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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment reserved on: 27.10.2025

Judgment pronounced on: 17.01.2026

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EL.PET. 1/2020 & I.A. 38633/2024

PRATAP CHANDRA

.....Petitioner

Through: Mr. Pratap Chandra-in-Person

versus

MR. MANISH SISODIA & ORS.

.....Respondent

Through: Mr. Gautam Narayan Sr.Adv. with
Mr Rishikesh Kumar, Ms. Asmita,
Mr.Mohd Irsad Mr. Karan Sharma,
Ms. Sheenupriya, Mr. Rajat Jain,
Mr. Abhiram Venugopal Advs.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

J U D G M E N T

1. The present election petition has been filed by the petitioner under Sections 33A, 80, 81, 125, 126 read with Section 100 of the Representation of the People Act, 1951 ("*the RP Act*"), against the election of respondent from AC-57, Patparganj, National Capital Territory of Delhi, in the Legislative Assembly Elections held in February 2020.

FACTUAL BACKGROUND



2. The Election Commission of India issued the notification dated 06.01.2020 for holding the General Elections to the Legislative Assembly of NCT of Delhi. As per the notified schedule, the last date for making nominations was 21.01.2020, scrutiny of nominations was conducted on 22.01.2020, polling took place on 08.02.2020 and the results were declared on 11.02.2020.
3. The petitioner contested the said election from AC-57, Patparganj, as a candidate of the Rashtriya Rashtrawadi Party. His nomination was accepted by the Returning Officer on 22.01.2020 and a candidate identity card was issued to him thereafter.
4. The respondent contested the election from the same constituency as a candidate of the Aam Aadmi Party. Upon completion of polling and counting of votes, respondent was declared elected, having secured 70,163 votes, whereas the petitioner secured 95 votes. The results were formally declared by the Returning Officer on 11.02.2020.
5. The petitioner alleges that, in violation of Section 126 of the Act, election campaigning and display of election material continued during the prohibited forty-eight-hour period prior to the conclusion of polling. Despite his representations dated 03.02.2020, 07.02.2020 and 08.02.2020 to the Chief Election Officer and the Election Media Certification and Monitoring Committee complaining of continued display of hoardings, bus shelter advertisements and other campaign material, no effective action was taken.
6. It is petitioner's case that while he strictly complied with Section 126 of the RP Act and ceased all canvassing by 5:00 PM on 06.02.2020, other political parties and candidates continued campaigning till the date of polling, thereby vitiating the electoral process and denying him a level playing field. The petitioner further alleges that respondent concealed



material information in his nomination affidavit (Form 26) by failing to disclose FIR No. 696/2013 registered under the Prevention of Insult to National Honour Act, 1971, amounting to suppression of material facts and rendering the nomination of the respondent liable to rejection; although an objection in this regard was raised at the stage of scrutiny, the Returning Officer, by order dated 22.01.2020, rejected the objection and accepted the nomination of respondent.

7. On the basis of the aforesaid allegations, the petitioner has sought setting aside of the election of respondent from AC 57, Patparganj, declaration of the election as void, and issuance of directions for conducting a fresh election, along with other consequential reliefs.
8. During the pendency of the proceedings, respondent Nos. 2 and 3 were deleted from the array of parties by order dated 24.03.2021.

ARGUMENTS ON BEHALF OF THE PETITIONER

9. Mr. Pratap Chandra, petitioner-in-person, submits that the election of respondent from AC 57, Patparganj, stands vitiated on account of blatant and continuous violation of the mandatory provisions of Section 126 of the RP Act. It is contended that despite the statutory prohibition on election campaigning and display of election matter during the forty-eight hours preceding the conclusion of polling, several political parties and candidates continued to display hoardings, advertisements and other election material till the date of polling, thereby striking at the root of a free and fair electoral process.
10. It is argued that the petitioner strictly complied with the mandate of Section 126 of the RP Act and ceased all canvassing activities by 5:00 PM on 06.02.2020, whereas other candidates and political parties, including those supporting respondent, continued campaigning through



visual advertisements and public displays. Such conduct, according to the petitioner, resulted in denial of a level playing field and materially affected the purity of the election.

