

# Shri Sorokhaibam Rajen Singh vs Smt. Pukhrambam Sumati Devi on 12 September, 2023

**Author: M.V. Muralidaran**

**Bench: M.V. Muralidaran**

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IN THE HIGH COURT OF MANIPUR

AT IMPHAL

MC(El. Pet.) No.7 of 2022  
Ref: El. Petn. No.3 of 2022 with  
El. Recr. Petn. No.13 of 2022

Shri Sorokhaibam Rajen Singh, aged about 57 years, S/o Shri Sorokhaibam Yaimabi Singh, resident of Salam Keikhu-(A), Tehsil-Salam, P.O. Langjing, P.S. Patsoi, District-Imphal West, Manipur -795113.

.... Applicant/Respondent No. 1

- Versus -

Smt. Pukhrambam Sumati Devi, aged about 63 years, W/O (Late) Wangkheimayum Brajabidhu Singh, resident Lamdeng Mayai Leikai, P.O. & P.S. Lamsang, Imphal West District, Manipur -795146.

... Respondent/Election Petitioner

BEFORE

HON'BLE THE ACTING CHIEF JUSTICE M.V. MURALIDARAN

For the Petitioner : Mr. A. Mohendro, Advocate

For the Respondents : Mr. HS. Paonam, Sr.Adv.

Date of hearing & reserving Judgment & Order : 27.06.2023

Date of Judgment and Order : 12.09.2023

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JUDGMENT & ORDER  
(CAV)

This petition has been filed by the petitioner under Order VII, Rule 11 (a) of the Code of Civil Procedure, 1908 read with Section 86(1) of the Representation of People Act, 1951 to reject the election petition.

2. The petitioner is the first respondent and first respondent herein is the election petitioner in the election petition.

3. For the sake of convenience, the parties are referred to as per their array in the election petition.

4. The election petitioner has filed the election petition to set aside the election of the first respondent as returned candidate from 17-Lamsang Assembly Constituency for 12th Manipur Legislative Assembly Election, 2022 and to declare the election petitioner as returned candidate from 17-Lamsang Assembly Constituency.

5. Pending election petition, the first respondent has filed the present petition on the grounds that the election petitioner has failed to mention material facts which would constitute the cause of action for filing the election petition; the allegation made against the first respondent does not constitute any corrupt practice; the election petitioner has already agitated the nomination of the first respondent before the Returning Officer on the ground of educational qualification and the age and the same was rejected by the Returning Officer on 9.2.2022 observing that it does not amount to defect of substantive nature and the election petitioner has

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made inconsistency plea and the non-compliance of Section 83 of the Representation of People Act.

6. Resisting this petition, the election petitioner filed affidavit-in-oppos stating that there is cause of action for filing the election petition; the material facts which constitute the cause of action has been categorically stated in the election petition. The non-disclosure of information or incomplete information while filing the nomination paper along with Form-26 affidavit by the first respondent amounts to corrupt practice under Section 123 of the Representation of People Act. The first respondent has admitted that he has filed false affidavits regarding his educational qualifications, father's name and his age in the past elections while filing his nominations. He has also admitted that in the election in question, the first respondent has stated false educational qualification. The question of challenging the orders of the election authority does not arise and, as such, the very statements made by the first respondent that the election petitioner has not challenged the orders of the Returning Officer is highly ill-conceived and the same is without any basis. All material particulars about the non-disclosure and how the same has affected the voters have been mentioned in the election petition. All the provisions of the Representation of People Act have been complied with while filing the election petition and the correction appeared in para No.4.10 of the election petition was carried out with the permission of the Court. The grounds stated in the election petition are in conformity with the provisions of the Representation of People Act. The votes obtained by the first respondent are under undue influence which amounts to corrupt practice. As such, the election of the first respondent is liable to be set aside. MC(El. Petn.) No.7 of 2022

the declared as void and the election petitioner may be declared as returned candidate.

7. Mr. HS. Paonam, learned senior counsel for the first respondent submitted that the election petition is liable to be rejected at the threshold under Order 7, Rule 11(a) CPC read with Section 86(1) of the Representation of People Act. Arguing further, the learned counsel submitted that the election petitioner has failed to state material facts which would constitute the cause of action for filing the election petition and has failed to mention the material facts which if proved would amount to corrupt practice under Section 123 of the Representation of People Act allegedly to be committed by the returned candidate.

8. Mr. HS. Paonam, learned senior counsel would submit that the allegation mentioned in the election petition does not constitute corrupt practice and the specific arguments of the learned counsel is that the election petitioner alleged that the first respondent has mentioned the highest qualification differently in the earlier elections. The particulars of the educational qualification mentioned in the affidavits of earlier Manipur Legislative Assembly Election cannot be agitated in the present election petition and the present election petition must confine to the affidavit filed for the 12th Manipur Legislative Assembly Election, 2022 and the contents of the earlier affidavits lost its significance and should have been challenged at the time when it was valid.

9. Mr. HS. Paonam, learned senior counsel further submitted that the election petitioner alleged that the first respondent had misrepresented his father's MC(El. Petn.) No.7 of 2022

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name in the 9th, 10th, 11th and 12th Manipur Legislative Assembly Elections and that

in the 9th and 10th Legislative Assembly Elections, the name of the father of the first respondent was misrepresented as "S.Nilla Singh" and in the 11th and 12th Legislative Assembly Elections, the name of the father of the first respondent was mentioned as "Sorakhaibam Yaimabi Singh". The aforesaid statement does not constitute ingredients of any corrupt practice within the meaning of Section 123 of the representation of People Act and also does not amount to concealing of material facts. In the matter of filing of affidavit and the nomination with respect to election, the information must be the same as those in the electoral roll and the election petitioner cannot agitate the contents of the affidavits filed in connection with the earlier term of State Assembly Elections.

