
(1996) 03 BOM CK 0035
In the Bombay High Court
Case No : Election Petition No. 23 of 1995

Pannalal S.S.

APPELLANT

Vs

Hitendra Vishnu Thakur

RESPONDENT

Date of Decision : 14-03-1996

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 6 Rule 11, Order 6 Rule 16, Order 7 Rule 11
Criminal Procedure Code, 1973 (CrPC) — Section 397, 482
Evidence Act, 1872 — Section 3
Penal Code, 1860 (IPC) — Section 500
Representation of the People Act, 1951 — Section 123(2), 83(1), 86(5)

Citation : (1996) 4 BomCR 74 : (1996) 98 BOMLR 218

Hon'ble Judges : R.G. Vaidyanatha, J

Bench : Single Bench

Advocate : Party in Person, for the Appellant; R.D. Soni and R.S. Chitnis,
instructed by . Shaunak Satpute, for the Respondent

Judgement

R.G. Vaidyanatha, J.—This is an election petition filed by the petitioner challenging the election of the respondent Mr. Hitendra Thakur, who is a returned candidate from Vasai Constituency, Thane District, Maharashtra. Though there were earlier three more respondents, who were respondents 1, 2 and 4, their names have been deleted as per the order passed by this Court on 4th December, 1995 and hence now there is only one respondent who is the returned candidate. After pleadings were completed, issues were framed on the request made on behalf of the respondent, Issues 1 to 3 are heard as preliminary issues. Heard the petitioner in person and learned Counsel for respondent.

2. The petitioner was one of the candidates in Vasai, No. 61 constituency in the State of Maharashtra. There were in all 14 candidates including the petitioner and respondent. The election was originally scheduled to be held on 12-2-1995, but it got postponed and ultimately the election was held on 26-2-1995. The results were declared on 12-3-1995 in which the respondent was declared elected by getting highest votes amongst the candidates. Being aggrieved by the

election of the respondent as the duly elected candidate, the petitioner has filed the present petition challenging the election on the ground of corrupt practices alleged to have been committed by the respondent.

3. The respondent has filed a written statement denying all the allegations of corrupt practices. In addition to this he has alleged that the petition is bad for not carrying out the mandatory provisions of section 83(1) of the Representation of the People Act. It is further alleged that the particulars of the alleged corrupt practices are not given and the allegations made are vague and general, and therefore, the petition is not maintainable. It is further alleged that the allegations about corrupt practices are bald and vague and cannot be enquired into.

4. The issues framed in this case are as follows :---

1. Whether the petition is bad for not carrying out the mandatory provisions of section 83(1) of the Representation of People Act as alleged in para 4 of the written statement, and if so, what is its effect?

2. Whether the particulars of the alleged corrupt practices are not given and the allegations made are vague and general, and therefore, the petition is not maintainable on this count?

3. Whether the allegation about bogus voting is vague and bald and cannot be subject matter of enquiry in this petition?

4. Whether the petitioner was arrested in a criminal case and detained in custody for few days prior to election as alleged in the petition in order to prevent him from participating in the election process, approaching voters, arranging meetings and in order to create fear among the voters?

5. Whether the news about the arrest of the petitioner and his detention was unnecessarily published in the newspapers and the electronic media at the instance of the respondent No. 3 and this affected the polling prospects of the petitioner?

6. Whether the respondent No.3 with the connivance of the officers violated the Code of election conduct as alleged in the petition?

7.

(a) Whether the respondent No. 3 distributed goggles amongst the voters as alleged in the petition?

(b) Whether the expenses incurred for the purchase and distribution of goggles is not accounted for in the statement of election expenditure furnished by the respondent No.1?

8. Whether respondent No.3 has indulged in getting bogus voters to cast their votes in election with the collusion of Government officers as alleged in para 6 of the petition?

9. Whether respondent No.3 created terror and panic among the voters during the election time as alleged in the petition and as a result the election was postponed, and if so, what is its effect on the election result?

