

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

El. Petn. No. 11 of 2022

Soibam Subhaschandra Singh, aged about 55 years old,
S/o (L) Soibam Tomba Singh, a permanent residence of
Ningombam Mayai Leikai, P.O. Canchipur (MU) & P.S.
Singjamei, Imphal West District, Manipur – 795003 (NPP
Candidate)

... Petitioner

-Versus-

1. Sagolshem Kebi Devi, aged about 32 years old, W/o
Soraisam Gobin Singh, a residence of Ningthemcha Karong,
P.O. Imphal & P.S. Singjamei, Imphal West District, Manipur
– 795001 (BJP Candidate)
2. Shri Soraisham Manaoton Singh, aged about 53 years old,
S/o (L) Soraisham Kullachandra Singh, a permanent
residence of Kodompokpi Maning Leikai, P.O. Tuliha & P.S.
Nambol, Imphal West District, Manipur -795140 (INC
Candidate)
3. Konthoujam Manoranjan Singh, aged about 66 years old,
S/o (L) Konthoujam Angaton Singh, a permanent residence
of Konjeng Ningthoujam Leikai, P.O. Canchipur (MU) & P.S.
Singjamei, Imphal West District, Manipur – 795003. (JU(U)
Candidate)

... Respondents

B E F O R E

HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH

For the petitioner	::	Mr. H.S. Paonam, Sr. Advocate asstd. by Mr. B.R. Sharma, Advocate
For the respondents	::	Mrs. L. Ayangleima, Advocate; Mr. N. Bupenda, Advocate & Mr. S. Inaocha, Advocate
Date of hearing	::	18-09-2025
Date of judgment & order	::	05-11-2025

JUDGMENT & ORDER

[1] Heard Mr. H.S. Paonam, learned Senior Advocate assisted by Mr. B.R. Sharma, learned counsel appearing for the petitioner; Mrs. L. Ayangleima, learned counsel appearing for the respondent No. 1, Mr. N. Bupenda, learned counsel appearing for the respondent No. 2 and Mr. S. Inaocha, learned counsel appearing for the respondent No. 3.

The present election petition has been filed under Section 100(1)(d),(i),(ii) and (iv), Section 100(1)(b) and Section 101 of the Representation of People Act, 1951 praying for declaring the election of the Respondent No. 1 (Returned Candidate) from 21-Naoriya Pakhanglakpa Assembly Constituency in the 12th Manipur Legislative Assembly Election, 2022 as null and void and also to declare the petitioner as the duly elected member in the 12th Manipur Legislative Assembly Election, 2022 from the 21-Naoriya Pakhanglakpa Assembly Constituency.

[2] The facts of the present case, in a nutshell, are that consequent upon the expiry of the term of the 11th Manipur Legislative Assembly Election 2017, the Election Commission of India issued a Press Note dated 08-01-2022 announcing the schedule for the 12th General Election to the Manipur Legislative Assembly for holding election in 2 (two) phases. The schedule of the election is as under:-

Sl. No.	Poll Event	First Phase	Second Phase
1.	Issue of Notification	01.02.2022 (Tuesday)	04.02.2022 (Friday)
2.	Last date of making Nominations	08.02.2022 (Tuesday)	11.02.2022 (Friday)
3.	Scrutiny of Nominations	09.02.2022 (Wednesday)	14.02.2022 (Monday)
4.	Last date for withdrawal of Candidature	11.02.2022 (Friday)	16.02.2022 (Wednesday)
5.	Date of Poll	27.02.2022 (Sunday)	03.03.2022 (Thursday)
6.	Counting of Votes	10.03.2022 (Thursday)	
7.	Date before which the election process shall be completed	12.03.2022 (Saturday)	

Subsequently, the Election Commission of India issued another Press Note dated 10-02-2022 changing the date of polls as under:-

[4]

Phases	Notified Dates of Poll	Revised Dates of Poll
Phase – I	27 th February, 2022 (Sunday)	28 th February, 2022 (Monday)
Phase – 2	13 th March, 2022 (Thursday)	5 th March, 2022 (Saturday)

[3] The 21-Naoriya Pakhanglakpa Assembly Constituency was included in the first phase of the 12th Manipur Legislative Assembly Election, 2022 and election of the said constituency was held on 28-02-2022 (Monday) and the result was declared on 10-03-2022. According to the result sheet, the Respondent No. 1 was declared as the successful candidate by a margin of only 531 votes against the petitioner. The votes secured by the candidates are as under:-

Sl. No.	Name of Candidates	Affiliated Political Party	Secured Vote	Margin
1.	Soibam Subhaschandra Singh	NPP	10527	531
2.	Sagolshem Kebi Devi	BJP	11058	
3.	Soraishem Manaoton Singh	INC	9444	
4.	Konthoujam Manoranjan Singh	JD(U)	1721	

[4] The case of the petitioner is that on a bare perusal of Form-26 Affidavit dated 04-02-2022 filed by the Respondent No. 1 along with her nomination papers, many defects which are substantial in

nature were found at the time of scrutiny, which would result in rejection of the nomination of the Respondent No. 1. According to the petitioner, the defects are as under:-

- 1) The Respondent No. 1 did not disclose her original/ actual name as recorded in the school records as well as in the records of the Board of Secondary Education, Manipur. Her name as recorded in her school record (Little Master English Higher Secondary School, Samurou having studied Class-X in 2005) is **Sagolshem Sonalika Devi**. Her original name registered with the Board of Secondary Education, Manipur, 2004 while studying Class-IX for the purpose of appearing in the High School Leaving Certificate Examination is also recorded as **Sagolshem Sonalika Devi**. In the list of Class-X students of Little Master English Higher Secondary School, Samurou, enrolled for appearing in HSLC Examination 2006, her name was recorded as **Sagolshem Sonalika Devi**.
- 2) While declaring her highest educational qualification, the Respondent No. 1 gave a false statement at Para. 11 of the Form-26 Affidavit that she studied up to Class-X. There is no one in the record maintained with the said school that one "**Kebi Devi**" have studied Class-X in 2005 and it

is only one “**Sagolshem Sonalika Devi**” who have studied Class-X in 2005.

- 3) The Respondent No. 1 falsely declared her highest educational qualification as Class-X while in fact, her highest educational qualifications under her original name **Sagolshem Sonalika Devi** is Class-IX only and that no one with the name of **Sagolshem Kebi Devi** have ever studied Class-X or passed Class-X from Little Master English Higher Secondary School, Samurou.
- 4) In all the relevant columns for disclosure of non-agricultural lands in respect of Respondent No. 1 and her spouse, at Para. 7 Part-B(ii) of the Form-26 Affidavit, the Respondent No. 1 had stated N/A (not applicable), which is false because the Respondent No. 1 herself disclosed at Para. 7 Part-B(iv) under the column of her spouse that there are residential buildings at three different non-agricultural lands which are owned by her spouse. The said three non-agricultural lands are:-
 - (a) Under Patta No. 106(old)/214(new) Dag No. 837, Village No. 46-Naoriya Pakhanglakpa, Imphal West;

- (b) Under Patta No. 265(old)/ 598/1598(new), Dag No. 758/ 1795, Village No. 46-Naoriya Pakhanglakpa, Imphal West; and
- (c) Under Patta No. 964/1601(new) Dag No. 1184/1799, Village No. 46-Naoriya Pakhanglakpa, Imphal West.

According to the petitioner, such non-disclosure of the three non-agricultural lands belonging to her spouse is a defect of substantial nature.

- 5) At Para. 7 Part-B(iv) of the Form-26 Affidavit, the Respondent No. 1 stated that the non-agricultural land under Patta No. 106(old)/214 (new), Dag No. 837, Village No. 46-Naoriya Pakhanglakpa, Imphal West, measuring an area of 1797.7212 sq. ft. belonging to her spouse was not an inherited property and that the same was purchased on 27-10-2017 at the cost of ₹1,40,000/- (Rupees one lakh forty thousand). According to the petitioner, this is a false statement and non-disclosure of the real price of the land because as per the records, the cost of the said property at the time of purchase is ₹ 5,40,000/- (Rupees five lakh forty thousand). Non-disclosure of true facts or swearing of false affidavit is a defect of substantial in nature.

6) At Para. 8(vi), for the disclosure of Municipal Property Tax Duty, the respondent No. 1 have stated N.A. (not applicable) against each of the relevant column in respect of herself and her spouse. However, on perusal of the land records, it has been found that:-

- (a) For the non-agricultural land under Patta No. 106 (old)/ 214(new), Dag No. 837, Village No. 46-Naoriya Pakhanglakpa, Imphal West, which is owned by the spouse of the Respondent No. 1, there is a tax-payable duty of ₹ 250/- for the period of years 2018 to 2022. Accordingly, the Respondent No. 1 has given a false statement at Para. 8(vi) about Municipal/ Property Tax Duty payable by her spouse, which is nothing but swearing of false affidavit.
- (b) In the non-agricultural land under Patta No. 964/1601 (old)/ 964/1601(new), Dag No. 1184/1799, Village No. 46-Naoriya Pakhanglakpa, Imphal West, which is owned by the spouse of the Respondent No. 1, there is a tax-payable duty of ₹ 50/- for the year 2022. Accordingly, the Respondent No. 1 has made a false statement at Para. 8(vi) about Municipal/ Property Tax due payable by her spouse, which is nothing but swearing of false affidavit.

[5] According to the petitioner, in view of the above non-disclosure or giving false statement in Form-26 Affidavit, the nomination papers of the Respondent No. 1 is liable to be rejected as respondent No. 1 has violated the provisions of the Representation of People Act, 1951 (“**RP Act**”, for short) and the Constitution of India, thereby keeping the electorate in the dark and misleading the electorate from their free exercise of electoral rights. Had the electorate been made known of such material facts, they would not have voted for the Respondent No. 1, hence, the votes secured by the Respondent No. 1 was by way of fraud and concealing material information thereby betraying the decisions of the voters to vote for her, which would amount to influence by corrupt practice. The election of the Respondent No. 1 having been materially affected by such corrupt practices, deserves to be declared as void.

[6] The Respondent No. 1 filed her written statement dated 16-08-2022 denying the statements and allegations by stating that there was no defect of substantial character in the nomination papers filed by her and that the Respondent No. 1 have substantially complied with the requirements of valid nomination under Section 33 of the RP Act and as such, the Returning Officer duly accepted her nomination papers. The respondent No. 1 stated that her original name is “**Kebi**” and that at the time of her admission in school, her parents have adopted the

name “**Sonalika**” and recorded the same name in the school records. It has also been stated by the Respondent No. 1 that she is known by her original name “**Kebi**” in the school as well as in her locality rather than by the name “**Sonalika**”. It has also been stated that the Respondent No. 1 could not complete Class-X and she has been only known by her original name “**Kebi**” and as such, she has enrolled her name as “**Kebi**” in her Aadhaar Card, Passport, PAN Card, Electoral Voter ID and Electoral Role and having established her identity by the said documents, she in bona fide swear the Form-26 Affidavit in the name of “**Kebi**”.

The Respondent No. 1 further stated that the petitioner has admitted to the effect that “**Sonalika**” and “**Kebi**” is the one and same person and she has studied up to Class-X in the year 2005 and as such, her highest educational qualification is studied up to Class-X is true.

[7] It has also been stated that in the State of Manipur, there are only 2 (two) types of land, i.e., agricultural land and homestead land and there is no column to be fill up in the Form-26 Affidavit for the homestead land for the purpose of residential and that every details and particulars of the homestead land belonging to the spouse of the respondent No. 1 have been disclosed at Para. 7 Part-B(iv) (residential building).

It has also been averred in the written statement that the entry of ₹1,40,000/- (Rupees one lakh forty thousand) instead of ₹ 5,40,000/- (Rupees five lakh forty thousand) for the purchase cost of the property belonging to the spouse of the Respondent No. 1 is an inadvertent error, which is not a defect of substantial character and that the petitioner failed to show how such defect would materially affect the election of the Respondent No. 1.

[8] With regard to the tax-payable due to the land belonging to the spouse of the Respondent No. 1 as alleged by the petitioner, it has been stated that the Respondent No. 1 had paid all the revenue till the year 2022 on 18-01-2022.

The Respondent No. 1 stated that the question as to improperly accepting her nomination paper does not arise as her nomination was duly accepted by the Returning Officer since it substantially complied with the provisions of Section 33 and 34 of the RP Act and that there was no defect, which is of substantial character.

[9] Even though the Respondents No. 2 and 3 filed their respective written statement, they did not contest the election petition. However, in the written statement filed by the Respondent No. 3, it has been averred that the Respondent No. 1 filed an Original (Declaration) Suit No. 27 of 2022 in the Court of Civil Judge, Junior Division, Imphal

West-II, Manipur, claiming for a decree declaring that the name, i.e., **Sagolshem Kebi Devi** and **Sagolshem Sonalika Devi** are one and the same person and that the Civil Judge, Junior Division, Imphal West-II, Manipur, had already taken a judicial notice in the said original suit and allowed the Respondent No. 1 to file the said original suit under Section 34 of the Specific Relief Act, 1963 for declaration of the plaintiff's name, i.e., **Sagolshem Sonalika Devi** and **Sagolshem Kebi Devi** are the one and the same person. In the said written statement, a certified copy of the plaint of the said original suit along with the proceedings of the said trial court have been enclosed.

[11] On the basis of the pleadings made by the parties in the election petition and written statements and after hearing the submission advanced by the learned counsel appearing for the parties, the following issues were framed on 07-12-2022:-

1. Whether the respondent No. 1 did not disclose her real name in the Form 26 affidavit filed along with her nomination paper for the 12th Manipur Legislative Assembly Election, 2022 in respect of 21-Naoriya Pakhanglakpa Assembly Constituency and whether such non-disclosure would amount to swearing of false affidavit/ declaration with regard to vital information of the candidate and materially affect the election of the respondent No. 1?