10. Mr. HS. Paonam, learned senior counsel next submitted that the election petitioner alleged that the first respondent had mentioned his age as 43 years in the 9th Manipur Legislative Assembly Election, 2007; 53 years in the 10 th Manipur Legislative Assembly Election, 2012; 52 years in the 11th Manipur Legislative Assembly Election, 2017 and 57 years in the 12 th Manipur Legislative Assembly Election, 2022. According to the learned counsel, the aforesaid statement does not constitute the ingredients of any corrupt practice and the election petitioner cannot agitate the contents of affidavits filed in connection with the earlier elections

11. Mr. HS. Paonam, learned senior counsel then submitted that the election petitioner alleged that the first respondent had mentioned in the affidavit in Form-26 that his spouse closing balance is Rs.42,53,095.23 as on 31.1.2022 and in

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absence of filing of income tax return by his spouse goes to show that his wife is having undisclosed source of income and that the vague disclosure of income of his

wife being a Manager of Brick Field is not sufficient when a sum of Rs.42,53,095.23 is found in her account as on 31.1.2022. The election petitioner also alleged that the first respondent mentioned that his other source of income and as that of his wife is from land compensation. However, no particulars have been given by him in his affidavit under Form-26 and in the nomination dated 7.2.2022. Further, the brick field has not been disclosed and, as such, the first respondent failed to disclose the source of income which he earns from the brick field. The election petitioner filed the election petition on frivolous grounds without having verified the factual position.

12. Adding further, Mr. HS. Paonam, learned senior counsel submitted that the election petitioner alleged that the first respondent has not disclosed immovable properties belonging to him and his dependents. The aforesaid statement does not constitute the ingredients of any corrupt practice. The properties were already transferred and the first respondent has filed the affidavit and nomination accordingly and it does not constitute any concealment of property. The election petitioner agitated the nomination of the first respondent before the Returning Officer by lodging complaints and said complaints were rejected by the Returning Officer and the election petitioner failed to challenge the said rejection order.

13. Mr. HS. Paonam, learned senior counsel further submitted that by making inconsistent plea, the election petitioner approached this Court with unclean

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hands and that the election petitioner fails to make out any material effect of the alleged impropriety on election result. While alleging material facts, material particulars should also be set out by which the result of the election has been

compromised and it must specifically be pleaded how the alleged disclosure/non-disclosure of particulars would have affected the votes secured by the first respondent and the prejudice caused.

14. Arguing so, Mr. HS. Paonam, learned senior counsel for the first respondent submitted that the election petitioner has not complied with the provision of Section 83(1) (a) & (b) of the Representation of People Act and, as such, the election petition deserves to be rejected for non-disclosure of cause of action and inconformity with the provisions of the Representation of People Act. Moreover, the election petition is ill-conceived one and since the election petitioner approached this Court with unclean hands, the election petition is liable to be dismissed at the threshold. In support of his submissions, the learned counsel for the first respondent relied upon the following decisions:

- (i) Ram Sukh v. Dinesh Aggarwal, (2009) 10 SCC 541.
- (ii) ManganiLalMandal v. BishnuDeo Bhandari, (2012) 3 SCC 314.
- (iii) AnangaUday Singh Deo v. RangaNath Mishra and others, (2002) 1 SCC 499.
- (iv) Jaipal Singh v. Sumitra Mahajan and another, (2004) 4 SCC 522.
- (v) IshwardasRohani v. Alok Mishra and others, (2012) 7 SCC 309.

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- (vi) Order of the Punjab and Haryana High Court dated 26.9.2019 in Civil Miscellaneous No.8 of 2018 in Execution Petition No.1 of 2017.
- (vii) Order of the Allahabad High Court dated 12.9.2022 in Election Petition No.10 of 2017.
- (viii) Order of the Madras High Court dated 17.3.2022 in O.A.No.764 of 2021 in Election Petition No.8 of 2021.

15. Per contra, Mr. HS. Paonam, learned senior counsel for the election

petitioner submitted that the M.C.(El. Pet.) No.7 of 2022 is filed without any basis and that there is a cause of action for filing the election petition. The material facts which constitute the cause of action for filing the election petition, have been clearly averred in the election petition. In fact, the election petitioner in his election petition categorically stated that the non-disclosure of information or incomplete information while filing the nomination paper along with Form-26 in respect of the election in question amounts to corrupt practice under Section 123 of the Representation of People Act.

16. Mr. HS. Paonam, learned senior counsel would submit that the first respondent himself admitted that he had filed false affidavits qua educational qualification, father's name and his age in the past elections while filing the nominations and also he has mentioned false educational qualification in the election in question. According to the learned counsel, filing false affidavit on oath amounts to perjury and is liable to be prosecuted under the relevant law and the

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same also amounts to undue influence to the voters which attracts corrupt practices under Section 123 of the Representation of People Act.

17. Mr. HS. Paonam, learned senior counsel further submitted that the amount of Rs.42,53,095.23 found in his spouse account as on 31.1.2022 and the source of income has not been disclosed and, as such, the non-disclosure of the particulars while filing nomination by the first respondent amounts to non-compliance of Section 100(d)(iv) of the Representation of People Act and it also constitutes corrupt practice. The brick field in question belongs to the first respondent and he



has intentionally failed to disclose the said brick field in the nomination form.

18. The learned senior counsel for the election petitioner submitted that though the first respondent made a statement that the properties have been transferred but have not mentioned about the details to whom the properties have been transferred, the said non-disclosure of the properties while filing the nomination paper along with Form-26 affidavit amounts to undue influence. In fact, all the materials particulars about the non-disclosure and how the same has affected the voters have been clearly mentioned by the election petitioner in the election petition. Further, all the provisions of the Representation of People Act have been complied with while filing the election petition and that the election petition is not ill-conceived as alleged by the first respondent. Thus, a prayer has been made to dismiss the miscellaneous case.

19. This Court considered the rival submissions and also perused the materials available on record.

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20. The grievance of the first respondent is that the election petition is liable to be rejected on the ground that it does not disclose the cause of action in terms of the relevant provisions of the Code of Civil Procedure as well as the provisions of the Representation of People Act.

