Parsudih, District-East Singhbhum, Pin Code-831002

Petitioner*Versus*

1. Sanjib Sardar, S/o- Nalin Sardar, R/o- Village- Udal, PO-Bhalki, PS- Kowali, District- East Singhbhum (Jharkhand).
2. Bulu Rani Singh, D/o- Dhananjay Singh, R/o- 63A, Hitku, Sundernagar, Narwapahar, PO & PS- Sundernagar, District- East Singhbhum (Jharkhand), Pin Code-832107.
3. Menka Sardar, D/o Bibhishan Singh Bhumu, R/o- House No. 154, Pauru, Hata, PO-Juri, Potka, PS-Potka, District- East Singhbhum (Jharkhand).
4. Ishwar Soren, S/o- Lakhai Soren, R/o- Village- Balijuri, PO-Kalikapur, PS- Potka, District- East Singhbhum (Jharkhand).
5. Jeetrai Hansda, S/o- Dhanu Hansda, R/o Bagbera, Jatajhopri, PO & PS- Bagbera, District- East Singhbhum, Pin Code- 83102 (Jharkhand).
6. Diku Vesar, S/o- Konda Vesar, R/o- Ranhamatiya, Bara Botla, East Singhbhum, PO & PS- Dumaria, District- East Singhbhum Pin Code-832104 (Jharkhand).
7. Bir Singh Deogam, S/o-Late Sarti Deogam, R /o H.No. 09, Bomro, Village- Bomro, PO- Bankishol, PS- Dumaria, District- East Singhbhum, Pin Code-832104 (Jharkhand).
8. Sirma Dewgam, S /o - Burju Dewgam, R /o - Jangal Block, PO- Bankishol, PS- Dumuria, District- East Singhbhum (Jharkhand).
9. Sunita Murmu, W/o- Ramu Murmu, R/o- Bandhtola Sarjamda, PO- Sarjamda, PS- Parsudih, District - East Singhbhum (Jharkhand).
10. District Election Officer, East Singhbhum, PO and PS: Sakchi Town Jamshedpur, Dist: East Singhbhum

Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY PRASAD

For the Petitioner : Mr. Shresth Gautam, Advocate
For the Resp. Nos. 1 to 9 : None.
For the Resp. No. 10 : Mr. Sachin Kumar, Advocate

C.A.V. on 23/07/2024**Pronounced on 27/09/2024****I.A. No. 5952 of 2022**

I.A. No. 5952 of 2022 has been filed on behalf of the petitioner for withdrawal of the instant Election Petition No. 07 of 2020.

2. The above Election Petition No. 07 of 2020 has been filed on behalf of the petitioner under Sections 80 and 81 of the Representation of People Act, 1951 for setting aside the election of the Respondent no. 1 namely Sanjib Sardar duly elected from 46-Potka (Scheduled Tribe) Assembly Constituency held in the month of December, 2019 of the 5th Jharkhand Vidhan Sabha Elections.

3. It has been stated that the petitioner was one of the contesting candidate from Jharkhand Vikash Morcha (Prajantrik) and there were total 10 candidates for the election and after the polling on 23.12.2019 through Electronic Voting Machine (in short E.V.M.) the counting was done and thereafter the Respondent no. 1 was declared

as an elected candidate for the said constituency, although objections were made on behalf of the petitioner by Miss Poma Soren, Member Panchayat Samiti, Village, Potka, Jamshedpur.

4. It has also been stated that the respondent no. 1 has suppressed the material fact and nomination has been improperly accepted by the Returning Officer and hence, the enquiry should be conducted and the candidature of the respondent no. 1 should be cancelled.

5. It has also been stated that objection was made by the petitioner as follows:-

(i) The Respondent No. 1 has concealed the material fact that in the lifetime of his first wife Smt. Budhni Sardar he has married with Ranita Sardar on 27th May, 2016 and since then the Respondent No. 1 - Sanjiv Sardar has two living wife Smt. Budhni Sardar and Smt. Ranita Sardar.