2. Whether the respondent No. 1 did not disclose the non-agricultural lands owned by her spouse in Form 26 affidavit filed by the respondent No. 1 along with her nomination paper for the 12th Manipur Legislative Assembly Election, 2022 in respect of 21-Naoriya Pakhanglakpa Assembly Constituency and whether such non-disclosure would materially affect the election of the respondent No. 1?
3. Whether the respondent No. 1 did not correctly disclose the purchase cost of property belonging to her spouse in Form 26 affidavit filed by her along with her nomination paper for the 12th Manipur Legislative Assembly Election, 2022 in respect of 21-Naoriya Pakhanglakpa Assembly Constituency and whether such non-disclosure would materially affect the election of the respondent No. 1?
4. Whether the petitioner is entitled to be declared as duly elected member in the 12th Manipur Legislative Assembly Election, 2022 in respect of 21-Naoriya Pakhanglakpa Assembly Constituency?
5. Whether the information given by the respondent No. 1 in Form 26 of the Representation of People Act, 1950 was substantially complied or not?

6. Whether there is any cause of action in filing the election petition?
7. Whether the election petition is maintainable or not?

Subsequently by an order dated 08-10-2024 passed in MC(EI. Petn.) No. 45 of 2024, the following additional issue was framed:-

“Whether the nomination papers of the Returned Candidate/ Respondent No. 1 was improperly accepted thereby materially affecting the election of the Respondent No. 1.”

[12] On behalf of the petitioner, the petitioner himself was examined as PW1 and one electorate of the petitioner's Assembly Constituency viz., Shri Elangbam Ashok Singh was examined as PW2. The following six official witnesses were also examined as PWs No. 3 to 8:-

- 1) PW 3 - Shri Sapam Mangijao Singh, Secretary, Board of Secondary Education, Manipur.
- 2) PW 4 - Shri Elangbam Dhiren Singh, Principal, Little Master English Higher Secondary School.
- 3) PW 5 - Md. Zamilur Rahman, Sub-Deputy Collector, Imphal West (Central).
- 4) PW 6 - Shri Sapam Rajen Singh, Office Assistant of Little Master English Higher Secondary School.

- 5) PW 7 - Shri Namojam Rajen Singh, Supervisor Kanango, Imphal West (Central).
- 6) PW 8 – Ak. Dilima Devi, Sub-Registrar (HQ), Imphal.

The petitioner also exhibited 15 documents marked as Exhibit P-1/31 to P-1/45.

[13] On behalf of the Respondent No. 1, the Respondent No. 1 herself was examined as DW No. 1 and 2 other voters from the same Assembly Constituency viz., Shri Sapam Jotin Singh and Shri Chongtham Ranjan Singh were examined as DW No. 2 and DW No. 3 respectively. The Respondent 1 exhibited 7 documents, which are marked as Exhibit D/2 to D/8. The Respondent 3 viz., Shri Konthoujam Manoranjan Singh was also examined as DW No. 4.

[14] The petitioner by the present election petition is claiming that the Respondent No. 1 has filed defective Form-26 Affidavit before the concerned Returning Officer thereby concealing vital and material information amongst others with regard to her official/ original name, her educational qualifications, immovable properties including cost of one of the immovable property of her spouse, which are within the special knowledge of the Respondent No. 1, thereby swearing a false Affidavit and as such, the same shall amount to corrupt practice by way of undue influence in terms of Section 123(2) of the RP Act, 1951, thereby

materially affecting the election of the Respondent No. 1. It has also been contended on behalf of the petitioner that the nomination of the Respondent No. 1 was improperly accepted and the votes were obtained by Respondent No. 1 by means of corrupt practice and undue influence by deliberately and wilfully hiding the officially recorded name of the Respondent No. 1 and the value of assets running into lakhs and as such, the petitioner deserve all the reliefs sought for in the petition including declaring the petitioner as duly elected to the seat of 12th Manipur Legislative Assembly Election from 21-Naoriya Pakhanglakpa Assembly Constituency.

[15] The case of the Respondent No. 1 is that “**Sagolshem Kebi Devi**” and “**Sagolshem Sonalika Devi**” are one and the same person and both are her name. The Respondent No. 1 also claimed that the name “**Sagolshem Kebi Devi**” was disclosed in her Form-26 Affidavit as her name is recorded in the relevant Electoral Roll and that there is no concealment or non-disclosure of her name. The Respondent No. 1 also raised a question as to whether her name as recorded in the documents like Aadhaar Card, PAN Card, Passport, Electoral Voter ID, Electoral Roll, etc. is not to be treated as her real/ official name only because of the fact that in her school records, her name was recorded as **Sonalika**. It has been submitted on behalf of the Respondent No. 1 that even though immovable assets belonging to her spouse was not

disclosed at Para. 7 (B)(ii) of her Form-26 Affidavit, she disclosed all the immovable assets belonging to her spouse at Para. 7(B)(iv) of the said affidavit and as such, there is no question of non-disclosure of the said property. The Respondent No. 1 further claimed that in the State of Manipur, there is no classification of land such as “non-agricultural land” and as the immovable assets belonging to her spouse being classified as “homestead land” in the relevant land records, she was not required to disclose the same at Para. 7(B)(ii) of the Form-26 Affidavit. The Respondent No. 1 also claimed that the price of the immovable property belonging to her spouse was wrongly entered in the Form-26 Affidavit inadvertently through bona fide typographical mistake and that there is no defect which is of a substantial character in her Form-26 Affidavit.

[16] Keeping in view the rival submissions advanced on behalf of the parties and all the materials available on record, this Court proceeds to examine the issues framed earlier by this Court.

[16:1] Issue No. 1:-

Whether the respondent No. 1 did not disclose her real name in the Form 26 affidavit filed along with her nomination paper for the 12th Manipur Legislative Assembly Election, 2022 in respect of 21-Naoriya Pakhanglakpa Assembly Constituency and whether such non-disclosure would amount to swearing of false affidavit/ declaration with regard to vital information of the candidate and materially affect the election of the respondent No. 1?

[16:2] In the Form-26 Affidavit submitted by the Respondent No. 1 along with her nomination papers (Exhibit P-1/32 (Colly.)), the Respondent No. 1 under oath declared her name as **Sagolshem Kebi Devi**. However, the case of the petitioner is that the Respondent No. 1 did not disclosed her original name as recorded in the school records as well as in the records of the Board of Secondary Education, Manipur. Her original name as recorded in her school (Little Master English Higher Secondary School, Samurou having studied Class-X in 2005) is **Sagolshem Sonalika Devi**. Her original name registered with the Board of Secondary Education Manipur, 2004 while studying Class-IX for the purpose of appearing in the High School Leaving Certificate Examination is also **Sagolshem Sonalika Devi**. In the list of Class-X students of Little Master English Higher Secondary School, Samurou, enrolled for appearing in the HSLC Examination, 2006, the name of **Sagolshem Sonalika Devi** is found to be recorded.

[16:3] It is also the case of the petitioner that if the name of the Respondent No. 1 is **Sagolshem Kebi Devi**, the statement given by the Respondent No. 1 at Para. No. 11 of the Form-26 Affidavit that she studied up to 10th Standard in the year 2005 at Little Master English Higher Secondary School, Samurou, is

a false statement as no person under the name of **Sagolshem Kebi Devi** have ever studied Class-X in the year 2005 in the said Little Master Higher Secondary School. According to the petitioner, non-disclosure of her real/ official name by the Respondent No. 1 in her Form-26 Affidavit will amount to defect, which is substantial in nature and swearing of false affidavit and as such, the same shall amount to corrupt practice by way of undue influence in terms of Section 123(2) of the RP Act, 1951.

[16:4] It has also been strenuously argued on behalf of the petitioner that it has been proved during the trial of the present election petition that the Respondent No. 1's official/ original name is **Sagolshem Sonalika Devi**, being evident from her voluntary admission, academic records and other official documents, however, the Respondent No. 1 did not disclosed her original/ official name in her Form-26 Affidavit and that her failure to do so, while continuing to use a different name in her election affidavit, breaks the necessary consistency in the official identity documents. It has also been stated that by hiding her true name, the Respondent No. 1 withhold information she only knew and deprive the voters of the information that they need to choose their representative wisely, which amounts to

misleading and influencing the voters while exercising their franchise rights thereby making the Respondent No. 1's election liable to be set aside under Section 100(1)(d)(i) of the RP Act, 1951.

Relying on a number of judgments rendered by the Hon'ble Supreme Court of India, it has been submitted on behalf of the petitioner that it is a well settled position of law that disclosing one's true identity is not just a formality but a crucial part of fair and transparent election and that a person's name is a key part of their identity and any change to it must follow a clear and verifiable legal process and the same is essential for public interest and national security. It has also been submitted that voters have a fundamental right under Article 19(1)(a) of the Constitution of India to know the full background of candidates including their real names and that the withholding of such information or hiding facts about one's identity or assets are found to directly harm the integrity of elections and that such non-disclosure not only breach legal duties but also deprive voters of the information they need to choose their representative wisely.

[16:5] In support of the contentions, the following case laws have been cited on behalf of the petitioner:-

- 1) (2021) 7 SCC 535 "Jigya Yadav v. Central Board of Secondary Education & ors." wherein it has been held as under:-

"125. Identity, therefore, is an amalgam of various internal and external including acquired characteristics of an individual and name can be regarded as one of the foremost indicators of identity. And therefore, an individual must be in complete control of her name and law must enable her to retain as well as to exercise such control freely "for all times". Such control would inevitably include the aspiration of an individual to be recognised by a different name for a just cause. Article 19(1)(a) of the Constitution provides for a guaranteed right to freedom of speech and expression. In light of Navtej Singh Johar, this freedom would include the freedom to lawfully express one's identity in the manner of their liking. In other words, expression of identity is a protected element of freedom of expression under the Constitution."

"127. To begin with, it is important to explain what we understand by this right to change of name as a constituent element of freedom of expression of identity. Any change in identity of an individual has to go through multiple steps and it cannot be regarded as complete without proper fulfilment of those steps. An individual may self-identify oneself with any title or epithet at any point of time. But the change of identity would not be regarded as formally or legally complete until and unless the State and its agencies take note thereof in their records. Afterall, in social sphere, an individual is not only recognised by how an individual identifies oneself but also by how his/her official records identify him/her. For, in every public transaction of an individual, official records introduce the person by his/her name and other relevant particulars."

- 2) 2023 SCC OnLine All 4207 "Mohd. Same Rao Vs. State of U.P. & ors." wherein it has been held as under:

"62. Congruency in all identity related documents is an essential requirement of public interest and national security. In case a person is allowed to carry identification documents with separate names it would lead to confusion in identity and possibility of mischief. The State has to proactively prevent any such possibility of mischief or misuse."

"64. Secretary, Ministry of Home, Government of India and the Chief Secretary, Government of Uttar Pradesh, Lucknow, shall create appropriate legal and administrative frameworks to ensure that both Governments work in concert to achieve the end of making identity related identity documents consistent and removing anomalies therein."

3) (2002) 5 SCC 294 "Union of India Vs. Association for Democratic Reforms & anr." wherein it has been held as under:-

"22. For health of democracy and fair election, whether the disclosure of assets by a candidate, his/her qualification and particulars regarding involvement in criminal cases are necessary for informing voters, maybe illiterate, so that they can decide intelligently, whom to vote for. In our opinion, the decision of even an illiterate voter, if properly educated and informed about the contesting candidate, would be based on his own relevant criteria of selecting a candidate. In democracy, periodical elections are conducted for having efficient governance for the country and for the benefit of citizens — voters. In a democratic form of government, voters are of utmost importance. They have right to elect or re-elect on the basis of the antecedents and past performance of the candidate. The voter has the choice of deciding whether holding of educational qualification or holding of property is relevant for electing or re-electing a person to be his representative. Voter has to decide whether he should cast vote in favour of a candidate who is involved in a criminal case. For maintaining purity of elections and a healthy democracy, voters are required to be educated and well informed about the contesting candidates. Such information would include assets held by the candidate, his qualification including educational qualification and antecedents of his life including whether he was involved in a criminal case and if the case is decided — its result, if pending — whether charge is framed or cognizance is taken by the court. There is no necessity of suppressing the relevant facts from the voters."

"34. From the aforequoted paragraph, it can be deduced that the members of a democratic society should be sufficiently informed so that they may influence intelligently the decisions which may affect themselves and this would include their decision of casting votes in favour of a particular candidate. If there is a disclosure by a candidate as sought for then it would

strengthen the voters in taking appropriate decision of casting their votes."

"38. If right to telecast and right to view sport games and the right to impart such information is considered to be part and parcel of Article 19(1)(a), we fail to understand why the right of a citizen/voter — a little man — to know about the antecedents of his candidate cannot be held to be a fundamental right under Article 19(1)(a). In our view, democracy cannot survive without free and fair election, without free and fairly informed voters. Votes cast by uninformed voters in favour of X or Y candidate would be meaningless. As stated in the aforesaid passage, one-sided information, disinformation, misinformation and non-information, all equally create an uninformed citizenry which makes democracy a farce. Therefore, casting of a vote by a misinformed and non-informed voter or a voter having one-sided information only is bound to affect the democracy seriously. Freedom of speech and expression includes right to impart and receive information which includes freedom to hold opinions. Entertainment is implied in freedom of "speech and expression" and there is no reason to hold that freedom of speech and expression would not cover right to get material information with regard to a candidate who is contesting election for a post which is of utmost importance in the democracy."

"46. To sum up the legal and constitutional position which emerges from the aforesaid discussion, it can be stated that:

- 1. The jurisdiction of the Election Commission is wide enough to include all powers necessary for smooth conduct of elections and the word "elections" is used in a wide sense to include the entire process of election which consists of several stages and embraces many steps.*
- 2. The limitation on plenary character of power is when Parliament or State Legislature has made a valid law relating to or in connection with elections, the Commission is required to act in conformity with the said provisions. In case where law is silent, Article 324 is a reservoir of power to act for the avowed purpose of having free and fair election. The Constitution has taken care of leaving scope for exercise of residuary power by the Commission in its own right as a creature of the Constitution in the infinite variety of situations that may emerge from time to time in a large democracy, as every contingency could not be foreseen or anticipated by the enacted laws or the rules. By*

issuing necessary directions, the Commission can fill the vacuum till there is legislation on the subject. In Kanhiya Lal Omar case the Court construed the expression “superintendence, direction and control” in Article 324(1) and held that a direction may mean an order issued to a particular individual or a precept which many may have to follow and it may be a specific or a general order and such phrase should be construed liberally empowering the Election Commission to issue such orders.