10. What order."

As already stated issues Nos. 1 to 3 have been heard as preliminary issues. Hence, I proceed to record my findings on issues Nos. 1 to 3. Issues Nos. 1 & 2

5. It is the respondent's case that for want of particulars of corrupt practices, the petition is not maintainable and liable to be rejected at the threshold.

Section 83(1)(b) of the Representation of the People Act, 1951 reads as follows :---

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

From a reading of section 83(1)(b) we find that the petitioner in an election petition is obliged to give "full particulars" of the corrupt practices alleged by him, including the names of the parties alleged to have committed such corrupt practices, the date and place of commission of such corrupt practices.

This point is no longer res integra and is covered by number of decisions of the Apex Court which were highlighted by the learned Counsel for the respondent. At this stage, it is sufficient to refer to some leading cases on the point.

In Azhar Hussain Vs. Rajiv Gandhi, , the Apex Court has ruled that since names of agents and workers were not given, the name of place, time and date of speeches were not given, and therefore, the election petition was bad regarding those corrupt practices. It was further pointed out that regarding some corrupt practices there was no allegation of knowledge or consent of the returned candidate and hence those allegations cannot be taken. It was further pointed out that if there is a non-compliance of section 83 in mentioning details of material facts and particulars relating to alleged corrupt practices, such a petition can be dismissed at the threshold by invoking Order VII , Rule 11 C.P.C.

Again in another case reported in Dharti Pakar Madan Lal Agarwal Vs. Rajiv Gandhi, , it is pointed out that election petition which is defective can be rejected at the threshold, under Order VI, Rule 11 or Rule 16 C.P.C.

In Gajanan Krishnaji Bapat and another Vs. Dattaji Raghobaji Meghe and others, , it is pointed out that in case of alleged corrupt practices, the standard of proof is like in a criminal case viz., there should be proof beyond reasonable doubt. It is further pointed out that date and time of each corrupt practice has to be pleaded. It is further pointed out that the provisions of section 83 are mandatory. Hence it is pointed out that full particulars of the corrupt practices as

mentioned in section 83 must be set forth in the election petition. It is further pointed out that the affidavit filed by the petitioner must show the source of information on which the allegations about corrupt practices are made.

Then I am also referred to AIR 1969 S.C. 2101, *Samant N. Balkrishna v. George Fernandes and others*⁴, where also it is held that the provisions of section 83 of the Representation of the People Act are mandatory and the material particulars must be pleaded in the election petition to present a full picture of the cause of action.

It is, therefore, seen that the law is now well settled that the corrupt practice must be pleaded as a material fact and all necessary particulars must be given in detail as provided in section 83 of the Representation of the People Act, which has been held to be mandatory in nature. It is also well settled that the right to challenge an election is neither a fundamental right nor a right in common law. It is a statutory right provided by the Representation of the People Act, 1951. When the law says that all necessary particulars of corrupt practice must be pleaded, then if there is no such pleading as provided in section 83 of the Representation of the People Act, then election petition is liable to be rejected summarily as pointed out in the above decision. Now in the light of this position of law let us examine the allegations in the election petition and find out whether they answer the test pointed out above.

6. In the present petition, the petitioner has alleged number of corrupt practices against the respondent. I will take up each ground one by one and then refer to necessary pleadings and find out whether they are in conformity with section 83(1)(b) of the Representation of the People Act.

7. Expenditure for election more than the statutory limit : The only relevant allegation on this point we get in para 6(V) of the election petition. It is stated in this para that the respondent has spent money for distributing goggles amongst the voters and the amount incurred for purchasing the goggles and distributing them has not been accounted for in the daily election expenditure submitted by the respondent. This is the only allegation in the petition so far as the accounts and expenditure statements furnished by the respondent is concerned.

