



Serial No. 01
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

El. Pet. No. 2 of 2023

Date of Decision :02.04.2026

Shri Titosstar Well Chyne,
S/o (L) R. Diantonath Khylllep, aged about 55 years,
R/o Khlieh Shnong, Sohra,
Opposite R.K.M. Mission Higher Secondary School,
East Khasi Hills District, Meghalaya-793111.

... Petitioner(s)

Versus

1. Shri Gavin Miguel Mylliem,
S/o Shri Winston Mark Simon Pariat, aged about 31 years,
R/o House No. 171, Umthli Village, Umthli, Pynursla,
S.O. East Khasi Hills District, Meghalaya-793110.
2. Shri Alan West Kharkongor,
S/o Priska Kharkongor, aged about 49 years,
R/o Maraikaphon, Sohra,
East Khasi Hills District, Meghalaya-793108
3. Shri Harold Firming Khongsit,
S/o (L) Bendromuney Songs Nongpluh, aged 60 years,
R/o Diengsong, Sohra, P.O. Sohra P.S. Sohra,
East Khasi Hills District, Meghalaya-793108.
4. Smt. Lakyntiew Sohkhlet,
W/o Shri George Peter Lawbor, aged 35 years,
R/o Maraikaphon, Shora Village,
P.O. & P.S. Sohra
East Khasi Hills District, Meghalaya-793108
5. Shri Michael Ronnie Kshiar,
S/o Shri Willingdone Bareh aged 50 years,
R/o 85-Nongshiliang, South & Lower Nongthymmai, Shillong
East Khasi Hills District, Meghalaya-793014



6. Smt. G. Phaiyolin Nongrum,
W/o Greatson Swer, aged a 60 years
R/o Laitryngew Village,
C/o Advocate Phila K. Nongrum,
East Khasi Hills District, Meghalaya-793108

... Respondent(s)

Coram:

Hon'ble Mr. Justice H.S. Thangkhiew, Judge.

Appearance:

For the Petitioner(s) : Mr. N. Jotendra Singh, Sr. Adv. with
Ms. A. Kharshiing, Adv.

For the Respondent(s) : Mr. A.S. Pandey, Adv. with
Mr. A.M. Pala, Adv.
Ms. K.C.H. Nongrum, Adv.

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| i) | Whether approved for reporting in
Law journals etc: | Yes/No |
| ii) | Whether approved for publication
in press: | Yes/No |

JUDGMENT AND ORDER

1. By way of MC (EP) No. 19 of 2023 in the present Election Petition, the respondent had preferred an application under Section 86 of Representation of People Act, 1951 read with Order 7 Rule 11 CPC and the Gauhati High Court Rules, (as adopted by the High Court of Meghalaya). The grounds taken were that the Election petition is ex-facie barred by



Section 86 of the Act being filed in violation of Sections 81, 82 & 83 of the said Act. This Court then by order dated 31.10.2023, disposed of the said Misc. Case by holding that as it could not be conclusively ascertained whether the election petitioner was present or not at the time of presentation, the issue raised by the respondent needed to be taken up as a preliminary issue for consideration by the adducing of evidence. Thereafter, this Court by order dated 21.02.2024, after suggested issues had been filed by the parties, framed the following issues:

- 1. Whether the Election Petition was presented as per Section 81 of the Representation of People Act, 1951 and Rule-1 to Chapter VIII A of the Gauhati High Court Rules, as adopted by the High Court of Meghalaya.***
- 2. Whether the Stamp Reporter followed the Note II of Rule 1 to Chapter VIII A as adopted by the High Court of Meghalaya, in accepting the Election Petition.***

2. The election petitioner and two witnesses on his behalf, then filed their Examination-in-Chief by way of affidavits on 20.05.2024. In the intervening period however, before the Cross-Examination could be conducted, the respondent filed an application being MC (EP) No. 4 of 2024 under Section 379 of the BNSS 2023, wherein the respondent No. 1, raised allegations of the election petitioner furnishing a false affidavit for the purpose of being used in a judicial proceeding. This was then followed by an application being MC (EP) No. 8 of 2024 by the election petitioner,



seeking replacement of his statement (Examination-in-Chief) on affidavit filed on 20.05.2024, by another statement (Examination-in-Chief) on affidavit. This Court then by order dated 28.11.2024, after hearing the parties observed that the earlier statement having been made on oath and the same being vital to the proceedings of the application under Order 7 Rule 11 CPC, the prayer of the election petitioner for replacement of the affidavit was rejected. Paragraphs 15 & 16 of the order dated 28.11.2024 being relevant are reproduced hereinbelow: -

