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NAVJOT SINGH SIDHU

v.

OM PARKASH SONI & ORS.

(Civil Appeal No. 10353 of 2016)

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OCTOBER 26, 2016

[**RANJAN GOGOI AND ABHAY MANOHAR SAPRE, JJ.**]

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*Election Laws – Election petition – Application u/Or. VI, r.16 and Or. VII, r.11 of CPC by the returned candidate – Seeking dismissal of petition as no triable issues were disclosed in the pleadings – The Court held that three broad categories of allegations (viz. Corrupt practice, seeking assistance of Gazetted Officer for furthering election prospects and action taken by Returning Officer on complaint regarding counting of votes) in the petition disclosed triable issues – On appeal, held: As regards allegation of corrupt practice, in respect of expenditure on advertisement in Newspapers all the material facts with full particulars as required u/s. 83(1)(b) of Representation of People Act have been furnished and hence the same is required to go for full-fledged trial – But in respect of allegation of expenditure in public meetings full particulars of the material facts are lacking, and thus the allegation do not disclose the triable issues – The allegations as regards taking assistance of Gazetted Officer also requires full trial – Third allegation (as regards counting of votes) is not with regard to commission of corrupt practice and by efflux of time the issue has become academic, hence not required to go into – Representation of People Act, 1951 – s. 83(1)(b) – Code of Civil Procedure, 1908 – Or. VI, r.16, Or. VII, r.11.*

**Partly allowing the appeal, the Court**

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**HELD: 1.1** As per s. 83(1)(b) of Representation of the People Act, 1951, in case of an Election Petition founded on allegations of corrupt practice, not only the ‘material facts’ have to be pleaded, but even the full particulars thereof have to be furnished at the stage of filing of the Election Petition itself. In paras 10 and 11 of the present election petition, the dates on which the advertisements had appeared; the particulars of the newspapers in which such advertisements were published; the

cost incurred for each type of advertisement in each newspaper, have all been mentioned. When details to the above extent have been mentioned in the Election Petition, it cannot be said that full particulars as required under Section 83(1)(b) have not been furnished by the election petitioner. The averments made with regard to election expenses in paragraph 10 and 11 of the Election Petition require to go for a full-fledged trial. [Paras 9, 10, 11] [777-C-F; 778-C]

1.2 In paragraphs 12 to 15 of the Election Petition, the respondent-election petitioner, by giving details of expenditure incurred by the appellant in connection with public meetings held on different dates and in different venues, has pleaded that the expenses incurred on these public meetings is much more than what has been shown in the return of election expenses under the said head (Rs.1,83,466/-). While the details of the meetings i.e. the time, date and venue are mentioned and so is the number of persons who are claimed to have attended the meetings, but there is no basis as to how the election petitioner had arrived at the quantum of expenses which he alleges to have been incurred by the returned candidate in holding each of the said meetings. What are the source(s) of information of the election petitioner with regard to the details furnished; whether he has personal knowledge of any of the said meetings; who are the persons who informed him of the details of such meetings; what is the basis of the estimate of the number of persons present and the facilities (chairs etc.) that were hired and the particulars of the refreshments served are nowhere pleaded. All such particulars that are an integral part of the allegation of corrupt practice alleged are absent. In the absence of the aforesaid particulars, the allegations made in paragraphs 12 to 15 of the Election Petition do not disclose any triable issue so as to justify a regular trial of the said allegations. The allegations mentioned in paragraphs 12 to 15, so far as commission of corrupt practice of submission of false/incorrect return of election expenses is concerned, are, therefore, struck off. [Para 12] [778-D-H; 779-A]

*Azhar Hussain v. Rajiv Gandhi* 1986 SCR 782 : 1986 (Supp) SCC 315; *Ramakant Mayekar v. Celine D'Silva* 1995 (6) Suppl. SCR 492 : (1996) 1 SCC 399 – distinguished.

- A *Virender Nath Gautam v. Satpal Singh and Ors.* 2006  
(10) Suppl. SCR 413 : (2007) 3 SCC 617 – referred  
to.

