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मध्यप्रदेश राजपत्र

(असाधारण)

प्राधिकार से प्रकाशित

क्रमांक 65]

भोपाल, शुक्रवार, दिनांक 12 मार्च 2026—फाल्गुन 21, शक 1947

विधि एवं विधायी (निर्वाचन) कार्य विभाग

भोपाल, दिनांक 12 मार्च 2026

फा.क्र. EP.20-2024-चार-वि.निर्वा.-12.- भारत निर्वाचन आयोग की अधिसूचना क्रमांक. 82- म.प्र.-वि.स.-(20/2024) 2026, दिनांक 13 फरवरी 2026 सर्वसाधारण की जानकारी हेतु प्रकाशित की जाती है.

रामप्रताप सिंह जादौन, सचिव.

भारत निर्वाचन आयोग

निर्वाचन सदन, अशोक रोड, नई दिल्ली-110 001

नई दिल्ली, तारीख 13 फरवरी, 2026 – 24 माघ, 1947 (शक)

अधिसूचना

सं.: 82-म.प्र.-लो.स.-(20/2024)-2026.- लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण में, निर्वाचन आयोग वर्ष, 2024 की निर्वाचक याचिका सं. 20 में पारित माननीय मध्यप्रदेश उच्च न्यायालय (जबलपुर बेंच) के दिनांक 5 जनवरी 2026 के निर्णय/आदेश को एतद्वारा प्रकाशित करता है (कनकर मुनजारे विरुद्ध भारती पारधी).

आदेश से,

हस्ता./-

(बिनोद कुमार)

सचिव,

भारत निर्वाचन आयोग.

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi -110 001

New Delhi, Dated 13th February, 2026—24 Magha, 1947 (Saka)**NOTIFICATION**

No- 82-MP-HP-(20/2024)-2026.- In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the Judgement/Order dated 05th January, 2026 of the Hon'ble High Court of Madhya Pradesh (Jabalpur Bench) passed in the Election Petition No- 20 of 2024 (Kankar Munjare *versus* Bharti Pardhi).

IN THE HIGH COURT OF MADHYA PRADESH**AT JABALPUR****BEFORE****HON'BLE SHRI JUSTICE AVANINDRA KUMAR SINGH****ON THE 5TH OF JANUARY, 2026****ELECTION PETITION NO. 20 of 2024*****KANKAR MUNJARE******versus******BHARTI PARDHI*****Appearance:***Shri Nitya Nand Mishra - learned counsel for the petitioner.**Shri G.S. Baghel – Sr. Advocate assisted by Shri K.K. Raidas - learned counsel for the respondent.***ORDER**

1. This Election Petition is filed by the petitioner Kankar Munjare under Section 80, 80-A, 81 and Section 100 of the Representation of People Act, 1951 with the following prayer and important grounds/ facts as mentioned in paragraphs 17 to 20 which are reproduced below :-

Prayer.

"It is therefore prayed that this Hon'ble Court may kindly be pleased to:

I. Call for the entire record from the District Election Officer/Election Commission of India in respect of Parliament Constituency:15- Balaghat M.P in General Election 2024.

II. Declare the election of the respondent no. 1, who is the returned candidate from Lok Sabha Constituency, 15- Balaghat (M.P.) as null and void;

III. To award appropriate punishment to those found to be involved in corrupt practice and pass such order.

IV. Any other relief to which this Hon'ble Court may deem fit and proper in the Interest of Justice may. also be granted;

V. Cost of the petition."

Important grounds / facts:-

17. That after the polls the presiding officers furnished a copy of record of votes in the form of Form 17-(ga) of the Polling station 88, Madhyamik Shala, Jayama wherein the total number of Polled votes are shown as 372, while during counting when the EVM machine of the Polling station when Total button was pressed the _total number of votes displayed were 428 votes. The said discrepancy was pointed out by one Sunil Kumar Agarwal, the representative of INC Party against which the Returning officer had informed that the total votes were 428. Copy of the record of votes in the form of Form (17-(ga) along with the complaint of discrepancy is annexed herewith as Annexure P/8.