- (ii) In the Nomination Paper the Respondent No. 1 has shown his first wife as his only wife and has concealed the fact of his marriage with Ranita Sardar, his Second Wife.
- (iii) The Respondent No. 1 has concealed the assets, properties, financial status and income of his second wife namely Ranita Sardar in the Nomination Form for which he is liable to be disqualified from being a member of 5th Jharkhand Legislative Assembly, and his Election from 46- Potka (Scheduled Tribe) Assembly Constituency is fit to be set aside.
- (iv) The Respondent No. 1 has concealed the information about the Criminal Cases against him in the affidavit filed with the Nomination Form to contest the election as a candidate for 46-Potka (Scheduled Tribe) Assembly Constituency to the 5th Jharkhand Legislative Assembly held in November December, 2019 which makes his election and declaration as elected candidate on 23.12.2019 illegal and fit to be set aside.
- (v) The Criminal Cases mentioned in his Nomination Form are not as per the directions of the Hon'ble Supreme Court as per the Judgment dated 25.09.2018 passed in W.P.(Civil) No. 536 of 2011- Public Interest Foundation and Ors. Vs. The Union of India & Anr. which has been prescribed in the Format C-1 which deals about the declaration of the criminal cases by the candidate and by the Political Party as prescribed in the Format C-2 in which the Political Party has to publish the criminal antecedent of its candidate set up by the said Political Party in its website, Newspaper, Television with a note at the bottom of the C-2 Format stating that:-
- (a) The above information shall be published State wise for each State/UT.
- (b) The matter in Newspaper should be published in font size of atleast 12.

whereby and whereunder the said Directions of the Hon'ble Supreme Court has not been complied in its true letter and spirit by the candidate nor its Political Party under whose Political symbol the Respondent No. 1 had contested the election and Returned as successful candidate. The candidate has not published the Criminal Antecedents against him in the leading Newspaper which is in wide circulation in the locality nor in the State wide whereas the Appeal to his votes has been published in almost all the leading Newspaper of the locality and State wide.

- (vi) The Respondent No. 1 had concealed the complete Information and mislead the voter of his locality by non-disclosure of the punishment levied against him for the recovery of the assets which has been destroyed/ damaged during the Band (Protest) dated 25.11.2016 by the

Sub Divisional Officer, Dhalbhum (Jamshedpur), District- Singhbhum East, in which criminal case was instituted and registered as G.R. No. 3459 of 2016 arising out of Potka P.S Case No. 0042 of 2016 under Section 147/148/149/341/342/307/379/431/337/435/353/332/109 I.P.C as accused No. 7 therein.

(vii) The Notice of Show Cause issued by Election Officer 46-Potka (ST) Legislative Assembly Constituency, East Singhbhum, Jamshedupur vide Letter No. 82 dated 05.12.2019, to the Respondent No. 1 that since he has failed to provide details of expenditure which was incurred in publishing his criminal antecedent/ conviction thrice

in Daily Newspaper and thrice telecast in the local Channels has not been presented before the Election Officer, 46-Potka (ST) Assembly Constituency, therefore a Show Cause within 24 hours is warranted as to why such non-compliance of mandates of Representations of Peoples Act be not invoked against him for violation of Law, Rule,

Orders and as such orders passed thereof. The same was complied by the Respondent No. 1 beyond the stipulated time period, on 09.12.2019 after the delay of 3-4 days.

6. Heard Mr. Shresth Gautam, learned counsel for the petitioner. However, none appears on behalf of the respondents.

7. Learned counsel for the petitioner has submitted that although the petitioner has preferred the instant Election Petition by challenging the election of Sanjib Sardar i.e. the respondent no. 1. However, more than four (4) years have elapsed and hence, he is not interested in contesting and pursue the above Election Petition and hence, the petitioner may be given liberty to withdraw the instant Election Petition No.07 of 2020 as the petitioner does not intend to pursue the instant Election Petition.

8. Having heard the learned counsel for the petitioner and from perusal of the records of this case, it appears that the above Election Petition has been filed on 05.02.2020 before the High Court of Jharkhand and on 19.02.2020, the petitioner was directed to remove the defects, as pointed by the Stamp Reporter within six weeks.