3. *The word “elections” includes the entire process of election which consists of several stages and it embraces many steps, some of which may have an important bearing on the process of choosing a candidate. Fair election contemplates disclosure by the candidate of his past including the assets held by him so as to give a proper choice to the candidate according to his thinking and opinion. As stated earlier, in Common Cause case the Court dealt with a contention that elections in the country are fought with the help of money power which is gathered from black sources and once elected to power, it becomes easy to collect tons of black money, which is used for retaining power and for re-election. If on an affidavit a candidate is required to disclose the assets held by him at the time of election, the voter can decide whether he could be re-elected even in case where he has collected tons of money.*

Presuming, as contended by the learned Senior Counsel Mr Ashwani Kumar, that this condition may not be much effective for breaking a vicious circle which has polluted the basic democracy in the country as the amount would be unaccounted. Maybe true, still this would have its own effect as a step-in-aid and voters may not elect law-breakers as law-makers and some flowers of democracy may blossom.

4. *To maintain the purity of elections and in particular to bring transparency in the process of election, the Commission can ask the candidates about the expenditure incurred by the political parties and this transparency in the process of election would include transparency of a candidate who seeks election or re-election. In a democracy, the electoral process has a strategic role. The little man of this country would have basic elementary right to know full particulars of a candidate who is to represent him in Parliament where laws to bind his liberty and property may be enacted.*

5. *The right to get information in democracy is recognised all throughout and it is a natural right flowing from the concept of democracy. At this stage, we would refer to Article 19(1) and (2) of the International Covenant on Civil and Political Rights, which is as under:*

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

(2) Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”

6. *On cumulative reading of a plethora of decisions of this Court as referred to, it is clear that if the field meant for legislature and executive is left unoccupied detrimental to the public interest, this Court would have ample jurisdiction under Article 32 read with Articles 141 and 142 of the Constitution to issue necessary directions to the executive to subserve public interest.*

7. *Under our Constitution, Article 19(1)(a) provides for freedom of speech and expression. Voter's speech or expression in case of election would include casting of votes, that is to say, voter speaks out or expresses by casting vote. For this purpose, information about the candidate to be selected is a must. Voter's (little man — citizen's) right to know antecedents including criminal past of his candidate contesting election for MP or MLA is much more fundamental and basic for survival of democracy. The little man may think over before making his choice of electing law-breakers as law-makers.”*

4) (2003) 4 SCC 399 "People's Union for Civil Liberties (PUCL) & anr. v. Union of India" wherein it has been held as under-

“16. Firstly, it is to be made clear that the judgment rendered by this Court in Assn. for Democratic Reforms has attained finality. The voters' right to know the antecedents of the candidates is based on interpretation of Article 19(1)(a) which provides that all citizens of this country would have fundamental right to “freedom of speech and expression” and this phrase is

construed to include fundamental right to know relevant antecedents of the candidate contesting the elections."

"17. Further, even though we are not required to justify the directions issued in the aforesaid judgment, to make it abundantly clear that it is not ipse dixit and is based on sound foundation, it can be stated thus:

— Democratic republic is part of the basic structure of the Constitution.

— For this, free and fair periodical elections based on adult franchise are a must.

— For having unpolluted healthy democracy, citizens-voters should be well informed."

"18. So, the foundation of a healthy democracy is to have well-informed citizens-voters. The reason to have right of information with regard to the antecedents of the candidate is that voter can judge and decide in whose favour he should cast his vote. It is the voter's discretion whether to vote in favour of an illiterate or literate candidate. It is his choice whether to elect a candidate against whom criminal cases for serious or non-serious charges were filed but is acquitted or discharged. He is to consider whether his candidate may or may not have sufficient assets so that he may not be tempted to indulge in unjustified means for accumulating wealth. For assets or liability, the voter may exercise his discretion in favour of a candidate whose liability is minimum and/or there are no overdues of public financial institution or government dues. From this information, it would be, to some extent, easy to verify whether unaccounted money is utilized for contesting election and whether a candidate is contesting election for getting rich or after being elected to what extent he became richer. Exposure to public scrutiny is one of the known means for getting clean and less polluted persons to govern the country. A little man — a citizen — a voter is the master of his vote. He must have necessary information so that he can intelligently decide in favour of a candidate who satisfies his criterion of being elected as an MP or MLA. On occasions, it is stated that we are not having such intelligent voters. This is no excuse. This would be belittling a little citizen/voter. He himself may be illiterate but still he would have the guts to decide in whose favour he should cast his vote. In any case, for having free and fair election and not to convert democracy into a mobocracy and mockery or a farce, information to voters is a necessity."

5) (2015) 3 SCC 467 "Krishnamoorthy v. Sivakumar & ors."

wherein it has been held as under –

"91. The purpose of referring to the instructions of the Election Commission is that the affidavit sworn by the candidate has to be put in public domain so that the electorate can know. If they know the half truth, as submits Mr Salve, it is more dangerous, for the electorate is denied of the information which is within the special knowledge of the candidate. When something within special knowledge is not disclosed, it tantamounts to fraud, as has been held in S.P. Chengalvaraya Naidu v. Jagannath. While filing the nomination form, if the requisite information, as has been highlighted by us, relating to criminal antecedents, is not given, indubitably, there is an attempt to suppress, effort to misguide and keep the people in dark. This attempt undeniably and undisputedly is undue influence and, therefore, amounts to corrupt practice. It is necessary to clarify here that if a candidate gives all the particulars and despite that he secures the votes that will be an informed, advised and free exercise of right by the electorate. That is why there is a distinction between a disqualification and the corrupt practice. In an election petition, the election petitioner is required to assert about the cases in which the successful candidate is involved as per the rules and how there has been non-disclosure in the affidavit. Once that is established, it would amount to corrupt practice. We repeat at the cost of repetition, it has to be determined in an election petition by the Election Tribunal."

6) (2018) 4 SCC 699 "Lok Prahari through its General Secretary

S.N. Shukla Vs. Union of India, wherein it has been held as under -

"57. Collection of such data can be undertaken by any governmental agency or even the Election Commission. The present writ petition seeks that the State be compelled to make a law authorising the collection of data pertaining to the financial affairs of the legislators. The petitioner submits that the first step in the collection of data should be to call upon those who seek to get elected to a legislative body to make a declaration of (i) their assets and those of their associates (which is already a requirement under Section 33 of the 1951 RP Act, etc.); and (ii) the sources of their income."

"58. The obligation to make the second of the abovementioned two declarations arises as a corollary to the fundamental right of the

voter under Article 19(1)(a) to know the relevant information with respect to the candidate, to enable the voter to make an assessment and make an appropriate choice of his representative in the legislature. The enforcement of such a fundamental right needs no statutory sanction. This Court and the High Courts are expressly authorised by the Constitution to give appropriate directions to the State and its instrumentalities and other bodies for enforcement of fundamental rights. On the other hand, nobody has the fundamental right to be a legislator or to contest an election to become a legislator. They are only constitutional rights structured by various limitations prescribed by the Constitution and statutes like the 1951 RP Act. The Constitution expressly permits the structuring of those rights by Parliament by or under the authority of law by prescribing further qualifications or disqualifications. To contest an election for becoming a legislator, a candidate does not require the consent of all the voters except the appropriate number of proposers being electors of the Constituency, and compliance with other procedural requirements stipulated under the 1951 RP Act and the Rules made thereunder. But to get elected, every candidate requires the approval of the "majority" of the number of voters of the Constituency choosing to exercise their right to vote. Voters have a fundamental right to know the relevant information about the candidates. For reasons discussed earlier, the financial background in all its aspects, of the candidate and his/her associates is relevant and critical information. Therefore, a candidate's constitutional right to contest an election to the legislature should be subservient to the voter's fundamental right to know the relevant information regarding the candidate; information which is critical to the making of an informed and rational choice in this area."

- 7) 2020 SCC OnLine Mani 312 "Mayanglambam Rameshwar Singh Vs. Yengkhom Surchandra Singh & anr." wherein it has been held as under –

"114. One may look this aspect from another perspective. If the very basis of the election of the returned candidate, i.e., the nomination of the candidate which is stated to be valid, is later on found to be not valid, as in the present case, the very basis and foundation for sustaining the election of the returned candidate goes. In other words, once the foundation is taken away, the election will have no basis to stand and thus will be rendered otiose. He cannot be treated to have been elected at all. Hence, the moment there is a finding that the nomination of

the returned candidate has been improperly accepted, it immediately materially affects the result of the returned candidate. Accordingly, if there be any burden on the petitioner to prove that the result of the election of the returned candidate has been materially affected by improper acceptance of the nomination of the returned candidate, such a burden also gets discharged immediately. Thus, there will not be any need to prove further on the part of the petitioner that the improper acceptance of the nomination of the returned candidate has materially affected the result of the election of the returned candidate. For the reasons discussed above, the election of the first respondent is declared void under Section 100(1)(d)(i) of the RP Act. Issue Nos. 1, 2, 3, 5 and 6 are answered in favour of the petitioner and against the first respondent.”

- [16:6] The case of the Respondent No. 1 is that she had clearly and correctly mentioned her name as **Sagolshem Kebi Devi** in the Form-26 Affidavit submitted along with her nomination papers, which is consistent with the Electoral Roll entry of her name at Sl. No. 426 in Part No. 14 of the 21-Naoriya Pakhanglakpa Assembly Constituency, 2022. In her written statement at Para. No. 5, it is stated that her original name is “**Kebi**” and that at the time of her admission in school, her parents have adopted the name “**Sonalika**” and recorded the same name in the school records, however, the Respondent No. 1 is known by her original name “**Kebi**” in the school as well as in her locality rather than by the name “**Sonalika**”. In the deposition of Respondent No.1, it has also been stated that she could not complete Class-X course and she has been commonly known by her original name **Kebi** and that she

never used her name **Sonalika** after she left her school and adopted her original name **Kebi** and as such, she has enrolled her name as **Kebi** in the Aadhaar Card, Passport, PAN Card, Electoral Voter ID Card and Electoral Roll. Having thus established her identity by the said documents, the Respondent No. 1 in bona fide swear the Affidavit in the name of **Kebi**.

[16:7] It has been argued on behalf of the Respondent No. 1 that her name **Kebi** as recorded in the Aadhaar Car (Exhibit D/2) Passport (Exhibit D/3), PAN Card (Exhibit D/4) and Voter ID Card (Exhibit D/5) and Electoral Roll (Exhibit D/6) unequivocally establish the identity of the Respondent No. 1 as **Kebi** and her use of this name in the nomination papers as well as in the Form-26 Affidavit are valid and non-disclosure of the name “**Sonalika**”, which is an alternative name, does not amount to swearing of false Affidavit or non-disclosure of any vital information which will amount to defect of substantial nature.

[16:8] It has been argued on behalf of the Respondent No. 1 that under Section 33(4) of the Representation of the People Act, 1951, it is provided that for a valid nomination, the Returning Officer is under obligation to ensure that the names and the

electoral roll numbers of the candidate and his proposer as entered in the nomination papers are the same as those in the Electoral Roll. It has also been argued that under Section 36(7) of the RP Act, 1951, it is provided that a certified copy of an entry in the Electoral Roll for the time being in force of a constituency shall be conclusive evidence to the fact that the person referred to in that entry is an elector for that constituency, unless it is proved that he is subject to a disqualification mentioned in Section 16 of the RP Act, 1950. The sum and substance of the argument advanced on behalf of Respondent No. 1 is that the use of her name **Kebi** in her nomination papers in the Form-26 Affidavit was bona fide, which is supported by official documents such as Aadhaar Card, Passport, PAN Card, Electoral Voter ID Card, Electoral Roll, etc. and not using her name **Sonalika** does not amount to non-disclosure or defect, which is substantial in nature or will not amount to filing of a false affidavit.

[16:9] In the present case, the admitted position of the facts available on record are:

- (a) The Respondent No. 1 agreed and admitted that her name **“Sonalika”** was recorded in the official records of the school viz. Little Master English Higher Secondary School,

Samurou, where she studied up to Class-X as well as in the records of the Board of Secondary Education, Manipur;

- (b) The Respondent No. 1 later recorded her name “**Kebi**” in her Aadhaar Card, Passport, PAN Card, Electoral Voter ID Card and in the Electoral Roll of the 21-Naoriya Pakhanglakpa Assembly Constituency, 2022 and such entry of her name has not been challenged by anyone;
- (c) In his cross-examination (at Question No. 19), the petitioner has agreed that the information given by the Respondent No. 1 in her Form-26 Affidavit (at Para. No. 2 of Part-A) that her name, i.e., **Sagolshem Kebi Devi** as enrolled in 21-Naoriya Pakhanglakpa Assembly Constituency, Manipur at Sl. No. 426 in Part No. 14 is true; and
- (d) The Respondent No. 1 has not disclosed her name **Sonalika** in the Form-26 Affidavit.

[16:10] The questions which rose for consideration in connection with the Issue No. 1 are:-

- (i) Whether non-disclosure of the Respondent No. 1’s name “**Sonalika**” in her Form-26 Affidavit would amount to defect, which is substantial in nature?

- (ii) Whether such non-disclosure will amount to swearing of false Affidavit with regard to disclosure of vital information of the candidate?
- (iii) Whether such non-disclosure would materially affect the election of the Respondent No. 1.

[16:11] In my considered view, all the above three questions are interlinked and as such, the same are considered jointly. On examination of the original documents exhibited by the Respondent No. 1, it is found that the Aadhaar Card of the petitioner (Exhibit D/2) was issued on 17-01-2014 wherein her name is recorded as **Sagolshem Kebi Devi**, Passport of the petitioner (Exhibit D/3) was issued on 13-05-2019 wherein her name is recorded as **Sagolshem Kebi Devi**, her Electoral ID Card (Exhibit D/5) was issued on 11-09-2020 wherein her name is recorded as **Sagolshem Kebi Devi** and the Electoral Roll for the 21-Naoriya Pakhanglakpa Assembly Constituency 2022 was notified on 05-01-2022 wherein her name was entered at Sl. No. 426 in Part No. 14 as **Sagolshem Kebi Devi**. All the aforesaid official documents came into existence well before starting of the election process in the month of February, 2022 and no one, including the present petitioner, challenged the correctness or the validity of any of the said

documents till today. In absence of any such challenge being made, this Court cannot examine the correctness or validity of any of the aforesaid documents at this point of time and this Court can come to a logical conclusion that the said official documents or entries made therein are correct and valid. Accordingly, this court can come to the conclusion that the Respondent No. 1 has correctly given her name in the Form-26 Affidavit and the Respondent No. 1 has changed and adopted her name as “**Kebi**” and stopped using her name “**Sonalika**” as recorded in her school records.

