

**CM No.36-E-2025 in
EP No.7 of 2024**

**CM No.36-E-2025 in
EP No.7 of 2024**

Brijendra Singh v/s Devender Chattar Bhuj Attri and others

Present: Mr. Abhimanyu Tiwari, Advocate (through VC) with
Mr. Siddhant Saroha, Advocate
for the non-applicant-petitioner.

Mr. Satya Pal Jain, Sr. Advocate with
Mr. Dheeraj Jain, Advocate (through V.C.)
Mr. Ashwani Gaur, Sahil Garg, and Ms. Garima, Advocates
for applicant/respondent No.1.

1. Seeking the dismissal of the amended election petition, the returned candidate-Respondent No.1 Shri Devender Chattar Bhuj Attri has come up before this Court by filing the present application under Order 7 Rule 11 read with S. 151 CPC, 1908, and also read with Sections 81, 83, 86 of the Representation of the People Act, 1951, (Herein after referred to as the RP Act).
2. Even earlier, Respondent No 1 had filed an application [CM No.16-E] under Order 6 Rule 16 read with Order 7 Rule 11 read with S. 151 CPC read with Sections 81, 83, 86 of the Representation of the People Act, 1951 for dismissal of the original Election Petition; however, this Court vide order dated 23-05-2025, had dismissed the same. Ld. Sr. Advocate Shri Satyapal Jain, on a query from this Court, stated that the said order was not challenged.
3. Subsequently, after the dismissal of CM No.16-E, vide order dated 26-05-2025, except for the contesting respondent no. 1, all other respondents, i.e., Respondents No. 2 to 19, were proceeded ex-parte. Till date, no application has been placed before this Court by any of them for setting aside of the Ex-parte order.
4. Later, the petitioner filed an application under Order 6 Rule 17 of CPC, for the amendment of the Election petition no. 7 of 2024. This application was registered as CM 27-E. Vide order dated 10-07-2025, this Court had allowed the said application CM-27-E, and the amended petition was taken on record.
5. After that, the petitioner sought permission to file an amended plaint, and vide order dated 11-07-2025, the prayer was allowed.
6. Vide order date 19-08-2025, the Amended Plaint was taken on record. Earlier, the first respondent had not filed any written statement to the unamended plaint. However, after the amendment, this Court granted time to the first respondent to file a written statement to the amended plaint, which has now been filed and has also been taken on

**CM No.36-E-2025 in
EP No.7 of 2024**

record.

7. When the matter was listed on 27th August 2025, the contesting respondent No. 1 informed the Court that they intend to file another application under Order 7 Rule 11 of CPC, 1908, which was filed and registered as CM No. 36-E. However, the petitioner/non-applicant stated that no written response was required, and they would oppose it through oral submissions.

8. Shri Satya Pal Jain, Ld. Sr. Advocate, for the applicant/ returned candidate, made the following submissions:

- a) The copy of the amended election petition supplied to him is not attested as the true copy.
- b) The photostat copy, which was supplied to respondent No.1, was not even signed by the petitioner.
- c) The copy supplied to him was not properly verified.
- d) The petitioner did not supply a sufficient number of copies, i.e., one copy each for all respondents.
- e) The petitioner did not personally file the amended petition, which was the requirement of the RP Act, but it was filed through Counsel, which is contrary to the requirement, and on this ground alone, the amended petition has to be dismissed.

9. Mr. Abhimanyu Tiwari, Ld. Counsel for the petitioner/non-applicant has opposed all the submissions and submitted that there is no violation in filing the amended petition, and there is no legal defect in verification, attestation, supplying the copies, and the application has been filed to delay the already delayed petition further.

10. An analysis of the arguments and of the pleadings would lead to the following outcome.

11. The submission that the copy of the amended election petition provided to him is not attested as a true copy, is not signed by the petitioner, and is not verified properly, is to be analyzed by keeping in view the primary distinction in the present matter that by amendment, the prayers were reduced and confined to a limited prayer of improper rejection of 215 postal votes, in terms of the prayer clause, which was already there in the unamended petition, and not even a single prayer was increased.

12. In *Sharif-ud-din v. Abdul Gani Lone*, 1980 (1) SCR 1177, [1979-INSC-234],

decided on 12.11.1979, the Hon'ble Supreme Court holds,

We are, therefore, of the view that the requirement that every copy of the election petition which is intended for service on the respondent should be attested by the petitioner under his own signature is a mandatory requirement and the non-compliance with that requirement should result in the dismissal of the petition as provided in section 94 of the Act. The High Court was, therefore, right in dismissing the petition on the above ground.

