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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

*Reserved on: 13th April, 2026
Pronounced on: 24th April, 2026*

+ EL.PET. 10/2020, I.A. 8728/2020 & I.A. 11988/2020

YOGENDER CHANDOLIA

.....Petitioner

Through: Mr. Arvind Kumar Gupta, Mr. C.Prakash, Mr. Abhiesumat Gupta, Ms. Anushree Rawat, Mr. Shrey Tanwar, Ms. Shreja Saini, Mr. Abhishek Rana, Mr. T.Parth, Mr. Rajesh Yadav and Mr. Ankit Verma, Advs.

versus

VISHESH RAVI & ORS.

.....Respondents

Through: Mr. Anupam Srivastava, Sr. Advocate with Mr. Rishikesh Kumar, Ms. Rohini Prasad, Ms. Ashika Ranjan and Ms. Samriddhi Srivastava, Advs.

CORAM:

HON'BLE MR. JUSTICE DINESH MEHTA

HON'BLE MR. JUSTICE VINOD KUMAR

J U D G M E N T

REPORTABLE

Per DINESH MEHTA, J.

1. The matter has come before us pursuant to a reference that was made by learned Single Judge while hearing the election petition filed by the petitioner challenging the election of the respondent, who had been declared successful from Assembly Constituency-23, Karol Bagh for the general elections of Legislative Assembly of NCT of Delhi held in the year 2020.



2. It will not be out of place to reproduce relevant part of reasoning given by learned Single Judge, while making reference:

“22. In order to attract Section 123(4) of the RP Act is that there has to be publication by a candidate or his agent or by any other person in relation to another candidate with the consent of a candidate or his election agent of any statement of fact which is false and which he either believes to be false or does not believe to be true in relation to the personal character or conduct of any candidate or in relation to the candidature or withdrawal of any candidate being a statement reasonably calculated to prejudice the prospects of that candidate's election. The information given in Form 26, filed along with the nomination paper, does not come within any of the provisions of Section 123 of the RP Act which is very specific. Corrupt practice is defined in Section 123 of the RP Act. Corrupt practice does not include furnishing of false information in Form 26 along with the nomination paper. As stated in a catena of judgments, charge of corrupt practice is quasi-criminal in character and if substantiated, it leads not only to the setting aside of the election of the successful candidate but also disqualifies the candidate from contesting an election for a certain period. Unless the allegation does not come directly within the four corners of Section 123 of the RP Act, an election petition alleging corrupt practice under Section 123 of the RP Act cannot be entertained at all. It is again well settled that pleadings in election petition has to be specific and precise. Loose pleadings have no place in election law. This Court is of the opinion that the decision of the Coordinate Bench of this Court is based on purposive interpretation of corrupt practice and to set aside the election would go against the fundamentals and foundations of election jurisprudence.

23. In the absence of any amendment to Section 123 of the RP Act regarding the Affidavit which has now been sought to be furnished in pursuance to the amendments to the Conduct of Elections Rules, 1961, Section 123 of the RP Act, on the face of it, cannot be attracted. However, instead of holding the Judgment passed by a Coordinate Bench of this Court to be per incuriam, more particularly, after the judgment passed by the Apex Court in Ajmera Shyam (supra), this Court is inclined to request Hon'ble the Chief Justice to constitute a Larger Bench for authoritative pronouncement on this aspect.”

3. Before delving into the question so referred, we deem it appropriate to narrate the facts in brief to the extent necessary. The petitioner instituted a petition (*hereinafter referred to as “Election Petition”*) under Section 80



read with Sections 100(1)(b) & 100(1)(d) of the Representation of People Act, 1951 (*hereinafter referred to as "RP Act or the Act of 1951"*) and sought a declaration that the election of the returned candidate i.e. respondent no.1 from the Assembly Constituency-23 be declared null and void alleging that he had furnished false and misrepresented facts in the affidavit and Form 26 submitted alongwith the nomination paper.