There is no allegation about the date or place of distribution of goggles. There is no allegation about the alleged amount or approximate amount said to have been spent by the respondent for the purchase or distribution of goggles. There is no allegation that the amount spent by the respondent was more than the amount statutorily fixed, and if so, how much excess expenditure has been incurred by the respondent.

In my view, the allegations are bald and vague and cannot be considered by any Court of law. The allegations regarding this point do not show details of particulars as required by section 83(1)(b) of the Representation of the People Act. Hence the question of trying such bald and vague allegations does not arise at all. Therefore, the Court cannot call upon the parties to lead evidence on this

point in view of lack of essential material particulars.

8. Distribution of goggles and money amongst the voters :---

Here again there is a very vague and bald allegation in para 6(v) of the election petition alleging that during the election period the respondent has distributed money and distributed goggles amongst the voters. As already pointed out, there is no allegation of time, date or place when this money or goggles were distributed amongst the voters in the constituency. The details of particulars of these two corrupt practices of distribution of money or goggles are not mentioned in the election petition and do not conform to the statutory obligation as mentioned in section 83(1)(b) of the Representation of the People Act, and therefore, on such bald allegations the parties cannot be allowed to lead evidence. The Court cannot take notice of such bald or vague allegations as pointed out by the Apex Court in the cases referred to above.

9. Arrest of the petitioner and his confinement in jail :---

Major part of the allegations in the election petition pertain to this plea which are mentioned in para 6(E), (G), (H), (J), (K), (M), (N), (O), (P) and (Q). The sum and substance of the allegations are that during the election period on the basis of a complaint lodged by the Returning Officer, the petitioner was arrested and he was produced before a Judicial Magistrate and remanded to judicial custody and subsequently he was released on bail. It is alleged that at the instance of the respondent, the officers of the police department, election officers and the Magistrate have acted in collusion in defaming the petitioner by his unwarranted and illegal arrest and his detention in the jail.

It is an admitted case, as could be seen from the allegations in the petition and also number of annexures to the election petition that inspite of 2-3 notices having been issued by the Returning Officer, the petitioner did not submit the daily returns. Hence a complaint was lodged by the Returning Officer with the police u/s 77(1) of the Representation of the People Act and 171(G) and (H) of the IPC. On that basis, the petitioner was arrested, In fact police have filed a chargesheet against the petitioner in the Court of Judicial Magistrate, First Class. The petitioner himself has produced copy of the chargesheet. If in furtherance of a criminal case filed against the petitioner, he has been arrested and he has been detained in custody, it cannot be subject matter of the election petition. In fact, the allegations are made in the election petition regarding his arrest and detention etc. for quashing the criminal proceedings and for claiming damages for defamation. In the prayer Clause, prayer (B-1) reads as follows:---

"The petitioner prays that Criminal Case No. 215/95 and if any other offence related to election pending before the Judicial Magistrate, Vasai u/s 77(1) of the R.P Act, 1951 read with IPC section 171(G), (H) and (I) be quashed or ordered as deemed fit by Honourable Court."

Then again prayer (E-1) reads as follows:---

"Relief for Defamation to petitioner done by respondent Nos. 2 & 4 or as deemed fit by Hon"ble Court."

In prayer (E-2), the petitioner prays that the respondent No. 1 i.e. Chief Election Commissioner, be ordered to pay compensation for world-wide defamation of the petitioner.

It is, therefore, seen that reliefs about wrongful detention of the petitioner are sought in order to get the proceedings in the Magistrate's Court quashed and also to claim damages for defamation. These prayers are foreign to the scope of an enquiry in an election petition.

10. In an election petition, the Court is concerned with the validity of the election of the returned candidate. We are not concerned about the arrest of the petitioner in a criminal case which has been done in due process of law. If the petitioner's arrest is wrongful or illegal or if the prosecution is unwarranted, the petitioner can take appropriate proceedings by challenging the criminal proceedings either before the Magistrate or by approaching the Sessions Court or the High Court invoking their revisional powers u/s 397 Criminal Procedure Code or inherent powers u/s 482 Criminal Procedure Code.

