



ORISSA HIGH COURT : CUTTACK

I.A. No.141 of 2025

(Arising out of ELPET No.25 of 2024)

An application under Rule 27-A, Chapter-VI of Orissa High Court , Rules.

* * *

Shri Jagannath Pradhan

...

Election Petitioner

-VERSUS-

Ananta Narayan Jena

...

Respondent

Counsel appeared for the parties:

For the Petitioner : Mr. Sambit Mohanty, Advocate.

For the Opp. Party : Mr. S.K. Dash, Sr. Advocate
Assisted by Mr. A.K. Otta, Adv.

P R E S E N T:

**HONOURABLE
MR. JUSTICE ANANDA CHANDRA BEHERA**

Date of Hearing: 20.01.2026 :: Date of Order : 05.02.2026



JUDGMENT

ANANDA CHANDRA BEHERA, J.—

1. This Interlocutory Application has been filed by the Election Petitioner in Election Petition No.25 of 2024 praying for calling for the documents indicated in the schedule of the I.A. from the custody of the District Election Officer, Khurdha stating in the I.A. that, he (petitioner) has filed the Election Petition No.25 of 2024 praying for the declaration of the Election of the returned candidate (respondent in Election Petition No.25/2024) of 112-Bhubaneswar Central Assembly Constituency as void on the ground of improper counting of votes and the non-compliance of the provisions of R.P. Act, 1951 and the Conduct of the Election Rules, 1961.

In order to establish his case, proving of the documents indicated in the I.A. as ***Schedule of Documents*** are required to be proved, but the same are in the custody of the District Election Officer, Khurdha.

When the Election Petitioner approached the District Election Officer, Khurda for supplying such documents, the same were not supplied to him. For which, he (Election Petitioner) filed



this I.A. praying for calling for the said documents from the custody of the District Election Officer, Khurda for the proper adjudication of the Election Petition, or else, he (Election Petitioner) shall be prejudiced and will suffer irreparable loss and injury.

2. Heard from the learned counsel for the Election Petitioner and the learned Senior Counsel for the respondent.

3. During the course of hearing of this I.A., the learned Senior Counsel for the respondent (returned candidate) submitted that, if the documents, to which, the Election Petitioner is interested to call for, the same will not cause any prejudice to the respondent, if the said documents will be called for.

4. The provisions of law envisaged in Section 87 of the R.P. Act, 1951 clearly clarify that, *subject to the provisions of the said Act and of any rules made under that Act, every election petition shall be tried by the High Court, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908 (5 of 1908) to the trial of suits.*

5. It has been envisaged in Order 13, Rule 10 (2) of the CPC, 1908 that, if bringing to a document in to the record is essential



for proving a case of a party, the same should not ordinarily be refused. Because, it is the duty of the Court to find out the truth.

It is the settled propositions of law that, when the documents in question are not in the control of a party and the said documents are required for the purpose of proper adjudication and disposal of a suit or a proceeding, in that situation, the Courts or the Tribunals cannot refuse the prayer of a party for calling for the documents from the custody of others, when the said documents are essentially required for the true and correct disposal of a suit or a proceeding.

On this aspect, the propositions of law has already been clarified by the Hon'ble Courts in the ratio of the following decisions:

- i. In a case between ***Laxman Vs. Parsuram & Another reported in 2018 (3) Civ.C.C. 602 (Raj.)*** that, when the documents in question was in the possession of the police authorities, having subject matter of proceedings initiated by the plaintiff by filing an FIR against the third-party as well as defendants and when the said document is relevant and necessary for the purpose of true and



correct disposal of the suit, in that case, the application for calling for of the documents was allowed.

ii. In a case between **G. Suverna Bai & Others Vs. M. Ramesh Chander Rao & Others reported in 2016 (2) Civ.C.C. 257 (Hyd.)** that, if bringing on record a document is essential for proving the case by a party, ordinarily the same should not be refused, since it is the duty of the Court's to find out the truth. Application allowed.

iii. In a case between **Mangilal Vs. Nandalal Lohariya reported in 2018 (3) Civil. Court Cases 572 (Raj.)** that, when the documents in question were not in the control of the plaintiff and, therefore, the concerned Court required the said documents for proper adjudication of the suit, the calling for of the same is held to be well justified. No interference with the same is warranted.

6. Here in this matter at hand, when the documents indicated in the schedule of the application in this I.A. have been sought for to be called for from the proper custody and when the said documents are in the custody of the District Election Officer, Khurdha of 112-Bhubaneswar Central Assembly Constituency and when the same are required for the true and correct disposal of the Election Petition and if the said documents will be called



for, the same will not cause any prejudice to the Opp. Party (respondent in Election Petition No.25 of 2024) rather the documents shall be helpful for the just decision of the Election Petition No.25 of 2024 and when it is the duty of the Court to call for the required documents for the just and proper decision of a suit or proceeding like the Election Petition No.25 of 2024, then, at this juncture, by applying the propositions of law enunciated in the ratio of the aforesaid decisions, I find no justification to disallow this I.A. filed by the Election Petitioner of Election Petition No.25 of 2024.

7. Therefore, this I.A. filed by the Election Petitioner in Election Petition No.25 of 2024 is allowed.

8. The documents indicated in the petition of this I.A. filed by the Election Petitioner as “***Schedule of documents***” be called for from the District Election Officer, Khurdha of 112-Bhubaneswar Central Assembly Constituency to the Election Petition No.25 of 2024 with a direction to the District Election Officer, Khurdha to transmit the same within 15 days of receiving the information from the Registry about such transmission.



9. Copy of this Judgment be sent to the District Election Officer, Khurdha by the Registry immediately to comply the directions made in this Judgment by the District Election Officer, Khurdha within the stipulated period.

10. As such, this I.A is disposed of finally.

(ANANDA CHANDRA BEHERA)
JUDGE

High Court of Orissa, Cuttack
The 05.02.2026// Rati Ranjan Nayak
Sr. Stenographer

Signature Not Verified

Digitally Signed
Signed by: RATI RANJAN NAYAK
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 06-Feb-2026 20:19:31