13. In *Kanak Mal v. Bhikha Bhai*, (1996) 1 RLW 543, decided on 18.09.1995, the Rajasthan High Court observed,

[9]. The next objection raised by the learned counsel for the respondent regarding the maintainability of the election petition is that the copy of the amended election petition served upon the respondent was not attested by the petitioner under his own signatures to be a true copy of the election petition and there is a complete non-compliance of Section 81(3) and, therefore, the Election petition deserves to be dismissed under Section 86 of the Act. The contention of the learned Counsel for the petitioner, on this point, is that the requirement of Section 81(3) of the Act is applicable only to the main election petition and not to the amended election petition. This argument is bereft of any substance because after the amendment is made and the amended election petition is filed, it is only the amended election petition which is pending for adjudication before the High Court and not the original election petition and the requirement of Section 81(3) of the Act are applicable to the amended election petition, also. The copy of the amended election petition served upon the respondent is admittedly not attested by the petitioner under his own signatures to be a true copy of the election petition. There is, therefore, complete non compliance of Section 81(3) of the Act. The Legislature viewed the non compliance of Section 81(3) of the Act with gravity. The Court has no power to waive the non-compliance of Sections 81(3). The Court can try only an election petition which complies with the provision of Section 81 of the Act and has no power to try the election petition which does not comply with the provisions of Section 81(3) of the Act. Disobedience of the mandate of Section 81(3) of the Act attracts Section 86 of the Act and the Court has no alternative except to dismiss the election petition in view of the command given in Section 86 of the Act. The statutory requirement of Section 81(3) of the Act has not been observed by the petitioner in supplying the copy of the amended election petition to the respondent, which attracts Section 86 of the Act and the election petition, therefore, deserves to be dismissed.

14. In *Rajeev Gupta v. ECI*, 2010 SCC Online Utt 2969, decided on 20.11.2010, Uttarakhand High Court observed,

[31]. For the reasons and discussion above, I, therefore, hold that the election petitioner has not signed the amended petition, after the amendments having been incorporated in the election petition, rather it was signed by the counsel for the petitioner. The amended election petition as well as the copies thereof were to be signed by the petitioner himself. I also hold that the election petitioner has failed to

**CM No.36-E-2025 in
EP No.7 of 2024**

comply the mandatory provision of filing sufficient number of copies of amended election petition for service upon the respondents as per provision of sub-section(3) of Section 81 of the Act. I also find that the copy of the election petition, supplied to the respondent no.4 and issued to other respondents, who had contested the election in question, did not bear the signature of the petitioner, rather it bore signatures of counsel for the petitioner. Therefore, the defect being fatal and incurable, the election petition is liable to be dismissed in limine under Section 86 of the Act.

15. In *Gilbert v. Narendra*, 2019(1) Mh.L.J. 792, decided on 09.02.2018, Bombay High Court observed,

[13]. This Court has personally verified the alleged true copy served upon the applicant herein by the original petitioner after filing the present petition and it was found and noted that, the said copy is signed by the Advocate for the petitioner only as 'True Copy' and not by the petitioner himself under his own signature to be a true copy of the petition.

[14]. Thus it is clear from the record that, the opponent (original petitioner) has presented the present petition in utter violation of Section 81(1) and (3) of the Representation of the People Act, 1950 and therefore the present application preferred by the present applicant (original respondent No.1) needs to be allowed and the Election Petition filed by the opponent (original Petitioner) needs to be rejected under Order VII Rule 11 of the Code of Civil Procedure r/w Section 86 of the Representation of the People Act, 1950.”

16. When the applicant/returned candidate had filed a similar application under Order 7 Rule 11, the same was dismissed. After that, the amendment was made only to delete some prayers and to confine the petition to a limited ground. Given the above, the ratio of *Sharif-ud-din*, *Kanak Mal*, *Rajeev Gupta*, and *Gilbert supra* will not apply to the amendment seeking reduction of prayers, and in the original petition, a similar application was dismissed, and the dismissal was not challenged.

17. It has come in the pleadings that the photocopy of the amended petition was physically served by the counsel for the petitioner to respondent No.1 through his counsel in their office on 15.07.2025. A photocopy of the amended petition is annexed as Annexure A-1.