***“15. In the backdrop of this legal position, in considering the facts of this case, what can clearly be seen is that the redaction or recall of that part of the Evidence on Affidavit which has been sought for by the election petitioner is with regard to a statement that has been made on oath as to the date of the presentation of the Election Petition, which is in variance with the statements made in the body of the Election Petition. It is not a case where the statement made is of no relevance, or that the recall sought is of documents that are yet to be proved, but is a statement which touches the core issue in dispute. The Courts in such situations can well exercise discretionary powers to allow redaction or replacement or deletion, if the same in its considered view is of not much relevance. As all cases stand on their own peculiar footing or circumstance, a common yardstick in the exercise of this inherent power, is not available and this power necessarily will have to be judiciously exercised taking into consideration all relevant factors. In this particular case, the statement having been made on oath, in the considered view of this Court, the same being vital to the proceedings of the application under Order 7 Rule 11 CPC, the prayer of the election petitioner for replacement of the affidavit cannot be acceded to and is denied.*”**



16. On the other issue i.e. whether the election petitioner and the other 2 witnesses are liable to be prosecuted in terms of Section 379 of the BNSS, 2023 read with Section 193 of the IPC, 1860 read with Section 229 of BNS, 2023, in the considered view of this Court the purported inaccurate statement i.e. the date of presentation will not amount to a misdemeanour or a transgression that requires inquiry or any further orders, as the same is a contradiction in facts which the election petitioner will have to overcome in the course of the proceedings. As such, the Misc. applications being Misc. Case (EP) No. 4 of 2024, Misc. Case (EP) No. 5 of 2024, Misc. Case (EP) No. 6 of 2024, Misc. Case (EP) No. 8 of 2024, Misc. Case (EP) No. 9 of 2024, and Misc. Case (EP) No. 10 of 2024 are closed.”

3. In his Examination-in-Chief, the election petitioner apart from the other statements had stated that the Election petition was sworn before the Notary Public on 12.04.2023 in the afternoon, and thereafter at about 3:00 P.M. of the same day, he along with the other two witnesses and the conducting counsel had tendered the election petition for filing before the Stamp Reporter. In the Cross-Examination, which was conducted on 20.05.2025, the election petitioner's most significant statements concern the events of 11th and 12th April, 2023, wherein he states that on 12.04.2023, he along with the other two witnesses left Sohra at around 9:00 A.M and admits that he was not carrying any copies of the Election petition or its annexures with him from Sohra. He has pleaded ignorance of the basic facts as to how many copies were signed before the Notary or the exact process involved.



The relevant extract from the Cross-Examination is reproduced hereinunder:-

“On 12/04/2023, I, Mr. J. Kynta and Mr. B. Malngiang left Sohra around 9 AM, my driver (Phil) drove the vehicle (Fortuner white in colour). I was not carrying the copies of the Election Petition, I met my counsel in Shillong. I have no knowledge of how many copies of the Election Petition are required in the instant matter. I did not carry any copies of the Annexures with me, while coming from Sohra to Shillong. We came separately in our separate cars. I received the intimation to come to Shillong on the 10/04/2023. I cannot remember whether I stop in my journey from Sohra to Shillong. I have prior experience of swearing a document before the Notary. I utilize the services of Shri. N. Kharnabi for notarization in the present case, and this is the first time I had been to his office. It was an old building from which the Notary operates. I cannot remember as to how many people were there when the Election Petition was notarized. Witness volunteers to say that only he and his counsels were there at the time of notarization and he does not recognizes other people. I remember the Oath administered to me regarding the correctness of my statement in the affidavit. I cannot remember whether any specific procedure was undertaken in respect of notarization of the Election Petition, as there were many papers, I cannot remember as to how many copies I signed before the notary. I cannot remember the exact procedure adopted by the Notary. I do not agree to the suggestions that the Notary did not record the notarization in the Notary register. I remember signing in each and every page of the Election Petition. I do not remember whether each and every page of the Petition was notarised. I agree that election petition could not have been filed without proper notarization. My counsel bought the Court fee for me. Yes, I do understand the meaning of presentation of a document. I have not present any election petition previously. On 12/04/2023, I came to High Court for presenting the Election Petition. I do not agree that I am deposing falsely on oath as the aspect of coming to the High Court on the subsequent date is not reflected on affidavit. I did not come to the High Court



on the day of notarization, as there was still time for me to come to the High Court for filing of the Election Petition. I do not remember as to when the limitation period of filing the Election Petition was over. The counsel for the respondents confronting the witness with the attendance register of the High Court for 12/04/2023, and the same is marked as Exhibit R1.

