

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

El. Petn. No. 24 of 2022

Yumkham Erabot Singh

... Petitioner

Vs.

Thangjam Arunkumar & ors.

... Respondents

**B E F O R E
HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH**

O R D E R

30-05-2025

Mr. S. Chittaranjan, learned counsel appeared for the petitioner; Mr. H.S. Paonam, learned senior counsel assisted by Mr. Gunabanta, learned counsel appeared for the respondent No. 1 and Mr. Ajoy Pebam, learned counsel appeared for the respondent No. 2.

In this election petition, the appointed Advocate Commissioner submitted a report dated 16-05-2025 before this court wherein in para 1 of the said report, it is reported that on 22-05-2025, when the said matter was put up before the appointed Advocate Commissioner for taking evidence and recording of the statement of the PWs in connection with the El. Petn. No. 24 of 2022, the learned counsel appearing for the election petitioner submitted before the Advocate Commissioner that the petitioner is not willing to produce and examine any witnesses on his behalf in connection with the said election petition. As the petitioner has refused to produce any witnesses or adduce evidence in connection with the election petition, the appointed Advocate Commissioner submitted a report before this court for passing appropriate order. Subsequently, the counsel appearing for the election petitioner also filed an affidavit stating, inter alia, that despite his best efforts requesting the election petitioner to proceed with the election petition by producing witnesses and taking

evidences, the election petitioner told him about his inability to produce the witnesses and that the election petitioner has no more interest to prosecute his case and that the petitioner is not willing to produce and examine the witnesses on his behalf. It has also been further submitted that the petitioner also instructed the Advocate not to pursue with the election petition any further. Thereafter, the petitioner refused to contact the learned counsel.

Taking into consideration the unfolding subsequent events, the learned counsel appearing for the election petitioner submitted that he is unable to prosecute the election petition any further because of the non-cooperation on the part of the election petitioner and the learned counsel submitted for passing any appropriate order.

Mr. H.S. Paonam, learned senior counsel appearing for the respondent No. 1 pointed out that in the RP Act of 1951, there is provision for withdrawing of the election petition by following the procedure mention therein, however, there is no provision for closing the election petition as being not pressed. The learned senior counsel finally submitted that any appropriate order as deem fit and proper may be passed by this court taking into consideration the facts and circumstances of the present case.

In the judgment & order passed by the Gauhati High Court, Imphal Bench in the case of **“V. Weapon Zimik Vs. M. Horam & ors.”** reported in **1999 (2) GLT 506**, the election petition was dismissed for non-prosecution when the election petitioner refused to pursue this election petition. The relevant portion of the judgment are as under:-

“9. The sole question posed before this Court for determination is that, whether the election petition can be dismissed by invoking the power under Order IX and Order XVII of the Code of Civil Procedure for non-prosecution, in absence of any specific provision for the purpose under the Act.”

“10. There is no distinct provision under the Act laying down procedure to be followed when Petitioner commits default either in appearance or in production of evidence or prosecuting the petition. On the other hand, elaborate procedure has been laid Under Section 109 and 110 of the Act in the case the Petitioner chooses to file an application for withdrawal of the petition.”

“11. The full bench of Punjab and Haryana High Court in Jugal Kishore s/o Lal Chand, Petitioner v. Doctor Baldev Prakash Respondent AIR 1968 Punjab and Haryana 37, had held that the provision of Code of Civil Procedure as visualised Under Section 87 of the Act would be applicable and the election petition can be dismissed for non-prosecution under Order IX and Order XVII.”

“12. In Sundarlal Mannalal, Petitioner v. Nandaramdas Dwarka Das and Ors. Respondents AIR 1958 Madhya Pradesh 260, the Division Bench had held the same view. M. Hidayatullah C.J. (as his Lordship then was) speaking for the court observed;

The Act does not give any power of dismissal. But it is axiomatic that no Court or tribunal is supposed to continue a proceeding before it when the party who has moved it has not appeared nor cared to remain present. The dismissal, therefore, is under an inherent power which every tribunal possesses. No express provision in the Act was necessary to empower the court to make the order of dismissal in default.”

“13. This Court in K. Vungzalian, Petitioner v. J.F. Rathangliana and Ors. Respondents AIR 1988 Gauhati 307 held the same view. I am in respectful agreement with the view taken in the aforesaid decisions, because of the reasons which I shall be dealing presently.”

“14. Section 83 of the Act deals with the contents of election petition, and states;

(a) ...

(b) ...