18. In *F.A. Sapa v. Singora*, [1991] 2 S.C.R. 752, decided on 10-05-1991, a three-judge bench of the Hon’ble Supreme Court holds,

The objection raised in the context of section 81 is that the election petition in every case is a mere photocopy prepared from a typed one and the copy of the election petition served on the returned candidate in each case was not duly attested to be a true copy of the original as required by section 81(3) and hence the petition was liable to be dismissed in limine under section 86(1) of the R.P. Act. Section 81(1) does not debar photo copying but Rule 1 of the Rules says that it shall

be "type-written or printed". There is no dispute that a model election petition was prepared and got typed and prints thereof were taken out by the process of photocopying. These prints were used both as original election petitions as well as copies. The particulars in regard to each petition, e.g., the names of the parties, the voting pattern, the towns and villages where utterances amounting to corrupt practice were made, etc., were filled in and the court fee was affixed on one of them which constituted the original and photocopies thereof were filed before the Stamp Reporter in accordance with the Rules. The photo copy bearing the court fee stamps was indisputably signed by the election petitioner and was presented with sufficient copies to the Stamp Reporter. The original election petition is, therefore, a photocopy of the typed model and the copies are also photocopies prepared from the original petition. Evidently the underlying idea in providing that the election petition shall be type-written or printed is to ensure that the document is legible. There is no complaint that the document which is admitted as an election petition and the copies thereof are not legible. If that be so it is difficult to appreciate the objection that the photo copy should not be treated as an original petition even if it otherwise complies with the requirement of law. The High Court was, therefore, justified in treating the same as the original election petition.

The next objection raised by the appellants is that the copy of the petition served on each one of them is not attested to be a true copy of the original petition as required by section 81(3) of the R.P. Act and Rule 1 of the Rules. Each copy is 'attested as 'certified true copy' and the petitioner has put his signature thereunder. This, contend the appellants, is not in conformity with section 81(3) and, therefore, it is obvious that the mandatory requirement of section 81(3) read with section 86(1) is not satisfied. On a plain reading of section 81(3) it becomes clear that the requirement of that provision is (i) the election petition should be accompanied by as many copies thereof as there are respondents mentioned in the petition and (ii) every such copy shall be attested by the petitioner under his own signature to be a true copy of the petition. There is no dispute in regard to the compliance of the first part. So far as the second part is concerned, all that the section requires is that the copy should be attested by the petitioner to be a true copy of the petition under his own signature. The requirement of this part of the provision is met by each copy having been signed at the foot thereof by the concerned petitioner. What is essential is that the petitioner must take the responsibility of the copy being a true copy of the original petition and sign in token thereof. No particular form of attestation is prescribed; all that the sub-section enjoins is that the petitioner must attest the copy under his own signature to be a true copy of the petition. By certifying the same as true copy and by putting his signature at the foot thereof, the petitioner of each election petition had clearly complied with the letter and spirit of section 81(3) of the R.P. Act. In fact in *Ch. Subba Rao v. Member. E.T. Hyderabad*, [1969] 6 SCR 213 which was followed in *Kamalam's case* (supra) this Court had accepted the mere signature without the words like true copy, sufficient attestation under section 81(3) of the R.P. Act. We are, therefore, in agreement with the finding recorded in this behalf by the High Court.

xxx

The High Court has applied the correct test while permitting the amendments. The High Court has rightly pointed out that the power conferred by section 86(5) cannot be exercised to allow any amendment which will have the effect of introducing a corrupt practice not previously alleged in the petition. If it is found that the proposed amendments are not in the nature of supplying particulars but raise new grounds, the same must be rejected but if the amendments are sought for removing vagueness by confining the allegations to the returned candidate only such an amendment would fall within the parameters of section 86(5) of the R.P. Act. It was on this correct understanding of the legal position that the High Court scrutinised the amendment application. It was not shown at the hearing of these appeals that any particular averment introduced by way of an amendment had the effect of introducing a totally new allegation of corrupt practice not previously pleaded in the election petitions. Yet, if the appellants can point out any inconsistency, the High Court will remove the same.

19. It is not the case of the applicant/ returned candidate that the copy supplied to him was different, or had alterations, or that there were additions or omissions in comparison to what was filed. The copy of the amended petition contains signatures purported to be those of the petitioner, and it is supported by an affidavit that has been duly notarized.