B 2. So far as second category of allegations are concerned,  
the pleadings contained in paragraphs 17 to 20 of the Election  
Petition makes it clear that it is alleged that the appellant had got  
a gazetted officer in the Punjab State Electricity Board, transferred  
to the gazetted post under the State of Punjab and that the  
appellant had received assistance from him so as to further his  
election prospects. The allegation in the Election Petition is that  
the post to which the officer was transferred from the Punjab  
State Electricity Board was under the State Government and the  
assistance received by the returned candidate from the said  
person is while he was performing the duties in the State  
Government. If that be so, the aforesaid issue also will have to  
go for a full trial as ordered by the High Court. [Para 15] [779-  
F-H]

D 3. The third allegation pertains to the action taken by the  
Returning Officer on the complaint filed by the election petitioner  
with regard to counting of votes. Thus, the allegation is not one  
with regard to commission of any corrupt practice. Hence by efflux  
of time the said issue has become academic, rendering it  
unnecessary for the Court to enter into any discussion on the  
said question. [Para 16] [780-A-B]

#### Case Law Reference

1986 SCR 782	distinguished	Para 7
F 1995 (6) Suppl. SCR 492	distinguished	Para 7
2006 (10) Suppl. SCR 413	referred to	Para 8

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 10353  
of 2016.

G From the Judgment and Order dated 06.12.2010 of the High Court  
at Chandigarh in Election Petition No. 3 of 2009.

Vikas Singh, Sr. Adv., Gaurav Sharma, Ms. Deepika Kalia,  
Dhawal Mohan, Prateek Bhatia, Ms. Vara Gaur, Advs. for appellant.

H V. K. Sidharthan, Ms. Sridevi V. S., Raajan Soni, Advs. for  
Respondents.

The Judgment of the Court was delivered by

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**RANJAN GOGOI, J.** 1. Leave granted.

2. The appellant before this Court is the returned candidate in the election held on 13<sup>th</sup> May, 2009 for the 02-Amritsar Parliamentary Constituency. The election was challenged in E.P. No.3 of 2009 before the High Court of Punjab and Haryana at Chandigarh. The appellant, as the respondent in the Election Petition, had filed an application under Order VI rule 16 and Order VII rule 11 of the Code of Civil Procedure, 1908 for dismissal of the election petition contending that on account of deficiencies in the pleadings no triable issue(s) is disclosed to justify a regular trial of the allegations made. According to the appellant the election petition, in its entirety, had failed to disclose any cause of action whatsoever. Though some relief (details of which need not be noticed) was granted to the appellant by the High Court, three broad categories of allegations contained in the election petition were held to disclose triable issues. Hence a regular trial of the same was ordered by the High Court by the order under challenge. Aggrieved, this appeal has been filed.

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3. We have heard the learned counsels for the parties.

4. The three broad categories of allegations which, according to the High Court, gave rise to the triable issues may now be dealt with in seriatim.

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5. The first is with regard to incurring of expenditure in contravention of the limit prescribed under Section 77(3) of the Representation of the People Act, 1951 (hereinafter referred to as "R.P. Act"). The gravamen of the allegation on the aforesaid score is as follows:

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According to the election petitioner, the appellant had, in his return of election expenses, shown a total expenditure of Rs.17,03,665/-. He had shown expenditure of Rs.3,31,054/- on account of campaign through electronic/print media (including cable network). The election petitioner has contended that the said return of expenditure is not correct.

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6. In paragraph 9 of the Election Petition the rates of advertisement in different newspapers like 'The Daily Ajit', 'Punjab Kesari', 'Dainik Bhaskar', 'Jag Bani' have been shown along with a statement that during election time the said charges are 25% more. In

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- A paragraph 10 of the election petition, the details of the advertisements published/issued by the appellant in different newspapers during the period between 22<sup>nd</sup> April, 2009 to 13<sup>th</sup> May, 2009 are mentioned along with the details of expenditure incurred. On the basis of the figures mentioned in paragraph 10 of the Election Petition, it is contended that the actual expenses incurred by the returned candidate on advertisements alone is Rs.32,88,845/- which is in excess of the total prescribed limit of Rs.25,00,000/- (Rupees Twenty Five lakh). In paragraph 11 of the Election Petition, the details of the expenditure incurred by the returned candidate/appellant on advertisements on local T.V. channels, etc. are also mentioned. The specific pleadings in this regard as contained in
- C paragraph 10 and 11 may set out herein below for clarity:

**"10.** That the details of advertisements by Respondent No.1, the returned candidate, in different newspapers and their expenses, during the period from the date of his nomination i.e. 22.4.2009 to 13.5.2009 i.e. the date of polling are as under:

D	S. No.	Date of Publication	Name of the Newspapers	Page No.	Size of Advertisement	Rate	Amount (In Rupees)
	1.	22.04.2009	Ajit	7	22 x 12 = 204	180	47,520
E	2.	22.04.2009	Dainik Bhaskar	2	16.5 x 18.5 = 305.25	664	2,02,686
	3.	22.04.2009	Dainik Jagran	1	24 x 12 = 288	166	47,808
F	4.	22.04.2009	Tribune	3	10 x 12 = 120	852	1,02,240
	5.	23.04.2009	Ajit	7	a) 33 x 10 = 330 (B/w) b) 20 x 14 = 280	90 180	29,700 50,400
G	6.	23.04.2009	Dainik Bhaskar	3	25 x 32 = 800	747	5,97,600
H	7.	23.04.2009	Punjab Kesari – Amr.	1	16 x 24.5 = 302	225	88,200