18. That the petitioner through his representatives/counting agents had submitted the complaints and apprised the concerned authorities about the corrupt practice that have been committed by the returned candidate/ respondent no. 1 or possibly her election agent or someone at her instance.

19. That on 04.06.2024 the petitioner's representatives/ counting agents Gokul Mohaare, Sehajlal Upwanshi Patel, Punaram Humnekar, Jitendra Lilhare, Rakesh Tivade, Ravi Kuthe Jitendra aka Raja Lilhare have apprised through various letters intimating the authorities of the fact that the election was concluded on 19.05.2024 and thereafter EVMs were taken to strong room. The EVMs were shown to the counting agent only on 04.06.2024 and at that time they were 99% charged. It was also submitted that it is less likely that the EVMs maintained the optimum value despite being used for voting (atleast 10-15% battery should have been drained) and thereafter kept in the strong room without any interference. The EVMs were replaced/altered in collusion to obtain favourable results by the respondent no. 1. A copy of said complaints is annexed collectively as Annexure P-9.

20. That the petitioner had already on 30.03.2024 'requested the concerned authorities that the Collector, Balaghat and be transferred before the elections. It was apprised that a video had went viral where some of the miscreants could be seen opening the. Postal Ballot paper and attempting to manipulate the result of state legislative assembly, 2023. The news was covered by the major news channels and media. The Tehsildar and SDM were suspended holding them to be accountable. Apart from that the Collector Balaghat had also committed some serious lapses in the election process. The collector had also re-instated and had given some important posts to the tainted officers. Also, the

petitioner had submitted a complaint against the S.P Balaghat in pursuant to a fake encounter and had already requested the concerned authorities that the S.P, Balaghat be transferred before the elections so as to ensure fearless, free and fair elections, but no heed was ever paid to the requests made. Copy of such representations have been annexed. collectively as Annexure P-10. Thus, it is submitted that the process of election was not fair and healthy and, therefore, this petition is filed inter alia on following grounds:"

2. It is an admitted fact that Election Commission of India, Nirvachan Sadan, New Delhi was respondent No. 2 in this case but in the light of order dated 06.05.2025 on an application by Election Commission Of India - I.A. No. 8099/25 for deleting the name of respondent No. 2 and after hearing the learned counsel for all the parties in which it was an admitted fact that petitioner Shri Kankar Munjare who has filed the present Election Petition, has lost the General Lok Sabha Election which took place on 19.04.2024 and results were declared on 4.6.2024 and at the time of hearing, on the aforesaid application, the petitioner counsel failed to demonstrate how Election Commission of India (respondent No. 2) is a necessary party. Therefore, in the light of judgment passed by Hon'ble Coordinate Bench of this Court in **Dr. Vivek Tiwari VS. Shri DivyaRaj Singh, Election Petition No. 04/24, order dated 18.02.2016** in light of discussion from paragraphs 1 to 13 in which the legal position is that under Section 82, 86(4) of Representation of People Act, except candidate/ candidates no other is a proper or necessary party under Section 82 of the Representation of People Act, 1951 which deals with parties to the petition, the name of the Election Commission of India was directed to be deleted and has been deleted.
3. **I.A. No. 21983 of 2024** is an application under Order 7, Rule 11 of C.P.C. r/w Section 83(3) and 86 of The Representation of People Act, 1951 filed by respondent No.1 Bharti Pardhi i.e. the returned candidate who won the Lok Sabha Election as per the results while the petitioner had lost the election. In brief the applicant has submitted that petitioner obtained 52883 votes, respondent obtained 712660 votes and the candidate who obtained second highest number of votes Shri Samrat Ashok Singh Saraswar obtained 174512 less votes from the winning candidate i.e. respondent No.1 allegations regarding charging of EVM machine lack material particulars, similarly voting total in one machine from 372 to 428 will not change the result because of margin of victory of the returned candidate. Hence, application under Order 7, Rule 11 of C.P.C. r/w Section 83(3) and 86 of The Representation of People Act, 1951 be allowed and petition be dismissed.