20. Furthermore, a perusal of the amended plaint as well as Annexure A-1 shows that all the pages are duly signed. Additionally, regarding non-signing of all the pages of the amended plaint, Order V Rule 2 CPC, 1908, wherein the copy of the plaint annexed to the summons is not mentioned as a signed copy.

21. Regarding the plea of improper verification, the amendment did not increase the scope and the returned candidate was previously also supplied with copies, to which the objection does not sustain.

22. In *Vinod v. Kirpal Singh Dhillon & anr*, EP No. 8 of 1985, decided on 29.05.1985, Punjab and Haryana High Court holds,

[17]. For the aforesaid reasons I am of the view that the photostat copies of the amended election petition and its enclosures handed over to respondent No. 1 were required to be attested by the petitioner. As the petitioner has not done so and failed to comply with the mandatory provisions of section 81(3), therefore, the petition is liable to be dismissed under section 86 on this short ground.

23. Since, a similar application was earlier dismissed, as has been repeatedly mentioned herein before, given the above, the ratio of *Vinod supra* will not apply.

24. The scanned copy of the photocopy of the amended petition is stated to have been sent by e-mail dated 15th July 2025 by the counsel for the petitioner to the e-mail ID of counsel for respondent No.1, and its printout is also annexed as Annexure A2. The objection that is similar to the physical copy, even the scanned copy, was not attested by

**CM No.36-E-2025 in
EP No.7 of 2024**

the election petitioner under his signature to be a true copy of the amended election petition, is baseless because the copies were sent by e-mail as an additional mode of service and not as primary service. Thus, the digitally scanned copies, in the absence of allegations of any fewer pages or missing text, are immaterial. No prejudice would be caused to the elected candidate even if the copy supplied to him was just an image of what was filed, and even if it did not contain the signatures of the petitioner.

25. In *Murarka Radhey Shyam Ram Kumar v. Roop Singh Rathore & ors*, 3 S.C.R. 573, at p.587 [E-SCR] 573, decided on 07.05.1963, a Constitutional Bench of the Hon'ble Supreme Court holds,

Having regard to the provisions of Part VI of the Act, we are of the view that the word "copy" does not mean an absolutely exact copy. It means a copy so true that nobody can by any possibility misunderstand it. The test whether the copy is a true one is whether any variation from the original is calculated to mislead an ordinary person.

26. In *T M Jacob v. C Poullose & ors*, SC 4J [E-SCR] 659 [1999 INSC 186], decided on 15.04.1999, a four Judge bench of the Hon'ble Supreme Court holds,

Does the word 'copy' occurring in section 81(3) of the Act mean an absolutely exact copy or does it mean a copy so true that nobody could by any possibility misunderstand it. This matter is no longer res integra. In *Murarka Radhey Shyam Ram Kumar v. Roop Singh Rathore & Others*, [1964] 3 SCR 573, a Constitution Bench of this Court elaborately dealt with this question after referring to a catena of authorities. It was held that the test to determine whether a copy was a true one or not was to find out whether any variation from the original was calculated to mislead a reasonable person. The Constitution Bench found as untenable the contention that since copies of the petition served on the returned candidate did not contain signatures of the petitioner below the word 'petitioner', on the copies of the petition served on the respondent, they had ceased to be true copies of the original petition, attracting the consequences of Section 86 (1) of the Act. The Bench opined:

“Having regard to the provisions of Part VI of the Act, we are of the view that the word 'copy' does not mean an absolutely exact copy. It means a copy so true that nobody can by any possibility misunderstand it. The test whether the copy is a true one is whether any variation from the original is calculated to mislead an ordinary person. Applying that test we have come to the conclusion that the defects complained of with regard to Election Petition No.269 of 1962 were not such as to mislead the appellant; therefore there was no failure to comply with the last part of sub-section (3) of section 81. In that view of the matter sub-section (3) of Section 90 was not attracted and there was no question of dismissing the election petition under that sub-section by reason of any failure to comply with the provisions of Section 81.”