21. On the other hand, the election petitioner contends that the cause of action for filing the election petition has been substantially disclosed in the election petition and he has categorically stated that non-disclosure of information or income information while filing the nomination paper along with Form-26 affidavit amounts to corrupt practice under Section 123 of the Representation of People Act as held by

the Hon'ble Supreme Court in a catena of judgments.

22. The first respondent has filed M.C.(El. Petn.) No.7 of 2022 under Order 7, Rule 11(a) of CPC praying for rejection of the Election Petition No.3 of 2022. The election petitioner assails the election of the first respondent from 17-Lamsang Assembly Constituency in the 12th Manipur Legislative Assembly Election, 2022 on the ground of improper acceptance of the nomination of the first respondent by the Returning Officer, inasmuch as the first respondent has also filed a false affidavit filed under Form-26 on 7.2.2022 thereby wrongly stating his highest educational qualification as B.A. passed in the year 1988 from the Manipur University and also for not disclosing the details of the brick field namely M/s.SR Construction Materials located at Thaoroi jam Maning Leikai covered by C.S. Dag No.306, Patta No.106/203 belonging to the first respondent so also immovable properties belonging to him and

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his dependents and the source of income of himself and his wife at the time of filing the nomination paper and the affidavit under Form-26.

23. According to the election petitioner, by dint of the improper acceptance of the nomination by the Returning Officer despite vehement protest from the side of the election petitioner and the non-compliance of the provisions of applicable laws by the first respondent at the time of filing of nomination, the election of the first respondent from 17-Lamsang Legislative Assembly Constituency is to be declared as void.

24. Resisting the election petition, the first respondent has filed written

statement, inter alia, stating that the material facts pleaded by the election petitioner in the election petition are frivolous and concocted, and only mentioning the word materially affected is not sufficient but also extent and manner of the effect should also be pleaded. The election petitioner cannot establish or make out any illegality or impropriety in the nomination paper filed in connection with the election of 2022, nor there is any non-disclosure of information relating to source of income and assets of the first respondent or his dependents or spouse. The election petitioner cannot allege any allegation over improper acceptance of nomination of the first respondent as a ground in the election petition as the same happened prior to the declaration of the result of election on 10.3.2022.

25. Placing reliance upon the decisions cited supra, Mr. HS. Paonam, learned senior counsel for the first respondent argued that an election petition is based on the rights, which are purely the creature of a statute, and if the statute

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renders any particular requirement mandatory, the Court cannot exercise dispensing powers to waive non-compliance and for the purpose of considering a preliminary objection as to the maintainability of the election petition, the averments in the election petition should be assumed to be true and the Court has to find out whether these averments disclose a cause of action or a triable issue as such; that all material facts, therefore, in accordance with the provisions of the Representation of People Act have to be set out in the election petition. If the material facts are not stated in the election petition, it is liable to be dismissed on that ground as the case would be covered by Section 83(1)(a) (b) of the Representation of People Act read with Order 7, Rule 11(a) of CPC and that the election petition can be summarily dismissed, if it does not furnish the cause of action in exercise of the power under

26. In Ram Sukh, supra, the Hon'ble Supreme Court held:

"9. In this backdrop, we may now turn to the procedural provisions in the Act insofar as they are relevant for our purpose:

–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 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 candidates at the election and the dates of their election are different, the later of those two dates.

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Explanation.--In this sub-section, 'elector' means a person who was entitled to vote at the election to which the election petition relates, whether he has voted at such election or not.

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(3) Every election petition shall be accompanied by as many copies thereof as there are respondents mentioned in the petition, and every such copy shall be attested by the petitioner under his own signature to be a true copy of the petition.

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

(a) shall contain a concise statement of the material facts on which the petitioner relies;

(b) shall set forth full particulars of any corrupt practice that the petitioner alleges, including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice; and

(c) shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (5 of 1908) for the verification of pleadings:

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

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

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

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

(2) As soon as may be after an election petition has been presented to the High Court, it shall be referred to the Judge or one of the Judges who has or have been assigned by the Chief Justice for the trial of election petitions under sub-section (2) of Section 80-A. (3) Where more election petitions than one are presented to the High Court in respect of the same election, all of them shall be referred for trial to the same Judge who may, in his discretion, try them separately or in one or more groups.

(4) Any candidate not already a respondent shall, upon application made by him to the High Court within fourteen days from the date of commencement of the trial and subject to any order as to security for costs which may be made by the High Court, be entitled to be joined as a respondent.

Explanation.--For the purposes of this sub-section and of Section 97, the trial of a petition shall be deemed to commence on the date fixed for the respondents to appear before the High Court and answer the claim or claims made in the petition. (5) The High Court may, upon such terms as to costs and otherwise as it may deem fit, allow the particulars of any corrupt practice alleged in the petition to be amended or amplified in such manner as may in its opinion be necessary for ensuring a fair and effective trial of the petition, but shall not allow any amendment of the petition which will have the effect of MC(El. Petn.) No.7 of 2022 Page 14 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.

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

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

(2) The provisions of the Indian Evidence Act, 1872 (1 of 1872), shall, subject to the provisions of this Act, be deemed to apply in all respects to the trial of an election petition. From the aforequoted provisions, it would appear that Section 81 enables a petitioner to call in question any election on one or more of the grounds specified in sub-section (1) of Section 100 of the Act.

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12. It is evident that the controversy in this appeal lies in a narrow compass. It revolves around the ambit of Section 83 of the Act. The point for consideration is whether the election petition lacked ☐material facts required to be stated in the election petition in terms of Section 83(1) of the Act and if so, could it be dismissed summarily without trial? As already noted, it is mandatory that all ☐material facts are set out in an election petition and it is also trite that if material facts are not stated in the petition, the same is liable to be dismissed on that ground alone. Therefore, the question is as to whether the election petitioner had set out ☐material facts in his petition?