[16:12] There is another aspect of the matter to be considered by this court. Under Section 36(2)(b) of the RP Act, 1951, it is clearly provided that the Returning Officer can reject any nomination on the ground that there has been a failure to comply with any of the provisions of Section 33 or Section 34 of the Act. Under Section 33(4) of the RP Act 1951, it is provided that on presentation of a nomination paper, the Returning Officer shall satisfy himself that the names and Electoral Roll numbers of the candidate and his proposer as entered in the nomination paper are the same as those entered in the Electoral Roll. Under Section 36(7), it is provided that a certified copy of an entry in the Electoral Roll for the time being in force of a

constituency shall be conclusive evidence of the fact that the person referred to in that entry is an elector for that constituency, unless it is proved that he is subject to a disqualification mentioned in Section 16 of the RP Act, 1950.

[16:13] In the present case, it is an admitted fact that the Respondent No. 1 disclosed her name as **Sagolshem Kebi Devi** in her Form-26 Affidavit submitted along with her nomination papers. In the cross-examination (at Question No. 19), the petitioner himself has agreed that the information given by the Respondent No. 1 in her Form-26 Affidavit that her name, i.e., **Sagolshem Kebi Devi** as enrolled in 21-Naoriya Pakhanglakpa Assembly Constituency, Manipur at Serial No. 426 in Part No. 14 is true. The said Electoral Roll is exhibited as D/6 (Colly.) by the Respondent No. 1 and her name is found to be recorded at Sl. No. 426 of the said Electoral Roll. Taking into consideration such admitted position of facts and the provisions of Section 36(2)(b) read with Section 33(4) and 36(7) , this court is of the considered view that the Respondent No. 1 had correctly given or disclosed her name in her Form-26 Affidavit and that she has not committed any act contrary to law in disclosing her name as **Sagolshem Kebi Devi**.

[16:14] Moreover, in the present election petition, the petitioner has not pleaded anything nor any argument has been advanced on his behalf as to how non-disclosure of the Respondent No. 1's name **Sonalika** in her Form-26 affidavit would materially affect the result of her election in any way. The petitioner has also not cited any particular statutory provision under which the respondent No. 1 is obligated to disclose her alternate name "**Sonalika**" while filing her nomination papers. In the absence of any pleadings or materials to support such contention, this court cannot subscribe to the bald statement made by the petitioner that non-disclosure of her name "**Sonalika**" by the respondent No. 1 in her Form-26 Affidavit is a defect which is substantial in nature and would materially affect the result of her election.

This court respectfully agreed with the principles laid down by the Hon'ble Apex Court in the cases of "**Jigya Yadav**" (supra) "**Md. Same Rao**" (supra), "**Association of Democratic Reforms**" (supra), "**People's Union for Civil Liberties**" (supra), "**Krishnamoorthy**" (supra), "**Lok Prahari**" (supra) and "**Mayanglambam Rameshwar**" (supra) cited on behalf of the petitioner. However, in the facts and circumstances of the present case, this court is of the

considered view that the case laws cited by the petitioner is of no help to his case.

Taking into consideration the findings and the reasons given herein above, this court cannot also agree with the submissions advanced on behalf of the petitioner that the Respondent No. 1 did not disclosed vital information in her Form-26 Affidavit and swear a false affidavit with regard to her name. Accordingly, Issue No. 1 is decided in favour of the Respondent No 1 and against the petitioner.

[17] Issues No. 2 and 3 are taken up jointly for consideration.

Issue No. 2:

Whether the respondent No. 1 did not disclose the non-agricultural lands owned by her spouse in Form 26 affidavit filed by the respondent No. 1 along with her nomination paper for the 12th Manipur Legislative Assembly Election, 2022 in respect of 21-Naoriya Pakhanglakpa Assembly Constituency and whether such non-disclosure would materially affect the election of the respondent No. 1?

Issue No. 3:

Whether the respondent No. 1 did not correctly disclose the purchase cost of property belonging to her spouse in Form 26 affidavit filed by her along with her nomination paper for the 12th Manipur Legislative Assembly Election,

2022 in respect of 21-Naoriya Pakhanglakpa Assembly Constituency and whether such non-disclosure would materially affect the election of the respondent No. 1?

[17:1] With regard to the Issue No. 2, the case of the petitioner is that the spouse of the Respondent No. 1 is the owner and pattadar of the following three homestead lands:-

- (i) Patta No. 106(old), 214(new) covered by C.S. Dag No. 837 measuring an area of 0.01670 hectare/ 0.04127 acre situated at 46-Naoriya Pakhanglakpa recorded in the name of Soraisam Gobin Singh, S/o of Brajamani Singh;
- (ii) Patta No. 265(old), 598/1598(new) covered by C.S. Dag No. Sheet-1 758/1796 measuring an area of 0.01970 hectare/ 0.04868 acre situated at 46-Naoriya Pakhanglakpa recorded in the name of Soraisam Gobin Singh, S/o Brajamani Singh of Heirangoithong Ningthemcha Karong;
- (iii) Patta No. 964/ 1601 covered by C.S. Dag No. Sheet-1 1184/ 1799 measuring an area of 0.02124 hectare/ 0.05248 acre situated at 46-Naoriya Pakhanglakpa recorded in the name of Soraisam Gobin Singh, S/o Brajamani Singh of Heirangoithong Ningthemcha Karong. The petitioner produced and exhibited certified copies of the Jamabandi (land records) of the said three homestead lands and exhibited them as

Exhibit P-1/41, Exhibit P-1/42 and Exhibit P-1/43 respectively. Two official witness, viz., PW No. 5, Md. Zamilur Rahman, Sub-Deputy Collector, Imphal West (Central) and PW No. 7, Shri Namoijam Ranjan Singh, Supervisor Kanango, Imphal West (Central), who are the officials who prepared and issued certified copies of the said Jamabandi, were examined and they confirmed and established the authenticity of the certified copies of the said three Jamabandi (land records).

[17:2] It is the case of the petitioner that the Respondent No. 1 did not deny that the aforesaid three homestead lands belong to and are owned by her spouse. However, at Para. 7 Part B(ii) of the Form-26 Affidavit for disclosure of non-agricultural lands against the column of spouse, the Respondent No. 1 wrote "N/A" thereby concealing or not disclosing the vital information that the Respondent No. 1's spouse have three non-agricultural lands. According to the petitioner, such non-disclosure are defects which is substantial in character. The Returning Officer ought to have rejected her nomination especially when the Returning Officer has knowledge derived from the disclosure made by the Respondent No. 1 at Para. 7 Part-B(iv) of the Form-26 Affidavit that there are residential buildings at the said three homestead lands belonging to

her spouse. According to the petitioner, the nomination papers of the Respondent No. 1 was improperly accepted by the Returning Officer thereby materially affecting the election of the Respondent No. 1.

[17:3] With regard to Issue No. 3, it is the case of the petitioner that at Para. 7 Part-B(iv) of the Form-26 Affidavit, the Respondent No. 1 disclosed that homestead land under Patta No. 106(old), 214(new) Dag No. 837 of Village No. 46-Naoriya Pakhanglakpa, Imphal West, belonging to the spouse of the Respondent No. 1 is not an inherited property and stated that it is a self-acquired property by way of purchase at the cost of ₹ 1,40,000/- (Rupees one lakh forty thousand). According to the petitioner, the said declaration made by the Respondent No. 1 in the aforesaid column with regard to the cost of the land is a false statement and amounts to swearing of a false affidavit. According to the petitioner, the cost of the said homestead land/ immovable property at the time of purchase is ₹ 5,40,000/- (Rupees five lakh forty thousand). In support of such statements, the petitioner produced a certified copy of the registered Sale Deed executed on 10-11-2017 between one Chongtham Basaraj Singh and Soraisham Gobin Singh (spouse of the Respondent No. 1) in respect of the aforesaid

homestead land which is exhibited as Exhibit P-1/44. In the said registered Sale Deed, the price/ cost for purchasing the aforesaid homestead land is clearly recorded and declared as ₹ 5,40,000/- (Rupees five lakh forty thousand). It is the case of the petitioner that the correctness and authenticity of the certified copy of the said registered Sale Deed dated 10-11-2017 was verified and confirmed by PW No. 8, who is an official witness, Ms. Ak. Dilima Devi, Sub-Registrar (HQ) Imphal, Manipur.

[17:4] It has been submitted on behalf of the petitioner that in view of the above false statements made by the Respondent No. 1 in her Form-26 Affidavit, the nomination papers of the Respondent No. 1 is liable to be rejected by the Returning Officer under Section 36(2) of the RP Act, 1951 and that the Respondent No. 1 should not have been allowed to contest the 12th Manipur Legislative Assembly Election, 2022 from 21-Naoriya Pakhanglakpa Assembly Constituency.

[17:5] It has also been contended on behalf of the petitioner that by disclosing false statements in her Form-26 Affidavit with regard to the assets of her spouse, the Respondent No. 1 had violated Article 19 of the Constitution of India thereby

misleading the electorate from their free exercise of electoral rights and that had the electorate been made known of such material facts, they would not have voted for the Respondent No. 1. Hence, the votes secured by the Respondent No. 1 by way of fraud and concealing of material information have betrayed the decision of the voters to vote for her which would amount to undue influence of corrupt practice, as defined under Section 123(2) of the RP Act, 1951. Therefore, the election of the Respondent No. 1 having been materially affected by such corrupt practice is liable to be declared as void.

[17:6] The following case laws have been cited in support of the case of the petitioner:-

- 1) (2002) 5 SCC 294 “Union of India Vs. Association for Democratic Reforms & anr.”** wherein it has been held as under:-

“22. For health of democracy and fair election, whether the disclosure of assets by a candidate, his/her qualification and particulars regarding involvement in criminal cases are necessary for informing voters, maybe illiterate, so that they can decide intelligently, whom to vote for. In our opinion, the decision of even an illiterate voter, if properly educated and informed about the contesting candidate, would be based on his own relevant criteria of selecting a candidate. In democracy, periodical elections are conducted for having efficient governance for the country and for the benefit of citizens — voters. In a democratic form of government, voters are of utmost importance. They have right to elect or re-elect on the basis of the antecedents and past performance of the candidate. The

voter has the choice of deciding whether holding of educational qualification or holding of property is relevant for electing or re-electing a person to be his representative. Voter has to decide whether he should cast vote in favour of a candidate who is involved in a criminal case. For maintaining purity of elections and a healthy democracy, voters are required to be educated and well informed about the contesting candidates. Such information would include assets held by the candidate, his qualification including educational qualification and antecedents of his life including whether he was involved in a criminal case and if the case is decided — its result, if pending — whether charge is framed or cognizance is taken by the court. There is no necessity of suppressing the relevant facts from the voters."

"34. From the aforequoted paragraph, it can be deduced that the members of a democratic society should be sufficiently informed so that they may influence intelligently the decisions which may affect themselves and this would include their decision of casting votes in favour of a particular candidate. If there is a disclosure by a candidate as sought for then it would strengthen the voters in taking appropriate decision of casting their votes."

"38. If right to telecast and right to view sport games and the right to impart such information is considered to be part and parcel of Article 19(1)(a), we fail to understand why the right of a citizen/voter — a little man — to know about the antecedents of his candidate cannot be held to be a fundamental right under Article 19(1)(a). In our view, democracy cannot survive without free and fair election, without free and fairly informed voters. Votes cast by uninformed voters in favour of X or Y candidate would be meaningless. As stated in the aforesaid passage, one-sided information, disinformation, misinformation and non-information, all equally create an uninformed citizenry which makes democracy a farce. Therefore, casting of a vote by a misinformed and non-informed voter or a voter having one-sided information only is bound to affect the democracy seriously. Freedom of speech and expression includes right to impart and receive information which includes freedom to hold opinions. Entertainment is implied in freedom of "speech and expression" and there is no reason to hold that freedom of speech and expression would not cover right to get material information with regard to a candidate who is contesting election for a post which is of utmost importance in the democracy."

"46. To sum up the legal and constitutional position which emerges from the aforesaid discussion, it can be stated that:

- 1. The jurisdiction of the Election Commission is wide enough to include all powers necessary for smooth conduct of elections and the word "elections" is used in a wide sense to include the entire process of election which consists of several stages and embraces many steps.**
- 2. The limitation on plenary character of power is when Parliament or State Legislature has made a valid law relating to or in connection with elections, the Commission is required to act in conformity with the said provisions. In case where law is silent, Article 324 is a reservoir of power to act for the avowed purpose of having free and fair election. The Constitution has taken care of leaving scope for exercise of residuary power by the Commission in its own right as a creature of the Constitution in the infinite variety of situations that may emerge from time to time in a large democracy, as every contingency could not be foreseen or anticipated by the enacted laws or the rules. By issuing necessary directions, the Commission can fill the vacuum till there is legislation on the subject. In *Kanhiya Lal Omar* case the Court construed the expression "superintendence, direction and control" in Article 324(1) and held that a direction may mean an order issued to a particular individual or a precept which many may have to follow and it may be a specific or a general order and such phrase should be construed liberally empowering the Election Commission to issue such orders.**
- 3. The word "elections" includes the entire process of election which consists of several stages and it embraces many steps, some of which may have an important bearing on the process of choosing a candidate. Fair election contemplates disclosure by the candidate of his past including the assets held by him so as to give a proper choice to the candidate according to his thinking and opinion. As stated earlier, in *Common Cause* case the Court dealt with a contention that elections in the country are fought with the help of money power which is gathered from black sources and once elected to power, it becomes easy to collect tons of black money, which is used for retaining power and for re-election. If on an affidavit a candidate is required to disclose the assets held by him at the time of election, the voter can decide whether he could be re-elected even in case where he has collected tons of money.**

Presuming, as contended by the learned Senior Counsel Mr Ashwani Kumar, that this condition may not be much effective for breaking a vicious circle which has polluted the basic democracy in the country as the amount would be unaccounted. Maybe true, still this would have its own effect as a step-in-aid and voters may not elect law-breakers as law-makers and some flowers of democracy may blossom.