The Bench also opined:

"When every page of the copy served on the appellant was attested to be a true copy under the signature of the petitioner, a fresh signature below the word 'petitioner' was not necessary. Sub-section (3) of Section 81 requires that the copy shall be attested by the petitioner under his own signature and this was done. As to the second defect the question really turns on the true scope and effect of the word 'copy' occurring in sub-section (3) of Section 81. On behalf of the appellant the argument is that sub-s.(3) of s.81 being mandatory in nature all the requirements of the sub-section must be strictly complied with and the word 'copy' must be taken to be an absolutely exact transcript of the original. On behalf of the respondents the contention is that the word 'copy' means that which comes so near to the original as to give to every person seeing it the idea created by the original, alternatively, the argument is that the last part of sub-section (3) dealing with a copy is merely directive, and for the reliance is placed on the decision of this Court in *Kamaraja Nadar v. Kunju Thevar*, [1959] SCR 583. We are of the view that the word 'copy' in sub-section (3) of Section 81 does not mean an absolutely exact copy, but means that the copy shall be so true that nobody can by any possibility misunderstand it (see *Stroud's Judicial Dictionary*, third edition, volume 4, page 3098). In this view of the matter it is unnecessary to go into the further question whether any part of sub-section (3) of section 81 is merely directory".

Similar view was reiterated by another Constitution Bench in *Ch. Subbarao v. Member, Election Tribunal, Hyderabad*, [1964] 6 SCR 213, wherein it was held that the expression 'copy' occurring in section 81(3) of the Act did not mean an exact copy but only one so 'true that no reasonable person could by any possibility misunderstand it as not being the same as the original. Agreeing with the view of the Constitution Bench in *Murarka Radhey Shyam Ram Kumar's case* (supra), the Constitution Bench in *Ch. Subbarao's case* ruled that substantial compliance with section 81(3) was sufficient and the petition could not be dismissed where there had been substantial compliance with the requirements of Section 81(3) of the Act, in limine, under section 81(1) of the Act. We are in respectful agreement with the view expressed by the Constitution Bench in *Murarka Radhey Shyam Ram Kumar's case* as well as in *Ch. Subbarao's case*.

The object of serving a 'true copy' of an Election Petition and the affidavit filed in support of the allegations of corrupt practice on the respondent in Election Petition is to enable the respondent to understand the charge against him so that he can effectively meet the same in the written statement and prepare his defence. The requirement is, thus, of substance and not of form.

The expression 'copy' in section 81(3) of the Act, in our opinion, means a copy which is substantially so and which does not contain any material or substantial variation of a vital nature as could possibly mislead a reasonable person to understand and meet the charges/allegations made against him in the election petition. Indeed a copy which differs in material particulars from the original cannot be treated as true copy of the original within the meaning of section 81(3) of the Act and the vital defect cannot be permitted to be cured after the expiry of the period of limitation.

**CM No.36-E-2025 in
EP No.7 of 2024**

27. The applicant's fourth objection is that the petitioner did not supply one copy each for all respondents. The non-applicant/ petitioner submits that the copy was supplied to the applicant, who is the sole contesting respondent/returned candidate, and all others were proceeded ex-parte, and as such, there was neither any legal requirement to file extra copies nor was it environmentally friendly to waste so much paper.

28. Whenever an amended petition is filed, then at that time, there is no need to file copies even for those respondents who had been proceeded ex-parte because they are not prejudiced due to non-receipt of the copies for the reason that, due to lack of interest, they have already discontinued to contest the petition. However, if the Ex-parte order is set aside, they can certainly be supplied with a copy of the original as well as the amended petition; and if the petitioner fails to do so, it might be a valid ground for dismissal on their request.

29. The objection regarding not personally filing the amended petition is unsustainable because no objection was raised at the time of the original election petition, and the amendment apparently did not cause any prejudice to the returned candidate.

30. Ld. Counsel for the Applicant/returned candidate submitted that the amended election petition was filed in the Registry of this Court on 15 July 2025 by the counsel for the petitioner, not by the petitioner in person. Since the petitioner did not personally present the amended election petition, but did so through his Advocate, it is a violation of the RP Act.

31. G.V. Sreerama Reddy and Anr. v. Returning Officer and Ors., [2009] 13 (ADDL.) S.C.R. 245, decided on 11-08-2009,

[19]. We have already pointed out that in spite of provisions in CPC and Evidence Act relating to institution of suit and recording of evidence etc. this Act provides all the details starting from the presentation of the election petition ending with the decision of the High Court. In such circumstances, it is but proper to interpret the language used by the Legislature and implement the same accordingly. The challenge to an election is a serious matter. The object of presenting an election petition by a candidate or elector is to ensure genuineness and to curtail vexatious litigations. If we consider sub-section (1) along with the other provisions in Chapter II and III, the object and intent of the Legislature is that this provision i.e. Section 81 (1) is to be strictly adhered to and complied with.