(the counsel for the Election Petitioner objected on the witness being confronted with the attendance sheet dated 12/04/2023) (Exhibit R1)

According to the document produced I cannot show my name reflecting in the attendance sheet. Around 3 PM, I came to the High Court premise on the subsequent date for filing of the Election Petition. After coming to the High Court, I straight away approached the Registry of the High Court, Registry is in the 2nd Floor. I do not know as to who is the responsible officer for filing of the Election Petition, as I came with my counsels. I do not have any knowledge of the rules for filing of the Election Petition. I am not aware of the role of the Stamp Reporter in filing of the Election Petition. I also do not know as to how many Stamp Reporters are there in the Hon'ble High Court of Meghalaya. I cannot remember as to how much time it took me to complete the process of filing the Election Petition. I cannot recollect the name of the person before whom I filed the Election Petition. I do not know whether any endorsement was made by the officer concerned at the time of filing of the Election Petition, as I was accompanied by my counsel. I do not recollect receiving any acknowledgment after filing of the Election Petition. I do not recollect any defect marked during the filing of the Election Petition. I do not remember as to how many copies of the Election Petition were filed during the said process of filing, as I left this aspect to my counsels. No enquiries were made from me by the officer concerned during the process of filing of the Election Petition. I do not remember paying any fees during the process of filing, as the same was left to my counsels.”



4. Similarly, PW-2, Shri Jiedkumar Kynta in his Examination-in-Chief has mirrored the statements made by the election petitioner in his affidavit, and in the Cross-Examination and has conceded that he was unaware of the basic details regarding what happened after he met the election petitioner and also is ignorant of the Act of Stamp reporting. He admits that he is a supporter of the election petitioner and also concedes that he wants to help the election petitioner. The relevant extract is reproduced hereinbelow:-

“I accompanied the election petitioner for filing of the instant Election Petition, only because I wanted him to win the election. I do not remember signing any document, as a witness or the purposes of filing the Election Petition. Around 9 AM I left Sohra, for filing of the Election Petition. I do not remember exactly the time I came back to Sohra, but it was already night time. I came Sohra back alone. I reached Shillong around 1 PM, on the day I left Sohra for filing of the Election Petition. I did not stop anywhere in my journey to Shillong. I came to Shillong on a taxi, with some passengers. I do not remember as to which place I came to in Shillong. I did not call the election petitioner, after reaching Shillong. After reaching Shillong, I went to Mr. Titosstar Well Chyne house at Laban, it took me about half an hour to reach to his place. I went to his house because I had some pending work with him. I do not remember exactly the pending work. I met only Mr. Titosstar Well Chyne, at his house. I do not remember what happened thereafter. I do not know who is the Stamp Reporter of the High Court of Meghalaya. I did not sign at the entrance Register of the High Court. I do not know as to how many copies were filed along with the Election Petition. It is correct that I do not know the exact procedure adopted by the Stamp Reporter in accepting the Election Petition. I immediately went back to Sohra, after the process for filing of the Election Petition was over. I did not receive



any acknowledgement of filing of the Election Petition. I do not remember if I reached Sohra in the evening of 11th April, 2023. I do not remember as to where I stayed in the intervening period of 11th and 12th April, 2023. I did not come to the High Court on 11th April, 2023. I did not seek any reasons from Mr. Titosstar Well Chyne, as to why the Election Petition was not presented on 11th April, 2023. I do not remember as to what happened on 11th April, 2023. Around 9 AM, on 12th April, 2023 I started my journey from Sohra to Shillong by taxi. I was dropped at the Bazaar (lewduh). This aspect was not included in my affidavit because I wanted to help Mr. Titosstar Well Chyne.”

5. PW-3, Shri Biosley Malngiang in his Examination-in-Chief has stated that on 12.04.2023, he along with the election petitioner and PW-2 left for the Meghalaya High Court and had notarized the petition on the same day at 2:00 P.M. and that thereafter they had presented the election petition before the High Court. In the Cross-Examination PW-3, had deposed that his affidavit itself had been prepared by the lawyers of the election petitioner and that he did not see the election petitioner signing the election petition. The deposition is reproduced hereinbelow: -

“The affidavit has been prepared by the lawyers of the Election Petitioner. I have known Mr. Titosstar Well Chyne from a very long time. I had never helped the Election Petitioner in the election campaigning. Yes, it is a fact that I was appointed as an Election Agent for the Election Petitioner. My role as an Election agent is to coordinate meetings, for permissions from authorities to use the sound systems and to conduct meetings. I have worked with the election petitioner in 3 elections; one MDC and two MLA elections. I am a Class X passed. I am currently engaged as a Public Distribution System Dealer, I am earning around 5