9. It appears that in the meantime COVID-19 pandemic started and the case was heard through Video Conferencing on 13.04.2020 and as such, the petitioner was again directed to remove the defects within four weeks after the lockdown period is over. However, the defects were not removed by the petitioner.

10. Thereafter, this case was placed before the Co-ordinate Bench of this Court on 15.06.2022 and 29.06.2022 and again, two weeks' time was allowed to remove the defects, as pointed out by the office. However, other defect nos. 2 to 6 were removed, but the defect no. 1 was not removed.

11. Thereafter the matter was placed before this Court on 02.02.2024 and this Court had directed the Joint Registrar (List & Computer) to submit his report within one week from today as to why the case has not been listed after 29.06.2022. Office of the learned Registrar General was also directed to call for explanation from the concerned Assistant Registrar, Section Officer and Dealing Assistant.

12. After receipt of the respective explanation of the persons concerned, the case was again placed on 21.02.2024, however, still defect no. 1 was not removed. Thereafter the matter was placed on 05.03.2024 and the explanation furnished by by Kamal Bara, Section Officer – cum-D.A. I/c, Supreme Court Appeal Section, Mritunjay Kumar Madhur, Assistant Registrar-cum- Section Officer I/c, Supreme Court Appeal Section and Santosh Kumar, the then Assistant Registrar, Supreme Court Appeal Section, presently posted in Centralised Filing Section, were accepted with direction to the persons concerned to remain careful in future and the matter was placed on 04.04.2024.

13. Then, the matter was placed before this Court on 25.04.2024 and on that date, I. A. No. 64 of 2021 filed on behalf of the Intervenor for impleading the District Election Officer, East Singhbhum, was allowed by this Court and the matter was posted in the next week.

Thereafter the matter was heard on 09.05.2024 and on that date, learned counsel for the petitioner has sought permission to withdraw the instant Election Petition. However, none had appeared on behalf of the Respondent Nos. 1 to 9 on that date. Thereafter, this Court in light of the provisions of Section 109 read with Section 110 of the Representation of People Act, 1951, directed for sending the notice before withdrawal of the Election Petition.

14. This Court in light of the provisions of Section 109 read with Section 110 of the Representation of People Act, 1951 directed the learned Registrar General to take steps for publication of Notice in the Official Gazette of State of Jharkhand fixing the date of hearing of I.A. No. 5952 of 2022 on 21st June, 2024.

15. It also appears that in the meantime, the notice was published in the Official Gazette of the State of Jharkhand on 13.05.2024, which has been kept at Flag-N.

16. However, when the matter was placed before this Court on 21.06.2024, none had appeared on behalf of the respondents and as such,, the case was fixed on 18.07.2024 awaiting appearance of the respondents. Thereafter, the order of this case was reserved on 23.07.2024.

17. At this stage, it is relevant to refer Section 109 and Section 110 of the Representation of the Peoples Act, 1951, which read as follows:

“Section 109:- Withdrawal of election petitions.—

(1) An election petition may be withdrawn only by leave of the High Court.

(2) Where an application for withdrawal is made under sub-section (1), notice thereof fixing a date for the hearing of the application shall be given to all other parties to the petition and shall be published in the Official Gazette.

Section 110:- Procedure for withdrawal of election petitions.—

(1) If there are more petitioners than one, no application to withdraw an election petition shall be made except with the consent of all the petitioners.

(2) No application for withdrawal shall be granted if, in the opinion of the High Court, such application has been induced by any bargain or consideration which ought not to be allowed.

(3) If the application is granted— (a) the petitioner shall be ordered to pay the costs of the respondents therefore incurred or such portion thereof as the High Court may think fit; (b) the High Court shall direct that the notice of withdrawal shall be published in the Official Gazette and in such other manner as it may specify and thereupon the notice shall be published accordingly; (c) a person who might himself have been a petitioner may, within fourteen days of such publication, apply to be substituted as petitioner in place of the party withdrawing, and upon compliance with the conditions, if any, as to security, shall be entitled to be so substituted and to continue the proceedings upon such terms as the High Court may deem fit.”