11. He submits that the petitioner repeatedly brought these violations to the notice of the Chief Election Officer, Delhi and the Election Media Certification and Monitoring Committee by representations dated 03.02.2020, 07.02.2020 and 08.02.2020. However, no preventive or corrective action was taken by the authorities, despite being under a statutory and constitutional obligation to ensure free and fair elections. The inaction of the authorities, it is urged, facilitated the continued violation of the law and rendered the election process arbitrary and unfair.
12. It is further contended that respondent has suppressed material information in his nomination affidavit (Form 26) by failing to disclose FIR No. 696/2013 registered under the Prevention of Insult to National Honour Act, 1971. He submits that disclosure of criminal antecedents is a mandatory requirement under Section 33A of the RP Act, 1951, and any suppression or concealment thereof vitiates the nomination itself.
13. According to the petitioner, the non-disclosure of the said FIR amounted to misleading the electorate and the Returning Officer, thereby striking at the transparency of the electoral process. It is submitted that the right of voters to be fully informed about the criminal antecedents of candidates is an integral part of the democratic process, and suppression of such information renders the election liable to be set aside. He has also filed photographs showing banners, hoardings, advertisements containing party symbol and name.
14. It is argued that the cumulative effect of the continued violation of Section 126 of the RP Act and the suppression of material information in



the nomination affidavit has materially affected the result of the election. The election, according to the petitioner, was conducted in an atmosphere of inequality, arbitrariness and illegality, thereby vitiating the entire electoral process in AC 57, Patparganj.

15. On the aforesaid grounds, it is submitted that the election of respondent is liable to be declared void under Section 100 of the RP Act.

ARGUMENTS ON BEHALF OF THE RESPONDENT

16. Mr. Narayan, learned senior counsel appearing for respondent, has moved an application under Order VII Rule 11(a) and (d) of the Code of Civil Procedure, 1908 seeking rejection of the petition at the threshold for want of cause of action, lacking material facts, being barred by law and for non-compliance with the mandatory provisions of the RP Act.
17. He states, insofar as the allegation under Section 126 of the RP Act is concerned, the petition does not disclose any material facts to show that the respondent had put up, authorised or consented to the alleged hoardings or advertisements. The material relied upon merely depicts generic party hoardings without reference to the respondent. There is no pleading that the alleged displays were within the respondent's constituency or that they were erected within forty-eight hours prior to polling with his knowledge or consent. Static or pre-existing hoardings, in any event, do not fall within the ambit of Section 126. The petition further fails to plead that the result of the election was materially affected, as required under Section 100(1)(d)(iv) of the RP Act.
18. As regards the alleged concealment of FIR No. 696/2013, the petition is devoid of material particulars. There is no averment that the respondent had knowledge of the said FIR at the time of filing his nomination. The record indicates that the respondent was neither summoned by the police



nor by any court of competent jurisdiction and that no charge-sheet had been filed as on the relevant date. In the absence of cognizance or framing of charges, there was no obligation on the respondent to disclose the said FIR under Section 33A of the RP Act read with Rule 4A of the Conduct of Election Rules, 1961.

19. The petition also fails to comply with the mandatory requirements of Section 83 of the RP Act. It lacks a concise statement of material facts, the verification does not distinguish between statements based on knowledge and those based on information, and the source of information has not been disclosed. The annexures filed with the petition are also not duly verified.
20. The petition further suffers from non-compliance with Section 81 of the RP Act, as it does not clearly invoke the statutory grounds under Sections 100 or 101 of the RP Act on which the election is sought to be declared void.
21. On the aforesaid grounds, learned senior counsel prays that the election petition be dismissed with exemplary costs.