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8.	24.04.2009	Jag Bani	2	10 X 16 (B/w) = 160	87.5	14,000
9.	25.04.2009	Ajit	7	12 x 9 = 108	180	19,440
10.	25.04.2009	Punjab Kesari	2	12 x 5 (B/w) = 60	125	7,500
11.	26.04.2009	Ajit	7	16.5 x 20 = 330	180	59,400
12.	26.04.2009	Jag Bani	1	17 x 16 = 272	150	40,800
13.	27.04.2009	Jag Bani	2	8 x 3 (B) = 24	87.5	2,100
14.	28.04.2009	Ajit	7	29 x 10 = 290	180	52,200
15.	28.04.2009	Dainik Bhaskar	2	20 x 10 = 200	664	1,32,800
16.	30.04.2009	Ajit	7	15 x 8 (B) = 120	180	21,600
17.	30.04.2009	Jag Bani (Local)	1	10x 12 = 120	150	18,000
			2	a) 8 x 5 = 40 b) 16 x 6 = 96 c) 16 x 6 = 96	125 125 125	5,000 12,000 12,000
18.	01.05.2009	Jag Bani	1	20.5 x 9 = 184.5	150	27,675
			2	a) 8 x 5 (B) = 40 b) 16 x 6.5 (B) = 104	87.5 87.5	3,500 9,100
19.	01.05.2009	Punjab Kesari	1	20 x 9 = 180	225	40,500
20.	02.05.2009	Ajit	7	4 x 4 (B/w) = 16	90	1,440
			8	16.5. x 12 = 198	90	17,820

A	21.	02.05.2009	Jag Bani	2	a) $8 \times 5$ (B) = 40	87.5	3,500
					b) $8 \times 5$ (B) = 40	87.5	3,500
B	22.	03.05.2009	Jag Bani	2	$8 \times 5$ (B) = 40	87.5	3,500
C	23.	04.05.2009	Ajit	11	a) $8 \times 6$ (B) = 48	90	4,320
					b) $8 \times 6.5$ (B) = 52	90	4,680
D					c) $8 \times 6.5$ (B) = 52	90	4,680
					d) $8 \times 7$ (B) = 56	90	5,040
E					e) $8 \times 9$ (B) = 72	90	6,480
					f) $8 \times 6$ (B) = 48	90	4,320
F					g) $8 \times 7$ (B) = 56	90	5,040
	24.	04.05.2009	Jag Bani	1	$33 \times 5 = 165$	150	24,750
G				2	$12 \times 8.5$ (B) = 102	87.5	8,925
	25.	04.05.2009	Amr. Kesari	1	$33 \times 5 = 165$ Party	225	37,125
H				2	$8 \times 5 = 40$	162.5	6,500
	26.	05.05.2009	Ajit	7	$33 \times 8$ (B) = 264	90	23,760

27.	05.05.2009	Jag Bani	2	a) $8 \times 5(B) = 40$ b) $12 \times 6.5 (B) = 78$	87.5 87.5	3,500 6,825
28.	06.05.2009	Ajit	7	a) $33 \times 13 (B) = 429$	90	38,610
29.	06.05.2009	Jag Bani	2	a) $8 \times 5 (B) = 40$ b) $8 \times 6 (B) = 48$	87.5 87.5	3,500 4,200
30.	07.05.2009	Ajit	7	a) $12 \times 7 (B) = 84$ b) $12 \times 9 (B) = 108$	90 90	7,560 9,720
31.	08.05.2009	Ajit	7 8	$33 \times 13 (B) = 429$ $8 \times 10 (B) = 80$	90 90	38,610 7,200
32.	08.05.2009	Jag Bani	1 2	$33 \times 9 (P) = 297$ a) $8 \times 7 (B) = 56$ b) $8 \times 10 (B) = 80$ c) $8 \times 5 (B) = 40$ d) $8 \times 5.5 (B) = 44$	150 125 87.5 87.5 87.5	44,550 7,000 7,000 3,500 3,850