4. At the time of arguments, learned counsel for the petitioner submitted that after the polls, the Presiding Officer furnished a copy of the record of votes in the Form 17-(ga) of the polling station 88, Madhyamik Shala, Jayama wherein the total number of polled votes were 372 while during counting when the EVM machine of the polling station when *Total Button* was pressed the total number of votes displayed were 428. The said discrepancy was pointed out by one Sunil Kumar Agrawal, the representative of INC party against which the Returning Officer had informed that the total number of votes were 428. Copy of the record of votes in the Form 17 (ga) along with the complaint of discrepancy is **Annexure P/8**. That the petitioner through his representative / counting agent had submitted a complaint and apprised the concerned authorities about the corrupt practices by the Returned candidate/ respondent No.1 (Bharti Pardhi) or possibly her election agent or someone at her instance. On 4.6.2024, the petitioner's representative/ counting agents Gokul Mohaare, Schajlal Upwanshi Patel, Punaram, Humnekar, Jitendra Lilhare, Rakesh Tivade, Ravi Kuthe, Jitendra aka Raja Lilhare had apprised through various letter intimating the authorities of the fact that election was concluded on 19.05.2024 and, thereafter EVMs were taken to strong room. EVMs were shown to the counting agent only on 4.6.2024 and at that time they were 99% charged. It was also submitted that it is unlikely that EVMs maintained the optimum value despite being used for voting (atleast 10 – 15 % battery should have been drained) and, thereafter, kept in the strong room without any interference. EVMs were replaced/ altered in collusion to obtain favourable results by the respondent No.1. A copy of the said complaint is annexed as **Annexure A/9**. On 30.03.2024 the petitioner had already requested to the concerned authorities that the Collector Balaghat be transferred before the Election. It was apprised that a video had gone viral where some of miscreants could be seen opening postal ballot papers and attempting to manipulate the result of the State Legislative Assembly, 2023. The news was covered by the major news channels and media. The Tahsildar and SDM were suspended holding them to be accountable. Apart from that the Collector, Balaghat had also committed serious lapses in the election process. The Collector had also reinstated and had given important posts to the tainted officers. The petitioner had submitted complaint against S.P., Balaghat in pursuance to a fake encounter and had already requested the concerned authorities that the S.P., Balaghat be transferred before the elections so as to ensure fearless, free and fair elections, but no heed was ever paid to the requests made. Copies of the representations have been annexed collectively as

Annexure P/10. Thus, it is submitted that process of election was not free and fair and it is urged to declare the result of respondent No.1, who is a return candidate from Loksabha constituency No.15 Balaghat as null and void and to award appropriate punishment to those who were found guilty of corrupt practices.

5. Learned Sr. Counsel for the respondent Shri G.S. Baghel has relied upon the following orders passed by Hon'ble Coordinate Benches of this Court in **Election Petition No. 33/2019 (Kankar Munjare Vs. Mukha Chunav Ayukt and others)** order dated 6.2.2023, **Election Petition No. 6 of 2024 (Ramgareb and others Vs. Ajay Arjun Singh) & Election No. 7 of 2024 (Rakesh Kumar Pandey Vs. Ajay Arjun Singh)** order dated 22.08.2024 and **Election Petition No. 15 of 2024 (P.C. Shamra (Prakash Mangilal Sharma) Vs. Shri Bhagwandas Sahbnani]** order dated 02.04.2025.
6. Learned counsel for the applicant - Shri Nitya Nand Mishra has relied upon judgment in **Ponnala Lakshmaiah Vs. Kommuri Pratap Reddy and others; (2012)7 SCC 788-** particularly paragraphs No. 29 &30.
7. Considered the rival case of the parties :-