18. Although, none of the Respondent No. 1 to Respondent No. 9 have appeared in this case. However, it would appear from the pleadings made in the Election Petition No. 07 of 2020 that the Respondent no. 1, Sanjib Sardar has suppressed in the nomination paper regarding the second marriage and he is said to have given false declaration to the effect that he has married with only one namely Smt. Budhni Sardar. Although he is said to have performed another marriage with one Ranita Sardar on 27.05.2016 and photocopy of the marriage card and photographs of the marriage of the respondent no. 1 with Ronita have also been enclosed.

19. It further appears from the pleadings made in the election petition at paragraph-8 (vi) that the respondent no. 1 has also suppressed the institution of the pendency of criminal case bearing G.R. No. 3459 of 2016 arising out of Potka P.S. Case No. 0042 of 2016 for the offences under Sections 147/148/149/341/342/307/379/

431/337/435/353/332/109 I.P.C. as accused no. 7 in the FIR. Photocopy of the FIR of the said case and charge sheet of Potka P.S. Case No. 0042 of 2016 dated 25.11.2016 have also been enclosed with Election Petition. Even the photocopy of the Election Petition from page 25 to 50 have been enclosed. The petitioner has enclosed the photocopy of the objection filed on behalf of Poma Soren regarding concealment of his second marriage from Ranita Sardar as he has declared the name of Smt. Budhni Sardar enclosed at page 52 to 63 and page-62 of the Election Petition reveals that Smt. Budhni Sardar is his wife at serial no. 2. However, page-64 of the Election Petition is with regard to the said criminal case in which he has been made accused in Potka P.S. Case No. 0042 of 2016 corresponding to G.R. No. 3459 of 2016 for the offences under Sections 147/148/149/341/342/307/379/431/337/435/ 353/332/109 I.P.C.

20. It further reveals from page-66 of this Election Petition that he has given details of another FIR bearing Potka P.S. Case No. 44 of 2012 corresponding to G.R. No. 2827 of 2012 for the offences under Sections 147/149/323/504/ 506/427 I.P.C.

21. The order sheet dated 21.06.2024 passed by this Court reads as under:-

“Pursuant to the order dated 09.05.2024 passed by this Court Notification dated 13.05.2024 has been published in the official Gazette of the State of Jharkhand kept at Flag-N.

2. Let it be kept on record.

3. Put up this case on 18.07.2024 awaiting appearance of the respondents.”

22. It further transpires from the office note that defect no. 1 has not been removed till date by the petitioner by which it has been pointed out that statement regarding earlier moving before this Court may be mentioned by filing the supplementary affidavit.

23. It appears that the petitioner is not interested in pursuing this case.

24. Under the circumstances, the Election-Petitioner is permitted to withdraw Election Petition No. 07 of 2020 at his own risk.

25. Accordingly, Election Petition No. 07 of 2020 is dismissed as withdrawn on payment of cost of Rs. 5,000/-, which may be deposited by the Election-Petitioner before the

JHALSA within three weeks from today and the petitioner shall file the receipt before the Registry and which may be verified by the Registry and its Office concerned.

26. Although the petitioner has not proved the case of bigamy of the Respondent no. 1, Sanjib Sardar. However, this question requires consideration by the Election Commission of India as well as State Election Commission and also by the District Election Officer in future. If the respondent no. 1, Sanjib Sardar has concealed

his identity with regard to second marriage with one Ranita Sardar, then it will be open to the Election Commission of India as well as State Election Commission and the Returning Officer to take necessary decision at its own level in light of the Judgment dated 25.09.2018 passed in W.P.(Civil) No. 536 of 2011- Public Interest Foundation and Ors. Vs. The Union of India & Anr. by the Hon'ble Supreme Court.

27. However, it will be open to the above mentioned Authorities to look into the matter and may take necessary steps in accordance with law, if so required for the present and in future also and a proper guidelines should be made in this regard in future also before accepting the Nomination Paper of any candidate.

28. Accordingly, Election Petition No. 07 of 2020 is dismissed as withdrawn with the observations made hereinabove.

29. Pending I. A., if any, stands disposed of.

(Sanjay Prasad, J.)

Kamlesh/N. A. F. R.

By order,

ARVIND ANAND,
PRINCIPAL SECRETARY
ELECTION COMMISSION OF INDIA