Thousand per month. It is correct that I am not proficient in reading, writing and speaking in English language. I do not recollect the date when I had signed the affidavit, I had signed the affidavit in front of the Notary (Bah Kharnabi). I was informed by the Election petitioner about his intention about filing the Election Petition before the 11th, but I do not remember the month or the year. I did not ask for a copy of the Election Petition. I came along with the Election Petitioner from Sohra to Shillong. I did not see the Election Petitioner signing the Election Petition. I am not aware about the procedures involved in filing the Election Petition. It is correct that I did not sign the attendance Register, when I entered the High Court premises. I do not know who is the Stamp Reporter in the High Court. At first, I did not know where is the office of the Stamp Reporter in the High Court, and then I was shown the room. I do not remember the time when I was shown the room, and since I came with the group I was asked to wait outside. I am not aware about the fact as to whether the Stamp Reporter giving any acknowledgement in filing the Election Petition. I went back to Sohra with Mr. Titosstar Well Chyne on the 11th.

I deny that I am deposing falsely.”

6. Thereafter, the evidence of Smti Sunita Lyngskor, Stamp Reporter DW-1 (official witness) was recorded. The official witness in her Deposition-in-Chief has stated that she was not aware of the requirements of the Representation of the People Act, 1951, as far as filing of election petition is concerned, and has volunteered to say that the instant election petition was not presented to her. In her Cross-Examination, the official witness as deposed as follows:-



“I agree that I have discharged my duties according to the provision of law. I was the Stamp Reporter in April, 2023. We have two officers as Stamp Reporters for receiving all the petitions, including the election petition.

Do you acquaint the appended signature which is illegible along with the date giving the sign and seal?

Yes, I know I am acquainted with the signature. This is the signature of the Assistant Registrar, Filing Section on the check slip of the petition.

(The attention of the witness has been drawn to the appended signature on the check slip of the petition duly signed on 12.04.2023).

I was in my official room along with this officer, who put the signature in the check slip and I was informed about the filing of this election petition, after checking all the formalities.

I have no information about the defect of the stamp, while filing the election petition.

I have no knowledge with the allegations of the respondent No. 1, in his miscellaneous case in the present Election Petition No. 2 of 2023.

I deny this suggestion that the contents in my examination portion stating that "I am not aware of the part of the High Court rules which deals with election petitions. I am not aware of the requirements of the Representation Act, 1951, as far as filing of election petition is concerned" is false.

I deny this suggestion that I deposed falsely.”

7. The evidence of the Notary, DW-2 Shri Nelson Kharnabi was recorded, wherein he had deposed that apart from not being clear about the exact requirements under the Representation of the People Act, 1951, and the High Court Rules in respect of election petition, he could not recall that



the instant election petition was presented to him for notarization and also could not recall as to whether election petition documents presented were in original and also whether the election petitioner affirmed each page as true copy in front of him. In the Cross-Examination, he has deposed as follows:-

“I had proceeded around 50-60 of swearing proceedings in a day either of petitions or affidavits. It had been done in the last 3-5 years or more than that.

It is true that I cannot give the exact time and the exact number as to the question raised by the Examination in Chief portion, it is because of time factor that is lapse of time.

I have put a number of my signatures along with the seal on the election petition. These are upon Oath before me. (the attention of the witness has been drawn showing the petition copy of the election petition No. 2 of 2023, relating to this statement).

I do agree that I never give my seal and signature in absence of the deponent. (the witness volunteers to say that I cannot remember as to whether the election petitioner was present before me).

I deny the suggestion that I have stated falsely in my examination in chief particularly, "I am not clear of the exact requirements under the Representation of People Act, 1951 and the High Court Rules, in respect of the election petition. I cannot recall that the instant election petition was presented to me for notarisation. It is correct to say that I cannot recall the exact number of people who had come for notarisation of this petition. I do not remember the time when the election petition was presented to me for notarisation. I do not remember as to how many copies of the election petition were presented for notarisation. I do not remember that the election petition documents presented to me were in original that are annexed with the election petition. I cannot recall that the election petitioner affirmed each page as true copy in front of me."

I deny the suggestion that I deposed falsely.”



8. Before proceeding further to see whether the election petition was presented as per Section 81 of the Representation of the People Act, 1951, it would be relevant to note that as per the mandate of Section 86, the High Court shall dismiss an election petition which does not comply with the provisions of Section 81 or Section 82 or Section 117. In the instant case, we are concerned with compliance to the provision of Section 81 read together with Rule 1 of Chapter VIII-A of the Gauhati High Court Rules as adopted by the High Court of Meghalaya, which requires that the election petition must be presented by any candidate at the election or any elector to the Stamp Reporter of this Court. This Court had notified the Rules of the High Court of Meghalaya, 2013, which was published on 27.02.2014, and the note appended to the Rules, clearly states that other Chapters and the appendix part are under preparation, and to that extent the Gauhati High Court Rules would continue to be followed till the next part is notified. As this Court has not framed Rules relating to election petitions, therefore the Rules of the Gauhati High contained in Chapter VIII-A, will continue to apply to the High Court of Meghalaya. For the sake of convenience Rule-1 of the Chapter VIII-A of the Rules is reproduced hereinbelow: -



