



**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

BEFORE

HON'BLE SHRI JUSTICE VISHAL MISHRA

ON THE 12th OF NOVEMBER, 2025

WRIT PETITION No.23715 of 2024

RAKESH PANDEY

Versus

RISHIRAJ MISHRA AND OTHERS

Appearance:

Shri Swatantra Pandey – Advocate for petitioner.

Shri Sanjay K. Agrawal – Senior Advocate with Shri Aakash
Sharma – Advocate for respondent No.1 to 6.

Shri A.S. Baghel – Government Advocate for respondents Nos.7
& 8/State.

Shri Siddharth Seth – Advocate as Amicus Curiae.

ORDER

The present petition has been filed assailing the order dated 29.07.2024 passed by the respondent No.8 whereby an election petition preferred by the petitioner has been dismissed.

2. It is the case of the petitioner that the State Government had notified panchayat elections in the entire State in the year 2022 along with elections of Janpad Sadashya for Janpad Panchayat Rampur Naikin, District Sidhi inviting nomination forms from the candidates who wish to contest the elections. The petitioner along with respondents Nos.1 to 6 submitted their nomination forms for election of Janpad Sadashya from ward No. 1, Janpad Panchayat Rampur Naikin, District Sidhi. After scrutiny of the nomination forms, symbols were allotted to all the participants. The election campaign



started and after some time, voting was done. After completing the entire counting, the election results were announced on 14th July, 2022 whereby the respondent No.1 was selected as the returned candidate receiving highest votes and the petitioner herein received the second highest votes. After completion of the elections, the petitioner filed an appropriate application seeking copy of nomination forms as well as affidavit of the respondent No.1 before the returning officer, on which, the copy was supplied to him. He approached the concerned police station seeking criminal history of the respondent No.1. The same was supplied to him from the in-charge of the police station.

3. After collecting relevant documents, the petitioner preferred an election petition before the respondent No.8 in terms of Section 122 of Madhya Pradesh Panchayat Raj Evam Gram Swaraj Adhiniyam, 1993 (hereinafter referred to as 'the Adhiniyam of 1993') for declaration of election result of Janpad Sadasya, Ward No.1, Janpad Panchayat Rampur Naikin, district Sidhi to be void on the ground that the respondent No.1 has furnished wrong information in his nomination form as well as in his affidavit supporting the nomination form pertaining to criminal cases as well as educational qualification which results into cancellation of his nomination papers. Notices were issued to the parties in the election petition, and a detailed reply was filed by the respondent No.1. It is the case of the petitioner that the respondent No.1 has admitted the factum of registration of



an FIR under various sections of Indian Penal Code and further stated that out of six cases, in five cases he was acquitted from the court on the basis of compromise and as far as one case bearing No.321 of 2021 is concerned the same is not required to be mentioned because charges were not framed by the trial court. He has admitted the factum of wrong information pertaining to educational qualification. Thereafter the matter was posted for evidence and after final arguments, the order impugned is passed by the Commission on 29th July 2014. Despite observing that the respondent No.1 has furnished wrong information in his nomination form, the Commission has erroneously rejected the election petition on the ground that furnishing of wrong information will not come under the purview of corrupt practice. It is argued that the Commission has not considered the impact of incorrect and incomplete declaration as envisaged under Rule 31-A of the Madhya Pradesh Panchayat Nirvachan Niyam, 1995 (hereinafter referred to as 'the Niyam of 1995'). The respondent No.1 at the time of filling up the declaration form under Rule 31-A of the Niyam of 1995 did not disclose the fact of criminal cases which were specifically required. Rules 31-A and 35 of the Niyam of 1995 clearly provides that upon furnishing of wrong information in the nomination form along with affidavit, the nomination form will be liable to be rejected. The case of the respondent No.1 clearly falls under Rule 21 of the Madhya Pradesh Panchayat (Election Petition, Corrupt Practice and Disqualification of Membership), Rules 1995



(hereinafter referred to as ‘the Rules of 1995’) resulting into materially affecting the result of the election by improper acceptance of nomination papers filed by the respondent No.1. Once there is a non-disclosure of information as required in terms of Rule 31-A of the Rules of 1995, the nomination form submitted by the respondent No.1 was required to be rejected at the threshold. He could not even have contested the elections. It is argued that the said objection was not taken by the petitioner at the time of scrutiny of nomination papers. However, the same does not preclude the petitioner from making a ground for an election petition. Further, the Rule 21 of the Rules of 1995 empowers the specified officer to declare the election to be void on the ground that nomination papers have been improperly accepted. It is argued that at the time of scrutiny of the nomination paper could have been rejected on the sole ground of non-compliance of Rule 31-A of the Rules of 1995 or if accepted the result of the election can be declared as void for non-compliance of Rule 31-A of the Rules of 1995 as the same materially affects the election.

4. It is argued that Section 83(1)(c) of the Representation of People Act merely requires an election petition to sign and verify the contents of the election petition in the manner prescribed by the Code of Civil Procedure. There is no requirement of filing an affidavit in support of the averments made in the election petition. It is argued that the objection with respect to non-filing of affidavit was taken at the final stage when the matter was heard



and reserved for decision. Since the defect pointed out by the respondent No.1 was curable, however, no opportunity was granted to the petitioner for curing such defects. Therefore, this petition is filed.