If the petitioner is defamed by the action of the Returning Officer or by the action of the police, he is entitled to file a suit for damages in a Civil Court or he can file a private complaint before the Magistrate u/s 500 I.P.C.

The above allegations about the arrest of the petitioner and the consequential prayer for quashing criminal proceedings or for damages for defamation are wholly outside the purview of an election petition. As already stated, the right to file an election petition is not a fundamental right or a right under the common law, but it is a statutory right granted under the provisions of the Representation of the People Act. Part VI of the Representation of the People Act, 1951 provides for disputes regarding election. There is no provision in the Representation of the People Act providing for such a right to claim quashing of criminal proceedings or to claim damages. Hence in my view, these claims about wrongful arrest or detention of the petitioner cannot be agitated in an election petition and as already stated he can have recourse to appropriate proceedings under the Criminal Procedure Code or I.P.C. or by filing a suit for damages in a Civil Court.

Though there is a vague allegation in the petition that his arrest has been done at the instance of the returned candidate, no details are given. At the time of arguments, I put a specific question to the petitioner as to on what basis he says that he was arrested at the instance of the respondent, to which he replied that he has no material or evidence to support that allegation except his belief or his inference. In my view, an election petition cannot be conducted on the basis of mere surmises or imaginary inferences of a defeated candidate. The details and particulars must be pleaded as to how and when the respondent has influenced the concerned officers to take action against him. As already stated, these allegations are made with a view to get the criminal proceedings quashed and to

get damages for defamation which cannot be entertained in an election petition. Hence, these allegations are wholly irrelevant for our present purpose.

11. Terrorism prevailing in the constituency:-

Number of allegations are made in the petition to show that the respondent was terrorising the electorate and thereby there was no free and fair election. These allegations are made in paras 6(F), (G) and (K) and 7(B), (C), (D), (E), (F), (G), (H), (I) and (J). It is an admitted fact that respondent was in detention in a TADA case for the alleged murder of some person. Though he was refused bail on merits, subsequently he came to be released on bail due to technical defect of not filing the chargesheet within 180 days. It is the allegation in the election petition that the respondent had terrorised the entire constituency. At number of places the petitioner has alleged that the respondent had terrorised the electorate, but no particulars are given as to how and in what manner the voters were terrorised. No particulars about date, time and place are given to show that on a particular day, at a particular place at a particular time people or voters were terrorised by the respondent or his henchmen. Merely making of allegations about creation of terror by the respondent, by making those allegations at number of places by the petitioner will not prove creation of terror by the respondent unless material particulars are furnished. A bald, vague and general allegation that the respondent indulges in acts of terrorism will not take us anywhere. It must be stated that on a particular date, at a particular place and in a particular village or in a particular town or at a particular place the respondent came and made speech terrorising people or what was the nature of threat also must be mentioned. Such particulars are conspicuously wanting in the election petition.

The only point in favour of the petitioner is that since the atmosphere was not congenial for an election, the election was postponed from 12-2-1995. It appears the Government appointed one Mr. Pingulkar to look into the matter. He visited the constituency and recorded statements of number of people and on the basis of his report the election was postponed and actually held on 26-2-1995.

In my view, the stand of the petitioner on this postponing of election is conflicting and contradicting with each other, In one breath, he says that since the atmosphere was not good for a fair election, the election was postponed and then on the basis of Pingulkar committee report it was held on 26-2-1995. In another breath, the petitioner says that the election was got postponed at the instance of the respondent since the atmosphere was not favourable for him if the election was held on 12-2-1995 and in order to give him time that the election was got postponed to 26-2-1995.