4. It has been pleaded in the petition that respondent no.1 has furnished false information and concealed the material facts regarding his educational qualification with a view to deceive not only the Returning Officer (respondent no.13) but also to induce/influence the electorate of the concerned Assembly Constituency.

5. It is to be noted that in paragraph no.12 of the election petition, the petitioner has also asserted that respondent no.1 had furnished false affidavit and Form no.26 along with the nomination paper for the elections held in 2013 & 2015 as well. The allegation regarding nomination paper submitted for the election of 2020 reads thus:

".....(iii). And now for the General Election of AC-23, Karol Bagh held on 08.02.2020, respondent no.1 has again filled false and misleading averment regarding his educational qualification, which is contrary to his earlier false education qualification as mentioned in the earlier elections for the same constituency in the year of 2013 & 2015. The Form no. 26/affidavit at this time, the respondent no. 1 mentioned his highest education qualification as class 10th passed from NIOS (National Institute of Open Schooling) in the year of 2003. On the contrary the search result of Academic Examination for the years from 1990 to 2019 in respect of respondent no.1, though shown him as enrolled having enrolment no. 91771200133 but showing that respondent no. 1 had enrolled in May 2002 out of aforesaid period of 1990 to 2019, but has not appeared in the examination of class 10th / Secondary course. Copy of Academic Examination Result of respondent no. 1, so obtained from website of NIOS, is attached herewith as Document P-7.

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13. That the aforesaid facts and circumstances regarding the mentioning of his qualification by respondent no. 1 in his three different Forms no. 26 / affidavits filed by respondent alongwith his nomination papers filed for the election held in 2013, 2015 & 2020, crystal clear that the respondent no. 1 has treated this mandatory requirement of filing education qualification as mere formality. The false facts were mentioned in above said nomination paper for the general election 2020, which is matter in issue, with a motive to mislead the electoral / voters of Subject Assembly Constituency, thereby induced the voters, which materially affects the result of election in favour of the respondent no. 1, which not only prejudiced to the petitioner but also to the other contesting candidates as well as electoral / voters of Subject Assembly Constituency, who if had the knowledge that the respondent no. 1 is not so educated, the voters would have not opted to elect the respondent no. 1 or cast their votes in his favour.”

6. Pertinently, the petitioner has not pleaded the factual narration in the memo of petition (from Paragraph no.1 to 18) that on what ground and under which provision the respondent’s election deserves to be declared null & void. The grounds raised in the memo of petition reads thus:

“.....D. Because the result of the election, in so far as the respondent no. 1, has been materially affected by the improper acceptance of nomination, containing false information regarding education qualification of respondent no. 1 and also by corrupt practices as mentioned under section 123(4) of Representation of People Act.

F. Because nomination and affidavit / Form no. 26 requires the candidate to give full details of all education qualifications but the respondent no. 1 falsely declared that he passed class 10th. But has not stated about his graduation degree, if any, or other qualification, which he had projected in his earlier nomination and Affidavit / Form no. 26 for the General Election held in the year of 2013 & 2015.

W. Because the false declaration in the affidavit / form no. 26 regarding his education qualification of respondent no. 1 amount to corrupt practice under section 123(4) of RP Act, which influenced the result, or the electorate due to the fraud and deception, as aforesaid, which adversely affect the free and true will of the people / voters / electoral of the area.”

(Emphasis supplied)



7. Reproduction of the prayer clause of the petition shall also not be out of place:

“It is, therefore, most respectfully prayed that keeping in view the facts and circumstances of the case as mentioned above, this Hon'ble Court may kindly be pleased to:

i. declare the election of returned candidate /respondent no. 1 from the Assembly Constituency 23 Karol Bagh, NCT of Delhi held on 08.02.2020 as null and void;

ii. direct the respondent no. 11 to 13 to take steps for prosecution of respondent no. 1 for the acts of false declaration / affidavit / form no. 26 under section 125A of Representation of People Act, 1951 and other provisions of Indian Penal Code, 1860.

iii. Consequent whereupon to direct the respondent no. 11 & 12 to declare the respondent no. 1 as disqualified for the next 6 years, as enumerated in section 8A of Representation of People Act, 1951.

iv. any other order(s) / direction(s), which this Hon'ble Court deems fit and proper; in the interest of justice.”