5. Learned counsel for the petitioner has relied upon the judgments passed by the Hon'ble Supreme Court in the case of **Mehboob Khan vs Lallu Bhai and others** reported in 2008 (4) MPLJ 198; **Vashist Narain Sharma vs Dev Chandra and others** reported in (1954) 2 SCC 32; **Kamta Prasad Upadhyay vs Sarjoo Prasad Tiwari and others** reported in (1969) 3 SCC; and in the case **Arjun Panditrao Khotkar vs. Kailash Kushanrao Gorantyal and others** reported in (2020) 7 SCC 1. He has prayed for quashment of the impugned order dated 29th July, 2024 and further to allow the election petition.

6. On notice being issued, a reply has been filed by the respondents denying all the petition averments and supported the impugned order. It is contended that ample opportunities of hearing were granted to the petitioner in the election petition. The petitioner has failed to demonstrate the irregularities committed in the election process. On the date of filing of nomination papers, all the criminal cases were concluded and were not in existence, therefore, it was not required to be mentioned in the nomination papers. It is further contended that the petitioner and his family members are themselves having serious criminal records; such as criminal cases for cheating, forgery, creation of devalued security, committing economic



offences, etc. After submission of the nomination papers, the petitioner or anyone else has not taken any objection at any point of time.

7. Clause 2 of Rule 35 of the Rules of 1995 provides that at the time of scrutiny of the nomination papers, no objection was submitted by the petitioner himself or by his representative. It is only when the petitioner has lost in elections then he filed his election petition making false and frivolous allegations against the respondent No.1. No evidence has been produced by the petitioner in support of his evidence that any fraud is played by the respondent No.1. The petitioner with a malafide intention when was declared unsuccessful in the elections, has chosen to file an election petition. He has prayed for dismissal of the writ petition.

8. This Court vide order dated 05.03.2025 had requested Shri Siddharth Seth – Advocate to assist the Court as amicus curiae and to explain the meaning and import of “मेरे विरुद्ध कोई भी आपराधिक मामला लम्बित नहीं है अथवा मेरे विरुद्ध अपराधिक मामलो का विवरण निम्नुसार है”. The Court had asked him to explain that the aforesaid information regarding criminal cases is required to be given with respect to pending cases or even with respect to disposed off cases. In pursuant to the said directions given by the Court, submissions are made by Shri Siddharth Seth, Amicus Curiae on behalf of election commission.

9. It is contended by Amicus Curiae that Article 243-K of the Constitution of India deals with election of panchayats. The elections were



notified on 30.05.2022; the last date of submission of nomination form was 06.06.2022; date of scrutiny of nomination forms was 07.06.2022; date of polling was 08.07.2022; date of counting was 11.07.2022; and date of declaration of results was 14.07.2022. The respondent No.1 Shri Rishiraj Mishra was declared as a returned candidate and a certified of such declaration was issued in favour of respondent No.1. The elections of panchayats are to be conducted in accordance with provisions contained in Madhya Pradesh Panchayat Raj Evam Gram Swaraj Adhiniyam, 1993 and the Madhya Pradesh Panchayat Nirvachan Niyam, 1995. The Madhya Pradesh Panchayat Niyam, 1995 have been framed by virtue of conferred under Section 43 read with Section 95 of the Adhiniyam, 1993. Rules 31, 31-A and 35 of the Madhya Pradesh Panchayat Nirvachan Niyam, 1995 and Rule 21 of the M.P. Panchayat (Election Petitions, Corrupt Practices and Disqualification for Membership) Rules, 1995 are important to be considered. It is submitted that Rule 31 of the Rules of 1995 deals with nomination of candidates; Rule 31-A deals with information of criminal record, properties, liabilities and education qualifications etc. of a candidate; Rule 35 deals with scrutiny of nomination papers; Rule 21 deals with grounds for declaration of an election to be void. Rule 31-A(2) of the Rules of 1995 specifically provide that a candidate shall submit an affidavit in the prescribed format giving detailed particulars regarding educational qualification, criminal cases pending/decided, his/her assets and liabilities



and that of his/her spouse and dependents and the affidavit shall be sworn before the competent Notary, Magistrate or Oath Commissioner. It is submitted that there are judicial pronouncements after considering the Rule 31-A(2) of the Rules of 1995. He has drawn attention of this Court the judgments in the cases of **Shiv Kumar vs. Rishiraj Singh; (2009) 4 MPLJ 228; Sapandeep Mahto vs. Rajkishan Mahto and others; 2022 SCC OnLine CHH 146; Mudivappa vs. Basavraj and others** passed in W.P.No.10729 of 2023 dated 10.1.2024 and **Krishnamoorthy vs. Sivakumar and others; (2015) 3 SCC 467** and has submitted that a candidate contesting the election is required to furnish all the details pertaining to his criminal records i.e. all cases registered against a candidate are required to be mentioned in an affidavit irrespective of the fact whether the criminal cases registered against a candidate are pending or decided. He has answered the query raised by this Court and submits that furnishing of detailed information regarding pending or disposed off criminal cases is a mandatory condition in terms of Rule 31-A(2) of the Rules of 1995 as well as clause 6 has rightly been framed in consonance with the requirements provided under the law. His submissions are placed on record.

