

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No.5707 OF 2025
(Arising out of SLP(C)No. 12480 of 2021)

MD. NAFIS

... APPELLANT

Versus

NITIN JAIRAM GADKARI & ORS.

... RESPONDENTS

WITH

CIVIL APPEAL Nos.5708-5709 OF 2025
(Arising out of SLP(C)Nos.12382-12383/2025 @ D.No.5691 of 2023)

NANA FALGUNRAO PATOLE AND ANR.

... APPELLANTS

Versus

NITIN JAIRAM GADKARI & ORS.

... RESPONDENTS

O R D E R

1. Leave granted.

2. These two appeals are directed against the orders dated 26.02.2021, 17.12.2021 and 30.09.2022, passed by the High Court of Judicature at Bombay, Nagpur Bench, Nagpur, whereby various averments made in the Election Petition Nos.10 of 2019 and 12 of 2019 have been ordered to be struck off pursuant to an application under Order VI Rule 16 of the CPC moved by respondent No.1 - the returned candidate.

3. Respondent No.1 was the returned candidate in the Lok Sabha

from Constituency No. 10, Nagpur, in the parliamentary elections held in the year 2019. His election has been challenged in the above-mentioned Election Petitions filed by; (i) some of the contesting candidates; and (ii) by the voters of the constituency.

4. It may be mentioned at the outset that the term of the returned candidate, pursuant to 2019 elections, is already over and, thereafter, fresh elections in the year 2024 have been held in which respondent No.1 was again declared elected. Regardless thereto, we have heard learned counsel for the parties at a considerable length and carefully perused the material placed on record.

5. The first averment that has been struck off by the High Court as contained in para 7 of the Election Petitions pertained to Khasra No.264 at village Dhapewada. The allegation was that the returned candidate, in his affidavit, declared the property as Hindu Undivided Family (HUF) whereas he owned the same in his personal capacity. The High Court, in para 9 of the impugned order dated 26.02.2021, has explained that the Trust Deed was executed in respect of the subject property on 29.10.1958 followed by a Correction Deed executed on 01.08.1975. The property is mutated in the name of the returned candidate, but he has always been claiming it to be an HUF property. The question as to whether the subject property constitutes HUF or not, cannot be gone into in the Election Petition proceedings, as rightly held by the High Court.

6. This takes us to the next averment made in the Election Petition to the fact that the agricultural land owned by spouse of the returned candidate at village Dhapewada has not been correctly

described without mentioning as to whether it is situated in the revenue estate of village Dhapewada (Khurd) or Dhapewada (Bujruk) and, thus, the information was incomplete. The High Court has directed to struck off this objection after taking notice of the fact that the information furnished by the returned candidate is not incomplete as the Survey Number and location of the land are fully described. There is, thus, no concealment of any material fact. We concur with the reasoning assigned by the High Court.

7. As regard to the third objection raised by the election petitioner(s), namely, that the Income Tax Returns, appended by the returned candidate, show his income less than the actual one, also merited rejection as rightly done by the High Court. We say so for the reason that once the Income Tax Returns have been appended, the income reflected therein is the substantial compliance of Form 26. It seems to us that the Returning Officer is required only to verify as to whether the true copies of the Income Tax Returns have been appended or not. Such duty to scrutinize the nomination papers does not clothe him with the power to sit over the assessment orders passed by the Income Tax Authorities in exercise of their quasi-judicial powers.

8. Similarly, the allegation of non-disclosure about the Turmeric Boiler Plant by the returned candidate has rightly been rejected by the High Court being vague and evasive which does not specify the nature of allegations sought to be made.

9. Likewise, the fate of vague and wild allegations of alleged benefit drawn by the returned candidate of more than 50 strokes in Mock trial on EVMs has rightly met with the same fate.

In any case, the allegations do not materially affect the outcome of the election. Likewise, the attribution of non-disclosure of election expenses or the same being in excess of the permissible limits are too vague and wild that it is difficult for the Election Tribunal-cum-High Court to render a definite opinion in relation thereto.

10. In light of the above, we are of the considered opinion that the impugned orders, passed by the High Court, warrant no interference by this Court.

11. The Civil Appeals are, accordingly, dismissed.

12. We are informed that the Election Petitions are still pending before the High Court awaiting the outcome of these proceedings. Since the matter pertains to Lok Sabha Election of 2019, we request the High Court to proceed with the pending Election Petitions and dispose of the same expeditiously.

13. As a result, the pending interlocutory applications also stand disposed of.

.....J.
(SURYA KANT)

.....J.
(NONGMEIKAPAM KOTISWAR SINGH)

NEW DELHI;
APRIL 30, 2025.

ITEM NO.2

COURT NO.3

SECTION IX

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 (C) No(s).12480/2021

[Arising out of impugned final judgment and order dated 26-02-2021 in CAO No.753/2020 passed by the High Court of Judicature at Bombay at Nagpur]

MD. NAFIS

Petitioner(s)

VERSUS

NITIN JAIRAM GADKARI

Respondent(s)

FOR ADMISSION and I.R. and IA No.98323/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.103684/2021-EXEMPTION FROM FILING O.T. and IA No.103681/2021-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES

IA No. 98323/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 103684/2021 - EXEMPTION FROM FILING O.T.

IA No. 103681/2021 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES

WITH

Diary No(s). 5691/2023 (IX)

Date : 30-04-2025 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SURYA KANT

HON'BLE MR. JUSTICE NONGMEIKAPAM KOTISWAR SINGH

For Petitioner(s) Mr. Shakul Ghatole, Adv.
Ms. Bhavana Duhoon, AOR

Mr. Shakul Ghatole, Adv.
Mr. Pai Amit, AOR
Mr. Tathagata Dutta, Adv.

For Respondent(s) Mr. Shekhar Naphade, Sr. Adv.
Mr. Gagan Sanghi, Adv.
Mrs. Farah Hashmi, Adv.
Ms. Salonee Paranjape, Adv.
Mr. Karan Bishnoi, Adv.
Mrs. A.S. Jamuna, Adv.
Mr. Rameshwar Prasad Goyal, AOR

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

Leave granted.

The appeals are dismissed in terms of the signed order.

As a result, the pending interlocutory applications also stand disposed of.

(SATISH KUMAR YADAV)
ADDITIONAL REGISTRAR

(PREETHI T.C.)
ASSISTANT REGISTRAR

(Signed order is placed on the file)