In the application under Order 7 Rule 11 CPC, besides the facts mentioned in the petition, it is also mentioned in paragraph 10 of the application that 15, Balaghat Parliamentary constituency is comprised of 8 assembly constituencies and is having more than 2300 polling booths under the control of the respondent No.2 (as it stood before deletion of name of respondent No.2) but also 650 booths are under the control of Collector Seoni which are in 114 Barghat and 115 Seoni Assembly constituencies. In Para 11 it is mentioned that the petitioner failed to disclose any specific allegation as to in which booth battery of EVM has been charged upto 99%. It is just a general allegation. The election petition and the allegations are frivolously made. In Para 12 it is submitted that respondent No.1 had obtained a sum of 712660 votes, whereas the petitioner had obtained only 53134 votes hence there is a difference of 6,59,526 votes , therefore, even assuming that in one booth there was difference between the votes polled and counted, it would not be a ground to set aside the election. Hence, it is prayed that the election petition be dismissed.

8. On the other hand, petitioner filed reply to the application under Order 7, Rule 11 of C.P.C. opposing the application and annexed as **Annexure P/9** and **Annexure P/10**. First one is regarding the inquiry about the EVM machine being 99% charged on the day of counting which was not possible as on the day of voting for about 13 hrs they were used

for voting. Thereafter, they were kept in strong room from 19.04.2024 to 04.06.2024 therefore there should have been discharge of EVM machine by 25-30% as even mobile phone get discharged overnight by 15-20% and second is a prayer to transfer S.P., Balaghat. All material facts have been pleaded in petition hence application under Order 7, Rule 11 of C.P.C. should be dismissed.

9. Respondent No.1 Bharti Pardhi is a Returned Candidate who has won the election by a margin of more than 6 lakh votes against the present petitioner and by a margin of 174512 from the candidate who obtained 2nd no. of highest votes. Even assuming that there was a counting error in one booth (EVM due to mechanical failure) and even if candidate i.e. the petitioner had got all the votes in the concerned booth, even then he was not in a position to win the election as something different has not been pleaded / proved regarding machine / counting error and if there is an error in counting in one booth (EVM) when there are many machines in eight constituencies in 2300 polling booths, for lack of pleadings, presumption cannot be taken that all the machines were not working properly. Working of each and every machine is a question of fact and not a question of law, therefore, this ground fails and it cannot be termed as a corrupt practice by Returned Candidate i.e. respondent No.1 because machines were not at any stage under her control, either before the election or during the election or after the election when the counting of votes were being done and there are no pleadings of petitioner regarding working of other EVMs and in this regard proper facts have not been mentioned in petition and neither is there documentary evidence. It is not the case of the petitioner that the total result of the Lok Sabha election in his case was based on the outcome of the result of a single EVM.
10. Similarly, a very vague allegation has been made regarding the percentage of battery. No data is available by way of pleadings or documents to demonstrate as to what was the actual battery percentage at the time of starting of polls or in the evening or at the time of counting of votes in various EVMs, therefore, one of the vaguest allegations has been made. It is also a well settled law that if a proceeding, suit, election petition does not show a cause of action then there is no use of recording evidence of both the parties. For the reasons mentioned above, nothing would come out even if the evidence is recorded as facts have not been pleaded.
11. In an application under Order 7, Rule 11 of C.P.C. only pleadings made in the complaint / petition are to be seen and since the petition does not disclose the entire set of facts as to how many booths were in the Lok Sabha Balaghat Seat, how many machines were faulty,

which machine was seen regarding the battery percentage, therefore, the petition lacks very important material particulars and in the absence of such material particulars, no cause of action is found or can be presumed.