“1. An election petition under S. 80-A of Representation of Peoples Act may be presented duly verified in the form prescribed under Ss. 82 and 83 of the said Act before the stamp reporter of this Court with a Court fee of Rs. 6.00 affixed thereon, within 45 days from the date of election of the returned candidate, or if there are more than one returned candidate at the election and the dates of their election are different, the latter of those two dates. Every such petition shall be accompanied by -

(a) as many copies thereof as there are respondents mentioned in the petition together with one extra copy, all the copies being fully attested by the petitioner under his own signature to be a true copy of the petition and as many envelopes as there are respondents hearing requisite postage stamp to enable service to be effected by registered post with acknowledgment due;

(b) as many printed forms of notices, duly filled in, as there are respondents;

(c) an affidavit in support of the contents of the petition as prescribed in R. 83(c) of the aforesaid Act where necessary, and

(d) a challan showing the deposit of Rs.2,000 (Rupees two thousand) into the State Bank of India, Gauhati Branch in favour of the Registrar of the Court, as security for the costs of the petition:

Provided that such deposit in respect of petition to be filed in the Benches at Kohima, Imphal and Agartala may be made in the State Bank of Kohima, Imphal and Agartala, as the case may be, in favour of the Deputy Registrar of the Bench concerned.

Note (I)- The petition shall be legibly type-written or printed in the English language, on durable foolscap paper or other paper similar to it in size and quality, bookwise, on one side of the paper, with not more than 20 or less than 18 lines, of about 10 words in each line on each page and with an inner margin of about an inch and a quarter-wide.



Note (II) Any petition which is presented out of time and without any of the above mentioned requisites duly satisfied shall forthwith be returned by the stamp reporter for refiling.”

9. A perusal of the above Rules stipulates that the election petition must be presented by the petitioner before the Stamp Reporter with requisite Court fee of Rs. 6. The Hon’ble Supreme Court in various decisions has held that challenge to an election petition is a serious matter, which requires strict compliance of the provisions of Section 81(1) of the Representation of the People Act, 1951, which mandates that election petition must be presented personally by the petitioner to the authorized officer of the High Court, and that non-compliance of the same would lead to dismissal of the election petition for improper presentation. It is to be noted therefore, that prevailing election law requires presentation must be ‘by’ the petitioner himself as the challenge to election is a serious matter and as such any procedure provided must be strictly adhered to. As observed earlier due to the rival assertions with regard to the presentation of the election petition, this Court had deemed it fit to treat this issue as a preliminary issue to ascertain as to whether the election petition was presented strictly in accordance with the Representation of the People Act, 1951, and the High Court Rules.

10. Before analyzing the depositions, the submissions on behalf of the parties are first looked into. On behalf of the election petitioner Mr. N.



Jotendra Singh learned Senior counsel assisted by Ms. A. Kharshiing, learned counsel has submitted that the petitioner personally presented the election petition before the Stamp Reporter on 12.04.2023, and once accepted a presumption of regularity is attached to such acts. It is also submitted that the allegations that true copies were not properly attested lacks basis and that attested true copies were subsequently supplied on 10.07.2023. An election petition he submits cannot be dismissed for minor attestation defects, where there is no possibility of misleading the respondents, and that the term copy in Section 81(3) would refer to a substantially accurate copy and not one that is mechanically identical.

11. It is also submitted by the learned Senior counsel for the petitioner that the petition and affidavits were properly verified and sworn before the Notary public who confirmed attestation in the petitioner's presence, which fulfil the requirement under Section 83(1)(c) read with Rule 94-A of the Conduct of Election Rules, 1961. With regard with the evidence that had been tendered by the witnesses it is contended that the same supports the case of the petitioner, inasmuch as, PW-1, (election petitioner) confirms personal presentation and payment of fees, PW-2 (Jiedkupar Kynta) and PW-3, (Biosley Malngiang) corroborate the presentation sequence, and DW-1 Stamp Reporter (Smti Sunita Lyngskor) received and verified the petition on 12.04.2023, and DW-2 (Notary) confirmed that all the signatures



and seals were affixed in his presence. It is further submitted that the petition has alleged specific instances of suppression of assets and mis-declaration in Form-26, and there are adequate material facts to support the case of the election petitioner and on this ground, an election petition cannot be rejected under Order 7 Rule 11(a).