10. The record of election petition is placed before this Court for perusal.
11. Heard learned counsel for the parties and perused the records.
12. The sole question which crops up for consideration before this Court is that whether at the time of contesting the panchayat elections, declaration



with respect to criminal cases registered against a candidate is required to be furnished or not?

13. It is an admitted position that the elections in the present case were notified on 30.05.2022; the last date of submission of nomination form was 06.06.2022; date of scrutiny of nomination forms was 07.06.2022; date of polling was 08.07.2022; date of counting was 11.07.2022; and date of declaration of results was 14.07.2022. After declaration of the result, the respondent No.1 was declared to be a returned candidate and a certificate of declaration was issued in favour of the respondent No.1.

14. It is also an admitted position that the petitioner has not raised any objections at the time of scrutiny of nomination papers. After losing the election, the petitioner preferred an election petition under Section 122 of the Adhiniyam of 1993 on the ground that in terms of Rule 31-A of the Rules of 1995, the respondent No.1 has not furnished the information with respect to criminal cases registered against him as well as educational qualification. The petitioner has collected the information from the concerning police station and has found that certain criminal cases were registered against the respondent No.1. Therefore, firstly for furnishing wrong and incorrect information on an affidavit by the respondent No.1 at the time of scrutiny of his nomination papers, the nomination form submitted by the respondent No.1 should have been rejected and if the nomination form of the respondent No.1 was rejected, he could not have



contested the election and the petitioner could have been declared as a returned candidate. Secondly the education qualification information furnished was also incorrect. In the affidavit column No.5 is filled as “Nill”. The qualification mentioned in the affidavit is “High School in the year 2008 from Higher Secondary School, Bharatpur, Sidhi” and he was declared as ‘pass’. The information was provided along with a mark-sheet. If the mark-sheet of the respondent No.1 of High School is perused, then it is clear that he was declared as ‘fail’ in the High School Certificate Examination in the year 2004. Therefore, the incorrect information is provided by the respondent No.1 in the nomination form with respect to education qualification also. The respondent No.8/Collector has considered the election petition and has passed the impugned order dismissing the election petition holding that non-furnishing of such information does not fall under the category of corrupt practices.

15. For deciding the case in hand, the relevant provisions of the Madhya Pradesh Panchayat Nirvachan Niyam, 1995 and the Madhya Pradesh (Election Petitions, Corrupt Practices and Disqualification for Membership) Rules, 1995 are required to be seen.

15(i). Rule 31 of the Rules of 1995 deals with nomination of candidates, which read as under:

*“31 Nomination of candidates. (1) Any person may be nominated as a candidate for election to fill a seat if he is qualified to be elected to fill that seat under the provisions of the Act :
Provided that in the case of a seat reserved for the Scheduled Castes or*



Scheduled Tribes or Other Backward Classes or a woman, no person who is not a member of the Scheduled Castes or Scheduled Tribes or Other Backward Classes or is not a woman, as the case may be, shall be qualified to be elected to such a seat.

(2) Every nomination paper presented under Rule 32 shall be-

(i) in the case of election of a panch, in Form 4-A;

(ii) in the case of election of a Sarpanch, in Form 4-B;

(iii) in case of election of member of Janpad Panchayat, in Form 4-C; and

(iv) in case of election of member of Zila Panchayat, in Form 4-D.

(3) A nomination paper shall be supplied by the Returning Officer, to any voter on demand.”

15(ii). Rule 31-A of the Rules of 1995 deals with Information of criminal record, properties, liabilities and educational qualifications etc.

which read as under:

“31A. [Information of criminal record, properties, liabilities and educational qualifications etc. of candidates.

(1) Every candidate for the post of Panch shall submit a declaration in a form as prescribed by the State Election Commission along with nomination paper which shall include information about his educational qualification, criminal cases pending/decided, his/her assets and liabilities and that of his/her spouse and dependents, his/her number of living children and information about whether he/she is an encroacher on Government Land.

(2) Every candidate for the post of Sarpanch, member of Janpad Panchayat and Zila Panchayat shall submit an affidavit, in a form as prescribed by the State Election Commission along with nomination paper which shall include information about educational qualifications, criminal cases pending/decided, his/her assets and liabilities and that of his/her spouse and dependents, the number of his/her living children and whether he/she is an encroacher on Government Land. The affidavit shall be sworn before competent Notary, Magistrate or Oath Commissioner.

(3) A copy of affidavit/declaration of candidates for the post of Panch, Sarpanch, Member of Janpad Panchayat and Zila Panchayat shall be exhibited on the notice board in the office of the Returning Officer. Its copy shall be made available to any citizen on demand on payment of prescribed fee.]”

15(iii). Rule 35 of the Rules of 1995 deals with scrutiny of nomination papers, which read as under:-



“35. Scrutiny of nomination papers.

(1) On the date fixed for the scrutiny of nomination papers under Rule 28, the candidates, their election agents, one proposer of each candidate, and one other person duly authorised in writing by each candidate, but not other person, may attend at the time and place appointed in this behalf under Rule 28 and the Returning Officer shall give them all reasonable facilities for examining the nomination papers of till candidates which have been delivered as required by Rule 32.