4. *To maintain the purity of elections and in particular to bring transparency in the process of election, the Commission can ask the candidates about the expenditure incurred by the political parties and this transparency in the process of election would include transparency of a candidate who seeks election or re-election. In a democracy, the electoral process has a strategic role. The little man of this country would have basic elementary right to know full particulars of a candidate who is to represent him in Parliament where laws to bind his liberty and property may be enacted.*
5. *The right to get information in democracy is recognised all throughout and it is a natural right flowing from the concept of democracy. At this stage, we would refer to Article 19(1) and (2) of the International Covenant on Civil and Political Rights, which is as under:*

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

(2) Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”
6. *On cumulative reading of a plethora of decisions of this Court as referred to, it is clear that if the field meant for legislature and executive is left unoccupied detrimental to the public interest, this Court would have ample jurisdiction under Article 32 read with Articles 141 and 142 of the Constitution to issue necessary directions to the executive to subserve public interest.*
7. *Under our Constitution, Article 19(1)(a) provides for freedom of speech and expression. Voter's speech or expression in case of election would include casting of votes, that is to say, voter speaks out or expresses by casting vote. For this purpose, information about the candidate to be selected is*

a must. Voter's (little man — citizen's) right to know antecedents including criminal past of his candidate contesting election for MP or MLA is much more fundamental and basic for survival of democracy. The little man may think over before making his choice of electing law-breakers as law-makers."

2) (2003) 4 SCC 399 “People’s Union for Civil Liberties (PUCL) & anr. Vs. Union of India & ors.” wherein it has been held as under:-

“16. Firstly, it is to be made clear that the judgment rendered by this Court in Assn. for Democratic Reforms has attained finality. The voters' right to know the antecedents of the candidates is based on interpretation of Article 19(1)(a) which provides that all citizens of this country would have fundamental right to “freedom of speech and expression” and this phrase is construed to include fundamental right to know relevant antecedents of the candidate contesting the elections.”

“17. Further, even though we are not required to justify the directions issued in the aforesaid judgment, to make it abundantly clear that it is not ipse dixit and is based on sound foundation, it can be stated thus:

- Democratic republic is part of the basic structure of the Constitution.*
- For this, free and fair periodical elections based on adult franchise are a must.*
- For having unpolluted healthy democracy, citizens-voters should be well informed.”*

“18. So, the foundation of a healthy democracy is to have well-informed citizens-voters. The reason to have right of information with regard to the antecedents of the candidate is that voter can judge and decide in whose favour he should cast his vote. It is the voter's discretion whether to vote in favour of an illiterate or literate candidate. It is his choice whether to elect a candidate against whom criminal cases for serious or non-serious charges were filed but is acquitted or discharged. He is to consider whether his candidate may or may not have sufficient assets so that he may not be tempted to indulge in unjustified means for accumulating wealth. For assets or liability, the voter may exercise his discretion in favour of a candidate whose liability is minimum and/or there are no overdues of public financial institution or government dues.

From this information, it would be, to some extent, easy to verify whether unaccounted money is utilized for contesting election and whether a candidate is contesting election for getting rich or after being elected to what extent he became richer. Exposure to public scrutiny is one of the known means for getting clean and less polluted persons to govern the country. A little man — a citizen — a voter is the master of his vote. He must have necessary information so that he can intelligently decide in favour of a candidate who satisfies his criterion of being elected as an MP or MLA. On occasions, it is stated that we are not having such intelligent voters. This is no excuse. This would be belittling a little citizen/voter. He himself may be illiterate but still he would have the guts to decide in whose favour he should cast his vote. In any case, for having free and fair election and not to convert democracy into a mobocracy and mockery or a farce, information to voters is a necessity."

- 3) (2014) 14 SCC 189 “Resurgence India Vs. Election Commission of India & anr.” wherein it has been held as under:-

“20. Thus, this Court held that a voter has the elementary right to know full particulars of a candidate who is to represent him in Parliament and such right to get information is universally recognised natural right flowing from the concept of democracy and is an integral part of Article 19(1)(a) of the Constitution. It was further held that the voter's speech or expression in case of election would include casting of votes, that is to say, voter speaks out or expresses by casting vote. For this purpose, information about the candidate to be selected is a must. Thus, in unequivocal terms, it is recognised that the citizen's right to know of the candidate who represents him in Parliament will constitute an integral part of Article 19(1)(a) of the Constitution of India and any act, which is derogative of the fundamental rights is at the very outset ultra vires.”

“29. What emerges from the above discussion can be summarised in the form of the following directions:

29.1. The voter has the elementary right to know full particulars of a candidate who is to represent him in Parliament/Assemblies and such right to get information is universally recognised. Thus, it is held that right to know about the candidate is a natural right flowing from the concept of democracy and is an integral part of Article 19(1)(a) of the Constitution.

29.2. *The ultimate purpose of filing of affidavit along with the nomination paper is to effectuate the fundamental right of the citizens under Article 19(1)(a) of the Constitution of India. The citizens are supposed to have the necessary information at the time of filing of nomination paper and for that purpose, the Returning Officer can very well compel a candidate to furnish the relevant information.*

29.3. *Filing of affidavit with blank particulars will render the affidavit nugatory.*

29.4. *It is the duty of the Returning Officer to check whether the information required is fully furnished at the time of filing of affidavit with the nomination paper since such information is very vital for giving effect to the “right to know” of the citizens. If a candidate fails to fill the blanks even after the reminder by the Returning Officer, the nomination paper is fit to be rejected. We do comprehend that the power of the Returning Officer to reject the nomination paper must be exercised very sparingly but the bar should not be laid so high that the justice itself is prejudiced.*

29.5. *We clarify to the extent that para 73 of People's Union for Civil Liberties case will not come in the way of the Returning Officer to reject the nomination paper when the affidavit is filed with blank particulars.*

29.6. *The candidate must take the minimum effort to explicitly remark as “NIL” or “Not Applicable” or “Not known” in the columns and not to leave the particulars blank.*

29.7. *Filing of affidavit with blanks will be directly hit by Section 125-A(i) of the RP Act. However, as the nomination paper itself is rejected by the Returning Officer, we find no reason why the candidate must be again penalised for the same act by prosecuting him/her.”*

4) (2015) 3 SCC 467 “Krishnamoorthy Vs. Sivakumar & ors.”

wherein it has been held as under:-

“91. The purpose of referring to the instructions of the Election Commission is that the affidavit sworn by the candidate has to be put in public domain so that the electorate can know. If they know the half truth, as submits Mr Salve, it is more dangerous, for the electorate is denied of the information which is within the special knowledge of the candidate. When something within special knowledge is not disclosed, it tantamounts to fraud, as has been held in S.P. Chengalvaraya Naidu v. Jagannath. While

filing the nomination form, if the requisite information, as has been highlighted by us, relating to criminal antecedents, is not given, indubitably, there is an attempt to suppress, effort to misguide and keep the people in dark. This attempt undeniably and undisputedly is undue influence and, therefore, amounts to corrupt practice. It is necessary to clarify here that if a candidate gives all the particulars and despite that he secures the votes that will be an informed, advised and free exercise of right by the electorate. That is why there is a distinction between a disqualification and the corrupt practice. In an election petition, the election petitioner is required to assert about the cases in which the successful candidate is involved as per the rules and how there has been non-disclosure in the affidavit. Once that is established, it would amount to corrupt practice. We repeat at the cost of repetition, it has to be determined in an election petition by the Election Tribunal."

- 5) (2018) 4 SCC 699 **"Lok Prahari through its General Secretary S.N. Shukla Vs. Union of India & ors."** wherein it has been held as under:-

"57. Collection of such data can be undertaken by any governmental agency or even the Election Commission. The present writ petition seeks that the State be compelled to make a law authorising the collection of data pertaining to the financial affairs of the legislators. The petitioner submits that the first step in the collection of data should be to call upon those who seek to get elected to a legislative body to make a declaration of (i) their assets and those of their associates (which is already a requirement under Section 33 of the 1951 RP Act, etc.); and (ii) the sources of their income."

"58. The obligation to make the second of the abovementioned two declarations arises as a corollary to the fundamental right of the voter under Article 19(1)(a) to know the relevant information with respect to the candidate, to enable the voter to make an assessment and make an appropriate choice of his representative in the legislature. The enforcement of such a fundamental right needs no statutory sanction. This Court and the High Courts are expressly authorised by the Constitution to give appropriate directions to the State and its instrumentalities and other bodies for enforcement of fundamental rights. On the other hand, nobody has the fundamental right to be a legislator or to contest an election to become a legislator. They are only constitutional rights structured by various limitations

prescribed by the Constitution and statutes like the 1951 RP Act. The Constitution expressly permits the structuring of those rights by Parliament by or under the authority of law by prescribing further qualifications or disqualifications. To contest an election for becoming a legislator, a candidate does not require the consent of all the voters except the appropriate number of proposers being electors of the Constituency, and compliance with other procedural requirements stipulated under the 1951 RP Act and the Rules made thereunder. But to get elected, every candidate requires the approval of the "majority" of the number of voters of the Constituency choosing to exercise their right to vote. Voters have a fundamental right to know the relevant information about the candidates. For reasons discussed earlier, the financial background in all its aspects, of the candidate and his/her associates is relevant and critical information. Therefore, a candidate's constitutional right to contest an election to the legislature should be subservient to the voter's fundamental right to know the relevant information regarding the candidate; information which is critical to the making of an informed and rational choice in this area."

"79. We shall now deal with Prayer 2 which seeks a declaration that non-disclosure of assets and sources of income would amount to "undue influence" — a corrupt practice under Section 123(2) of the 1951 RP Act. In this behalf, heavy reliance is placed by the petitioner on a judgment of this Court in Krishnamoorthy v. Sivakumar. It was a case arising under the Tamil Nadu Panchayats Act, 1994. A notification was issued by the State Election Commission stipulating that every candidate at an election to any panchayat is required to disclose information, inter alia, whether the candidate was accused in any pending criminal case of any offence punishable with imprisonment for two years or more and in which charges have been framed or cognizance has been taken by a court of law. In an election petition, it was alleged that there were certain criminal cases pending falling in the abovementioned categories but the said information was not disclosed by the returned candidate at the time of filing his nomination. One of the questions before this Court was whether such non-disclosure amounted to "undue influence" — a corrupt practice under the Panchayats Act. It may be mentioned that the Panchayats Act simply adopted the definition of a corrupt practice as contained in Section 123 of the 1951 RP Act."

"80. On an elaborate consideration of various aspects of the matter, this Court in Krishnamoorthy case held as follows: (SCC p. 522, para 91)

“91. ... While filing the nomination form, if the requisite information, as has been highlighted by us, relating to criminal antecedents, is not given, indubitably, there is an attempt to suppress, effort to misguide and keep the people in dark. This attempt undeniably and undisputedly is undue influence and, therefore, amounts to corrupt practice. ...”

“81. For the very same logic as adopted by this Court in Krishnamoorthy, we are also of the opinion that the non-disclosure of assets and sources of income of the candidates and their associates would constitute a corrupt practice falling under heading “undue influence” as defined under Section 123(2) of the 1951 RP Act. We, therefore, allow Prayer 2.”

- 6) 2021 SCC OnLine Mani 153 “Yumkham Erabot Singh Vs. Okram Henry Singh & anr.” wherein it has been held as under:-

“91. In the present Case, the Respondent No. 1 failed to disclose the name of his spouse and his dependents, pending Criminal Cases and educational qualification. As such, non-disclosure of such information would constitute a corrupt practice falling under heading ‘undue influence’ as defined under Section 123(2) of the RP Act, 1951.

- 7) 2020 SCC OnLine Mani 312 "Mayanglambam Rameshwar Singh Vs. Yengkhom Surchandra Singh & anr." wherein it has been held as under –

"114. One may look this aspect from another perspective. If the very basis of the election of the returned candidate, i.e., the nomination of the candidate which is stated to be valid, is later on found to be not valid, as in the present case, the very basis and foundation for sustaining the election of the returned candidate goes. In other words, once the foundation is taken away, the election will have no basis to stand and thus will be rendered otiose. He cannot be treated to have been elected at all. Hence, the moment there is a finding that the nomination of the returned candidate has been improperly accepted, it immediately materially affects the result of the returned candidate. Accordingly, if there be any burden on the petitioner to prove that the result of the election of the returned candidate has been materially affected by improper acceptance of the nomination of the returned candidate, such a burden also gets

discharged immediately. Thus, there will not be any need to prove further on the part of the petitioner that the improper acceptance of the nomination of the returned candidate has materially affected the result of the election of the returned candidate. For the reasons discussed above, the election of the first respondent is declared void under Section 100(1)(d)(i) of the RP Act. Issue Nos. 1, 2, 3, 5 and 6 are answered in favour of the petitioner and against the first respondent.”

- [17.7] With regard to the issue No. 2, the case of the respondent No. 1 is that there is only 2 (two) types of land in the State of Manipur as per the land laws of the State of Manipur, i.e., Agricultural Land & Homestead Land and there is no column to fill up under the Form-26 Affidavit for Homestead Land. The three homestead lands under the Jamabandis (land records) exhibited as Exhibit P-1/41, Exhibit P-1/42 and Exhibit P-1/43 are the Homestead Lands of the spouse of the respondent No. 1 and the detailed particulars of the said three Homestead Lands are disclosed by the Respondent No. 1 at Para. 7 Part-B(iv) (residential building) and the Respondent No. 1 stated “N/A” in Para 7 Part B(ii) (Non-Agricultural Land) of the Form-26 Affidavit submitted by the Respondent No. 1.

It has been submitted on behalf of the Respondent No. 1 that all the detailed information as required under Para. 7 Part-B(ii) in connection with the said 3 (three) homestead land of the spouse of the Respondent No. 1 will be exactly the

same as disclosed by the Respondent No. 1 at Para. 7 Part-B(iv) of the said Form-26 Affidavit. It has also been submitted on behalf of the Respondent No. 1 that the Respondent No. 1 disclosed all the detailed particulars of the said three homestead lands of her spouse at Para. 7 Part-B(iv) in good faith and in a fair and transparent manner without concealing anything and that there is no case of non-disclosure with regard to the said three homestead land.

It has further been submitted that the Respondent No. 1 made no attempt to suppress information in connection with the said three homestead lands of her spouse and that she provided all the required details of the said three homestead lands in her Form-26 Affidavit albeit at a wrong place due to lack of understanding without any intent to mislead anyone. According to the Respondent No. 1, there is no defect which is substantial in nature in her Form-26 Affidavit.