8. As can be gathered from the order of reference, during the course of hearing of the election petition, the learned Single Judge put a question to the learned counsel for the petitioner, as to whether the election petition had become infructuous consequent to holding of fresh assembly elections in the year 2025? Then, learned counsel for the petitioner responded that non-disclosure of correct educational qualification constituted corrupt practice as per Section 123(2) and 123(4) of the Act of 1951 and therefore, the election petition can't be disposed of as infructuous, because in case the respondent No.1 is held guilty of corrupt practice, he would be disqualified as provided under the provisions of the Act of 1951 as noted in paragraph no.3 of the order of reference dated 13.01.2026.

9. Pursuant to the query so raised, arguments were advanced by the rival counsel on the issue as to whether the petition has been rendered infructuous or the proceedings should continue and after recording of the evidence etc. the petition decided on merit.



10. Learned Single Judge, thereafter passed the order under consideration, limiting the issue as to whether non-disclosure of educational qualification in the affidavit filed by the returned candidate will attract the provisions of Section 123 of the R.P. Act.

11. In the order of reference passed on 13.01.2026, learned Single Judge found that the case of *Nand Ram Bagri vs. Jai Kishan* reported in 2013 SCC Online Del 1826 was not in line with the mandate of Section 123 and the R.P. Act and is also contrary to the judgment passed by Hon'ble the Supreme Court in the case of *Ajmera Shyam v. Smt. Kova Laksmi & Ors.* reported in 2025 SCC OnLine SC 1723. Learned Single Judge thus doubted the correctness of *Nand Ram Bagri* judgment with the observations as quoted in paragraph no.2 of this judgment.

12. Mr. Arvind Kumar Gupta, learned counsel for the petitioner, took the Court through the nomination paper, more particularly the information regarding educational qualification and the affidavit and submitted that the respondent's declaration given at the time of furnishing nomination paper in the election of 2013 so also during the election of 2020 were incorrect, rather false and the same were given in order to influence the voters and change the result in his favour.

13. Per contra, Mr. Srivastava learned senior counsel for the Respondent No.1 contended that the election should not be set aside lightly, as the will of the masses should be respected. Moreover, he relied on the judgment of Hon'ble the Supreme Court rendered in the case of **M.J. Jacob vs. A. Narayanan and Ors.** (Civil Appeal 3611/2008) to buttress his contention that the election cannot be set aside, until the ingredients of Section 123(4) are found existing. He further submitted that the petitioner herein has failed



to point out that the ingredients of the aforesaid section are present in the case.

14. The learned senior counsel stated that the petitioner has solely relied upon Section 123(4) of the RP Act and not on Section 123(2) in the pleadings, while alleging corrupt practice by the Respondent No. 1. He argued that the judgment of **Nand Ram Bagri** (*supra*) would not apply. He took the Court through the affidavit filed by the petitioner along with the petition to show that the petitioner has placed reliance on sub section (4) of Section 123 of the RP Act and argued that the case of the petitioner has to be tested on the anvil of the said Section (123(4) of the RP Act). It will not be out of place to reproduce the relevant paragraphs of the petitioner's affidavit:

“(i) That the statements made in paragraphs 8, 12, 13 and Grounds of the accompanying election petition about the commission of the corrupt practice of section 123(4) of Representation of People Act, 1951, and particulars of such corrupt practice mentioned in paragraphs 8, 12, 13 and Grounds of the same petition are true to my knowledge.