12. Regarding the citation of **Ponnala Lakshmaiah (Supra)** relied by the learned counsel for the petitioner, it would be relevant to refer to paragraphs 29 and 30 which reads as under :-

"29. There is no denying the fact that the election of a successful candidate is not lightly interfered with by the courts. The courts generally lean in favour of the returned candidates and place the onus of proof on the person challenging the end result of an electoral contest. That approach is more in the nature of a rule of practice than a rule of law and should not be unduly stretched beyond a limit. We say so because while it is important to respect a popular verdict and the courts ought to be slow in upsetting the same, it is equally important to maintain the purity of the election process. An election which is vitiated by reason of corrupt practices, illegalities and irregularities enumerated in Sections 100 and 123 of the Act cannot obviously be recognised and respected as the decision of the majority of the electorate. The courts are, therefore, duty-bound to examine the allegations whenever the same are raised within the framework of the statute without being unduly hyper technical in their approach and without being oblivious of the ground realities.

30. Experience has shown that the electoral process is, despite several safeguards taken by the statutory authorities concerned, often vitiated by use of means, factors and considerations that are specifically forbidden by the statute. The electoral process is vulnerable to misuse, in several ways, in the process distorting the picture in which the obvious may be completely different from the real. Electoral reforms are, therefore, a crying need of our times but have remained a far cry. If the courts also adopt a technical approach towards the resolution of electoral disputes, the confidence of the people not only in the democratic process but in the efficacy of the judicial determination of electoral disputes will be seriously undermined. This Court has in several pronouncements while emphasising the need to leave the elections untouched, reiterated the need to maintain the purity of elections and thereby strengthening democratic values in

this country. The decisions of this Court in *T.A. Ahammed Kabeer v. A.A. Azeez*²⁹ and *P. Malaichami v. M. Andi Ambalam*³⁰ express a similar sentiment.”

(emphasis supplied)

In the case of **Ponnala Lakshmaiah (Supra)**, the appeal was dismissed.

13. In **Kankar Munjare (Supra)**, the matter was decided after framing of charges and Election Petition was ultimately dismissed as lacking material.

14. In **P.C. Shamra (Prakash Mangilal Sharma) (Supra)**, the application of the respondent under Order 7, Rule 11 of C.P.C. was allowed and Election Petition was dismissed by Hon'ble Coordinate Bench. The relevant paragraphs are :-

“Petitioner has filed this election petition under Section 80 and 81 of the Representation of People Act, 1951.

2. Respondent has filed an application under Order 7, Rule 11 of C.P.C. for dismissal of election petition in limine.

3. Counsel appearing for petitioner submitted that only allegations made against respondent is in Para 6 and 7 of election petition. It has been stated that battery of EVM Machine was showing charging at 99% and few EVM Machines battery were showing charging at 80%. It is pleaded that after full day of running, EVM Machine could not have battery of 99%. It is also argued that respondent in connivance with State Machinery has access to the battery. It is submitted that tampering has been done with EVM Machines. Corrupt practice was adopted by respondent. On said ground, petitioner has filed this election petition.

4. It is submitted by counsel appearing for respondent that material particulars has not been given. Petitioner is required to plead particulars as mentioned in Section 83 of the Representation of People Act, 1951. Full material particulars of corrupt practices has not been mentioned. Only general allegations are made. Petition is defective and same deserves to be dismissed.

5. Counsel appearing for petitioner submitted that election petition can be dismissed if there is non-compliance of Section 81, 82 and 117. It is submitted that power of dismissal of petition under Section 86 is given only for non-compliance of Section 81, 82 and 117 and Section 83 is not included in Section 86, therefore,

election petition cannot be dismissed on ground that full material particulars of any corrupt practice has not been pleaded. It is submitted that batteries of EVM Machine cannot be charged during election process. EVM Machines are sealed and no one could have access to EVM Machine component or battery, which shows that corrupt practices has been adopted by respondent. In these circumstances, application filed by respondent be dismissed.

6. Heard the counsel for the parties.

7. On going through the pleadings which has been made in election petition, it is found that no particular allegations of corrupt practice is made against any particular person, who was having access to EVM Machine. During course of argument, it is argued that entire State Machinery was in connivance with respondent. Allegations are general and particulars of corrupt practices are missing in pleadings. It is orally argued that EVM Machines are sealed and no one has assessed to it, but however no such pleadings has been made in the election petition.