(c) shall be signed by the Petitioner and verified in the manner laid down in the Code of Civil Procedure 1908 (5 of 1908) for the verification of pleadings:

“15. Section 87 of the Act deals with the procedure before the High Court and it enjoins that election shall be tried by the High Court as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure to the trial of suits.”

“16. A fascicule reading of Sections 83 and 87 of the Act, would make it amply clear that although no distinct provision for dismissal of the election petition in default has not been provided, since the procedure under the Code of Civil Procedure has to be followed

before the High Court, the election petition could well be dismissed under Order IX and Order XVII of the Code of Civil Procedure This apart, the High Court being a court of records, it has an inherent power to determine its own jurisdiction and procedure to be followed.”

“17. Section 86 of the Act, deals with the trial of election petition, Section 86(7) provides that, "Every election petition shall be tried as expeditiously as possible and endeavour shall be made to conclude the trial within six months from the date on which the election petition is presented to the High Court for trial. It is, therefore, not the intention of the legislature to keep the election petition alive even if the Petitioner commits default in appearance or in production of witnesses. The generic sense that, the litigation must come to an end, is based on sound public policy, so that opposite parties are not vexed for more than necessary. It is a common knowledge that election petition could not be tried as expeditiously as possible and cannot be concluded within six months from the date of election petition as visualises under the Act. Unless the election Petitioner pursued his case diligently and actively by producing witnesses cited by him and by appearing in the court as and when fixed, and by contacting his counsel and render necessary instructions. This apart, the laches and negligence of the election Petitioner in pursuing his election petition exposed the merit of his election petition. In the instant case, the election Petitioner even disowned his own statement by refusing to sign his statement made in cross examination by counsel for the Respondent No. 7, apart from non-appearance and non-production of the material witnesses cited by him. I am told that the next general election in the State of Manipur is due some time in December, 1999.”

“18. In the facts and circumstances recited above, I have no alternative but to dismiss this election petition for non-prosecution under Order IX and Order XVII Code of Civil Procedure.”

Taking into consideration the refusal by the election petitioner to pursue his election petition and his inability or refusal to produce any witnesses or to adduce any evidence in connection with the present election petition, this court is of the considered view that no purpose will be served by continuing with the process of the present election petition and it will be a futile exercise. This court cannot also lose sight of fact that another election petition being El. Petn. No. 1 of 2022 is also pending challenging the election of the respondent No. 1 herein and as such, this court is of the considered view that no purpose will be served

by proceeding with the present election petition especially when the petitioner is not interested in pursuing with the present election petition.

Keeping in view the above facts, this court has no alternative but to dismiss this election petition for non-prosecution. Accordingly, the present election petition is hereby dismissed for non-prosecution.

JUDGE

Devananda

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

El. Petn. No. 1 of 2022

Okram Henry Singh

... *Petitioner*

Vs.

Thangjam Arunkumar & ors.

... *Respondents*

With

El. Recr. Petn. No. 1 of 2022;

MC(EI. Petn.) No. 171 of 2022;

MC(EI. Petn.) No. 46 of 2023 &

MC(EI. Pen.) No. 55 of 2022

B E F O R E

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O R D E R

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As prayed for by the counsel appearing for the parties, list these cases again on 09-06-2025 for further proceedings.

JUDGE

Devananda

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

El. Recr. Petn. No. 16 of 2022

(Ref:- El. Petn. No. 24 of 2022)

Thangjam Arunkumar

... Petitioner

Vs.

Yumkham Erabot Singh & ors.

... Respondents

**B E F O R E
HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH**

O R D E R

30-05-2025

Mr. H.S. Paonam, learned senior counsel assisted by Mr. S. Gunabanta, learned counsel appeared for the petitioner; Mr. S. Chittaranjan, learned counsel appeared for the respondent No. 1 and Mr. Ajoy Pebam, learned counsel appeared for the respondent No. 2.

It has been submitted by the learned senior counsel appearing for the petitioner that as the connected election petition being El. Petn. No. 24 of 2022 has already been dismissed for non-prosecution, the present election recrimination petition may be closed.

Recording the submission made by the learned senior counsel, the present election recrimination petition is hereby closed.

JUDGE

Devananda

IN THE HIGH COURT OF MANIPUR
AT IMPHAL

MC(EI. Petn.) No. 42 of 2023

(Ref:- EI. Petn. No. 24 of 2022)

Thangjam Arunkumar

... Applicant

Vs.

Yumkham Erabot Singh & ors.

... Respondents

B E F O R E
HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH

O R D E R

30-05-2025

In view of the order passed today in the connected election petition, the present application stands closed.

JUDGE

Devananda