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18. Undoubtedly, by virtue of Section 87 of the Act, the provisions of the Code apply to the trial of an election petition and, therefore, in the absence of anything to the contrary in the Act, the court trying an election petition can act in exercise of its power under the Code, including Order 6 Rule 16 and Order 7 Rule 11 of the Code. The object of both the provisions is to ensure that meaningless litigation, which is otherwise bound to prove abortive, should not be permitted to occupy the judicial time of the courts. If that is so in matters pertaining to ordinary civil litigation, it must apply with greater vigour in election matters where the pendency of an election petition is likely to inhibit the elected representative of the people in the discharge of his public duties for which the electorate have reposed confidence in him. The submission, therefore, must fail."

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27. In ManganiLalMandal, supra, the Hon'ble Supreme Court held:

"10. A reading of the above provision with Section 83 of the 1951 Act leaves no manner of doubt that where a returned candidate is alleged to be guilty of non-compliance with the provisions of the Constitution or the 1951 Act or any rules or orders made thereunder and his election is sought to be declared void on such ground, it is essential for the election petitioner to aver by pleading material facts that the result of the election insofar as it concerned the returned candidate has been materially affected by such breach or non-observance. If the election petition goes to trial then the election petitioner has also to prove the charge of breach or non-compliance as well as establish that the result of the election has been materially affected. It is only on the basis of such pleading and proof that the Court may be in a position to form opinion and record a finding that breach or non-compliance with the provisions of the Constitution or the 1951 Act or any rules or orders made thereunder has materially affected the result of the election before the election of the returned candidate could be declared void."

28. In *Ananga Uday Singh Deo*, supra, the Hon'ble Supreme Court held:

"33. In a recent decision this Court in *V. Narayanaswamy v. C.P. Thirunavukkarasu* [(2000) 2 SCC 294] after analysing the entire case-law on the subject has held that exercise of undue MC(El. Petn.) No.7 of 2022 Page 17 influence is also deemed to be a corrupt practice. Under sub-section (2) of Section 123 [Undue influence means any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any other person with the consent of the candidate or his election agent, with the free exercise of any electoral right. [Material facts and [Material particulars certainly connote two different things. Material facts are those facts which constitute the cause of action. In a petition based on the allegation of corrupt practices the cause of action cannot be equated with the cause of action as is normally understood because of the consequences that follow in a petition based on the allegations of corrupt practices. An election petition seeking a challenge to the election of a candidate on the allegation of corrupt practices is a serious matter; if proved, not only does the candidate suffer ignominy, he also suffers disqualification from standing for election for a period that may extend to six years.

34. The Court summed up:

[23. It will be thus seen that an election petition is based on the rights, which are purely the creature of a statute, and if the statute renders any particular requirement mandatory, the court cannot exercise dispensing powers to waive non-compliance. For the purpose of considering a preliminary objection as to the maintainability of the election petition the averments in the petition should be assumed to be true and the court has to find out whether these averments disclose a cause of action or a triable issue as such. Sections 81, 83(1)(c) and 86 read with Rule 94-A of the Rules and Form 25 are to be read conjointly as an integral scheme. When so read if the court finds non-compliance it has to uphold the preliminary objection and has no

option except to dismiss the MC(El. Petn.) No.7 of 2022 Page 18 petition. There is difference between 'material facts' and 'material particulars'. While the failure to plead material facts is fatal to the election petition the absence of material particulars can be cured at a later stage by an appropriate amendment. 'Material facts' mean the entire bundle of facts, which would constitute a complete cause of action and these must be concisely stated in the election petition, i.e., clause

(a) of sub-section (1) of Section 83. Then under clause (b) of sub-section (1) of Section 83 the election petition must contain full particulars of any corrupt practice. These particulars are obviously different from material facts on which the petition is founded. A petition levelling a charge of corrupt practice is required by law to be supported by an affidavit and the election petitioner is obliged to disclose his source of information in respect of the commission of corrupt practice. He must state which of the allegations are true to his knowledge and which to his belief on information received and believed by him to be true. It is not the form of the affidavit but its substance that matters. To plead corrupt practice as contemplated by law it has to be specifically alleged that the corrupt practices were committed with the consent of the candidate and that a particular electoral right of a person was affected. It cannot be left to time, chance or conjecture for the court to draw inference by adopting an involved process of reasoning. Where the alleged corrupt practice is open to two equal possible inferences the pleadings of corrupt practice must fail. Where several paragraphs of the election petition alleging corrupt practices remain unaffirmed under the verification clause as well as the affidavit, the unsworn allegation could have no legal existence and the court could not take cognizance thereof.

MC(El. Petn.) No.7 of 2022 Page 19 Charge of corrupt practice being quasi-criminal in nature the court must always insist on strict compliance with the provisions of law. In such a case it is equally essential that the particulars of the charge of allegations are clearly and precisely stated in the petition. It is the violation of the provisions of Section 81 of the Act which can attract the application of the doctrine of substantial compliance. The defect of the type provided in Section 83 of the Act on the other hand can be dealt with under the doctrine of curability, on the principles contained in the Code of Civil Procedure.

Non-compliance with the provisions of Section 83 may lead to dismissal of the petition if the matter falls within the scope of Order 6 Rule 16 and Order 7 Rule 11 of the Code of Civil Procedure. Where neither the verification in the petition nor the affidavit gives any indication of the sources of information of the petitioner as to the facts stated in the petition which are not to his knowledge and the petitioner persists that the verification is correct and the affidavit in the form prescribed does not suffer from any defect the allegations of corrupt practices cannot be enquired and tried at all. In such a case the petition has to be rejected on the threshold for non-compliance with the mandatory provisions of law as to pleadings. It is no part of the duty of the court *suomotu* even to direct furnishing of better particulars when objection is raised by the other side. Where the petition does not disclose any cause of action it has to be rejected. The court, however, cannot dissect the



pleadings into several parts and consider whether each one of them discloses a cause of action. The petition has to be considered as a whole. There cannot be a partial rejection of the petition. MC(El. Petn.) No.7 of 2022 Page 20