Even at the time of arguments I asked the petitioner and he asserted and insisted that the election was postponed to oblige the respondent in order to give him more time for canvassing and he asserted at the time of arguments that the respondent would not have succeeded in the election if the election had taken

place on 12-2-1995. If that is his argument, then the allegation of terrorist activities falls to the ground.

12. I may also mention here that on an earlier occasion the petitioner had filed an application for amendment of the petition which was numbered as Chamber Summons No. 1002 of 1995. By my order dated 24-11-1995, this Chamber Summons was allowed partly and most of the amendments sought for were rejected. It is interesting to note that one of the proposed amendments in the Chamber Summons was that Mr. Sharad Upasni, Chief Secretary to the Government of Maharashtra and Mr. G.B. Pingulkar, Commissioner of Konkan Division, Government of Maharashtra, be punished u/s 136(2)(a) and (b) of the Representation of the People Act and for offences under sections, 119, 120(B), 166, 167, 171-C, 182, 219, 504 and 511 I.P.C. for misguiding the Government and the Election Commissioner for postponing the election to favour the respondent No. 3 by submitting report to get him elected in general elections of Maharashtra Assembly. Therefore, the assertion of the petitioner at the time of arguments and also at the time of Chamber Summons No. 1002 of 1995 was that the election was postponed in order to favour the respondent. As already stated, the petitioner, at the time of arguments, asserted that if the election had taken place on 12-2-1995 the respondent would have lost. Therefore, his earlier theory at number of places in the election petition that throughout the election period the respondent had let loose terrorism in constituency and there was no possibility of a fair election has no substance in view of his assertion that postponing was done to favour the respondent.

We may also notice that there were 14 candidates in the field. In addition to the petitioner and respondent and number of independent candidates there were candidates put up by national parties viz. Congress, Janata Dal and BJP and Shiv Sena alliance. We may also take judicial notice that BJP and Shiv-Sena combine got a majority in the Assembly elections and has formed a Government subsequently. It is interesting to notice that none of the candidates from the recognised national parties have alleged that there was such terrorism in the constituency as is now sought to be made by the petitioner.

We may also take notice of one of the paper cuttings produced by the petitioner himself and annexed as Ex. X. to the election petition which is news item from "The Times of India" dated 25-2-1995. The news item says that according to official sources all preparations for peaceful polling in Vasai constituency have been finalised. That the Election Department and the Collector have made all arrangements for deployment of staff. It also says that the respondent Thakur voluntarily offered himself for getting detained in custody till the polling is over. It also says that massive police deployment in Vasai has been complemented by Jawans of the Central and State Reserve Police Forces, besides those from the Railway Protection Force. It also says that borders of the constituency had been sealed and every vehicle entering and leaving constituency was thoroughly checked. The Election Commission has taken all precautions in conducting the

election on the postponed day. Finally, the election took place on 26-2-1995.

As already stated, the petitioner has taken two inconsistent stands which cannot be reconciled. Even in petitioner's concise statement filed along with the election petition in para 5 it is stated that the election was postponed in order to give sufficient time to respondent to improve his position. It is further alleged in the concise statement that the respondent's position was very poor and was on the verge of defeat as on 12-2-1995, and therefore, the respondent got the election postponed.

In my view, therefore, there is no substance in the vague and general allegation of terrorism made in the petition. It lacks essential particulars. Even otherwise, the allegations are contrary to the other stand taken by the petitioner that if the election had taken place on 12-2-1995, the respondent would have lost which clearly shows that upto and prior to 12-2-1995 the voters were not afraid to vote against the respondent, and therefore, the election atmosphere was not vitiated as on 12-2-1995 as admitted in the concise statement of the petitioner and as asserted by him orally before me at the time of arguments. Mere repetition of the word "terrorism" number of times will not take us anywhere unless it is supported by essential or material particulars as mentioned in section 83(1)(b) of the Representation of the People Act. It is true that if there was threat to voters and the voters were terrorised, then there may not be a free election and it amounts to a corrupt practice within the meaning of section 123(2) of the Representation of the People Act which mentions about "undue influence" and naturally it includes threat to the electorate. Parties cannot be permitted to go in for trial on such vague allegations in the absence of material particulars regarding time, place and date of the alleged terrorist activities and the name of the respondent's henchmen who appear to have acted like that etc. Hence, even this ground of corrupt practice is also to be rejected for want of material particulars.

