

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No(s).10692/2013

(From the judgement and order dated 06/02/2013 in EP No.1/2012,MC No.4/2012 of The HIGH COURT OF GUWAHATI ,ASSAM)

MAIREMBAM PRITHVIRAJ @PRITHIBIRAJ SINGH Petitioner(s)

VERSUS

PUKHREM SARATCHANDRA SINGH Respondent(s)

(With prayer for interim relief and office report )

Date: 19/11/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SURINDER SINGH NIJJAR  
HON'BLE MR. JUSTICE FAKKIR MOHAMED IBRAHIM KALIFULLA

For Petitioner(s)

Mr. Jaideep Gupta, Sr.adv.  
Mr. Sapam Biswajit Meitei, Adv.  
Mr. Naresh Gaur, Adv.  
Mr. Ashok Kumar Singh,Adv.

For Respondent(s)

Mr. M. Kumarjit, Sr.Adv.  
Ms. Momota Devi Oinam,Adv.  
Mr. Rahul Joshi, Adv.  
Mr. Lenin Singh Hijam, Adv.

UPON hearing counsel the Court made the following  
O R D E R

Leave granted.  
The appeal is allowed in terms of the signed order.

(Sukhbir Paul Kaur)  
Court Master

(Indu Bala Kapur)  
Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.10599 OF 2013  
(Arising out of S.L.P.(C) No.10692 of 2013)

|MAIREMBAM PRITHVIRAJ @ PRITHIBIRAJ SINGH

|Appellant(s) |

Versus

|PUKHREM SARATCHANDRA SINGH

|Respondent(s) |

O R D E R

The election of the petitioner to the 10th Manipur State Legislative Assembly has been challenged by the respondent in E.P. No. 1 of 2012. The petitioner moved an application being MC (PE) No. 1 of 2012 raising preliminary objections to the maintainability of the election petition. However, since the application contained some typographical errors, the petitioner moved an application to amend the same. The High Court has allowed the amendment application except the proposed amendment in respect of paragraph 5 "F". This special leave petition is filed by the petitioner aggrieved by the rejection of the proposed amendment in paragraph 5 "F".

Leave granted.

The original paragraph 5 of MC (PE) No. 1 of 2012 reads as under :-

"That, again, the signatures endorsed by the petitioner in the election petition as claimed to be signed by the election

-2-

petitioner himself is doubtful. The signature of the petitioner, available on record in many Government documents. So the respondent/applicant verily believes that it has been signed by someone else on the behalf of the petitioner. Section 81(3) of R.P. Act, 1951 mandates that every such copy shall be attested by the petitioner "under his own signature". The applicant, returning candidate had seen some documents pertaining to the time when the petitioner was still in service which clearly indicates that the petitioner's signature was completely different. The applicant therefore most respectfully submits that the attestation (assuming without conceding the same as valid) is not under his own signature. This is again a vital defect of substantial character is ought to lead for dismissal of election petitioner under Section 86(1) of R.P. Act, 1951."

The aforesaid paragraph among others was sought to be amended by substitution of the following :-

"F. The words; "The said signatures are completely different from the" may be allowed to be inserted in between the words "doubtful" and "Signature of the petitioner," appeared at 3rd the line of para No. 5 at page No. 5 of the preliminary objection."

The High Court has permitted all the amendments except the aforesaid paragraph 'F'. Mr. Jaideep Gupta, learned senior counsel appearing for the appellant has submitted that the words now sought to be inserted would not in any manner qualitatively affect the plea taken by the appellant. In fact the sentence "The said signatures are completely different from the"

-3-

ought to have been inserted in between the words "doubtful" and "Signature of the petitioner".

The High Court has, however, not permitted the aforesaid proposed amendment.

Learned senior counsel for the Election Petitioner-respondent herein has submitted that the High Court has rightly rejected the amendment as it would change the nature of the averments made.

We have considered the entire issue. In our opinion, the aforesaid amendment would in no manner change the nature of the plea taken by the appellant. Reading of the entire paragraph 5 of the MC (PE) 1 of 2012 clearly shows that the appellant has claimed that the Election Petition is not signed by the election petitioner/respondent herein. We, therefore, find merit in the submission made by Mr. Jaideep Gupta, that the aforesaid amendment also has to be allowed in the interest of justice.

Consequently, the appeal is allowed. The order of the High Court is modified to the effect that paragraph 'F' can also be amended, as proposed by the appellant.

.....J.  
(SURINDER SINGH NIJJAR)

.....J.  
(FAKKIR MOHAMED IBRAHIM KALIFULLA)

New Delhi,  
November 19, 2013