(emphasis supplied)

8. On going through provision of Sections 81, 82, 83, 86, 100 and 101 of the Representation of the People Act, 1951, it is found that election petition is to be presented in accordance with Section 81. Grounds specified in sub-section (1) of Section 100 and section 101 is to be mentioned at the time of presentation of petition. Section 81, 86, 100 and 101 of the Representation of People Act, 1951 is quoted as under:-

"81. Presentation of petitions.—(1) An election petition calling in question any election may be presented on one or more of the grounds specified in 8 [sub-section (1)] of section 100 and section 101 to the [High Court] by any candidate at such election or any elector [within forty-five days from, but not earlier than the date of election of the returned candidate or if there are more than one returned candidate at the election and the dates of their election are different, the later of those two dates].

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

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

(2) xxx

(3) xxx

(4) xxx

Explanation.—xxx

(5) *The High Court may, upon such terms as to costs and otherwise as it may deem fit, allow the particulars of any corrupt practice alleged in the petition to be amended or amplified in such manner as may in its opinion be necessary for ensuring a fair and effective trial of the petition, but shall not allow any amendment of the petition which will have the effect of introducing particulars of a corrupt practice not previously alleged in the petition.*

(6) *The trial of an election petition shall, so far as is practicable consistently with the interests of justice in respect of the trial, be continued from day to day until its conclusion, unless the High Court finds the adjournment of the trial beyond the following day to be necessary for reasons to be recorded.*

(7) *Every election petition shall be tried as expeditiously as possible and endeavour shall be made to conclude the trial within six months from the date on which the election petition is presented to the High Court for trial.]*

100. Grounds for declaring election to be void.—[(1) Subject to the provisions of sub-section (2) if [the High court] is of opinion —

(a) xxx

(b) *that any corrupt practice has been committed by a returned candidate or his election agent or by any other person with the consent of a returned candidate or his election agent; or*

(c) xxx

(d) that the result of the election, in so far as it concerns a returned candidate, has been materially affected—

(i) by the improper acceptance or any nomination, or

(ii) by any corrupt practice committed in the interests of the returned candidate [by an agent other than his election agent], or

(iii) by the improper reception, refusal or rejection of any vote or the reception of any vote which is void, or

(iv) by any non-compliance with the provisions of the Constitution or of this Act or of any rules or orders made under this Act, [the High Court] shall declare the election of the returned candidate to be void.]

*[(2)] If in the opinion of [the High Court], a returned candidate has been guilty by an agent, other than his election agent, of any corrupt practice [***] but [the High Court] is satisfied—*

(a) that no such corrupt practice was committed at the election by the candidate or his election agent, and every such corrupt practice was committed contrary to the orders, and [without the consent], of the candidate or his election agent;

[* *]*

*(c) that the candidate and his election agent took all reasonable means for preventing the commission of corrupt [***] practices at the election; and*

*(d) that in all other respects the election was free from any corrupt [***] practice on the part of the candidate or any of his agents, then [the High Court] may decide that the election of the returned candidate is not void.*

101. Grounds for which a candidate other than the returned candidate may be declared to have been elected.—If any person who has lodged a petition has, in addition to calling in question the election of the returned candidate, claimed a declaration that he himself or any other candidate has been duly elected and [the High Court] is of opinion—

(a) that in fact the petitioner or such other candidate received a majority of the valid votes; or

(b) that but for the votes obtained by the returned candidate by corrupt 2[***] practices the petitioner or such other candidate would have obtained a majority of the valid votes, [the High Court] shall, after declaring the election of the returned candidate to be void declare the petitioner or such other candidate, as the case may be, to have been duly elected."