12. In conclusion, it has been submitted that the petitioner has demonstrated substantial compliance with all mandatory provisions under the Representation of the People Act, 1951, and any alleged procedural inconsistencies are curable irregularities that do not attract dismissal under Section 86 (1). Further he submits, as the petition has disclosed clear triable issues rooted in statutory violations and mis-representation, it warrants a full trial on merits. Dismissal at the threshold it is submitted, would unjustly stifle the petitioner's statutory rights under Section 80(a) of the RP Act and would undermine the integrity of electoral adjudication.

13. Mr. A.S. Pandey, learned counsel for the respondent has submitted that the election petition was signed and the petition along with verification and affidavit was notarized on 11.04.2023, and was filed on 12.04.2023. However he submits, the evidence affidavits of all the PWs indicate that the election petitioner took steps for filing including notarization/affirmation on 12.04.2023, which is in total contradiction, to the actual events, inasmuch as, as recorded, the notarization/affirmation



verification in the election petition was done on 11.04.2023 and filed on 12.04.2023. To try and plug this loophole it is submitted, the election petitioner preferred Misc. applications to correct the evidence regarding the basic facts of the dates of filing and presentation, by trying to attribute the same to typographical and mistakes due to copy pasting. As such, it is contended that it is admitted by the election petitioner that the filing of evidence was part of a copy paste exercise. The evidence of PW-1, he submits, states that he left from Sohra on 12.04.2023 for filing of the election petition, which shows that the same also does not tally with the record of notarization, and supports the allegation that the petitioner had not presented the election petition personally. It is further argued that the absence of the petitioner is compounded by the fact that his name was not in the attendance sheet of the High Court on that date. PW-2's testimony he submits, is also of no assistance as apart from admitting to being an interested witness has conceded that he is not even aware of the basic details regarding which place they come to in Shillong, and in fact contrary to his evidence affidavit, has deposed that he does not remember as to what happened after he met the election petitioner when he come to Shillong and has stated that he is ignorant about the act of Stamp reporting. PW-3 similarly it is submitted was unaware about the stamp reporting process, as he was asked to wait outside,



and that he was informed that the election petition would be filed on 11.04.2023.

14. Learned counsel has then submitted that even the evidence of DW-1 (official witness) does not show that the election petition was presented as per statute and rule, inasmuch as, it is deposed that the election petition was not presented to her, which remained uncontroverted in the Cross-Examination. DW-2, the Notary, it is submitted also did not corroborate the notarization of election petition in the presence of the election petitioner. It is further submitted that as the only issue at this stage pertains to the compliance of the requirements of Section 81(1) by the election petitioner, and the election petitioner and official witnesses being the competent witnesses for deposing on the issue, the entire testimony of the witnesses has however, proven that the election petition was not presented by the election petitioner personally before the Stamp Reporter.

15. On hearing the arguments of the respective parties this Court is of the opinion that a finding on the first issue as framed i.e. whether the election petition satisfies the requirement of Section 81, 82 and 83 of the RP Act, 1951 read with the High Court Rules, with emphasis on presentation under Section 81, would suffice to come to a conclusive finding on the maintainability of the election petition. Therefore, the depositions with



regard to presentation assumes crucial importance, and as such will be examined at the outset itself.

16. An analysis of the depositions of the 3(three) PW's i.e. election petitioner, supporter and election agent has thrown up many inconsistencies, first with the dates. The election petition which has been filed before this Court shows that the same was notarized on 11.04.2023 and was filed on 12.04.2023, and it is seen that in the first page the filing is done by the advocate. In his deposition, PW-1 (election petitioner) had stated that he had left from Sohra on 12.04.2023, for filing of election petition which contradicts the records which show that notarization of the election petition was done on 11.04.2023. PW-1, has also pleaded ignorance of the basic facts as to how many copies had been signed before the Notary and also could not say whether all pages were notarized. Further, apart from conceding that his name was not in the attendance sheet of the High Court, he deposed that at around 3:00 P.M. he came to the High Court on the subsequent date for filing of the election petition. The witness has also deposed that he is not aware of the role of the Stamp Reporter, nor does he remember the time taken to complete the process of filing the election petition, nor does he recollect the name before whom the election petition was filed. PW-2 apart from stating that he is an interested witness, has deposed that he was not aware of the basic details regarding the events after he reached Shillong, though in his



Examination-in-Chief, he had stated that he had accompanied the election petitioner on 12.04.2023, for notarization of the election petition and that he had also entered the room of the Stamp Reporter to file the election petition. In his Cross-Examination however, he has deposed that he does not know who is the Stamp Reporter, nor did he sign at the Entrance Register of the High Court. PW-3 has deposed that he does not remember the date when he signed the affidavit before the Notary, nor was he aware about the procedure involved in filing the election petition. He further deposed that he did not know who was the Stamp Reporter and that he waited outside and also did not sign the Attendance Register when he entered the High Court premises.