ANALYSIS AND FINDINGS

22. I have heard the parties and perused the material on record.
23. Before advertng to the contentions of the parties, it is important to note that India is the world's largest democracy, founded on the principle that sovereignty rests with the people of India. In a democratic republic, the will of the electorate is expressed through the election of its representatives. The Representation of the People Act, 1951 permits interference with this popular mandate only in exceptional cases and strictly in accordance with the provisions of the RP Act.



24. An election petition involves judicial interference with the electoral process and, consequently, with the mandate of the people. For this reason, the provisions of the Act must be construed strictly.¹ The statutory scheme requires strict compliance with its conditions, keeping in view the sanctity of the electoral process and the primacy of the people's choice.
25. The primary question that falls for my consideration in the present case is whether the petition is maintainable in view of the Order VII Rule 11 application filed by the respondent?
26. Before dealing with the rival contentions, it is apposite to reproduce the relevant provisions of the Act which read as under:

“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.

¹Refer: Paragraph No. 17 of *Dharmin Bai Kashyap v. Babli Sahu*, (2023) 10 SCC 46; Paragraph No. 13 of *Laxmi Singh v. Rekha Singh*, (2020) 6 SCC 812.



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

...

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) that on the date of his election a returned candidate was not qualified, or was disqualified, to be chosen to fill the seat under the Constitution or this Act or the Government of Union Territories Act, 1963 (20 of 1963)]; or

(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) that any nomination has been improperly rejected; or

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

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

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

(iii) by the improper reception, refusal or rejection of any vote or the reception of any vote which is void, or (iv) by any non-compliance with the provisions of the Constitution or of this Act or of any rules or orders made under this Act, the High Court] shall declare the election of the returned candidate to be void.



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

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

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

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

...

126. Prohibition of public meetings during period of forty-eight hours ending with hour fixed for conclusion of poll.—

(1) No person shall—

(a) convene, hold, attend, join or address any public meeting or procession in connection with an election; or

(b) display to the public any election matter by means of cinematograph, television or other similar apparatus; or

(c) propagate any election matter to the public by holding, or by arranging the holding of, any musical concert or any theatrical performance or any other entertainment or



amusement with a view to attracting the members of the public thereto,

in any polling area during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll for any election in that polling area.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(3) In this section, the expression “election matter” means any matter intended or calculated to influence or affect the result of election.”

27. It is a settled proposition of law that only the averments in the petition are required to be seen and nothing else. The right to challenge is a statutory right and flows from the RP Act, which in itself is a self-contained code. Therefore, the constituents of an election petition should be construed strictly as per the RP Act subject to the provisions of CPC, 1908 as mentioned in Section 87 of the RP Act.
28. A combined reading of the above-mentioned provisions shows that the any election petition challenging the election under Section 100 of the RP Act should strictly be in compliance with Section 83, and must satisfy the conditions as laid down by the Hon’ble Supreme Court in ***Kanimozhi Karunanidhi v. A. Santhana Kumar***², failing which the petition may entail dismissal in the light of Order VII Rule 11 of CPC. The relevant paragraph reads as under:

² 2023 SCC OnLine SC 573.



“28. The legal position enunciated in afore-stated cases may be summed up as under:—

i. Section 83(1)(a) of RP Act, 1951 mandates that an Election petition shall contain a concise statement of material facts on which the petitioner relies. If material facts are not stated in an Election petition, the same is liable to be dismissed on that ground alone, as the case would be covered by Clause (a) of Rule 11 of Order 7 of the Code.

ii. The material facts must be such facts as would afford a basis for the allegations made in the petition and would constitute the cause of action, that is every fact which it would be necessary for the plaintiff/ petitioner to prove, if traversed in order to support his right to the judgment of court. Omission of a single material fact would lead to an incomplete cause of action and the statement of plaint would become bad.