(2) The Returning Officer shall then examine the nomination papers and shall decide all objections which may be made to any nomination and may either on such objections or his own motion, after such summary inquiry, if any, as he thinks necessary, reject any nomination paper on any of the following grounds, that is to say-

(a) that the candidate is disqualified for being elected to fill the scat by or under the Act;

(b) that the proposer is disqualified from subscribing a nomination paper;

(c)[that the provisions of Rule 31, 31-A, 32 or 33 have not been complied with.] [Substituted by Notification No. F-1-3-2004-XXII-P-2, dated 20-9-2004. Prior to substitution it was as under: '(c) that there has been a failure to comply with any of the provisions of Rule 31, 32 or 33'.]

(d) that the signature of the candidate or the proposer on the nomination paper is not genuine.

(3) Nothing contained in clause (c) or (d) of sub rule (2) shall be deemed to authorise the rejection of the nomination of any candidate on the ground of any irregularity in respect of a nomination paper, if the candidate has been duly nominated by means of another nomination paper in respect of which no irregularity has been committed.

(4) The Returning Officer shall not reject any nomination paper on the ground of mere clerical or printing error or any defect which is not of a substantial character.

(5) The Returning Officer shall hold the scrutiny on the date appointed in this behalf under clause (b) of Rule 28 and shall not allow any adjournment of the proceedings except when such proceedings are interrupted or obstructed by riot or open violence or by causes beyond his control :

Provided that in case any objection is raised by the Returning Officer or is made by any other person, the candidate may be allowed time to rebut it not later than the next day, and the Returning Officer shall record his decision on the date to which the proceedings have been adjourned.

(6) The Returning Officer shall endorse on each nomination paper his decision regarding accepting or rejecting the same and, if the



nomination paper is rejected, shall record in writing a brief statement of his reasons for such rejection. The order passed by the Returning Officer shall, subject to the result of revision, if any under Rule 36, be final.

(7) For the purposes of this rule, the production of a certified copy of an entry made in the voters' list of the relevant Gram Panchayat shall be conclusive evidence of the right of any voter named in that entry to stand for election, unless it is proved that the candidate is disqualified.

(8) Immediately after all the nomination papers have been scrutinised and decisions accepting or rejecting the same have been recorded, the Returning Officer shall prepare ward wise or constituency-wise lists of candidates whose nominations have been accepted in Form 5 and affix the lists on the notice board of his office, duly recording the date and time of affixture below his signature.

(9) If nomination of a candidate has been accepted by the Returning Officer for more than one ward of constituency through oversight or for want of objection or for any other reason whatsoever, the Returning Officer shall after giving an opportunity of hearing to such candidate or his election agent, recognise the nomination tendered first in point of time and delete or cause to be deleted from the list of validity nominated candidates in Form 5, the name of such candidate from every other ward or constituency and record this fact in writing.

The Returning Officer shall also affix a copy of the revised list of validly nominated candidates in Form 5 on the notice board in his office, duly recording the date and time of such affixture below his signature.”

If the Rule 31-A Rule 31-A of the Niyam of 1995 is seen, then information with respect to criminal cases pending/decided as well as educational qualification is required to be submitted. At the time of scrutiny of such nomination papers, the objections raised are required to be decided by the returning officer.

16. This Court in the case of **Shiv Kumar** (supra) has considered the aspect of furnishing of incorrect information or wrongful acceptance of nomination papers of the returned candidate and has observed as under:-

“12. From a perusal of the aforesaid it is clear that the present case is one of wrongful acceptance of the nomination papers of respondent



No.1 and, therefore, the ground for declaring the election of respondent No.1 as void was clearly made out by the petitioner under Rule 21 of the M.P. (Election Petitions, Corrupt Practices and Disqualification for Membership) Rules, 1995 (hereinafter referred to as “the Rules of 1995”) as the result of which the election, insofar as the returned candidate is concerned, i.e. respondent no.1, is materially affected by the improper acceptance of his nomination papers. I am compelled to say so as had the nomination paper of the respondent been rejected as required by law, he would not have been a contesting candidate and would not have been declared the returned candidate.”

17. The similar aspect was considered in the case of **Sapandeep Mahto** (supra) and the High Court of Chhatishgarh at Bilaspur considering the judgment passed by the Hon’ble Supreme Court in the case of Krishnamoorthy (supra) has held as under:

“6. Non-disclosure of offence while submitting nomination papers has serious consequences. The Hon’ble Supreme Court in the matter of Krishnamoorthy Vs. Sivakumar and Others {(2015) 3 SCC 467} has observed that such non-disclosure amounts to undue influence. The relevant paragraphs are 82, 83 & 84 which read thus:-