29. In Jaipal Singh, supra, the Hon'ble Supreme Court held:

"7. Section 83 deals with contents of petition. It states that an election petition shall contain a concise statement of material facts, on which the petitioner relies and shall state full particulars of any corrupt practices which the petitioner alleges and which shall be signed by him and verified in the manner laid down in the Code of Civil Procedure. In the case of SopanSukhdeo Sable v. Asstt. Charity Commr. [(2004) 3 SCC 137 : (2004) 2 Scale 82] it has been held that Order 6 Rule 2(1) CPC deals with basic rule of pleadings and declares that the pleading has to state material facts and not the evidence; that there is a distinction between 'material facts' and 'particulars' and the words 'material facts' show that the facts necessary to formulate a complete cause of action must be stated. Omission of single material fact leads to an incomplete cause of action and consequently, the plaint becomes bad. The distinction between 'material facts' and 'particulars' was brought by Scott, L.J. in Bruce v. Odhams Press Ltd. [(1936) 1 KB 697 : (1936) 1 All ER 287 (CA)] in the following passage: (All ER p. 294) 'The cardinal provision in Rule 4 is that the statement of claim must state the material facts. The word 'material' means necessary for the purpose of formulating a complete cause of action; and if any one 'material' statement is omitted, the statement of claim is bad; it is 'demurrable' in the old phraseology and in the new is liable to be 'struck out' under RSC Order 25 Rule 4 (see Philipps v. Philipps [(1878) 4 QBD 127 : 48 LJQB 135 : 39 LT 556 (CA)] ); or 'a further and better statement of claim' may be ordered under Rule 7.

The function of 'particulars' under Rule 6 is quite different. They are not to be used in order to fill material gaps in a MC(El. Petn.) No.7 of 2022 Page 21 demurrable statement of claim -- gaps which ought to have been filled by appropriate statements of the various material facts which together constitute the plaintiff's cause of action. The use of particulars is intended to meet a further and quite separate requirement of pleading, imposed in fairness and justice to the defendant. Their function is to fill in the picture of the plaintiff's cause of action with information sufficiently detailed to put the defendant on his guard as to the case he had to meet and to enable him to prepare for trial. ....

9. As to what is the material fact has to be decided in the present case, in the context of the election petition under the said Act. An election petition is a matter of statutory right. In the petition, the key issue was whether the appellant held an office of profit on the date of scrutiny. For that purpose, the appellant ought to have stated that on 13-3-2002 he had requested for waiver of the notice period; that the appointing authority had received the notice on the specified date and that his request for waiver stood granted on the date of scrutiny and he ceased to be a government servant.

These were the material facts which the appellant should have pleaded so that the returned candidates would not be taken by surprise. They were material facts within his knowledge and ought to have been pleaded in the election petition. Lastly, even the letter of the appellant seeking the waiver of the notice period did not form part of the election petition. Hence, the High Court was right in dismissing the election petition for want of material facts."

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30. In Civil Miscellaneous No.8 of 2018 in Election Petition No.1 of 2017, dated 26.9.2019, supra, the Punjab and Haryana High Court held thus:

"20. For the aforesaid modified Form-26, it is thus seen that certain additional particulars regarding sources of income of a candidate with his spouse/dependents as also details pertaining to his contracts with the Government or any Public Company or Companies are now required to be furnished, although even these particulars do not directly specify disclosure of any outstanding liabilities of a Company, with which the candidate or his/her spouse/dependents may be associated. Yet it may be argued that the term 'Details of Contracts' would be large enough to cover the same. But even in such eventuality, it is to be noted this new requirement of declaration of contracts with the Government or Public Company or Companies has been introduced only after 10.10.2018, and was admittedly not in existence at the time the Respondent was elected i.e. in March, 2017. By any stretch of imagination therefore, at this stage, he cannot be penalized for not having disclosed any such particulars, which were never required of him in the specific Format, which he was obligated to do on affidavit at the relevant time in 2017. Such an interpretation based on the principle of 'morality' so emphatically stressed on behalf of Petitioner in the opinion of the Court is not called for, as the same would not only have the effect of violating the basic canons of jurisprudence that a person cannot be penalized retrospectively for not disclosure of any particulars, which were never required to be disclosed at the relevant time. Such a course would also have the effect of overreaching the competent authorities i.e. Election Commission, or the Central Government, who were otherwise authorized to incorporate or modify Form-26 with the evolution of time.

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21. For the aforesaid reasons, this Court finds no tangible cause of action for the Petitioner to challenge the Respondent's election of 2017 on the alleged ground of non-disclosure of his liabilities towards the Government or Public Institution, which were actually liabilities of the Company/Companies, with which, he was associated only in his capacity as Director and which he was not obligated to disclose in accordance with specific Format in force at the relevant time. Consequently, the Respondent's Application under Order VI Rule 16 read with Order VII Rule 11 and Section 151 CPC is allowed and the Election Petition stands dismissed.

31. In the order dated 12.9.2022 in Election Petition No.10 of 2017 cited by the learned counsel for the first respondent, the Allahabad High Court held as under:

¶34. .... In the case in hand, neither there is any such incontrovertible and unimpeachable document, which could show that the respondent did not hold the alleged degree in Engineering/technology nor there are specific allegations that how alleged incorrect and false statement of facts favourably prejudiced the prospects of his election. Considering all these facts of the matter, the inaccuracy or concealment regarding educational qualification of the respondent did not amount to unduly influencing the voters, as the defect in disclosure was not of substantial character that could have materially prejudiced the prospects of the election, for it to be termed as a corrupt practice within the meaning of Section 123 of the Representation of People Act.

....

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36. After considering all relevant facts of the matter and the law applicable thereto it clearly emerges that the averments contained in the election petition do not amount to any corrupt practice and at the most the same relate to irregularities and illegalities alleged to have been committed by the respondent, which would at best be relevant if there was further allegation that it materially affected the result of the election. The averments contained in paras 32 to 38 and 40 containing narration of facts about corrupt practice do not make out any corrupt practice so as require any further adjudication on merits of the matter. These allegations even if assumed to be true do not make out any case of commission of corrupt practice as enshrined in sub-section (2) or (4) of Section 123 of R.P. Act. From the law laid down in case of Dharti Pakar V. Rajiv Gandhi (supra) it is clear that if the allegations made by the petitioner do not amount to any corrupt practice as contemplated by Section 123 of the R.P. Act and the period for which the respondent was elected is already over and fresh elections have taken place, the petition could be dismissed.