9. The Hon'ble Apex Court in para 13 of the judgment passed in case of **Karim Uddin Barbhuiya v. Aminul Haque Laskar and others, reported in 2024 SCC OnLine SC 509** held as under:-

"13. It hardly needs to be reiterated that in an Election Petition, pleadings have to be precise, specific and unambiguous, and if the Election Petition does not disclose a cause of action, it is liable to be dismissed in limine. It may also be noted that the cause of action in questioning the validity of election must relate to the grounds specified in Section 100 of the RP Act. As held in Bhagwati Prasad Dixit 'Ghorewala' v. Rajeev Gandhi and in Dhartipakar Madan Lal Agarwal v. Rajiv Gandhi, if the allegations contained in the petition do not set out the grounds as contemplated by Section 100 and do not conform to the requirement of Section 81 and 83 of the Act, the pleadings are liable to be struck off and the Election Petition is liable to be

rejected under Order VII, Rule 11 CPC."

(emphasis supplied)

10. Petitioner is required to mention the grounds in Section 100 and 101 in election petition and while mentioning the grounds, full material particulars of the grounds which is mentioned by petitioner in election petition for declaring election to be void is to be mentioned. Petitioner has not mentioned material particulars who was having access to EVM Machines. How State Machinery is involved with respondent is also not mentioned. There is no whisper of any act on part of State Machinery in tandem with respondent which affected the result. There is no whisper that EVM cannot be charged during the election process. It is also not mentioned that EVM Machines are sealed. It is found that petitioner failed to mention full particulars

required for making of the case under Section 100 and 101. Said particulars cannot be supplied at the time of pleadings.

11. Counsel appearing for petitioner has relied upon judgment passed by M.P. High Court in Election Petition No.7/2009 order dated 11.01.2010. It is submitted by him that application under Order 7, Rule 11 is to be filed immediately after issuance of summons. Application has been filed after delay of four months. Petitioner has also relied upon judgment reported in **(2015) 8 SCC 331 (P.V. Guru Raj Reddy vs. P. Neeradha Reddy and others)**. Relying on said case, counsel for petitioner submitted that averments made in plaint have to be accepted as correct for the purposes of consideration of application under Order 7, Rule 11 of C.P.C.

12. I found that application was filed after four months. Election petition is still at preliminary stage. Issues are yet to be framed in the case, therefore, it cannot be said that there is delay in filing application under Order 7, Rule 11 of C.P.C. Pleadings made in election petition is only being relied for passing orders on application under Order 7, Rule 11 of CPC.

13. xxx

14. xxx

15. As per Section 81 election petition can be filed on grounds mentioned in Section 100(1) and 101 of the Representation of the People Act, 1951. Election petition is filed on grounds under Section 100(1) (b) i.e. corrupt practice has been committed by returned candidate or his agent or other person with consent of returned candidate. Section 83 lays down full particulars of corrupt practice is to be mentioned. Therefore, Section 81, 83 and 100 is to be read together and non-compliance of Section 83 and 100 will also lead to dismissal of petition under Section 86.

16. In view of the above, application filed under Order 7 Rule 11 is allowed and election petition is **dismissed.**"

15. In the case at hand, application under Order 7 Rule 11 of CPC has been filed after 80 days whereas in the case of **P.C. Shamra (Prakash Mangilal Sharma) Vs. Shri Bhagwandas Sahbnani (Supra)** as per paragraph 12, application was filed after four months.

16. In the case of **Ramgareb (*Supra*)**, the application under Order 7, Rule 11 was allowed and the Election Petition was dismissed.
17. In this case, for the reasons mentioned above and considering the citations relied on learned counsel for both the parties, on a very careful study it is seen that the petitioner due to lack of essential pleading and documentary evidence regarding charging of EVM machine in general or in one EVM machine malfunction which even if accepted will not change the election result and neither role of returned candidate i.e. respondent is pleaded clearly qua charging of EVM machines/ machine or totaling defect in one machine having 372 votes in that booth where election was won by a bigger margin as mentioned in Para 3 of this order has failed to show any cause of action for which the Election Petition should be put to trial. Accordingly, **I.A. No. 21983 of 2024** is allowed and resultantly, instant Election Petition is **dismissed**.

Sd./-
(AVANINDRA KUMAR SINGH)
Judge.

By order,
Sd./-
(BINOD KUMAR)
Secretary,
Election Commission of India.