“(ii) That the statements made in paragraphs 8, 12, 13 and Grounds of the said petition about the commission of the corrupt practice of section 123(4) of Representation of People Act, 1951 and the particulars of such corrupt practice given in paragraphs 8, 12, 13 and Grounds of the said petition are true to my information.”

15. Learned counsel for the petitioner in rejoinder arguments submitted that in the case of **Nand Ram Bagri** (*supra*), the single judge of this Court had interpreted the expression ‘statement of fact which is false’ in relation to the personal character or conduct of any candidate to include the statement/information published by the candidate with respect to his own self. He argued that the present case attracts Section 123(4) as the respondent No. 1 filled wrong particulars and he is liable for consequence



for having indulged in a corrupt practice.

16. Heard learned counsel for the parties.

17. The limited issue before us is, as to whether consequent to holding of fresh election, the election petition before the learned Single Judge has been rendered infructuous or it deserves to be decided on its merit. We do not wish to dilate upon the petitioner's contention that the declaration made by the respondent in relation to his educational qualification in the corresponding affidavit and documents were false and forged.

18. The reason for not entering into this question is not far to seek. If this issue is to be decided, then, the same is to be decided by the High Court. For the purpose of deciding whether the petition has been rendered infructuous, we have to proceed with the presumption that the petitioner has a triable and arguable case. However, the question as to whether the case should be put to trial or not, is the moot question.

19. For this purpose, the petitioner's own pleadings become relevant. A perusal of the petitioner's pleadings and the tenor of allegation shows that the petitioner has premised his case on Section 123(4), which deals with publication and not on Section 123(2) which stipulates "an undue influence".

20. According to us, when the edifice of the petitioner's case is not undue influence, then he can neither rely upon the provision of Section 123(2) nor can the judgment of the Court in the case of **Nand Ram Bagri** (*supra*) be held applicable. Because the case of **Nand Ram Bagri** (*supra*) and the pleadings therein made reference of both the Sections- Section 123(2) and 123(4) of the RP Act.



21. Upon consideration of the applicable statutory provision, we find that sub-section (4) talks of the publication by a candidate or his agent of any statement of fact which is false or believed to be false about the personal character or conduct of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election.

22. A simple reading of sub-section (4) suggests that sub-section (4) of Section 123 has four ingredients:-

- (i) There should be a publication by a candidate.
- (ii) Such publication should be false or has been made believing it to be false or believing it not to be true.
- (iii) Such publication should be in relation to personal character or conduct of any candidate.
- (iv) Such a statement should be intended to prejudice the prospects of that candidate's election

23. If the aforesaid four components of sub-section (4) are taken together, there remains not even an iota of doubt that the purported false allegation should be made regarding any candidate other than the person making such publication and such publication should be intended to prejudice the prospects of such candidate or a candidate other than the one making such aspersions.

24. According to us, learned Single Judge has rightly observed that to fall foul to sub-section (4), the purported false statement should be made with respect to any candidate other than the election petitioner himself and such statements should be intended to prejudice the result or prospects of that candidate. Expression 'any person' and 'that person' as posited makes is



abundantly clear that in case some publication is made about himself it will not be covered under sub-Section (4) of Section 123.

25. The allegations levelled by the petitioner, even if assumed to be correct are to the effect that the respondent no.1 has made false assertions about his educational qualification so as to influence the election in his favour, whereas sub-section (4) clearly provides that such allegation should be made to prejudice the prospects of that candidate's election i.e. election of the opposite candidate, qua whom false assertion has been made/published.

26. Firstly, by no stretch of imagination, a candidate can/would level allegation against himself, that too with a view to prejudice his own prospects. The use of expression "in relation to personal character or conduct of any candidate" so also, the expression "reasonably calculated to prejudice the prospects" and expression 'that candidate's election' leaves no room for doubt that the assertion made by the petitioner, even if taken to be at its face value, cannot be brought within the sweep and scope of sub-section (4).