“82. Having stated about the need for vibrant and healthy democracy, we think it appropriate to refer to the distinction between disqualification to contest an election and the concept or conception of corrupt practice inhered in the words "undue influence". Section 8 of the 1951 Act stipulates that conviction under certain offences would disqualify a person for being a Member either of House of Parliament or the Legislative Assembly or Legislative Council of a State. We repeat at the cost of repetition unless a person is disqualified under law to contest the election, he cannot be disqualified to contest. But the question is when an election petition is filed before an Election Tribunal or the High Court, as the case may be, questioning the election on the ground of practising corrupt practice by the elected candidate on the foundation that he has not fully disclosed the criminal cases pending against him, as required under the Act and the Rules and the affidavit that has been filed before the Returning Officer is false and reflects total suppression, whether such a ground would be sustainable on the foundation of undue influence. We may give an example at this stage. A candidate filing his nomination paper while giving information swears an affidavit and produces before the Returning Officer stating that he has been involved in a case under Section 354 IPC and does not say anything else though cognizance has been taken or charges have



been framed for the offences under Prevention of Corruption Act, 1988 or offences pertaining to rape, murder, dacoity, smuggling, land grabbing, local enactments like MCOCA, U.P. Goonda Act, embezzlement, attempt to murder or any other offence which may come within the compartment of serious or heinous offences or corruption or moral turpitude. It is apt to note here that when an FIR is filed a person filling a nomination paper may not be aware of lodgement of the FIR but when cognizance is taken or charge is framed, he is definitely aware of the said situation. It is within his special knowledge. If the offences are not disclosed in entirety, the electorate remain in total darkness about such information. It can be stated with certitude that this can definitely be called antecedents for the limited purpose, that is, disclosure of information to be chosen as a representative to an elected body.

83. The sanctity of the electoral process imperatively commands that each candidate owes and is under an obligation that a fair election is held. Undue influence should not be employed to enervate and shatter free exercise of choice and selection. No candidate is entitled to destroy the sacredness of election by indulging in undue influence. The basic concept of "undue influence" relating to an election is voluntary interference or attempt to interfere with the free exercise of electoral right. The voluntary act also encompasses attempts to interfere with the free exercise of the electoral right. This Court, as noticed earlier, has opined that legitimate canvassing would not amount to undue influence; and that there is a distinction between "undue influence" and "proper influence". The former is totally unacceptable as it impinges upon the voter's right to choose and affects the free exercise of the right to vote. At this juncture, we are obliged to say that this Court in certain decisions, as has been noticed earlier, laid down what would constitute "undue influence". The said pronouncements were before the recent decisions in PUCL (supra), PUCL (NOTA) (supra) and Association of Democratic Reforms (supra) and other authorities pertaining to corruption were delivered. That apart, the statutory provision contained in Sections 33, 33A and Rules have been incorporated.

84. In this backdrop, we have to appreciate the spectrum of "undue influence". In PUCL (supra) Venkattarama Reddi, J. has stated thus: "Freedom of voting as distinct from right to vote is thus a [pic]species of freedom of expression and therefore carries with it the auxiliary and complementary rights such as right to secure information about the candidate which are conducive to the freedom."

7. In the said matter, it has also been concluded that when the candidate has special knowledge of the pending case cognizance of which has been taken or charges have been framed and there is non-disclosure on his part, it would amount to undue influence and,



therefore, election is to be declared null and void.”

18. In the case of **Mudivappa** (supra) the High Court of Karnataka had an occasion to consider the similar aspect that whether in the nomination form filed by a candidate, the candidate would have to disclose criminal proceedings in which the candidate has been acquitted or not and has held as under:

“9. ANSWER TO POINT NO.1:-Whether in the nomination form filed by a candidate, the candidate would have to disclose criminal proceedings in which the candidate has been acquitted or not ?

9.1. The Hon'ble Apex Court in the case of Democratic Union of India v. Association for NC: 2024:KHC-D:627 Democratic Reforms and another with Peoples Union for Civil Liberties and another v. Union of India and another has categorically held that all details of the candidate include those relating to criminal proceedings would have to be disclosed by a candidate in his nomination papers.

9.2. Though there was no particular requirement under law at that point of time for disclosure of criminal proceedings, it is by way of an order of the Hon'ble Apex Court that it was mandated for a candidate to disclose the details of the criminal proceedings. The distinction that is now sought to be drawn by Sri. Shivaraj S.Balloli, learned counsel for the petitioner that what is required to be disclosed is only where there was a conviction and or the proceedings were pending is a distinction in futility in as much as what the Hon'ble Apex Court has directed is for disclosure of all criminal proceedings filed against the candidate which in my considered opinion also includes criminal proceedings where the candidate has been acquitted since what is important is that disclosure of information by a candidate is to be made and for the electorate to be aware of all relevant information as relating to the candidate contesting in the election. The aspect of conviction or otherwise and the period of sentence may be relevant for disqualification of the candidate, in so far as filing of nomination forms what is required is full disclosure of all aspects relating the candidate and his/her immediate family. Thus, the distinction now sought to be drawn between conviction and acquittal or pendency and acquittal is a distinction without any difference when the aspect of disclosure being required to be made is considered.

9.3. I answer point No.1 by holding that whenever any nomination forms are filed by any candidate, the candidate would have to disclose all criminal proceedings filed against the said candidate irrespective of



whether the candidate had been acquitted or not, whether it is been quashed or not.