iii. Material facts mean the entire bundle of facts which would constitute a complete cause of action. Material facts would include positive statement of facts as also positive averment of a negative fact, if necessary.

iv. In order to get an election declared as void under Section 100(1)(d)(iv) of the RP Act, the Election petitioner must aver that on account of non-compliance with the provisions of the Constitution or of the Act or any rules or orders made under the Act, the result of the election, in so far as it concerned the returned candidate, was materially affected.



v. The Election petition is a serious matter and it cannot be treated lightly or in a fanciful manner nor is it given to a person who uses it as a handle for vexatious purpose.

vi. An Election petition can be summarily dismissed on the omission of a single material fact leading to an incomplete cause of action, or omission to contain a concise statement of material facts on which the petitioner relies for establishing a cause of action, in exercise of the powers under Clause (a) of Rule 11 of Order VII CPC read with the mandatory requirements enjoined by Section 83 of the RP Act.

(Emphasis added)

29. Similarly in ***Karim Uddin Barbhuiya v. Aminul Haque Laskar***³ it has been held as under:

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

³ 2024 SCC OnLine SC 509.



struck off and the Election Petition is liable to be rejected under Order VII, Rule 11 CPC.

...

19. Now, from the bare reading of the Election petition, it emerges that the respondent no. 1 has made only bald and vague allegations in the Election Petition without stating the material facts in support thereof as required to be stated under Section 83(1)(a) of the RP Act. Apart from the fact that none of the allegations with regard to the false statements, and suppression and misrepresentation of facts allegedly made by the respondent no. 1 with regard to his educational qualification or with regard to his liability in respect of the loan availed by him for his partnership firm or with regard to his default in depositing the employer's contribution to provident fund, would fall within the definition of "Corrupt practice" of "undue influence" as envisaged in Section 123(2) of the RP Act, the Election petition also lacks concise statement of "material facts" as contemplated in Section 83(a), and lacks "full particulars" of the alleged Corrupt practice as contemplated in Section 83(b) of the RP Act.

20. So far as the allegations of "Corrupt practice" are concerned, the respondent no. 1 was required to make concise statement of material facts as to how the appellant had indulged into "Corrupt practice" of undue influence by directly or indirectly interfering or attempted to interfere with the free exercise of any electoral right. Mere bald and



vague allegations without any basis would not be sufficient compliance of the requirement of making a concise statement of the “material facts” in the Election Petition. The material facts which are primary and basic facts have to be pleaded in support of the case set up by the Election petitioner to show his cause of action. Any omission of a single material fact would lead to an incomplete cause of action entitling the returned candidate to pray for dismissal of Election petition under Order VII Rule 11(a) of CPC read with Section 83(1)(a) of the RP Act. The said legal position has been well settled by this Court in Azhar Hussain v. Rajiv Gandhi, wherein this Court after referring to the earlier pronouncements in Samant N. Balkrishna v. George Fernandez and Shri Udhav Singh v. Madhav Rao Scindia, observed that the omission of a single material fact would lead to incomplete cause of action, and that an Election petition without the material facts is not an Election petition at all. It was further held that all the facts which are essential to clothe the petition with complete cause of action must be pleaded and omission of even a single material fact would amount to disobedience of the mandate of Section 83(1)(a) of the Act and an Election petition can be and must be dismissed, if it suffers from any such vice.”

(Emphasis added)



30. Further, the requisites of filing an election petition on the ground of corrupt practices was also explained by the Hon'ble Supreme Court in ***Ajmera Shyam v. Smt. Kova Laxmi***⁴. Relevant paragraph reads as under:

“9.11.2 For the said reason, strict conditions are set in the statute for challenging the outcome of an election. Unlike other common lawsuits, the Representation of the People Act of 1951 states that no election can be questioned except through an election petition filed according to the provisions of Part VI of the Act. The Act of 1951 itself specifies the procedure to be followed for challenging elections. Section 83 of the Act requires that every election petition should include a concise statement of the material facts on which the petitioner relies. The petition must be signed and verified in accordance with the procedures established for pleadings in the Code of Civil Procedure. It must be accompanied by an affidavit in Form 25, as required under Rule 94-A of the Rules, verifying the details under two headings: statements true to the petitioner's own knowledge and statements true based on the petitioner's information. The election petitioner is also obliged to disclose the source of his information regarding the corrupt practice to link the returned candidate to the charge, to prevent fishing or roving inquiries, as well as to prevent the returned candidate from being caught off guard. The allegations must be interpreted very strictly and narrowly, considering the serious consequences they may entail, such as disqualification from contesting future elections. Thus, the

⁴ 2025 SCC OnLine SC 1723.



procedure prescribed by the Act for challenging an election must be strictly followed and any deviation or non-compliance can lead to the dismissal of the petition. In an election petition involving a charge of corrupt practice, the person charged with corrupt practice enjoys the presumption of innocence. The charge must be proved "to the hilt," meaning that the standard of proof is the same as in a criminal trial, i.e., proof beyond reasonable doubt, not merely on preponderance of probabilities. Such is the nature of an election petition."

(Emphasis added)

31. In the instant case, it is clear that the petitioner has challenged the election on the ground of (i) concealment of grievous fact that an FIR was lodged against the respondent and (ii) violation of Section 126 of RP Act as campaigning was not stopped within 48 hours. The same is evident from the Grounds enumerated in the petition and the same are dealt with in seriatim herein under.

Non-Compliance of Sections 83 and 126 Of The RP Act

32. The first ground of challenge by the respondent is of non-compliance with the provisions of Section 83 of the RP Act which states that the petition should disclose material facts leading to cause of action. What would be termed as material facts has been explained in ***Kanimozhi Karunanidhi (supra)*** which states that material facts should be all of such facts which would form a complete cause of action.
33. Although the petitioner has pleaded that the respondent continued campaigning and allowed advertisements through hoardings, bus shelters and public utility boards even after 5 PM on 06.02.202 and that the



petitioner served reminders dated 07.02.2020 and 08.02.2020 which were not acted upon. However, the requirement of pleading material facts becomes particularly stringent when the petitioner seeks to challenge an election under Section 100(1)(d) of the RP Act, which mandates that the result of the election must have been “materially affected” due to non-compliance. The petition lacks any specific averment demonstrating how the respondent’s violation (even assuming and taking them to be correct) materially affected the election result in favour of the returned candidate. The petition does not contain any specific allegation to establish cause of action. The relevant paragraphs of the petition are important and read as under:

“8. That the election was to be held on 08.02.2020 and as per the requirement of the 126 of the "Act", the election commission was under obligation to take action against the defaulter parties/ candidates who have not stopped the election matter advertisement before 48 hours ending with hour fixed for conclusion of the poll. However, this is pertinent to mention that the same has been illegally done till the date 08.02.2020, which was the date of polling. Photographs of relevant portion of the Hoarding, Bus Shelters, Public Utility Board Display dated 07.02.2020 and 08.02.2020 operative till the date of polling is annexed herewith as Document No. P 7.

...

10. The petitioner was very shocked and sad that despite his representation dated 03.02.2020, 07.02.2020 and 08.02.2020, the respondents were failed to take



precautionary as well as preventive measures to stop the nuisance carried by the defaulting parties. Such advertisement of Election Matter, at the last stage of the election vitiated the entire election process.

11. That there was gross violation of Section 126 of the Act despite the apprehension shown by the Petitioner in his representations dated 03.02.2020, 07.02.2020 and 08.02.2020 to the Respondent.

12. That as per Section 126 of the RP Act, no one is permitted to get undue advantage by way of any kind of election matter advertisement for making appeals to the voters to cast their votes in favour before the 48 hours of the conclusion of the polling day but the high-handed candidates of the political parties putting their election matter advertisement in various hoardings, bus shelters and public utility display boards, in which they have made appeals in favour of party as well as symbol on 08.02.2020, Such advertisements at the last stage of the election vitiated the entire election process.”

