

SRI. SHIVAKUMAR D.K.

Appellant

Versus

SRI BASAVARAJU & ORS.

Respondents

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Heard the learned counsel for the parties.
Being aggrieved and dissatisfied by the judgment and order dated 29.9.2000 passed in Election Petition No. 26/1999 by the High Court of Karnataka at Bangalore, directing framing of issues and proceeding further with the election petition, returned candidate has preferred this appeal.

At the time of the hearing of this matter, learned counsel appearing for the appellant submitted that the main contentions which are raised in this appeal pertain to the incidents which have taken place before returned candidate submitted his nomination form.

As against this, the learned counsel appearing for the election petitioner pointed out that before the High

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Court it was conceded by the learned counsel for the returned candidate as under :-

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"..... that though the corrupt practice being distinct and separate, "that part of the pleading relating to bribery, undue influence and excess expenditure, can be struck out and only paragraphs 23 to 25 relating to allegations under Section 123 (4) could be tried." But, the Electoral Laws do not contemplate a piece-meal enquiry or part hearing removing certain issues. If rejection, it should be full and if needs hearing, there is nothing wrong on hearing on other aspects of the matter as well. In view of the fair concession made and even putting it in writing in the submissions made before this Court, I feel that this is a case where evidence is necessary and the petition cannot be thrown out on the preliminary issue alone."

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In view of the aforesaid facts, in our view, it

cannot be said that the learned Judge committed any error in directing the parties to proceed further after framing of the issues. However, it is made clear that no issue would be framed pertaining to incidents and allegations which are relating to corrupt practices alleged to have been committed prior to the date of submission of nomination

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papers filed by the returned candidate. With this clarification, this appeal is allowed to the aforesaid extent. The appeal stands disposed of accordingly. There shall be no order as to costs.

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.....J.
(M.B. Shah)

.....J.
(D.M. Dharmadhikari)

New Delhi,
September 19, 2002