9.4. The mere fact of filing of complaint and criminal proceedings would suffice for such candidate to disclose the same in his nomination form. If there is no particular row or column in the said application to enable disclosure or if the space available is less than what is required, such candidate could always make use of additional sheets to disclose of particulars like crime number, provisions under which allegations have been made, who are all other co-accused, who is de-facto complainant, the stage of the case if pending, nature of disposal, date of disposal, if an appeal is filed and the details as regards appeal, if proceedings have been quashed, set aside etc.,”

19. The Hon’ble Supreme Court in the case of **Union of India vs. Association for Democratic Reforms** reported in (2002) 5 SCC 294 and in the case of **People’s Union for Civil Liberties vs. Union of India and another** (2003) 4 SCC 399 has categorically held that “*all the details of candidate includes those relating to criminal proceedings would have to be disclosed by a candidate in his nomination papers*”.

20. In view of the judgments passed in the aforesaid cases, the present facts and circumstances are required to be examined.

21. The record indicates that nomination forms filled by the respondent No.1 under clause 5 & Clause 6 of the nomination papers he has furnished as “Nil”.

22. Clause 5 of the nomination papers deals with the fact that “मुझे किसी आपराधिक मामले में न तो सिद्धदोष ठहराया गया है और न ही किसी कारावास का दंडादेश दिया गया है अथवा मुझे नित्रालिखत आपराधिक मामले में सिद्धदोष ठहराया गया है और दंडादेश किया गया है”. In the affidavit furnished by the respondent No.1 along with nomination forms, the similar information was provided. It is an admitted



position that against the respondent No.1 there were criminal cases registered which is reflected from the impugned order itself; which are as under:

“अपराध क्रमांक-183/2005 अन्तर्गत धारा 294, 323, 506, 326 भा०दं०वि०, अपराध क्रमांक-276/2007 अन्तर्गत धारा-294, 323, 506 एवं 34 भा०दं०वि०, अपराध क्रमांक-277/2007 अन्तर्गत धारा 379 34 भा०दं०वि०, अपराध क्रमांक-237/2010 अन्तर्गत धारा-294, 323, 327, 506, 34 भा०दं०वि०, अपराध क्रमांक-292/2011 अन्तर्गत धारा-294, 323, 506, 34 भा०दं०वि० एवं अपराध क्रमांक-321 / 2021 अन्तर्गत धारा 147, 148, 149, 294, 323, 325, 506 भा०दं०वि०”

In reply to the notice issued to the respondent No.1, it is mentioned as under:

“यह कि याचिका के पैरा क्रमांक-05 में वर्णित इबारत असत्य व बनावटी होने से स्वीकार नहीं है। जहां तक आपराधिक प्रकरणों का प्रश्न है, जिस दिनांक को नाम निर्देशन पत्र भरा जा रहा था, उक्त दिनांक को अपराध क्रमांक-183/2005, 276/2007, 277/2007, 237/2010, 292/2011 का प्रश्न है, उक्त सभी मामले नाम निर्देशन दिनांक को निर्णय एवं राजीनामा के आधार पर समाप्त हो चुके हैं, जिनके सभी की प्रमाणित प्रति हेतु आवेदन पत्र लम्बित है, दो प्रकरण की प्रमाणित प्रति उत्तरवादी क्रमांक-01 को प्राप्त नहीं हो सकी है, साथ ही उक्त प्रकरणों में कोई अपील / निगरानी लम्बित नहीं है, जहां तक अपराध क्रमांक-321/2021 का प्रश्न है, वह मामला अन्य दूसरे प्रकरण का प्रति- प्रकरण है और उस प्रकरण में भारतीय दण्ड विधान की धारा-307 आच्छादित हैं, परन्तु उक्त प्रकरण में चूंकि उत्तरवादी क्रमांक-01 के विरुद्ध स्थिति में कोई चार्ज नहीं लगा हुआ है, ऐसी स्थिति में उक्त प्रकरण को मेंसन करने की आवश्यकता नहीं है। स्पष्टीकरण अतिरिक्त जबाव के रूप प्रस्तुत किया जा रहा है।”

This clearly shows that wrong information has been furnished by the respondent No.1 in the nomination form.



23. Section 21 of the Rules of 1995 deals with grounds for declaring an election to be void. The same read as under:

“Rule - 21. Grounds for declaring election to be void.

(1) Subject to the provisions of sub-rule (2) if the specified officer is of opinion

(a) that on the date of his election the returned candidate who was not qualified or was disqualified to be chosen to fill the seat under the Act; 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 paper has been improperly rejected; or

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

(i) by the improper acceptance of any nomination; or

(ii) by a corrupt practice having been committed in the interest of the returned candidate by a person acting with the consent of the candidate or his agent; or

(iii) by the improper acceptance, 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 Act or of any rules or orders made there under; the specified officer shall declare the election of the returned candidate to be void.

(2) If in the opinion of the prescribed authority a returned candidate has been guilty by an agent of any corrupt practice, but the prescribed authority is satisfied

(a) that no such corrupt practice was committed at the election by the candidate and every such corrupt practice was committed contrary to the instructions and without the consent of the candidate;

(b) that the candidate took all reasonable means for preventing the commission of corrupt practice at the election; and

(c) that in all other respect the election was free from any corrupt practice on the part of the candidate or any of his agent; then the prescribed authority may decide that the election of the returned candidate is not void.”