17. The testimony of the petitioner's witnesses on a bare examination reveals that there is a lack of coherence in the narration of simple facts, which to the mind of this Court would not be possible if the manner of notarization/affirmation and presentation had been actually conducted on the dates as deposed. The election petitioner in his examination could not substantiate that he had personally presented the election petition before the Stamp Reporter, which is of crucial importance. The DWs i.e. the Stamp Reporter as also the Notary Public, on examination have also not tendered any evidence to even suggest that the election petition had been presented in the required manner. The Stamp Reporter in fact had deposed that the election petition was not presented before her and the Notary also



could not say as to whether the election petitioner was present before him, when the election petition was notarized. In the totality of the testimony presented before this Court on the question of presentation, after a thorough examination as seen above, in the considered view of this Court the fact that the election petition was not presented by the election petitioner personally is proven beyond reasonable doubt.

18. The consequences of the above noted finding therefore, are fatal to the survival of the election petition, inasmuch as, it would be constituted a violation of Section 81(1). In this context, the Hon'ble Supreme Court in a series of judgments as well as the earlier jurisdictional High Court i.e. Gauhati High Court had held that improper presentation of an election petition would attract Section 86, and would result in the dismissal of the election petition itself. This Court in MC (EP) No. 19 of 2023, in the instant election petition itself, had by order dated 31.10.2023 at Para-10 & 11 thereof, also noted the requirement of strict compliance of Section 81(1). For the sake of convenience Para 10 & 11 are reproduced hereinbelow: -

“10. It is a settled law that the proper presentation of an election petition as per Section 81 (1) of the RP Act requires strict compliance as held in the case of G.V. Sreerama Reddy vs. Returning Officer (supra), wherein Paras-15 to 19, 24 & 25, reads as follows:-

“15. This Court, on previous occasions, had the chance to interpret Section 81(1). It must be noted that the Representation of the People Act,



1951 is a special statute, and a self-contained regime. In K. Venkateswara Rao. v. Bekkam Narasimha Reddi a question arose whether 45 days' period provided under Section 81(1) could be condoned through the application of the Limitation Act? After examining the relevant provisions of the Act, this Court held: (AIR p. 877, para 14)

"14. ... the Limitation Act cannot apply to proceedings like an election petition inasmuch as the Representation of the People Act is a complete and self-contained code which does not admit of the introduction of the principles or the provisions of law contained in the Indian Limitation Act."

(emphasis supplied)

This has been reiterated in Hukumdev Narain Yadav v. Lalit Narain Mishra wherein this Court has again read the requirements under Section 81 strictly, while stating that the Act is a self-contained special statute.

16. While interpreting a special statute, which is a self-contained code, the court must consider the intention of the legislature. The reason for this fidelity towards the legislative intent is that the statute has been enacted with a specific purpose which must be measured from the wording of the statute strictly construed.

17. The preamble of the Representation of the People Act makes it clear that for the conduct of elections of the Houses of Parliament or the legislature of each State, the qualification and disqualification for membership of those Houses, the corrupt practice and other offences in connection with such allegations the Act was enacted by Parliament.



18. In spite of existence of adequate provisions in the Code of Civil Procedure relating to institution of a suit, the present Act contains elaborate provisions as to disputes regarding elections. It not only prescribes how election petitions are to be presented but it also mandates what are the materials to be accompanied with the election petition, details regarding parties, contents of the same, relief that may be claimed in the petition. How trials of election petitions are to be conducted has been specifically provided in Chapter III of Part VI. In such circumstances, we are of the view that the provisions have to be interpreted as mentioned by the legislature.

19. One can discern the reason why the petition is required to be presented by the petitioner personally. An election petition is a serious matter with a variety of consequences. Since such a petition may lead to the vitiation of a democratic process, any procedure provided by an election statute must be read strictly. Therefore, the legislature has provided that the petition must be presented "by" the petitioner himself, so that at the time of presentation, the High Court may make preliminary verification which ensure that the petition is neither frivolous nor vexatious.

24. The challenge to an election is a serious matter. The object of presenting an election petition by a candidate or elector is to ensure genuineness and to curtail vexatious litigations. If we consider sub-section (1) along with the other provisions in Chapters II and III, the object and intent of the legislature is that this provision i.e. [Section 81\(1\)](#) is to be strictly adhered to and complied with.