32. It has been submitted on behalf of the election petitioner that the first respondent has filed false affidavits of his educational qualifications, father's name and his age in the past elections while filing his nomination papers and also in the election in question, the first respondent has stated false educational qualification in Form-26. Learned counsel for the election petitioner demonstrates the educational qualifications of the first respondent as mentioned in the past elections as well as in the election in question as under:

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- (i) In the 9th Manipur Legislative Assembly Election, 2007, it has been mentioned as "B.A. passed from Manipur University in the year 1985".
- (ii) In the 10th Manipur Legislative Assembly Election, 1992, it has been mentioned as "B.A. passed from Manipur University in the year 1992".
- (iii) In the 11th Manipur Legislative Assembly Election, 2017, it has been mentioned as "B.A. passed from Manipur University in the year 1992".
- (iv) In the 12th Manipur Legislative Assembly Election, 2022, it

has been mentioned as "B.A. passed from Y.K. College, Wangjing under Manipur University in the year 1988".

33. It is submitted on behalf of the election petitioner that the first respondent mentioned his father's name in the 9th and 10th Manipur Legislative Assembly Elections held in the year 2007 and 2012 as "S.Nilla Singh", whereas in the 11th and 12th Manipur Legislative Assembly Elections, it has been mentioned as "Sorokhaibam Yaimabi Singh". Similarly, the case of the election petitioner is that different age has been mentioned during 9th, 10th, 11th and 12th Manipur Legislative Assembly Elections, 2007, 2012, 2017 and 2022 respectively.

34. Mr. HS. Paonam, learned senior counsel for the election petitioner pointed out that the first respondent has mentioned in his affidavit under Form-26 while filing his nomination paper that his spouse's closing balance at the Bank of MC(El. Petn.) No.7 of 2022 Page 26 Baroda Savings Bank Account is Rs.42,53,095.23 as on 31.01.2022 and the absence of filing of income tax return as indicated in paragraph 4 of the affidavit in Form-26 by his spouse goes to show that his wife is having undisclosed source of income and the vague disclosure of income of his wife being a Manager of the Brick Field is not sufficient when Rs.42,53,095.23 is found in her account as on 31.1.2022.

35. According to Mr. HS. Paonam, learned senior counsel for the election petitioner, the first respondent has mentioned that his other source of income and as that of his wife is from land compensation. However, no detailed particulars have been given by the first respondent in his affidavit in Form-26. According to the learned counsel, the factum of the first respondent being the Proprietor of the Brick Field namely M/s.SR Construction Materials has not been properly disclosed in the affidavit in Form-26.

36. Similarly, it is the contention of the election petitioner that the first respondent has not disclosed the immovable properties belonging to him and his dependents in the affidavit in Form-26 while

filing the nomination paper on 7.2.2022 and the particulars of which have been stated as under:

(i)The property under Patta No.175/547 (new) covered by C.S. Dag No.1031/1361 measuring an area of 0.22663 hectare and under Patta No.316 (old) 227/587 (new) covered by C.S. Dag No.1219/1377 measuring an area of 0.2593 hectare situated at No.76 Salam Keikhu - owned by the first respondent.

(ii)The property under Patta No.76 (old), 147/421 (new) covered by C.S. Dag No.34/414 measuring an area of 0.06475 hectare MC(El. Petn.) No.7 of 2022 Page 27 and under Patta No.338/550 (new) covered by C.S. Dag No.1032/1364 measuring an area of 0.23675 hectare situated at No.76, Salam Keikhu - in the name of dependent SorokhaibamJayananda Singh, son of the first respondent.

(iii)The property under Patta No.194 (old) 121/471 (new) covered by C.S. Dag No.2/379 measuring an area of 1.3314 hectare situated at No.76, Salam Keikhu in the name of dependent No.2.

(iv)The property under Parra 142 (old) 286/673 (old), 121/471 (new) covered by C.S. Dag No.1092/1414 measuring an area 0.18818 hectare situated at No.76, Salam Keikhu in the name of dependent No.3.

37. It is also the submission of the learned counsel for the election petitioner that the first respondent has failed to disclose particular plot of land recorded in his name covered by C.S. Dag No.1009 under Patta No.281 situated at No.76, Salam Keikhu, Sub Division Lamsang, Tehsil Salam, Imphal West District in the nomination paper. The aforesaid non-disclosure of the said land is in violation of the provisions of the Act/Rules and, the Returning Officer ought to have rejected the nomination paper of the first respondent.

38. At this juncture, it is apposite to mention that the right to get information in democracy is recognized all throughout and it is a natural right flowing from the concept of democracy. Article 19(1) and (2) of the International Covenant of Civil and Political Rights states as under:

□(1) Everyone shall have the right to hold opinions without interference.

MC(El. Petn.) No.7 of 2022 Page 28 (2) Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

39. Article 19(1)(a) of the Constitution of India provides for freedom of speech and expression. Voters' speech or expression in case of election would include casting of votes, that is to say, voter speaks out or expresses by casting vote. For this purpose, information about the candidate to be selected is must. Voter's right to know antecedents, including criminal past of the candidate contesting election for MP or MLA, is much more fundamental and basic for survival of democracy.

The voter may think over before making his choice of electing law breakers as law makers.

40. In *Samant N.Balkrishna and another v. V.George Fernandez and others*, (1969) 3 SCC 238, the Hon'ble Supreme Court held that the election petition must set out the material facts on which a charge can be made and mere repetition of the words of the statute does not amount to proper statement of facts. The material facts must be stated in the petition and if they are missing, it is impossible to think that the charge has been made or can be later amplified.

41. In *D.Ramachandran v. R.V.Janakiraman and others*, (1999) 3 SCC 267, the Hon'ble Supreme Court observed that distinction is to be made between the terms "full particulars" and "material facts", however Court cannot dissect the MC(El. Petn.) No.7 of 2022 Page 29 pleadings and strike off portion of it. The Hon'ble Supreme Court further held that if it was otherwise found that the facts and cause of action disclosed in the petition were sufficient regarding the averments of the case and were sufficient to void the election in case, then it could not be said that full particulars were not mentioned in the election petition.