27. The petitioner's allegation *qua* respondent no.1 may or may not fall within the scope of sub-section (2), but according to us, neither we nor can the High Court (learned Single Judge) resort to the provision of sub-section (2), as the same has not been pressed into service.

28. It is a settled position of law that the election of a returned candidate cannot be interfered with on casual and perfunctory pleadings. In absence of specific pleading and reference to Section, which is alleged to be breached, the High Court cannot *suo moto*, venture into the exercise of finding relevant and applicable provision for the petitioner so as to unsettle the mandate of the masses.



29. In this regard, we would like to make a reference of Section 83 of the Act of 1951, which enjoins upon the election petitioner to set forth full particulars of any corrupt practice. According to us, in order to show the petitioner's allegation *qua* respondent no.1, it will be incumbent upon the election petitioner to assert as to how the incorrect particulars of educational qualification amounted to corrupt practice, while clearly mentioning the particulars of the provision.

30. A perusal of the judgment of learned Single Judge of this Court in the case of **Nand Ram Bagri** (*supra*), alongside corresponding judgment dated 26.08.2013 passed by Hon'ble Supreme Court (Civil Appeal no. 6790/2013) makes it abundantly apparent that in the case of **Nand Ram Bagri** (*supra*), leaves no room for ambiguity that the case as setup by the Election petitioner therein was as to whether non-disclosure of correct educational qualification constitutes corrupt practice as per Section 123(2) & 123(4) of the RP Act?

31. Since the petitioner has only resorted to the provision of Sub-section (4) of the RP Act [instead of Section 123(2) & Section 123(4) of the RP Act as in **Nand Ram Bagri** (*supra*)], we are of the considered view that the case of **Nand Ram Bagri** (*supra*) is not applicable, in the present case. The petitioner's case as framed cannot continue any further, because, the allegation of corrupt practice is with respect to the educational qualification of the respondent No.1 himself, which does not fall foul to the provision encapsulated in sub-section (4) of Section 123 of the RP Act. This court and Hon'ble the Supreme Court in case of **Nand Ram Bagri** (*supra*) were examining the impact of wrong declaration about educational qualification under Sub-section (2) of Section 123 of the Act of 1951.



32. As per the law existed by such time, more particularly in the light of the judgment of Hon'ble the Supreme Court rendered in the case of *Union of India vs. Association for Democratic Reforms* reported in (2002) 5 SCC 294, this Court and Hon'ble the Supreme Court took a serious view of the false declaration regarding educational qualification, considering that false declaration *qua* the educational qualification may lead to influence the voters in favour of a declarant or a candidate.

33. But if the subsequent judgment of Hon'ble the Supreme Court in the case of *Ajmera Shyam (supra)* is considered, even this position of law has significantly changed.

34. It would not be out of place to reproduce the conclusion drawn by Hon'ble the Supreme Court in the case of *Ajmera Shyam (supra)*:

“11. CONCLUSION

11.1 Judicial intervention in election disputes concerning disclosure of information, as discussed above, was prompted by the quest for sanitising the electoral process by eliminating polluting elements by making candidates' criminal antecedents public. Aiming to prevent criminals from participating in elections to maintain purity of the electoral process — essential for the proper functioning of parliamentary democracy — the court was compelled to exercise its extraordinary power to issue specific directions. Consequently, not only disclosure of criminal antecedents, but also related obligations to disclose assets, liabilities, and educational qualifications of election candidates became mandatory. The knowledge of the criminal antecedents, assets and educational qualifications of the candidates by voters certainly invigorates the electoral process, which is ensured by obligatory disclosure by the candidate. However, the Court has made a subtle distinction between non-disclosure of criminal antecedents and that of assets and educational qualifications. While disclosure of criminal antecedents in the electoral process was the most critical element to maintain the purity of the electoral process which has to be scrupulously adhered to, disclosure of assets and educational qualifications were considered as attending supplementary requirements to strengthen the electoral process, of which there will be certain scope for consideration as to whether it is of substantial or inconsequential nature.