[17.8] With regard to the issue No. 3, it is the case of the Respondent No. 1 that the entry of the purchase cost of the homestead land of the petitioner's spouse under Patta No. 106 (Old) 214 (New) covered by C.S. Dag No. 837 of Village No. 46-Naoriya Pakhanglakpa (Exhibit P-1/41) as Rupees 1,40,000/- instead

of 5,40,000/- at Para 7 Part B(iv) of the Form-26 Affidavit of the Respondent No. 1 was an inadvertent error due to typographical mistake.

It has been submitted on behalf of the Respondent No. 3 that the said entry was not a deliberate mis-statement intent to mislead anyone but purely typographical mistake and that the petitioner collaborated the same in her deposition as well as at the time of her cross-examination by stating that she came to know about the mistake only after the present election petition was filed and when pointed out by her counsel. According to the Respondent No. 1, such an inadvertent error cause due to typographical mistake is not a defect which is substantial in nature.

[17.9] Following case laws have been cited in support submissions made on behalf of the respondent No. 1:-

(1) (1969) 2 SCC 452 "Kabul Singh v. Kundan Singh & ors." wherein it has been held as under:-

"8. It is not the case of the appellant that Tarsem Singh had incurred any of the disqualifications mentioned therein. No other provision of law in the Act or in any other law was brought to our notice disqualifying him from exercising his vote. The right to vote being purely a statutory right, the validity of any vote has to be examined on the basis of the provisions of the Act. We cannot travel outside those provisions to find out whether a particular vote was a valid vote or not. In view of Section 30 of the 1950 Act, civil courts have no jurisdiction to entertain or adjudicate upon any question whether any

*person is or is not entitled to register himself in the electoral roll in a constituency or to question the illegality of the action taken by or under the authority of the Electoral Registration Officer or any decision given by any authority appointed under that Act for the revision of any such roll. Part III of the 1950 Act deals with the preparation of rolls in a constituency. The provisions contained therein prescribe the qualifications for being registered as a voter (Section 19), disqualifications which disentitle a person from being registered as a voter (Section 16), revision of the rolls (Section 21), correction of entries in the electoral rolls (Section 22), inclusion of the names in the electoral rolls (Section 23), appeals against orders passed by the concerned authorities under Sections 22 and 23 (Section 24). Sections 14 to 24 of the 1950 Act are integrated provisions. They form a complete code by themselves in the matter of preparation and maintenance of electoral rolls. It is clear from those provisions that the entries found in the electoral roll are final and they are not open to challenge either before a civil court or before a tribunal which considers the validity of any election. In *B.M. Ramaswamy v. B.M. Krishnamurthy* this Court came to the conclusion that the finality of the electoral roll cannot be challenged in a proceeding challenging the validity of the election."*

(2) (2023) 16 SCC 279 "Senthilbalaji v. A.P. Geetha & ors."
wherein it has been held as under:-

*"11. The learned counsel submitted that while dealing with applications under Order 7 Rule 11 or Order 6 Rule 16CPC, the court cannot adopt a hypertechnical approach. Relying upon what is held in para 9 of a judgment of a Constitution Bench of this Court in *Balwan Singh v. Lakshmi Narain*, he submitted that an opportunity is always available to the election petitioner to apply for amendment of the election petition for incorporating particulars or for amplifying the particulars. He invited our attention to the impugned order and urged that the High Court has correctly applied settled legal principles and therefore, no interference is called for."*

(3) (2012) 11 SCC 390 "Shambhu Prasad Sharma v. Charandas Mahant & ors." wherein it has been held as under:-

"15. Suffice it to say that the case pleaded by the appellant was not one of complete failure of the requirement of filing an affidavit in terms of the judgment of this Court and the instructions given by the Election Commission but a case where even according to the appellant the affidavits were not in the required format. What is significant is that the election petition did not make any averment leave alone disclose

material facts in that regard suggesting that there were indeed any outstanding dues payable to any financial institution or the Government by the returned candidate or any other candidate whose nomination papers were accepted. The objection raised by the appellant was thus in the nature of an objection to form rather than substance of the affidavit, especially because it was not disputed that the affidavits filed by the candidates showed the outstandings to be nil."

"16. *The directions issued by this Court, and those issued by the Election Commission make the filing of an affidavit an essential part of the nomination papers, so that absence of an affidavit may itself render a nomination paper non est in the eye of the law. But where an affidavit has been filed by the candidate and what is pointed out is only a defect in the format of the affidavit or the like, the question of acceptance or rejection of the paper shall have to be viewed in the light of sub-section (4) of Section 36 of the Act which reads:*

"36.(4) The Returning Officer shall not reject any nomination paper on the ground of any defect which is not of a substantial character."

"17. *Even the instructions issued to the Returning Officers point out that a nomination paper shall not be rejected unless the defect is of a substantial character. The instructions issued to the Returning Officers in the Handbook published by the Election Commission enumerate, though not exhaustively, what can be said to be grounds for rejection of the nomination papers. Para 10.1(vii) reads:*

"10.1 You must reject a nomination paper, if:

** * **

(vii) The nomination paper is not substantially in the prescribed form, or

** * **

"18. *From the above it is evident that the form of the nomination papers is not considered sacrosanct. What is to be seen is whether there is a substantial compliance with the requirement as to form. Every departure from the prescribed format cannot, therefore, be made a ground for rejection of the nomination paper."*

"19. *In the case at hand, the appellant alleges that the affidavit did not in the prescribed format state whether the candidates had any outstanding liabilities qua financial institutions or the Government. Now a departure from the format may assume some importance if the appellant alleged that there were such outstanding liabilities which were concealed by the candidates. That, however, is not the case of the appellant. Any departure from the prescribed format for*

disclosure of information about the dues, if any, payable to the financial institutions or the Government will not be of much significance, especially when the declaration made by the returned candidate in his affidavit clearly stated that no such dues were recoverable from the deponent. The departure from the format was not, in the circumstances, of a substantial character on which the nomination papers of the returned candidate could be lawfully rejected by the Returning Officer."

(4) (2014) 14 SCC 162 "Kisan Shankar Kathore v. Arun Dattatray Sawant & ors." wherein it has been held as under:-

"38. With these remarks we proceed to deal with the first aspect. Insofar as non-disclosure of the electricity dues is concerned, in the given facts of the case, we are of the opinion that it may not be a serious lapse. No doubt, the dues were outstanding, at the same time, there was a bona fide dispute about the outstanding dues in respect of the first electricity meter. It would have been better on the part of the appellant to give the information along with a note about the dispute, as suggested by the High Court, we still feel that when the appellant nurtured belief in a bona fide manner that because of the said dispute he is not to give the information about the outstanding amount, as it had not become "payable", this should not be treated as a material lapse. Likewise, as far as the second electricity meter is concerned, it was in the premises which was rented out to the tenants and the dues were payable by the tenants in the first instance. Again, in such circumstances, one can bona fide believe that the tenants would pay the outstanding amount. No doubt, if the tenants do not pay the amount the liability would have been that of the owner i.e. the appellant. However, at the time of filing the nomination, the appellant could not presume that the tenants would not pay the amount and, therefore, it had become his liability. Same is the position with regard to non-payment of a sum of Rs 1783 as outstanding municipal dues, where there was a genuine dispute as to revaluation and reassessment for the purpose of assessing the taxes was yet to be undertaken. Having said so, we may clarify that it would depend on the facts and circumstances of each case as to whether such a non-disclosure would amount to material lapse or not. We are, thus, clarifying that our aforesaid observation in the facts of the present case should not be treated as having general application."

[18] I have considered the rival submissions made on behalf of the petitioner and Respondent No. 1 and also examined all the relevant materials available on record with regard to Issue No. 2.

The case of the petitioner is that the Respondent No. 1 by stating "N/A" at Para. 7 Part-B(ii) of the Form-26 Affidavit for disclosure of non-agricultural land against the column of spouse, the Respondent No. 1 concealed or did not disclose the vital information that the Respondent No. 1's spouse have non-agricultural land and that such non-disclosures are defects, which is substantial in character. According to the petitioner, the Returning Officer ought to have rejected her nominations paper specially when the Returning Officer have knowledge that there are three residential lands belonging to the spouse of the respondent No. 1 which were disclosed at Para. 7 Part -B(iv) of the Form-26 Affidavit.

[19] On the other hand, the case of the Respondent No. 1 is that there is only two types of land in the State of Manipur as per the land laws of the State of Manipur and there is no column to be fill up under Form-26 Affidavit for the homestead land. According to the Respondent No. 1, all the required detailed particulars of the three homestead lands of her spouse have been clearly and elaborately disclosed at Para. 7 Part-B(iv) of the Form-26 Affidavit and that such detailed particulars of the said three homestead land of her spouse will be exactly the same

as those required under Para. 7 Part-B(ii) of the Form-26 Affidavit. Accordingly, there has been no concealment or non-disclosure of the detailed particulars of the three homestead lands and as such, there is not defect which is substantial in nature.

[20] Para. 7 Part-B(ii) and (iv) of the Form-26 Affidavit of the Respondent No. 1 (Exhibit P-1/32 (Colly.)) are as under:-

Sl. No.	Description	Self	Spouse	HUF	Dependent-1	Dependent-2	Dependent-3
(ii)	Non-Agricultural Land Location(s) Survey number (s)	N/A	N/A	N/A	N/A	N/A	N/A
	Area (total measurement in sq. ft.)	N/A	N/A	N/A	N/A	N/A	N/A
	Whether Inherited property (Yes or No)	N/A	N/A	N/A	N/A	N/A	N/A
	Date of purchase in case of self-acquired property	N/A	N/A	N/A	N/A	N/A	N/A
	Cost of Land (in case of purchase) at the time of purchase	N/A	N/A	N/A	N/A	N/A	N/A
	Any Investment on the land by way of development, construction etc.	N/A	N/A	N/A	N/A	N/A	N/A
	Approximate current market value	N/A	N/A	N/A	N/A	N/A	N/A

Sl. No.	Description	Self	Spouse	HUF	Dependent-1	Dependent-2	Dependent-3
(iv)	Residential Buildings (including apartments): - Location (s) Survey number(s)	N/A	(i) Under Patta No. 106 (Old)/ 214(New) Dag No. 837, Village No.46- Naoriya Pakhanglakpa, Imphal West (ii) Under patta No. 265(Old)/598/1598(New) Dag No. 758/1795, Village No. 46- Naoriya Pakhanglakpa, Imphal West. (iii) Under Patta No. 964/1601(Old)/ 964/1601 (New) Dag No. 1184/1799, Village No. 46- Naoriya Pakhanglakpa, Imphal West	N/A	N/A	N/A	N/A
	Area (Total measurement in sq. ft)	N/A	(i) 1797.7212 sq ft. (ii) 2120.5008 sq ft. (iii) 2290.3848 sq. ft.	N/A	N/A	N/A	N/A
	Built up Area (Total measurement in sq. ft.)	N/A	(i) 1797.7212 sq. ft. (ii) 2120.5008 sq. ft. (Iii) 2290.3848 sq. ft.	N/A	N/A	N/A	N/A
	Whether inherited property (Yes or No)	N/A	(i) No (ii) Yes (iii) Yes	N/A	N/A	N/A	N/A
	Date of purchase in case of self-acquired property	N/A	(i) 27/10/2017	N/A	N/A	N/A	N/A
	Cost of property (in case of purchase) at the time of purchase	N/A	Rs. 1,40,000/-	N/A	N/A	N/A	N/A

Sl. No.	Description	Self	Spouse	HUF	Dependent-1	Dependent-2	Dependent-3
	Any Investment on the land by way of development, construction etc.	N/A	Rs. 1,30,45,800/-	N/A	N/A	N/A	N/A
	Approximate current market value	N/A	Rs. 1,30,45,800/-	N/A	N/A	N/A	N/A
(v)	Other (such as interest in property)	N/A	N/A	N/A	N/A	N/A	N/A
(vi)	Total of current market value of (i) to (v) above	Rs. 4,75, 000/-	Rs. 1,38,85,800/-	N/A	N/A	N/A	N/A

[21] On a careful examination of the above quoted 2 clause i.e., **(ii)** and **(iv)**, it can be clearly seen that each and every detailed particulars/ information as required to be disclosed under clause (ii) have been elaborately disclosed by the Respondent No. 1 at clause (iv). Accordingly, this Court is of the considered view that the Respondent No. 4 has disclosed all the required vital information with regard to the three homestead lands of her spouse albeit at clause (iv) of her Form-26 Affidavit and there has been no concealment of facts. The only question that arose for consideration is what will be the effect of non-disclosure of the required information in respect of the three homestead lands of the spouse of the Respondent No. 1 at clause (ii) also and whether such lapses will be deemed to be a defect of substantial nature.

[22] It is the case of the Respondent No. 1 that as there is only two classification of land i.e., Homestead Land and Agricultural Land under the land laws of the State of Manipur and as there is no column to be filled up for homestead land in the Form-26 Affidavit, she has disclosed the details of the said three homestead lands of her spouse at Para. 7 Part-B(iv) and stated “N/A” at Para. 7 Part-B(ii) due to lack of knowledge and without any intention to mislead.

[23] In the present case, even if, this Court rejects the contention of the Respondent No. 1 that homestead land is not a non-agricultural land, the facts still remain that each and every required particulars/ information of the three homestead land belonging to the spouse of the Respondent No. 1 are disclosed by the Respondent No. 1 in full detail at clause (iv) instead of at clause (ii) of Para. 7 Part-B of the Form-26 Affidavit of the Respondent No. 1. Thereafter, all the required detailed particulars of the three homestead lands belonging to the spouse of the Respondent No. 3 were displayed before the public domain and as such, this court cannot come to the conclusion that the Respondent No. 1 had concealed any vital information/ particulars in connection with the three homestead lands belonging to her spouse. Even if, the Respondent No. 1 is required to disclose the information/ particulars of the said homestead land at clause (ii) of Para. 7 Part-B of the Form-26 Affidavit, it will only be repetition of the information/ particulars that

have been disclosed by the Respondent No. 1 at clause (iv) of Para. 7 Part-B of the said Form-26 Affidavit and there will be no substantial changes thereto.