- 34.** From the above paragraphs and the petition, it is clear that the petitioner has confined himself to making general allegations of violation of Section 126 of the RP Act and of inaction on the part of the authorities, without laying down the material facts required in law. There is no pleading as to the nature, extent or impact of the alleged advertisements on the election or how the alleged violations translated into an advantage to the returned candidate. The pleadings are conspicuously silent on any nexus between the alleged continuance of election matter and the outcome of the



election, thereby failing to disclose how the result was materially affected within the meaning of Section 100(1)(d) of the Act.

35. Further, Section 81 of the RP Act clearly states that Section 100 grounds have to be mentioned while challenging the election petition. The petitioner did not in his pleadings even allege a specific ground for vitiating the election of the respondent in terms of Section 100. It is a clear position of law that mere general and vague pleadings would not constitute a cause of action and in absence of specific and necessary pleadings the election petition cannot be said to be maintainable as held in *Karim Uddin Barbhuiya (supra)*.
36. The learned Senior Counsel for the respondent in his submissions has correctly relied upon several judgments including *Manganilal Mandal v. Bishnu Deo Bhandari*⁵, in which it was held that mere non-compliance or breach of the constitution or any statutory provision would not invalidate the election and it is essential for the petitioner to aver by material facts the result of the election was materially affected by such non-compliance or conduct of the respondent.
37. Thus, the petitioner has failed to abide by the settled law with regard to filing of an election petition for challenging the election of the respondent. The petitioner has just made vague allegations and general pleadings, the petitioner has also failed to file the affidavit in the prescribed pro-forma which requires specific indication of corrupt practices and even the source of information as mandated in *Ajmera Shyam (supra)* has not been disclosed. These omissions are not mere technicalities but go to the root of the maintainability of the election petition.

⁵ (2012) 3 SCC 314.



38. Even on merits, wherein the petitioner has alleged violation of Section 126 of the RP Act, the photographs relied upon by the petitioner show generic party hoardings containing only the party symbol and name, without any specific reference to the respondent's name or image. The petitioner has not pleaded with specificity that these hoardings were erected, installed, or published with the knowledge, consent, or authorization of the respondent. The allegation that such static hoardings constitute "propagation" under Section 126 of the RP Act cannot be accepted.
39. The same is in line with the decision in **Mr. Dayanidhi Maran v. ML Ravi**⁶ against which the SLP was dismissed by the Hon'ble Supreme Court⁷ vide order dated 15.12.2025, in which it was held that the General party propaganda publications having no reference to the candidate will not qualify as a ground for action under section 126 of the RP Act. Relevant paragraphs read as under:

"20. Admittedly, the DMK party, which had published those advertisements, has satisfied Clause (v). In any event, even as per the pleadings, there is no reference to the applicant in any of those advertisements and it is only a general party propaganda in the newspapers.

21. In the light of the above, this Court holds that the averments contained in paragraphs 6 to 15 and 23 in the main election petition do not make out a cause of action for violation of Section 126 of the Act and consequently, it cannot be held that the applicant has induced the voters and committed corrupt practices under Section 123 of the Act.

⁶ 2025 SCC Online Mad 1296.

⁷ SLP (C) 32470/2025.



22. In so far as the pleadings as contained in paragraphs 16 and 17 are concerned, the allegation is against the stickers, which were stated to have been pasted in the houses of the constituency and which contained the photograph of the candidate, the leader of the party and the party symbol. Admittedly, the name of the printer or the publisher is not available and it is not the case of the first respondent that the name of the applicant is found to be behind the pasting of such stickers in the constituency.”