If an incorrect information is submitted in the nomination form by a candidate, then the nomination form should have been rejected. The result of the election can be materially affected by improper acceptance of any nomination form or by non-compliance of provisions of the Act or Rule



made thereunder. This aspect has been considered in the aforesaid cases.

24. The amicus curiae appointed by the Court has also stated that all information with respect to pending or decided criminal cases should be furnished by a candidate while filling the nomination form. The queries raised by the Court are answered by him as under:-

“i. What is the meaning of “मेरे विरुद्ध कोई भी आपराधिक मामला लम्बित नहीं है अथवा मेरे विरुद्ध अपराधिक मामलो का विवरण निम्नुसार है” in view of the submission made by learned Senior Counsel for the respondent -

Shri Sanjay K. Agarwal?

As regards (i): It is submitted that Clause 6 of the Affidavit submitted alongwith nomination form refers to a particular declaration “मेरे विरुद्ध कोई भी आपराधिक मामला लम्बित नहीं है अथवा मेरे विरुद्ध अपराधिक मामलो का विवरण निम्नुसार है”. It very clearly stipulates that a candidate contesting an election is required to furnish all details pertaining to his criminal record. In other words, all cases registered against a candidate are required to be mentioned in the affidavit, irrespective of the fact whether the criminal cases registered against the candidate are pending or decided. Rule 31 A(2) clearly provides that "Every candidate for the post of Sarpanch, member of Janpad Panchayat and Zila Panchayat shall submit an affidavit, in a form as prescribed by the State Election Commission along with nomination paper which shall include information about educational qualifications, criminal cases pending/decided, his/her assets and liabilities and that of his/her spouse and dependents, the number of his/her living children and whether he/she is an encroacher on Government Land. The affidavit shall be sworn before competent Notary, Magistrate or Oath Commissioner." (The same has also been explained in the preceding paragraphs from Para 16 to 20). Thus, the candidate is required to furnish details of all cases both pending and decided.

ii. What is the purport and meaning of "अथवा " while reading the aforesaid clause, whether it amounts to giving information pertaining to offences or criminal cases wherein charges are framed or whether complete details of the offences are required to be provided in the affidavit irrespective of the fact whether charges are framed or the



cases are pending or the same have been decided (whether pending, acquitted or convicted)?

As regards (ii): In view of the submissions made in preceding paragraphs 16 to 20, the present query is also answered. At the cost of repetition it is submitted that Rule 31A(2) very clearly mandates that complete details of criminal record is required to be furnished by every candidate irrespective of the fact whether the criminal case is pending or decided. The word "अथवा" in clause 6 of the affidavit should be read in accordance with Rule 31(A)(2) of M.P. Panchayat Nirvachan Niyam, 1995. The column reads " मेरे विरुद्ध

कोई भी आपराधिक मामला लम्बित नहीं है अथवा मेरे विरुद्ध अपराधिक मामलो का विवरण निम्नुसार है". It leaves no manner of doubt that a candidate is required to give complete details of cases both pending and decided, irrespective of the fact whether the case is simply pending, charges have been framed, the accused has been acquitted or the accused has been convicted.

iii. What is the true intent and objective of Clause 6 mentioned in the affidavit submitted with nomination form as annexed in the writ petition as Annexure-P/1 at Page No. 33.

As regards (iii): In view of the answer(s)/submission(s) made hereinabove, it is respectfully reiterated that clause 6 has rightly been framed in consonance with the requirement provided under law and particularly Rule 31A(2) of the Rules of 1995. Even otherwise it is a settled legal position that ignorance of law is no excuse. The candidate contesting election is required and is duty bound to obey and comply with the requirements provided under law. Both the Nomination Form and Affidavit have very categorically mandated that the same should be filed in consonance with the requirement of the statutory provisions and rules including Rule 31(A)(2) of M.P. Panchayat Nirvachan Niyam, 1995. Thus, a candidate is required to give all details regarding the criminal cases irrespective of the fact whether the same is pending or decided."

25. The aforesaid aspect though dealt with by the respondent No.8 while deciding the election petition, however, the election petition is dismissed on the ground that same does not fall under the category of corrupt practice, as it is required to be shown that the same is materially affecting the result of the election. The fact remains that if the nomination papers of the respondent



No.1 was not accepted and rejected on the ground of furnishing of incorrect information at the time of scrutiny of document, then the same is having a binding effect on the result of the elections and will material affect the result of elections. Furnishing of incorrect information in nomination paper will amount to corrupt practice. It is not a case wherein counting of votes cases material effect on the election. It is a case wherein incorrect information is furnished by the respondent No.1.

26. The Hon'ble Supreme Court in the case of **Vashist Narain Sharma** (supra) has held as under :

“12. The learned counsel for the respondents concedes that the burden of proving that the improper acceptance of a nomination has materially affected the result of the election lies upon the petitioner but he argues that the question can arise in one of three ways:

(1) where the candidate whose nomination was improperly accepted had secured less votes than the difference between the returned candidate and the candidate securing the next highest number of votes, (2) where the person referred to above secured more votes, and (3) where the person whose nomination has been improperly accepted is the returned candidate himself.