[24] In the case of **“Ajmera Shyam Vs. Kova Laxmi & ors.”** reported in **2025 SCC OnLine SC 1723**, the Hon'ble Apex Court held as under:-

“10.2 The main issue as discussed above in this case is whether non-disclosure of income, as per the income tax return for four years in Form 26 Affidavit, and showing it as ‘NIL’ in the relevant column, amounts to concealment of asset-related information and whether this constitutes a material defect that would make the acceptance of the Respondent No. 1's nomination improper, thereby attracting the penal clause of Section 100(1)(d)(i) of the Act.

Furthermore, whether such non-disclosure constitutes a corrupt practice that renders the election of Respondent No. 1 void under Section 100(1)(b), and whether it also amounts to non-compliance with the provisions of the Act and Rules, making the election of Respondent No. 1 liable to be declared void under Section 100(1)(d)(iv) of the Act.”

“10.7 This Court, in numerous decisions, has held that non-disclosure of assets by candidates and/or their wives and dependents, which is not in conformity with the provisions of the Act and Rules, would render the acceptance of their nomination improper. Such non-disclosure would also amount to a corrupt practice. Therefore, the election of any candidate who has not disclosed their assets could be declared void under Section 100 of the Act.”

“10.10 At the same time, this Court has also held that the mere failure to disclose assets in the affidavit, if it does not constitute a material defect and is not of a substantial character, will not make the acceptance of the nomination improper, thus invalidating the election.

Further, whether the non-disclosure of assets is of a substantial character or not, must be determined by the court based on the specific facts of each case, as observed by this Court in Karikho Kri v. Nuney Tayang, 2024 SCC OnLine SC 519 as follows:

“40. Having considered the issue, we are of the firm view that every defect in the nomination cannot straightaway be termed to be of such character as to render its acceptance improper and each case would have to turn on its own individual facts, in so far as that aspect is concerned. The case law on the subject also manifests that this Court has always drawn a distinction between non-disclosure of substantial issues as opposed to insubstantial issues, which may not impact one's candidature or the result of an election. The very fact that Section 36 (4) of the Act of 1951 speaks of the Returning Officer not rejecting a nomination unless he is of the opinion that the defect is of a substantial nature demonstrates that this distinction must always be kept in mind and there is no absolute mandate that every non-disclosure, irrespective of its gravity and impact, would automatically amount to a defect of substantial nature, thereby materially affecting the result of the election or amounting to ‘undue influence’ so as to qualify as a corrupt practice.”

It was further observed that,

“44. Though it has been strenuously contended before us that the voter's ‘right to know’ is absolute and a candidate contesting the election must be forthright about all his particulars, we are not inclined to accept the blanket proposition that a candidate is required to lay his life out threadbare for examination by the electorate. Every case would have to turn on its own peculiarities and there can be no hard and fast or straitjacketed rule as to when the nondisclosure of a particular movable asset by a candidate would amount to a defect of a substantial character.....”

“10.11 Section 36 (4) of the Act clearly states that the Returning Officer shall not reject any nomination paper on the basis of a defect that is not of a substantial character. Consequently, if the defect is not considered substantial, the nomination cannot be rejected, and acceptance of such nomination cannot be deemed improper to invoke the provisions of Section 100 (1)(d)(i) of the Act.”

“10.12 Applying the same legal standard, consequently, if such defect in not disclosing the assets or income is not of a substantial nature, it cannot be said to be a corrupt practice within the meaning of Section 100(1)(b) of the Act.

For the same reasons, the provisions of Section 100(1)(d)(iv) of the Act cannot be attracted, if the defect is not a material one.”

“10.13 Thus, in the present case, as we examine the issue as to whether non-disclosure of income as shown in the income tax return for four years amounts to non-compliance with the mandate of Rule 4A of the

Rules, and if so, whether the acceptance of the nomination paper of Respondent No. 1 was improper to attract the provisions of Section 100(1)(d)(i), Section 100(1)(b), or Section 100(1)(d)(iv), it must first be ascertained whether such a defect of non-disclosure was of a substantial character under the circumstances. If it is so proved, it has to be then determined whether, this will attract adverse actions contemplated under Section 100, which the election petitioner, the Appellant herein, seeks to invoke.”

“10.24 It is also not the case that Respondent No. 1 did not disclose her Income Tax Returns at all. She did disclose her Income Tax Returns for the Financial Year 2022-2023, which is reflective of her assets and income. Hence, unless it is shown that the assets and income during the other financial years were substantially in variance and these were not disclosed, not much grievance can be made by the election petitioner, for these income tax returns not disclosed would not have been in variance substantially from the Income Tax Return already filed. However, nothing has been shown by the election petitioner about any disproportionately higher income vis-à-vis the sources of income in respect of the period for which the income tax returns had not been filed.”

“10.25 The matter could have been, however, entirely different had there been an averment made by the election petitioner that the returned candidate deliberately did not disclose the income tax returns to hide her real income and assets during that period, or that the returned candidate had accumulated wealth disproportionate to her income, which could have been detected from the income tax returns that were never filed. In that case, one could say without any hesitation that the information withheld was significant enough to invoke the penal provisions of Section 100(1)(d)(i) for improperly accepting the Respondent No. 1's nomination. Similarly, under such circumstances, the provisions of Section 100(1)(b) or Section 100(1)(d)(iv) could also have been invoked.”

“10.26 Under the circumstances, since there is no serious dispute about the assets and the source of income of Respondent No. 1 which have been already disclosed, non-disclosure of income tax returns, though a procedural and technical defect, in our opinion, does not amount to misrepresentation or non-disclosure of assets which is of consequence.”

“10.27 It is also noted that Respondent No. 1 had not left the relevant column in the Affidavit blank, which would have made the nomination paper fatally defective and liable to be rejected, as per the judgment in Resurgence India (supra).”

“10.28 As already discussed above, this Court has held as in the case of Karikho Kri (supra) that what needs to be examined in cases of

non-disclosure of information of assets is whether such non-disclosure is of a substantive nature or not. If it is found that the non-disclosure was not of substantial character, the court need not interfere with the election. The court must, therefore, determine whether there was substantial compliance with the legal requirements, or if the deficiency was merely technical or procedural, before the court proceeds to interfere with the election."

"10.29 *Examined from the above perspective, it is noted that Respondent No. 1 did not make a false statement or attempt to mislead the voters by providing erroneous information about the net income or assets as required under Para 4 of the Affidavit."*

This is not a case of providing false information or engaging in disinformation, but rather a failure to provide certain information concerning the assets which, in our opinion, as mentioned above, does not amount to a defect of substantial character warranting declaration of Respondent No. 1's election as void.

The present case does not involve any concealment or misrepresentation of criminal antecedents that would warrant censure under the statutory framework or lead to judicial invalidation of the election. The issue here is of lack of full disclosure of information concerning income tax returns of the returned candidate which is of inconsequential import."

"10.32 *What is also to be noted in the present case is that apart from the fact that there was no objection at the time of scrutiny, during the election trial, no material has been produced by the election petitioner regarding the non-disclosure of any material information by the returned candidate, which would have had a significant impact on the adequacy or inadequacy of the information regarding the disclosed assets and income of the returned candidate."*

"10.33 *Regarding the plea of the election petitioner that Respondent No. 1's election be declared as void due to non-compliance with the provisions of the Constitution, the Act, or rules or orders made under the Act, it must be demonstrated that such non-compliance was of a substantial nature, and that it materially affected the result of the election as far as the Respondent No. 1 is concerned, which is not the case here."*

"10.34 *We are, thus, of the view that merely because a returned candidate has not disclosed certain information related to the assets, courts should not rush to invalidate the election by adopting a highly pedantic and fastidious approach, unless it is shown that such concealment or non-disclosure was of such magnitude and substantial nature that it could have influenced the election result.*

In this case, it has not been demonstrated that such concealment or non-disclosure of certain information related to assets was of a substantial nature that could have materially affected the result of the election of the returned candidate. Of course, it was observed by this Court in Lok Prahari (supra), S. Rukmini Madegowda (supra), etc., that if it is found that there has been non-disclosure of assets, it amounts to a corrupt practice. But the non-disclosure of income as per Income Tax Return in the present case, as discussed above, is not of a substantial nature to be considered a corrupt practice.”

“10.35 *The true test, in our opinion, would be whether the non-disclosure of information about assets in any case is of consequential or inconsequential import, finding of which will be the basis for declaring the election valid or void as the case may be.”*

“11.2 *In the light of the legal position exposited, on examination of the facts in the peculiar background obtaining in the case, we hold that the non-disclosure of income in the income tax return for four financial years by Respondent No. 1, is not a defect of substantial character. Therefore, the nomination could not have been rejected under Section 36(2) of the Representation of the People Act, 1951 as contended by the Appellant and hence, no illegality was committed by the Returning Officer in accepting the nomination of the Respondent No. 1. Resultantly, the penal clause cannot be invoked to invalidate Respondent No. 1's election under Section 100(1)(d)(i) of the Act on the ground that the nomination of Respondent No. 1 was improperly accepted.”*

[25] In the present case, it is not a case where the Respondent No. 1 had deliberately concealed or not disclosed vital information with regard to the three homestead lands of her spouse nor is it the case of filing an affidavit with blank columns. Even though this court agrees and come to the conclusion that there is a defect while filling up clause (ii) of Para. 7 Part-B of the Form-26 Affidavit by the Respondent No. 1, the question that still remains to be considered by this court is whether the said defect is substantial in character and whether such a defect would materially affect the result of the election of the Respondent No. 1.

As elaborately stated hereinabove, the Respondent No. 1 has disclosed all the relevant and required facts/ informations with regard to the said three homestead lands of her spouse at Para. 7 Part-B(iv) of the Form-26 Affidavit and that there is no deliberate and intentional concealment or non-disclosure of those facts by the Respondent No. 1. In my considered view, the Respondent No. 1 has substantially complied with the mandate of law while filling up her Form-26 Affidavit and that the said defect committed by her while filling up clause (ii) of Para. 7 Part-B of her Form-26 Affidavit is only a defect, which is not substantial in character.

[26] Under Section 36(iv) of the RP Act, 1951, it is provided that the Returning Officer shall not reject any nomination paper on ground of any defect which is not of a substantial in character. Since this court found that the defect which occurred while filling up clause (ii) of Para. 7 Part-B of the Respondent No. 1's Form-26 Affidavit is not a defect which is substantial in character and that the Respondent No. 1 had substantially complied with the mandate of law while filling up the said clause (ii) of Para. 7 Part-B of the Form-26 Affidavit, this court is of the considered view that the Returning Officer have rightly and legally accepted the nomination paper filed by the Respondent No. 1. Accordingly, the Issue No. 2 is decided in favour of the Respondent No. 1 and against the petitioner.

[27] With regard to the Issue No. 3, the case of the petitioner is that the declaration made by the Respondent No. 1 at Para. 7 Part-B(iv) of the Form-26 Affidavit with regard to the cost of the homestead land purchased by her spouse is a false statement and amounts to swearing of a false Affidavit. On the other hand, the case of the Respondent No. 1 is that the entry of the cost of the homestead land purchased by her spouse at Para. 7 Part-B clause (iv) of her Form-26 Affidavit was an inadvertent error due to typographical mistake and that the said entry was not a deliberate mis-statement intended to misled anyone but purely a typographical mistake.

In the present case, the Respondent No. 1 has entered ₹ 1,40,000/- as cost of the property purchased by her spouse at Para. 7 Part-B clause (iv) of her Form-26 Affidavit. The petitioner has filed a certified copy of the Sale Deed dated 10-11-2017 (Exhibit P-1/44 (Colly.)) in respect of the said homestead land/ property and in the said Sale Deed, the cost of the said homestead land/ property is clearly shown as ₹ 5,40,000/-. Thus, the petitioner has proved that the cost of the said homestead land/ property is not ₹ 1,40,000/- but ₹ 5,40,000/-. In fact, the Respondent No. 1 did not deny that the cost of the said homestead land/ property is ₹ 5,40,000/- at the time of purchase. Her explanation is that the wrong entry made by her at Para. 7 Part-B(iv) of her Form-26 Affidavit with regard to the said

homestead land/ property of her spouse was an inadvertent error due to typographical mistake.

[28] The question which arose for consideration by this court is whether the declaration made by the Respondent No. 1 at Para. 7 Part-B clause (iv) with regard to the cost of the homestead land/ property of her spouse will amount to a false statement and filing of a false affidavit. As the Respondent No. 1 has entered ₹ 1,40,000 instead of the actual cost/ price of the said property as recorded in the Sale Deed, which is ₹ 5,40,000/-, it is obvious that the said entry made by the Respondent No. 1 is a false statement. However, since the Respondent No. 1 has stated that the said wrong entry of the cost of the property of her spouse was an inadvertent error due to typographical mistake, which she came to know only after filing of the present election petition and when her counsel pointed out such mistake to her, this court proceeds to consider whether the said false declaration is purely a typographical mistake and whether such a false declaration will materially affect the result of the election of the Respondent No. 1.

[29] In the case of “**Shri Pukhrem Sharatchandra Singh Vs. Mairembam Prithviraj @ Prithibiraj Singh**”, reported in **2016 SCC OnLine Mani 30**, a coordinate bench of this court has occasioned to observe as under:-

“90. Clerical error as in the normal parlance would mean a mistake which may have crept in inadvertently and unintentionally, due to certain typographical or mechanical mistake. Such a clerical error, therefore, would be a mistake which was unintended, but purely due to inadvertence which could be corrected without making any fundamental changes in the instrument or the document. “Clerical error” has been defined in Black’s Law Dictionary, 10th Edition as

“An error resulting from a minor mistake or inadvertence and not from judicial reasoning or determination; esp., a drafter’s or typist’s technical error that can be rectified without serious doubt about the correct reading. Among the numberless possible examples of clerical errors are omitting an appendix from a document; typing an incorrect number; mis-transcribing or omitting an obviously needed word; and failing to log a call. A court can correct a clerical error in the record at any time, even after judgment has been entered.”

“91. This expression has been also interpreted by the Hon’ble Supreme Court in Sooraj Devi v. Pyare Lal, (1981) 1 SCC 500 as follows:

“4. A clerical or arithmetical error is an error occasioned by an accidental slip or omission of the court. It represents that which the court never intended to say. It is an error apparent on the face of the record and does not depend for its discovery on argument or disputation. An arithmetical error is a mistake of calculation, and a clerical error is a mistake in writing or typing. Master Construction Co. (P) Ltd. v. State of Orissa⁶.