We may take judicial notice that Vasai constituency has number of towns and villages. There should be particulars to show as to in what village and on what date the terrorist activities took place. It has to be shown whether it is actually done by the respondent or his agents or friends, and if so, the names of agents and friends should be mentioned in the pleadings. Then the nature of the terrorist activities must be pleaded, whether it was in the form of a public speech holding out threats to the voters that voters will be punished if they do not vote for him. It could be in the form of a video cassette or audio cassette or it may be a case of threatening voters by going to the house of each voter. No such particulars are mentioned in the election petition as is required by law to be mandatory by section 83(1)(b) of the Representation of the People Act.

13. It is settled position that section 83 is mandatory and for breach of which election petition is liable to be rejected summarily as pointed out in two Rajiv Gandhi cases by the Apex Court which are mentioned earlier.

The learned Counsel for the respondent is, therefore, right in his submission that the petition is bald and vague and does not contain the essential particulars, and therefore, the petition is liable to be rejected. But at the time of arguments, the petitioner contended that though particulars are lacking in the election petition, he will furnish it by filing an application for amendment and placed reliance on section 86(5) of the Representation of the People Act, which no doubt provides for amendment of an election petition. He also relied on D.P. Mishra Vs. Kamal Narayan Sharma and Another, , where the Apex Court has observed that the election petition can be amended later on to furnish the particulars.

In the written statement, specific pleas are taken pleading want of particulars in the election petition. Then issues are framed and preliminary issues regarding this question were decided to be heard as preliminary issues. Even till today the petitioner has not made any application for amendment of the petition by furnishing the required particulars. The Court cannot wait indefinitely expecting that the petitioner may furnish particulars at some point of time. When once issues are framed, the trial should commence immediately and there is no reason for waiting indefinitely for the petitioner to file an application for amendment as and when he chooses. In fact, this position has been made clear by the Apex Court in Dhartipakar Madan Lal Agarwal Vs. Rajiv Gandhi, , which is referred to earlier on another point. Even in that case, a similar contention was urged by the election petitioner before the Supreme Court that the High Court by rejecting the election petition under Order VII, Rule 11 upholding the preliminary objections has deprived the petitioner's opportunity to amend the petition and to make good the deficiencies by supplying the necessary particulars and details of the corrupt practice alleged in the petition. The Apex Court rejected this argument. The Apex Court observed that the appellant had not expressed any desire and did not make any application for amendment in the High Court. It was pointed out that it was open to the appellant to have made that application, but he himself did not make any such application. Then the Apex Court has observed in para 13 at page 1587 as follows:-

"The High Court was under no legal obligation to direct the appellant to amend pleadings or to suo motu grant time for the same.....The question, however, does not arise as the appellant did not file any amendment application."

In fact, in this case the petitioner filed an earlier amendment application for certain other purposes which has been partly allowed. Till today, he has not made any application for amending the petition by furnishing the particulars of corrupt practices as required by law u/s 83(1)(b) of the Act.

14. The petitioner is right in his contention that threat to voters amounts to a terrorist activity and that may be a good ground of corrupt practice to set aside the election. He relied on two authorities on this point viz. 12 E.L.R. 378 R.K. Shukla v. T.C. Maheshwar⁶, and 20 E.L.R. 443 (AIL) Jagan Prasad Rawat v. Krishna Dutt Paliwal⁷. In both the cases, the threat to voters was held to be a corrupt practice within the meaning of section 123(2) of the Act. But in the

present case the particulars of threat and the time and place where the threat was held out are not mentioned, and therefore, this plea cannot be entertained for want of particulars.