In the light of the above, this disclosure requirement as far as assets and educational qualification is concerned, should not be unreasonably stretched to invalidate an otherwise validly declared election over minor technical non-compliances that are not of substantial character, and should not be the basis for nullification of the people's mandate.

11.2 In the light of the legal position exposted, on examination of the facts in the peculiar background obtaining in the case, we hold that the nondisclosure of income in the income tax return for four financial years by Respondent No.1, is not a defect of substantial character. Therefore, the nomination could not have been rejected under Section 36(2) of the Representation of the People Act, 1951 as contended by the Appellant and hence, no illegality was committed by the Returning Officer in accepting the nomination of the Respondent No.1. Resultantly the penal clause cannot be invoked to invalidate Respondent No.1's election under Section 100(1)(d)(i) of the Act on the ground that the nomination of Respondent No.1 was improperly accepted.

11.3 As we have held that the defect of nondisclosure mentioned is not of a substantial nature, for the same reason the Respondent No.1 cannot be considered to have indulged in a corrupt practice within the meaning of Section 123 (2) of the Act, and thus, the election of Respondent No.1 cannot be rendered void under Section 100(1)(b) of the Act.

11.4 Consequently, on the same consideration, it cannot be also said that the Respondent No.1 did not comply with the relevant provisions of the Act or any rule or order made under the Act, to attract the provisions of Section 100(1)(d)(iv) of the Act.

11.5 Furthermore, we also hold that the allegation that the Respondent No.1 did not disclose the income from honorarium she received as the Chairperson of Zilla Parishad, or that she did not disclose receiving ex-MLA pension—cannot be considered to have been proved or established, nor these are of any material consequences.”

35. Further, according to us, the expression “publication” used in subsection 4 also has its own significance. The expression “publication” as defined by Black’s Law Dictionary means ‘to make public; to make known to people in general; to bring before public; to exhibit, display, disclose or reveal.’”



36. According to us, a declaration given in a nomination form and affidavit would not amount to ‘publication’ by itself.

37. Viewed from any angle, the allegation against the Respondent no.1, does not constitute the corrupt practice within the meaning of sub-section 4 of Section 123 of the Act, and since the assertions do not fall within the parameters of corrupt practice, as defined in Section 123, question of disqualification upto 6 years, as given in Section 8A of RP Act does not arise at all.

38. We are firmly of the view that while deciding an election petition, the High Court is bound by the letter of law and there is no scope of extended meaning or purposive interpretations. The High Court while deciding an election petition, as a Court or as a Tribunal, cannot traverse beyond the plain language.

39. We, therefore, hold that the case of **Nand Ram Bagri** (*supra*) has no bearing on the present set of facts, as the petitioner’s case is confined to Section 123(4) of the RP Act, whereas the Nand Ram Bagri’s case was more particularly under Sections 123(2), though Section 123(4) of the Act of 1951 was also under consideration.

40. We also hold that the allegation of furnishing false declaration and documents in relation to educational qualification of the candidate himself/herself does not constitute a corrupt practice within the meaning of sub Section (4) of Section 123 of the Act of 1951. And the judgment rendered in **Nand Ram Bagri** (*supra*) to the extent it holds that wrong mentioning or incorrect statement given in the nomination form is corrupt practice within meaning of Section 123(4) is not good law.



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41. According to us, even if the case is tried and the allegations are found to be correct, then also, the Respondent no.1 cannot be held guilty of corrupt practice in light of the pleadings made. Since the term of the Assembly is over and fresh elections have been held in the year 2025, the election petition is liable to be declared infructuous.

42. Reference answered accordingly.

43. A copy of this order be placed in the record of election petition No.10/2020. And the election petition be listed on 30.04.2026 for passing appropriate order in light of the reference answered.

**DINESH MEHTA
(JUDGE)**

**VINOD KUMAR
(JUDGE)**

April 24, 2026/nk