[20]. In view of the endorsement by the Registrar (Judicial) on 07.07.2008 that the election petition was presented only by an advocate and not by the election petitioners, we accept the reasoning of the High Court in dismissing the election petition. We further hold that as per sub-section (1) of Section 81, election petition is to be presented by any candidate or elector relating to the election personally to the authorized officer of the High Court and failure to

adhere such course would be contrary to the said provision and in that event the election petition is liable to be dismissed on the ground of improper presentation. Since, the High Court has correctly dismissed the election petition, the civil appeal fails and the same is dismissed with no order as to costs.

32. In G.V. Sreerama Reddy the Registry of the High Court put up an office objection that, as the appellants were not present at the time of filing of the election petition, the presentation of the papers was not in accordance with Section 81 of the Act, and as such, there was no proper filing of the election petition. Whereas in the present case, no report/endorsement by Registry as to any such irregularity has been received that makes ground for improper representation. The other aspects are fully complied with; as such, the ratio does not apply.

33. The cumulative outcome of all the submissions is that there is no defect in the amendment, and no violation in verification, attestation, supplying of copies, etc.

34. In C.U. Chodankar v. Shri D.R. Mandrakar and Ors., 918 Supreme Court Reports [2004] Supp. 6 S.C.R., decided on 15-12-2004, a three-judge bench of the Hon'ble Supreme Court holds,

The difference of opinion was settled by the Constitution Bench in Jacob's case by enunciating the principles as noted hereinabove. We have carefully examined the defects as noted herein earlier and on a careful examination of the defects we cannot be persuaded to the view that the defects in the present case also are material or it was vital in nature or the absence of stamp of attestation could be treated to be a ground for rejection of the Election Petitions under Section 81(3) of the Act. It may be mentioned herein that the decision of this Court in Anil R. Deshmukh case was approved by the Constitution Bench and in which it already distinguished the case of Dr. Shipra. It must not be forgotten that in the Constitution Bench decision of this Court, it was evident that "(a) the expression 'copy' in Section, 81(3) of the Act means a copy which is substantially the same as the original, variation if any from the original should not be vital in nature or should not be such that can possibly mislead a reasonable person in meeting the allegation; (b) if the copy differs in material particulars from the original the same cannot be cured after the period of limitation." The same principle was enunciated following the Constitution Bench decision of this Court in T. Phunyzatha v. H.K. & Ors., [2001] 8 SCC 358. In this decision also it was held that the defects indicated in these cases for which dismissal of the election petition was sought for did not attract Section 86(1) of the Act for dismissal of the election petitions for non-compliance of Section 81(3) of the Act. For the reasons aforesaid and applying the principles laid down in the aforesaid decisions of this Court, we are of the view that the High Court ought not to have rejected the election petitions for non-compliance of the provisions of Section 81 (3) of the Act as the defects shown by the Respondent No. 1 cannot be said to be fatal and the copies which were alleged to have been served or supplied to the Respondent No. 1 were wholly and substantially the same as the original. That apart, it is an admitted position, as noted herein earlier,

true copies of the election petitions were duly served or supplied to the Respondent No. 1. The question that was raised by the learned counsel for the Respondent No. 1 before us was whether subsequent supply of such true copies on the Respondent No. 1 could be treated to be a sufficient compliance of Section 81 (3) of the Act. Apart from the conclusions made hereinbefore, we are also of the view that in view of the decision of this Court in *Anil R. Deshmukh v. Onkar N. Wagh*, [1999] 2 SCC 205 this question needs to be decided in favour of the appellant and against the Respondent No. 1. In paragraph 17 of the aforesaid decision this Court observed as follows:

"We have already referred to the fact that even before arguments were heard on the preliminary objection by the High Court in this case, the true copies of the affidavits had been served on the first respondent and his counsel. In the facts and circumstances of this case, we have no doubt that there was sufficient compliance with the provisions of Section 81(3) read with Section 83(1)(c) of the Act even if it could be said that the copies served in the first instance on the first respondent were not in conformity with the provisions of the Act"

(Emphasis supplied).

Such being the position, we hold that the High Court was not justified in rejecting the election petitions for non-compliance of Section 81(3) of the Act.