It is well settled that the allegation of corrupt practice is like a charge in a criminal case. The requirement of law is that the charge of corrupt practice must be proved beyond reasonable doubt like in a criminal case. An accused cannot be tried on the basis of a vague or bald charge.

For the above reasons my findings on issues Nos. 1 & 2 are in the affirmative.

ISSUE No.3

15. The relevant pleading on this issue is found in para 6(W) at pages 25 and 26 of the election petition. It is pleaded that the respondent and his workers with his consent indulged in mass-scale bogus voting in the said constituency, that petitioner himself was present at various polling stations where bogus voters were sent by the respondent and his agents for the purpose of voting and that some Government servants were used for casting votes and for bringing bogus voters. It is further alleged that as many as five Government servants were caught red-handed by the petitioners and this was brought to the notice of the Returning Officer and also the Central observer. It is further alleged that many genuine voters were refused permission to cast their votes at the instance of the respondent.

Here also I must say that the necessary particulars are wanting. A bald and vague allegation that there was bogus voting in the entire constituency cannot be accepted. It may be possible that in few polling stations there might be bogus voting or genuine voters might have been prevented from casting their votes. But then the petitioner has not furnished particulars as to in which polling station or in which village there was bogus voting, the names of bogus voters, the names of the genuine voters who were prevented from casting their votes and the names of the five Government servants who indulged or were used for bogus voting. In the absence of so many particulars, the above allegations are not sufficient to make out a case of corrupt practice on the ground of alleged bogus voting or use of Government servants for the purpose of bogus voting. The essential particulars are very much wanting and on this ground the ground of corrupt practice has to be rejected summarily in view of the law regarding furnishing particulars discussed above. For these reasons, Issue No. 3 is also answered in the affirmative.

16. As pointed out in the two cases of Rajiv Gandhi referred to earlier, the petition is liable to be rejected under Order VII, Rule 11 C.P.C. for want of better particulars in the election petition. In view of my conclusion that the election petition does not contain the necessary particulars as per the mandatory provisions of section 83(1)(b) of the Representation of the People Act, the election petition has to fail.

There is also no sufficient material to show as to how the respondent's election has been materially affected by not following the election law.

Purity of elections must be maintained at any cost. There is no second opinion on this point. The other aspect is that in a democracy when people have exercised their franchise and a candidate has been duly elected, the election cannot be set at naught on the basis of bald or vague allegations or imaginary grievances of a defeated candidate. It was admitted at the time of arguments that in that election the petitioner got 1,000 and odd votes, whereas the respondent was elected with a thumping majority of 80,000/- and odd votes. It was also brought to my notice at the time of hearing arguments that the second highest votes were polled by another candidate getting about 40,000/- and odd votes. But even then we find that as between the respondent and the other candidate polling the next highest votes, the difference was about 40,000/- and odd votes.

After giving my anxious consideration to various contentions urged by the petitioner who argued with vehemence and force and the learned Counsel for the respondent, I am constrained to hold that the petition in this case is devoid of particulars, and therefore, the election petition is liable to be rejected summarily on the ratio of decision of the Apex Court in two cases of Rajiv Gandhi referred to above.

The petitioner did not engage any lawyer though I advised him to engage a lawyer who can present the legal points in a better way. The petition is also drafted by the petitioner who is a layman. Though normally costs must follow the event and particularly in an election case when the election petition fails the costs must be awarded, but having regard to the fact that the petition is being disposed of on preliminary objections and without actual trial of the case and having regard to the fact that the petitioner is a layman and did not have proper advice of an Advocate, I feel that he should not be burdened with costs of the petition.

17. In the result, the petition is rejected under Order VI, Rule 16 C.P.C. read with Order VII, Rule 11 C.P.C. as also read with section 83(1)(b) of the Representation of the People Act. In the circumstances of the case, there will be no order as to costs.