“92. The Hon’ble Supreme Court while dealing with the issue of a defect which was held to be a technical one and not of substantial character, in Harikrishna Lal v. Babu Lal Marandi, (2003) 8 SCC 613, referred to the maxim “falsa demonstratio non nocet, cum de corpore constat” to show that if part of a description of an instrument is correct, and which correct part describes the subject with sufficient legal clarity, the untrue part will not vitiate the instrument as held in para 13 thereof which is reproduced hereinbelow:

“13. A reference may usefully be made to the maxim “falsa demonstratio non nocet, cum de corpore constat” which means mere false description does not vitiate, if there be sufficient certainty as to the object. “Falsa demonstratio” means an erroneous description of a person or a thing in a written instrument; and the above rule respecting it signifies that where the description is made up of more than one part, and one part is true, but the other false, there, if the part which is true describes the subject with sufficient legal certainty, the untrue part will be rejected and will not vitiate the device; the characteristic of cases within the rule being that the description, so far as it is false,

applies to no subject at all, and, so far as it is true, applies to one only. (See Broom's Legal Maxims, 10th Edn., pp. 426-27th.) Broom quotes (at p. 438) an example that an error in the proper name or in the surname of the legatee should not make the legacy void, provided it could be understood from the Will what person was intended to be benefited thereby."

[30] In the case of "**Ajmera Shyam (Supra)**, the Hon'ble Apex Court held as under:-

"9.3.3 As regards the other grounds concerning improper acceptance or rejection of nominations, or the non-compliance with the provisions of the Constitution, or the Act, or rules, or orders made under the Act, it is observed that these issues are mainly technical and involve some element of subjectivity, since no nomination paper can be rejected for a defect that is not of a substantial character as provided under Section 36 (4) of the Act.

"9.4 In light of the foregoing legal position, it is clear that disclosure concerning criminal antecedents is linked to the existing provisions under Section 8 and 9 of the Act, which specify that a candidate would be disqualified if convicted of any offences listed under Section 8 or dismissed for corruption or disloyalty under Section 9 of the Act.

"9.5 However, regarding voidance of the election of the returned candidates due to non-disclosure of assets, it is not explicitly stated in the Act. It has become part of election law through judicial intervention and it is to be mentioned as part of the Form 26 Affidavit filed during the nomination process, as discussed above.

"9.6 At the same time, it has to be kept in mind that considering the evolution of law concerning disclosure of information relating to criminal antecedents and assets and the "raison d'etre" for the same, these considerations cannot be placed at the same pedestal. By its very nature, the requirement to disclose criminal antecedents has to be examined more scrupulously and dealt with more strictly as the involvement of criminals is a bane in our electoral system, which was the prime focus of judicial intervention which is reflected in the insertion of Section 33A of the Act. On the other hand, disclosure of information about assets and educational qualification were attending requirements to improve the quality of the electoral process and the elected members for which no specific statutory provision has been made in the Act, but forms part of the information required to be mentioned in the Form 26 Affidavit in terms of Rule 4A.

“9.7 *Certainly, there was concern also about assets when it was noticed that apart from criminal acts of the candidates, money was being misused by the candidates to influence the voters. Further, it was also observed that there is a tendency of the elected members to misuse their official positions to enrich themselves at the expense of public funds while in office. It is for these reasons that it was felt that candidates must disclose their assets when seeking re-election.*

“9.8 *It may, however, be noted that there can be no disqualification under the law based on a candidate's wealth or financial status unlike in the case of candidates with criminal antecedents, who will stand disqualified if convicted of certain offences mentioned under Section 8 of the Act. There is no restriction on contesting an election due to having immense wealth or being impoverished in a democracy. Ultimately, the people elect their representative regardless of the candidate's financial condition, judging instead primarily on whether the candidate can genuinely represent their interest.*

“9.9 *This aspect has been succinctly articulated by P. Venkatarama Reddi, J in PUCL (supra) in paragraphs no. 119 and 120 of the judgment as quoted earlier, which in essence conveys the idea that the purpose of disclosure of assets and liabilities of the candidate is not to associate with the prospect or eligibility of his candidature or his capacity to spend money in the electoral process, but primarily to evaluate at a subsequent point in time after the election, whether there has been disproportionate increase in wealth by misusing official position and by self-aggrandizement.*

“9.10 *This issue relating to disclosure of information may be viewed from another perspective.*

There is a provision under the statute to probe the nomination of a candidate before the election is held and result is declared, i.e., during the scrutiny by the Returning Officer, who can reject it at the nomination stage if there has been a failure to disclose necessary information by the candidate.

This exercise of examining the validity of nomination can also be undertaken by the Court after the election is over in an election petition and result is known to the voters, as in the present case.

“9.10.1 *This post-election judicial scrutiny about any such irregularity or deficiency in not disclosing necessary information serves as a safeguard against arbitrary actions by the Returning Officer or any injustice caused to a candidate.*

“9.10.2 *Nevertheless, there is a qualitative difference between these two stages in examining the issue of non-disclosure of information. At the time the Returning Officer scrutinizes the nomination papers of the candidates, the voters are yet to express their mind through the*

ballot box. However, once the election is concluded and the voters have delivered their verdict and the same has been made public, a new dimension is introduced — that is, the people's mandate, which cannot be overlooked by the court when examining the legality of the acceptance of the nomination.

“9.10.3 Election is a hugely expensive and time-consuming process involving not only the candidates in the race but also the vast electorate, who take their valuable time off, to exercise their franchise and choose their representatives. Several State agencies are also involved in ensuring proper and smooth conduct of the elections. A successful election results from the coordinated efforts of various agencies where significant time and national resources are invested. Based on the electoral outcome, the process of forming a new government gets activated, and any interference with the election result would have a bearing on the government formation. Hence, any tinkering with the election result has the potential to undermine the voice of the people and their participation in shaping the government.”

“9.10.4 In a democracy, the will of the people expressed through election is sacrosanct, which in Latin, is conveyed by the maxim, “Vox Populi, Vox Dei,” signifying that the voice of the people and collective wisdom should be respected which can even be placed on the highest pedestal of divine authority.”

“9.10.5 As noted above, participation by voters who are well-informed not only of the affairs of the state but also with knowledge of the candidates' backgrounds invigorates the electoral process, reaffirming that election is one of the fundamental features of democracy. Voters obtain essential information about the candidates through the exercise of the fundamental right to know about them, derived from Article 19(1)(a) of the Constitution.

This right to know the backgrounds of candidates, which corresponds to their obligation to disclose such information, must, however, be balanced with the people's mandate expressed through ballot boxes, which is central to democracy.”

“9.10.6 Under the circumstances, once the people have spoken their mind by casting their votes through the ballot box and reposed their confidence in the elected candidate, whenever the issue of invalidating the people's mandate is raised before the court, the court must be very careful and circumspect.

A fine balance must be struck between holding free and fair election— which involves the fundamental right of voters to have information about the candidates— and maintaining the sanctity of the mandate of the voters upon the declaration of the result. After

all, election result is the embodiment of the will of the people expressed through the exercise of the constitutional right of the people to vote.

The court, therefore, must keep in mind that declaring an election void solely for non-disclosure of assets, if it lacks substantiality, could undermine the validity of the popular mandate. To nullify the choice of the people on a minor technicality and insignificant non-disclosure of assets by the elected candidate, would have serious repercussions on the democratic process.

Thus, while the court plays a vital role in upholding the rule of law, utmost care must be taken to ensure that election results are not invalidated based on subjective interpretation and minor or technical irregularities that do not substantially impinge on the law, since unwarranted interference with the electoral process and overturning election results can erode public trust in democratic institutions.”

“9.10.7 *Under such circumstances, nullifying the election result and overturning the people's verdict through cold, clinical legal analysis and tools should be avoided, unless the electoral process has been vitiated by gross irregularities that undermine electoral integrity. Courtroom interventions should only happen when there are clear and blatant violations of the law that threaten fairness, legality, and constitutional principles.”*

“9.10.8 *Minor procedural errors or purely technical objections of inconsequential nature thus, should not be allowed to override the mandate of the electorate. Courts must be careful not to become tools that undermine the popular mandate in the name of technical perfection. The will of the people, expressed through the election result, should be respected, unless it has been corrupted by fraudulent practices, in which case, the court should intervene without hesitation. A judicial victory based on technicalities rather than the electoral victory won in the electoral battlefield should be avoided, unless the mandate and the integrity of the electoral process are compromised by fraud or corrupt practices.*

“9.11 *Statutory provisions and judicial approach in elections law have also been shaped by this cautious approach.*

It is for this reason that it has been aptly noted by this Court in Jagan Nath v. Jaswant Singh, (1954) 1 SCC 57 as follows:

“7. *The general rule is well settled that the statutory requirements of election law must be strictly observed and that an election contest is not an action at law or a suit in equity but is a purely statutory proceeding unknown to the common law and that the court possesses no common law power. It is also well settled that*

it is a sound principle of natural justice that the success of a candidate who has won at an election should not be lightly interfered with and any petition seeking such interference must strictly conform to the requirements of the law. None of these propositions however have any application if the special law itself confers authority on a tribunal to proceed with a petition in accordance with certain procedure and when it does not state the consequences of non-compliance with certain procedural requirements laid down by it. It is always to be borne in mind that though the election of a successful candidate is not to be lightly interfered with, one of the essentials of that law is also to safeguard the purity of the election process and also to see that people do not get elected by flagrant breaches of that law or by corrupt practices.....”

“9.11.1 *This word of caution against overturning electoral verdicts by the courts was pithily put by this Court in Madhukar G.E. Pankakar v. Jaswant Chobbildas Rajani, (1977) 1 SCC 70 in the following words:*

“6. It is plain democratic sense that the electoral process should ordinarily receive no judicial jolt except where pollution of purity or contravention of legal mandates invite the court's jurisdiction to review the result and restore legality, legitimacy and respect for norms. The frequency of forensic overturning of poll verdicts injects instability into the electoral system, kindles hopes in worsted candidates and induces post-mortem discoveries of “disqualifications” as a desperate gamble in the system of fluctuating litigative fortunes. This is a caveat against overuse of the court as an antidote for a poll defeat. Of course, where a clear breach is made out, the guns of law shall go into action, and not retreat from the rule of law.

Similar view was expressed by this Court in Santosh Yadav v. Narender Singh, (2002) 1 SCC 160.”

[31] In the present case instead of ₹ 5,40,000/-, the Respondent No. 1 had written ₹ 1,40,000/-. Therefore, the difference or the mistake is only in respect of one numerical digit, i.e., instead of digit ‘5’, digit ‘1’ had been written. In a plain view of the matter, this court is of the considered view that any prudent man will agree that there is a chance

of the difference being committed inadvertently due to typographical mistake and the possibility of committing such mistake inadvertently at the time of filling up the Form-26 Affidavit cannot be totally ruled out. It is not a case where the Respondent No. 1 had totally concealed the facts about the purchase of the said homestead land/ property by her spouse and also about the cost of the said homestead land/ property. The petitioner has not also even make a whisper that the Respondent No. 1 had deliberately and intentionally concealed or not disclosed the true and correct cost of the said property with an ulterior motive to gain an advantage to secure votes in her favour. This court is also of the view that had the petitioner or anyone for that matter raised an objection at the time of scrutiny of the nomination paper with regard to the false statement made by the Respondent No. 1 in connection with the cost of the property of her spouse, such defect could have been corrected easily without any fundamental change in the Form-26 Affidavit as such defect are simple in nature and no elaborate action is required for making such correction.

Taking into consideration such factums and keeping in mind the principles laid down by the Hon'ble Apex Court in the case of **“Ajmera Shyam” (supra)**, this court comes to the conclusion that the defect in declaring the cost of the property purchased by her spouse by

the Respondent No. 1 at Para. 7 Part-B clause (iv) of her Form-26 Affidavit is a defect which is not substantial in character and that there is no improper acceptance of the nomination paper filed by the Respondent No. 1. Accordingly, the Issue No. 3 is also decided in favour of the Respondent No. 1 and against the petitioner.

[32] It may be noted here that this court has carefully perused all the case laws cited on behalf of the petitioner and this court is in respectful agreement with the principles laid down by the Hon'ble Supreme Court of India. However, in the facts and circumstances of the present case and the issues involved in the present case, this court is of the considered view that the said case laws are of no help to the case of the petitioner.

[33] **Additional Issue**

Whether the nomination papers of the Returned Candidate/ Respondent No. 1 was improperly accepted thereby materially affecting the election of the Respondent No. 1."

In view of the findings given by this court in connection with the Issues No. 1, 2 and 3, this court is of the considered view that there is no improperness in accepting the nomination paper of the Respondent No. 1 by the Returning Officer and that no illegality has been committed while accepting the nomination paper of the

Respondent No. 1. Accordingly, this issue is also decided in favour of the Respondent No. 1 and against the petitioner.

[34] Issue No. 4:

Whether the petitioner is entitled to be declared as duly elected member in the 12th Manipur Legislative Assembly Election, 2022 in respect of 21-Naoriya Pakhanglakpa Assembly Constituency?

In view of the findings arrived at by this court in connection with the Issues No. 1, 2, 3 and additional issue, this issue is decided against the petitioner.

[35] Issue No. 5

Whether the information given by the respondent No. 1 in Form 26 of the Representation of People Act, 1950 was substantially complied or not?

In view of the findings arrived at by this court in connection with the Issues No. 1, 2, 3 and additional issue, this issue is decided in favour of the Respondent No. 1 and against the petitioner.

[36] Issue No. 6

Whether there is any cause of action in filing the election petition?

In view of the findings arrived at by this court in connection with the Issues No. 1, 2, 3, 4, 5 and additional issue, this court is of

the view that there is no cause of action for filing the present election petition.

[37] **Issue No. 7:**

Whether the election petition is maintainable or not?

As this court has decided all the issues framed by this court in favour of the Respondent No. 1 and against the petitioner, this court held that the present election petition is not maintainable.

[38] In the result, the present election petition is hereby dismissed as being devoid of merit. All the pending misc. applications stands disposed of accordingly in terms of this judgment and order.

Parties are to bear their own cost.

JUDGE

FR / NFR

Devananda