It is agreed that in the first case the result of the election is not materially affected because if all the wasted votes are added to the votes of the candidate securing the highest votes, it will make no difference to the result and the returned candidate will retain the seat. In the other two cases it is contended that the result is materially affected. So far as the third case is concerned it may be readily conceded that such would be the conclusion. But we are not prepared to hold that the mere fact that the wasted votes are greater than the margin of votes between the returned candidate and the candidate securing the next highest number of votes must lead to the necessary inference that the result of the election has been materially affected. That is a matter which has to be proved and the onus of proving it lies upon the petitioner. It will not do merely to say that all or a majority of the wasted votes might have gone to the next highest candidate. The casting of votes at an election depends upon a variety of factors and it is not possible for any one to predicate how many or which proportion



of the votes will go to one or the other of the candidates. While it must be recognised that the petitioner in such a case is confronted with a difficult situation, it is not possible to relieve him of the duty imposed upon him by section 100(1)(c) and hold without evidence that the duty has been discharged. Should the petitioner fail to adduce satisfactory evidence to enable the Court to find in his favour on this point, the inevitable result would be that the Tribunal -would not interfere, in his favour and would allow the election to stand.”

27. This Court in the case of **Mehboob Khan** (supra) has observed as under:-

“12. This does not prevent the election petitioner from raising the plea in the election petition that the nomination paper of the elected candidate (present petitioner) was properly accepted. This is being observed in the light of Rule 21 of the election petition rules which empowers a specified officer to declare the election void on the ground that any nomination paper has been improperly accepted. Distinction between Rule 35 of Nirvachan Niyam and Rule 21 of Election Petition Rules is that while at the of scrutiny, nomination paper may be rejected even on the sole ground of non-compliance of Rule 31-A whereas under Rule 21 of the election petition rules, an election of a candidate whose nomination paper was accepted even in the absence of compliance of Rule 31-A may be declared void if result of the election has been materially affected. At the stage of scrutiny of nomination paper, an objector is in order to succeed is merely required to establish that the provision of Rule 31-A has not been complied with by the candidate who submitted nomination paper. If the objector fails to raise objection at the time of such scrutiny, he may take the plea in the election petition that the nomination paper was improperly accepted. However, in order to succeed in the election petition he is further required to establish that due to improper acceptance of the nomination paper, result of the election insofar as it concerns returned candidate has been materially affected.

19. This Court has already dealt with the nature of the provision contained in Rule 31-A. Admittedly, the petitioner has been elected on the post of member of Janpad Panchayat, Ajaygarh. He is found to have submitted nomination paper in breach of mandatory provision of Rule 31-A. His nomination paper was liable to be rejected had there been an objection at the time of scrutiny of nomination paper. His nomination paper was accepted despite non-compliance of Rule 31-A. Obviously, it was an improper acceptance of his nomination paper. Had his nomination paper been not accepted on account of violation of Rule 31-A, he could not have contested the election and further



could not have succeeded in the election. In this view of the matter, it is quite clear that his result (being the result of the returned candidate) has been affected by the improper acceptance of his nomination paper. In the various decisions of the Supreme Court cited hereinabove nomination paper of a candidate other than a returned candidate was found to have been improperly accepted. Therefore, it was rightly found that in the absence of a proof that the result of the returned candidate was materially affected, election of a returned candidate could not have been declared void. In the case in hands, the nomination paper of a returned candidate itself is found to have been improperly accepted. Therefore, his result has been obviously materially affected inasmuch as had the nomination paper been not accepted he would not have been declared as elected. Thus, it is further held that if a nomination paper of a returned candidate is found to have been improperly accepted, it would be inferred that the result of such returned candidate has been materially affected.”

28. If the aforesaid proposition is applied to the facts and circumstances of the present case, it is clear that nomination of the respondent No.1 could not have been accepted. The Hon’ble Supreme Court had an occasion to consider the similar situation and in the case of **Mehboob Khan** (supra) has categorically held that if the nomination paper of a candidate is not accepted owing to non-fulfilment of mandatory provisions as required under Section 31-A of the Niyam of 1995, a candidature could not have participated in the election and that would have materially affected the election as well as the result. Learned counsel appearing for the respondent No.1 could not dispute that information regarding his criminal antecedents was not supplied. The Constitutional Bench of Hon’ble Supreme Court in the case of **Association of Democratic Reforms** (supra) has laid down guidelines and held it mandatory that all the details of candidates includes those relating to criminal proceedings would have to be disclosed by a candidate in his



nomination paper. As information regarding criminal antecedents is suppressed by the respondent No.1, it has materially affected the election as well as the result. The said aspect was not properly considered by the Election Officer and had dismissed the election petition. However, the fact remains that nomination paper of the respondent No.1 was liable to be rejected at a threshold for non-compliance of mandatory provisions of Rule 31-A of the Niyam of 1995.

29. In view of the aforesaid, the impugned order dated 29.07.2024 becomes unsustainable and it is hereby quashed. The result of the election declaring the respondent No.1 as a successful candidate in the election is hereby quashed. The authorities are directed to re-notify the election of Janpad Sadashya of Ward No.1, Janpad Panchayat Rampur Naikin, District Sidhi.

30. With the aforesaid, the writ petition stands allowed and disposed off.
No order as to costs.

(VISHAL MISHRA)
JUDGE

SJ