25. In view of the endorsement by the Registrar (Judicial) on 7-7-2008 that the election petition



*was presented only by an advocate and not by the election petitioners, we accept the reasoning of the High Court in dismissing the election petition. We further hold that as per sub-section (1) of **Section 81**, an election petition is to be presented by any candidate or elector relating to the election personally to the authorized officer of the High Court and failure to adhere to such course would be contrary to the said provision and in that event the election petition is liable to be dismissed on the ground of improper presentation.”*

11. Further, with regard to the constitutionality of the High Court Rules, requiring the election petition to be presented before the Stamp Reporter, the same has been upheld in the case of Abdul Jabbar vs. Syeda Anwara Taimur & Ors. (supra), wherein the erstwhile jurisdictional High Court, had held that the election petition is said to be filed only when it is presented to the proper officer for acceptance for record in the office. The relevant paragraph (at para-14), is quoted hereunder: -

“14. The next question which arises for consideration is whether the election petition was presented in terms of the expression “presentation” used in Section 81. The word ‘presentation’ has many different significations in the context and circumstances in which it is used. The dictionary meaning of ‘presentation’ is delivering; filing; showing. A mere depositing of the petition and marking of filing by the clerk is not a filing. The paper is said to be filed when it is delivered or deposited to the proper office or custodian for keeping it on file. A file mark or endorsement on the petition is merely an evidence of filing and not actual filing since filing is delivery to the proper officer or clerk for his acceptance for record in his office.”



19. Though the election petitioner had been at pains to advance the argument that the violations can be overlooked by employing the doctrine of substantial compliance, the same in the considered of this Court, would be applicable only in cases of compliance of Section 81(3) which stipulates that every election petition must be accompanied by a specified number of copies, which has also been raised by the respondent herein and for defects of the type under Section 83 of the RP Act, which would be curable under Order 6 Rules 14 & 15 of the CPC. This point has been explained in the case of *Murarka Radhay Shyam Kumar vs. Roop Singh Rathore* reported in *AIR 1964 SC*, wherein at Para-8, it has been held as follows: -

“8. We now go to the second point. But before we do so, it may perhaps be stated that certain defects in the verification of Election Petition No. 269 of 1962 have been brought to our notice, as they were brought to the notice of the Election Tribunal. One of these defects was that though the verification stated that the averments made in some of the paragraphs of the petition were true to the personal knowledge of the petitioner and the averments in some other paragraphs were verified to be true on the basis of advice and information received by the petitioner from legal and other sources, the petitioner did not state in so many words that the advice and information received was believed by him to be true. The Election Tribunal took the view that this defect in verification was a matter which came within cl. (c) of sub-s. (1) of S. 83 and the defect could be removed in accordance with the principles of the Code of Civil Procedure, 1908. The Election Tribunal further held that such a defect did not attract sub-s. (3) of S. 90 inasmuch as that sub-section does not refer to non-compliance with the provisions of S. 83 as a ground for dismissing an election petition. We agree with the view expressed by the Election Tribunal. We have pointed out



that sub-s. (4) of Sec. 90 originally referred to three sections, namely, Ss. 81, 83 and 117. It said that notwithstanding anything contained in S. 85 the Tribunal might dismiss an election petition which did not comply with the provisions of S. 81, S. 83 or S. 117. Section 90 was amended by Act 27 of 1956. Sub-section (3) then said that the Tribunal shall dismiss an election petition which does not comply with the provisions of S. 81, S. 82 or S. 117 notwithstanding that it has not been dismissed by the Election Commission under S. 85. There was a further amendment by Act 40 of 1961 and sub-s. (3) of S. 90 as it now stands has already been quoted by us in an earlier part of this judgment. It seems clear to us that reading the relevant sections in Part VI of the Act, it is impossible to accept the contention that a defect in verification which is to be made in the manner laid down in the Code of Civil Procedure, 1908 for the verification of pleadings as required by cl. (c) of sub-s. (1) of S. 83 is fatal to the maintainability of the petition.”

20. As such, the law as per Section 81(1) being clear that an election petition is to be presented by any candidate or elector relating to election personally to the authorized officer of the High Court, in this case the Stamp Reporter, the failure to adhere to such course is contrary to that provision and the Rules framed by the High Court under Chapter VII-A of the Gauhati High Court Rules. As such, on the first issue framed itself, the election petition is liable to be dismissed on the ground of improper presentation.

21. With regard to the second issue framed, in view of the findings on the first issue, the same need not be elaborated upon but suffice to observe that the procedure as prescribed was not followed.



22. Accordingly, for the foregoing reasons, the election petition stands dismissed and disposed of. As a footnote, this Court is constrained to observe that in the manner of filing of election petition, due care should be exercised, which should not result in the same being dismissed on the ground of a technicality, as has been occasioned in the present case, without the merits of the election petition being entered into.

JUDGE

Meghalaya
02.04.2026
"V. Lyndem- PS"