(Emphasis added)

- 40.** Moreover, the petitioner has failed to show that such advertisements were specifically placed within the 48-hour period ending with the hour of poll, or that they were in the polling area in question i.e. AC-57. The averments on this issue are reproduced as under:

“12. That as per Section 126 of the RP Act, no one is permitted to get undue advantage by way of any kind of election matter advertisement for making appeals to the voters to cast their votes in favour before the 48 hours of the conclusion of the polling day but the high-handed candidates of the political parties putting their election matter advertisement in various hoardings, bus shelters and public utility display boards, in which they have made appeals in favour of party as well as symbol on 08.02.2020, Such advertisements at the last stage of the election vitiated the entire election process.

13. That present Election Petition is being preferred in respect of the NCT of Delhi Assembly Election, 2020, in



which equal fair play have been denied to the petitioner as sec 126 mandates the canvassing has to stopped by 5:00 PM on 06.02.2020. Accordingly, the Petitioner has stopped his canvassing on 06.02.2020 by 5 pm; but other parties continued with their election matter advertisements even on the date of polling, i.e., 08.02.2020.

14. That the Election MCMC committee is failed to ensure the equal opportunity to each and every candidate, which is Fundamental Rights as guaranteed to the petitioner under the Constitution of India.”

41. Further, even if a breach of Section 126 of the RP Act was established, the critical missing element is the allegation that such breach materially affected the election result in favour of the respondent. In ***Mangani Lal Mandal (Supra)***, the Hon’ble Supreme Court held that breaches of electoral conduct alone are insufficient to vitiate an election and the petitioner must demonstrate material prejudice to the electoral outcome. It is a settled position that violations must be shown to have affected the result before an election can be set aside.
42. The petitioner’s failure to allege any specific violation exercised by the respondent renders the allegation of Section 126 of the RP Act violation insufficient to establish a ground under Section 100(1)(d). The petitioner has essentially confined the allegations in a general sense and that the authorities did not act, without establishing direct culpability or knowledge on the part of the respondent.



43. In view of the above, the hoardings in question do not constitute a cause of action which can be termed as a violation of Section 126 of the RP Act.

Concealment of FIR

44. The second contention of the petitioner was regarding concealment of FIR No. 696/2013 in the Form 26 affidavit. Section 33A of the act, read with Rule 4-A of the rules and Form 26, requires a candidate to disclose criminal cases pending against him.

45. Section 33A reads as under:

“33-A. Right to information.—(1) A candidate shall, apart from any information which he is required to furnish, under this Act or the rules made thereunder, in his nomination paper delivered under sub-section (1) of Section 33, also furnish the information as to whether—

(i) he is accused of any offence punishable with imprisonment for two years or more in a pending case in which a charge has been framed by the court of competent jurisdiction;

(ii) he has been convicted of an offence [other than any offence referred to in sub-section (1) or sub-section (2), or covered in sub-section (3), of Section 8 and sentenced to imprisonment for one year or more.

(2) The candidate or his proposer, as the case may be, shall, at the time of delivering to the returning officer the nomination paper under sub-section (1) of Section 33, also deliver to him an affidavit sworn by the candidate in a



prescribed form verifying the information specified in sub-section (1).

(3) The returning officer shall, as soon as may be after the furnishing of information to him under sub-section (1), display the aforesaid information by affixing a copy of the affidavit, delivered under sub-section (2), at a conspicuous place at his office for the information of the electors relating to a constituency for which the nomination paper is delivered.

Rule 4A of The Conduct Of Elections Rules, 1961 reads as under:

[4A. Form of affidavit to be filed at the time of delivering nomination paper.—The candidate or his proposer, as the case may be, shall, at the time of delivering to the returning officer the nomination paper under sub-section (1) of section 33 of the Act, also deliver to him an affidavit sworn by the candidate before a Magistrate of the first class or a Notary in Form 26.]”