42. In *Ponnala Lakshmaiah v. Kommuri Pratap Reddy and others*, (2012) 7 SCC 788, the Hon'ble Supreme Court held that the Courts are competent to dismiss petitions not only on the ground that the same do not comply with provisions of Sections 81, 82 and 117 of the Representation of the People Act, but also on the ground that the same do not disclose any cause of action. The expression "cause of action" has not been defined either in the Code of Civil Procedure or elsewhere and is more easily understood than precisely defined.

43. In *Kisan Shankar Kathore v. Arun Dattatray Sawant and others*, (2014) 14 SCC 162, the Hon'ble Supreme Court relied upon the decision in the case of *Union of India v. Association for Democratic Reforms and another* (2002) 5 SCC 294, wherein it has been held that it was incumbent upon every candidate, who is contesting the election, to give information about his assets and other affairs, which requirement is not only essential part of fair and free elections, inasmuch as, every voter has a right to know about these details of the candidates, such a requirement is also covered by freedom of speech granted under Article 19(1)(a) of the Constitution of India.

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44. In *Ashraf Kokkur v. K.V.Abdul Khader*, (2015) 1 SCC 129, the Hon'ble Supreme Court held that the election petition having disclosed a cause of action should not have been thrown out at the threshold.

45. Whether the allegation leveled by the election petitioner are correct or not has to be proved by the election petitioner and further, as to whether, filing of the affidavit in Form-26 by the returned candidate was false or not and whether the alleged false affidavit would amount to violation of the provisions of Section 33 of the Representation of People Act so as to render the election of the first respondent void are to be considered by the Court in course of trial.

46. On a thorough reading of the instant election petition, it cannot be said that the same does not contain a concise statement of material facts. In fact, it does disclose a cause of action. Whether or not the said allegations would be proved is a matter of evidence which can be considered only at the time of trial.

47. Indeed, the first respondent has failed to produce any materials to disregard the arguments of the learned counsel for the election petitioner. The first respondent simply stated that the election petitioner has failed to disclose the cause of action against the first respondent in terms of the provisions of the Representation of People Act and the Code of Civil Procedure and nothing more.

48. When this Court read over the averments set out in the election petition wholly, it is clear that the election petitioner has stated full and material particulars following the cause of action for filing the election petition. Prima facie, the election MC(El. Petn.) No.7 of 2022 Page 31 petitioner has narrated in the election petition qua the non-disclosure of information and/or incomplete information while filing the nomination paper along with Form-26 affidavit by the first respondent.

49. It is settled that so long as the claim discloses some cause of action or raises some questions fit to be decided by a Judge, the mere fact that the case is weak and not likely to succeed is no ground for striking it out. The implications of the liability of the pleadings to be struck out on the ground that it discloses no reasonable cause of action are generally more known than clearly understood. The failure of the pleadings to disclose a reasonable cause of action is distinct from the absence of full particulars.

50. In *Harishankar Jain v. Sonia Gandhi*, (2001) 8 SCC 233, the Hon'ble Supreme Court held that the expression "cause of action" would mean facts to be proved, if traversed, in order to support his right to the judgment of the Court and that the function of the party is to present a full picture of the cause of action with such further information so as to make opposite party understand the case he will have to meet. In paragraph 23, the Hon'ble Supreme Court held as under:

□23. Section 83(1)(a) of RPA, 1951 mandates that an election petition shall contain a concise statement of the material facts on which the petitioner relies. By a series of decisions of this Court, it is well settled that the material facts required to be stated are those facts which can be considered as materials supporting the allegations made. In other words, they must be such facts as would afford a basis for the allegations made in the petition and would constitute the cause of action as understood in the Code of Civil Procedure, 1908. The expression "cause of action" has been MC(El. Petn.) No.7 of 2022 Page 32 compendiously defined to mean every fact which it would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of court. Omission of a single material fact leads to an incomplete cause of action and the statement of claim becomes bad. The function of the party is to present as full a picture of the cause of action with such further information in detail as to make the opposite party understand the case he will have to meet. (*Samant N. Balkrishna v. George Fernandez, JitendraBahadur Singh v. Krishna Behari*. Merely quoting the words of the section like chanting of a mantra does not

amount to stating material facts. Material facts would include positive statement of facts as also positive averment of a negative fact, if necessary. In *V. S. Achuthanandan v. P. J. Francis* this Court has held, on a conspectus of a series of decisions of this Court, that material facts are such preliminary facts which must be proved at the trial by a party to establish existence of a cause of action. Failure to plead "material facts" is fatal to the election petition and no amendment of the pleadings is permissible to introduce such material facts after the time-limit prescribed for filing the election petition. It is the duty of the court to examine the petition irrespective of any written statement or denial and reject the petition if it does not disclose a cause of action. To enable a court to reject a plaint on the ground that it does not disclose a cause of action, it should look at the plaint and nothing else. Courts have always frowned upon vague pleadings which leave a wide scope to adduce any evidence. No amount of evidence can cure basic defect in the pleadings. (Underlying added) MC(El. Petn.) No.7 of 2022 Page 33

51. In *Mayar (H.K.) Ltd. and others v. Owners and Parties, Vessel M.V. Fortune Express and others*, (2006) 6 SCC 100, the Hon'ble Supreme Court held as under:

□2. From the aforesaid, it is apparent that the plaint cannot be rejected on the basis of the allegations made by the defendant in his written statement or in an application for rejection of the plaint. The Court has to read the entire plaint as a whole to find out whether it discloses a cause of action and if it does, then the plaint cannot be rejected by the Court exercising the powers under Order VII Rule 11 of the Code. Essentially, whether the plaint discloses a cause of action, is a question of fact which has to be gathered on the basis of the averments made in the plaint in its entirety taking those averments to be correct. A cause of action is a bundle of facts which are required to be proved for obtaining relief and for the said purpose, the material facts are required to be stated but not the evidence except in certain cases where the pleadings relied on are in regard to misrepresentation, fraud, wilful default, undue influence or of the same nature. So long as the plaint discloses some cause of action which requires determination by the court, mere fact that in the opinion of the Judge the plaintiff may not succeed cannot be a ground for rejection of the plaint. In the present case, the averments made in the plaint, as has been noticed by us, do disclose the cause of action and, therefore, the High Court has rightly said that the powers under Order VII Rule 11 of the Code cannot be exercised for rejection of the suit filed by the plaintiff-appellants. Similarly, the Court could not have taken the aid of Section 10 of the Code for stay of the suit as there is no previously instituted suit pending in a competent court between the MC(El. Petn.) No.7 of 2022 Page 34 parties raising directly and substantially the same issues as raised in the present suit. (Underlining added)

52. In construing a plea in any pleading, Courts must keep in mind that a plea is not an expression of art and science, but an expression through words to place fact and law of one's case for a relief. Such an expression may be pointed, precise, sometimes vague but still it could be gathered what he



wants to convey through only by reading the whole pleading, depending on the person drafting a plea.

53. When this Court carefully examined the decisions in the cases of Harishankar Jain and Mayar (H.K.) Ltd, *supra*, it is clear that the Courts need to be cautious in dealing with requests for dismissal of the election petition at the threshold and exercise their powers of dismissal only in cases where even on a plain reading of the election petition no cause of action is disclosed. In the case on hand, the election petition establishes the cause of action.

54. An election which is vitiated by reason of corrupt practices, illegalities and irregularities enumerated in Sections 100 and 123 of the Representation of People Act cannot obviously be recognized 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.

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55. The result of the election can be questioned on the grounds enumerated in Section 100 of the Representation of People Act. Section 100(1)(b) and 100(1)(d)(i), (ii) and (iv) of the Representation of People Act, provides:

□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).....

(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) .....

(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) .....

(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.

56. As stated supra, the election petition must set out the material facts on the basis of which the charge can be made and in the event of the material facts not being stated in the election petition, the same is liable to be dismissed. The expression material facts would mean all the basic facts constituting the ingredients MC(El. Petn.) No.7 of 2022 Page 36 of the particular corrupt practice which the election petitioner is bound to substantiate before he can succeed on that charge.

57. Whether in election petition, a particular fact is material or not, and as such required to be pleaded is a question which depends on the nature of the charge leveled, the ground relied upon and the special circumstances of the case. All those facts which are essential to clothe the election petitioner with a complete cause of action are material facts which must be pleaded and failure to plead even a single material fact amounts to disobedience of the mandate of Section 83(1)(a) of the Representation of People Act.

58. The object and purpose of pleading material facts is to enable the opposite party to know the case he has to meet and in the absence of such a pleading, a party cannot be allowed to lead evidence. The requirement under Section 83(1)(a) of the Representation of People Act in contradiction to Section 83(1)(b) of the Representation of People Act is that the election petition needs to contain only a concise statement of the material facts and not material particulars. For the purpose of considering a preliminary objection as to the maintainability of the election petition, the averments in the election petition should be assumed to be true and the Court has to find out whether these averments disclose a cause of action or a triable issue as such. However, the Court cannot dissect the pleadings into several parts and consider whether each one of them discloses a cause of action.

59. As stated supra, the election petitioner assails the election of the first respondent under Sections 80, 80-A, 81, 84, 100(1)(d)(i) & 101 of the MC(El. Petn.) No.7 of 2022 Page 37 Representation of People Act. After going through the averments made in the election petition as a whole, it cannot be said that the election petition does not contain a concise statement of material facts. In fact, prima facie, it does disclose a cause of action.

60. The argument of the learned counsel for the first respondent that the election petition has no cause of action has no merit. This Court is of the considered view that the election petition having disclosed a cause of action, it should not be thrown out at the threshold. That apart, when there are allegations of corrupt practices alleged in the election petition, the Court is bound to examine the same.

61. The cause of action is a bundle of facts which taken with the law applicable gives the election petitioner a right to relief against the returned candidate. Every fact and bundle of facts together constitutes a question of fact which is required to be proved for the relief.

62. It is well settled that our election law being statutory in character must be strictly complied with since an election petition is not guided by ever changing common law principles of justice and notions of equity. Being statutory in character, it is essential that it must conform to the requirements of our election law. But at the same time the purity of election process must be maintained at all costs and those who violate the statutory norms must suffer for such violation. If the returned candidate is shown to have secured his success at the election by corrupt means he must suffer for his misdeeds.

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63. It is reiterated that the instant election petition as such does disclose a cause of action which if unrebutted could void the election and the provisions of Order 7, Rule 11 CPC cannot therefore be invoked in the present case. There is no substance in the contention that some of the allegations are bereft of material facts and, as such, do not disclose a cause of action. It is elementary that under Order 7, Rule 11(a) CPC, the Court cannot dissect the pleading into several parts and consider whether each of them discloses a cause of action. Further, the contention of the first respondent that the election petitioner approached this Court with unclean hands is not supported by any materials.

64. At this stage, this Court is not considering the issues - whether the first respondent filed false affidavit at the time of filing his nomination and has failed to disclose the true and correct facts, thereby violated the provisions of Section 100(1)(d)(i)& (iv) of the Representation of People Act and whether the Returning Officer has correctly or wrongly accepted the nomination of the first respondent and there was violation of Section 33 of the Representation of People Act or not. These are all the matter of trial. Thus, this Court is of the view that there had been substantial compliance with the provisions of Section 83(1)(a) of the Representation of People Act. Moreover, the question as to whether the pleadings made by the election petitioner in the election petition are sufficient or not can only be determined at the time of final hearing of the election petition. Since the election petition discloses cause of action and the election petition needs to be tried, the present miscellaneous case is devoid of merits and the same is liable to be dismissed.

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65. In the result, MC (El. Pet.) No.7 of 2022 is dismissed. There will be no order as to costs.

NR/NFR

ACTING CHIEF JUSTICE

Ab. Surjit

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