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Election of respondent No. 1 to J & K Legislative Assembly held in August, 1996 was put in issue through an election petition filed by the appellant on various grounds. The returned candidate raised a preliminary objection to the maintainability of election petition for non-compliance with Sections 89, 91 and 94 of the J & K Representation of People Act, 1957 (corresponding to Sections 81, 83 and 86 respectively of the Representation of People Act, 1951). The preliminary objection was sustained by the learned Designated Judge hearing the election petition and the election petition was dismissed. The appellant has filed this appeal challenging judgment and order of the High Court dated 20th May, 1999 dismissing the election petition on sustaining preliminary objection.

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During pendency of the appeal in this Court, we are informed that the appellant died on 30th September, 2000. A copy of the death certificate, issued by the Post-Graduate Institute of Medical Education and Research (Nehru Hospital) Chandigarh, has been filed. Brother of the appellant has also filed an affidavit on 8th August, 2001 giving details about death of the appellant. In paragraph 4 of the affidavit, brother of the appellant has submitted that he be substituted as an appellant in place of his brother.

Section 118 of the J & K Representation of People Act, 1957 deals with abatement of election petitions and the procedure to be followed by the High Court on such abatement. This provision does not deal with a case arising out of the death of the appellant during pendency of an appeal in this Court. That, however, need not detain us because we find that this Court in Kashinath Sajan Patil v. Dr. Deshmukh@  
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Hemant Bhaskar & Ors. AIR 1993 Supreme Court 187,@  
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considering the corresponding provisions of the R.P. Act, 1951, has categorically laid down that on death of the appellant, during pendency of the appeal in this Court arising out of an election petition, the  
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