46. Mr. Narayan, learned senior counsel for the respondent, has submitted that disclosure is mandatory only in relation to criminal cases in which either charges have been framed by the Court, or cognizance has been taken by the Court. Reliance was placed on **Sri B.G. Uday v. Sri H.G. Prashanth**⁸, of High Court of Karnataka against which the **SLP (Crl.) No. 8422/2024** preferred was dismissed by the Hon’ble Supreme Court *vide* order dated 09.02.2024. I find this reliance is well placed. The relevant observation reads as under:

⁸ CRL. RP. NO.1157 OF 2023.



“ 4(c) ... A perusal of the affidavit in the light of Rule 4A of the 1961 Rules read with section 33A of the 1951 Act leaves no manner of doubt that what is required to be disclosed is the pendency of a criminal case in which charges have been framed or cognizance of the offence alleged is taken...

(d) The vehement submission of learned counsel appearing for the respondent that the cognizance of the offence punishable u/section 125-A of the 1951 Act was taken, is bit difficult to agree with. The word ‘cognizance’ has no esoteric or mystic significance in criminal law and procedure. It merely means - become aware of and when used with reference to a court or judge, then take notice of judicially, vide R R CHARI vs. STATE OF UP, 1951 SCR 312. Ordinarily, cognizance is said to have been taken when the Magistrate after perusal of the papers with due advertence suspects the commission of offence alleged and makes up his mind to proceed against the accused in accordance with law. The record of the case should demonstrate this has happened, and only thereafter cognizance can be presumed to have been taken. Mechanically treating the matter and mindlessly issuing process to the accused cannot raise such a presumption. It is more so because setting criminal law in motion is a serious matter since it impinges on the rights of free citizens.

(e) ...Thus, the requirement of Rule 4A of 1961 Rules read with Form 26 has to be construed in the light of this amendment. Rules and the Forms prescribed by the Rules



cannot be construed to widen the scope of duty beyond what the Parliament has intended. Therefore, it is not that every criminal case launched against a candidate either by way of registering the FIR or by moving the private complaint, has to be disclosed in the affidavit even when charges have not been framed or cognizance of the offences alleged has not been taken, as the case may be. This view gains support from the observations offering at paragraph 75 in KRISHNAMOORTHY vs. SIVAKUMAR, (2015) 3 SCC 467, which reads as under...”

(Emphasis added)

47. From the above, it is clear that the mere registration of an FIR does not, by itself, imply that a criminal case is pending against a person for the purposes of disclosure under Section 33A of the RP Act, 1951. It is only when charges are framed, or cognizance of the offence is taken by the Court, that the statutory obligation to disclose arises.
48. The object behind mandating disclosure of criminal antecedents of a contesting candidate is to ensure that the electorate is made aware of such antecedents so as to enable voters to make an informed choice while exercising their franchise. To that extent, Section 33A of the RP Act enacts a limited statutory right to information in favour of the voters, with a corresponding duty cast upon the candidate to disclose such information strictly in accordance with the law.
49. Parliament, has consciously employed the expression “in a pending case in which a charge has been framed by the court of competent jurisdiction” in Section 33A of the RP Act. The provision is, therefore, attracted only upon the occurrence of that contingency. Admittedly, in the



present case, no charge has been framed in respect of the subject criminal case.

- 50.** That, however, is not the end of the matter. The petitioner has also failed to plead or aver that the respondent had knowledge of the said FIR. In the absence of any such pleading or material to demonstrate knowledge on the part of the respondent, the non-disclosure of the FIR cannot be construed as deliberate concealment so as to attract penal or electoral consequences. To my mind such an averment is necessary and must be pleaded in the petition to attract provision of Section 33A.

CONCLUSION

- 51.** Having considered all the material issues, I am of the view that the election petition in question fails to establish a specific cause of action as required in terms of Section 83 read with Order VII Rule 11 of CPC and Section 100 of the RP Act.
- 52.** For the aforesaid reasons and discussion, I.A. 38633/2024 is allowed and the petition is dismissed.

JASMEET SINGH, J

JANUARY 17th, 2026/DE