35. It is also relevant to hold that the Amended Election Petition was duly notarized and supported by an Affidavit. The entry of Notary is also made both on the verification page no. 16 of the pleadings, as well as on the attestation of the Affidavit. The primary purpose and objective is that the petition and signatures are verified. The petition is supported by an Affidavit and is notarized. Thus, it cannot be said to be ante-dated or post-dated. The contents have been verified which are copy of the original Election Petition, and the amended petition has only deleted some portions and not added even a single ground. The non-applicant's earlier application CM No.16-E under Order 6 Rule 16 read with Order 7 Rule 11 read with S. 151 CPC read with Sections 81, 83, 86 of the Representation of the People Act, 1951 was dismissed vide order dated 23-05-2025, and the said order was not challenged. Thus, the reason for amendment was for deletion of prayers and not addition of prayers, and no prejudice is caused to the returned candidate, who had not even filed any written statement to the original petition and because of the amendment got an opportunity to file the written statement, and rather has benefitted from the amendment in multiple ways, i.e., by filing the written statement and because of the reduction in grounds of challenge of the election.

36. The amended petition has not been filed in violation of Section 81 of the Representation of the People Act, 1951. Section 81(1) of the RP Act does not require that the amended election petition, which restricts, reduces, or deletes the prayers, must also be presented personally by the petitioner; there is no legal requirement to file such type of amended petition by the petitioner personally, and in this backdrop, there is no contravention of any mandatory procedure prescribed under Section 81(1) of the RP Act.

**CM No.36-E-2025 in
EP No.7 of 2024**

37. Section 81(3) of the RP Act does not apply to that amended election petition which restricts, reduces, or deletes the prayers, because it provides that at the time of filing of the election petition, the petitioner is required to file true image copies of the election petition only to the contesting respondents and not to those who have already been proceeded ex-parte and are not contesting the petition. Despite service, except for respondent no. 1, no one ever appeared in the Court.

38. In the amended election petition, when the amendment restricts, reduces, or deletes the prayers, there is no legal requirement including under Section 81(3) of the RP Act to file copies of the petition even for those respondents who are not contesting and have been proceeded ex-parte, and as such, in this background, there is no requirement to supply two copies each for every respondent under Rule 12(f) of Part GC - Rules of Procedure and Guidelines in the matter of trial of election petitions under Part VI of the Representation of the People Act, 1951, as amended by Chapter 4 of Volume V of High Court Rules and Orders framed by the Punjab and Haryana High Court; as per which the number of copies that are required to be filed has to be twice. Therefore, the total number of respondents is 19, the number of copies to be filed were 38 which was to be done at the time of original filing and not when the amendment did not add any prayer but only restricted the prayers or deleted prayers, and also not for uninterested and non-contesting respondents.

39. There is no violation of S.83 (2) of the RP Act because the amendment did not increase or improve the scope of the petition or its prayer but restricted, reduced, and decreased the scope of prayers; as such, no prejudice can be caused to the returned candidate.

40. Given the above, there is no prima facie violation of S. 81 or S. 83 of the RP Act, and hence, there is no ground to dismiss it under S. 86 of the RPA.

41. The election petition discloses proper cause of action, and as such, this Court cannot dismiss the same under Order 7 Rule 11 CPC without putting it on trial.

42. However, there was a massive delay in the disposal of the election petition, because of which the petitioner thought it appropriate that if he wanted the election petition to be decided within the term of the elections, then it would be appropriate for him to confine his arguments only to the recounting of votes in terms of the amended petition, otherwise, the term of the election would be over, and the election petition would not be decided, and under such circumstances, he had sought amendment of the petition, and the prayer had already been allowed.

43. The present election petition was filed because of a basic defect in the non-counting

**CM No.36-E-2025 in
EP No.7 of 2024**

of postal votes, as mentioned in the election petition. Before the present application, the returned candidate/applicant had filed an application under Order 7, Rule 11, etc., to the unamended petition. By a detailed order dated 23-05-2025, this Court dismissed the same, and the said order remained unchallenged and has already attained finality. Vide amendment, the petitioner endeavored to restrict the prayers, and the amendment did not increase or improve the scope of the petition or its prayer, but restricted, reduced, and decreased the scope of prayers; as such, no prejudice is caused to the returned candidate.

44. Given the above, there is no merit in CM No. 36-E and the same is accordingly, dismissed.

(ANOOP CHITKARA)
JUDGE

18.09.2025
Jyoti Sharma