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33.	09.05.2009	Ajit	7	a) $8 \times 9 (B) = 72$	90	6,480
				b) $8 \times 5 (B) = 40$	90	3,600
				c) $8 \times 10 (B) = 80$		
				d) $33 \times 8 (P) = 264$	90	7,200
					90	23,760
34.	09.05.2009	Jag Bani	3	$12 \times 10 (B) = 120$	100	12,000
35.	10.05.2009	Ajit	1	a) $12 \times 9 (B) = 108$	90	9,720
				b) $8 \times 10 (B) = 80$	90	7,200
				c) $16 \times 12 (B) = 192$		
					90	17,280
36.	10.05.2009	Jag Bani	3	$12 \times 10 (B) = 120$	100	12,000
37.	11.05.2009	Ajit	8	a) $12 \times 8 = 96$	180	17,280
				b) $20 \times 10 = 200$	180	36,000
38.	11.05.2009	Jag Bani	2	a) $16 \times 6 (B) = 96$	87.5	8,400
				b) $24.5 \times 8 (B) = 196$	87.5	17,150
39.	12.05.2009	Ajit	7	$16 \times 19 = 304$	180	54,720
40.	12.05.2009	Jag Bani	1	$33 \times 9 = 297$	150	44,550
				a) $8 \times 4 (B) = 32$	125	4,000
				b) $8 \times 4.5 (B) = 36$	87.5	3,150
				c) $12 \times 9 (B) = 108$	87.5	9,450

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41.	13.05.2009	Ajit	7	a) 8 x 5 (B) = 40	90	3,600
				b) 20.5 x 16 (B) = 328	90	29,520
42.	13.05.2009	Jag Bani - Local	1	a) 16 x 25 = 400	150	60,000
				b) 12 x 12 = 144 (Hang)	300 (H)	43,200
				c) 4 x 5 = 20	150	3,000
				d) 16 x 13 = 208	150	31,200
			2	8 x 6 (B) = 48	87.5	4,200
				TOTAL		19,16,234

"11. The Respondent No.1, the returned candidate, also displayed an advertisement of 70 seconds on Metro/Filmy channel and Movies channel of Siti Cable/Digi Cable in Amritsar. The charges are Rs.825 for 30 seconds on Metro/Filmy channel and Rs.900/- per 30 seconds on Movie Channel during the period 22.4.2009 to 13.5.2009 between 8 AM to 10 P.M. The Advertisement was displaced for 18 times on each channel. The details of the same are as under:

S. No.	Name of Channel	Duration of clip (Sec.)	Rate/sec. of Broadcast (Rs.)	Total No. of days	No. of times of broadcast per day	Amount
1.	Metro/Filmy	70	27.5	22	18	762300
2.	Movie	70	30	22	18	831600
	TOTAL					15,93,900"

A           7. Shri Vikas Singh, learned Senior Counsel appearing for the  
 appellant has submitted that under the provisions of Rules of Procedure  
 and Guidance in the matter of Trial of Election Petitions Under Part VI  
 of the Representation of the People Act, 1951, as amended (Clause 12)  
 and specifically Form 'B' and Form 'BB' prescribed thereunder, it is  
 B           necessary for the election petitioner to enclose along with the Election  
 Petition all relied upon documents in the form(s) prescribed. In the present  
 case, the required information as per the forms prescribed had not been  
 furnished by the election petitioner. Shri Vikas Singh has further argued  
 that under Section 83 of the R.P. Act an Election Petition founded on  
 C           allegations of corrupt practice has to contain a concise statement of the  
 material facts and is also required to set forth full particulars of any  
 corrupt practice that the election petitioner alleges. In addition, an affidavit  
 in the prescribed form in support of the allegations of corrupt practice  
 and the particulars thereof is also required to be furnished. Relying on  
 two decisions of this Court i.e. *Azhar Hussain vs. Rajiv Gandhi*<sup>1</sup> and  
 D           *Ramakant Mayekar vs. Celine D'Silva*<sup>2</sup> it is argued that in the present  
 case it was incumbent upon the election petitioner to enclose with the  
 Election Petition photocopies of the relevant newspapers containing the  
 advertisements mentioned in paragraph 10 of the Election Petition. The  
 foundation of the Election Petition being the advertisements contained in  
 the said newspapers in the absence thereof the necessary cause of action  
 E           to justify a full-fledged trial would be absent and, therefore, the Election  
 Petition is liable to be dismissed at the threshold.

8. We have considered the aforesaid submission made on behalf  
 of the appellant. What is the meaning of the expression 'material facts'  
 and 'material particulars' need not engage any further attention of the  
 Court in view of the long line of decisions/precedents available on the  
 point out of which illustratively reference can be made to the decision of  
 F           this Court in the case of *Virender Nath Gautam vs. Satpal Singh and  
 Ors.*<sup>3</sup>. Paragraph 50 of the said decision in *Virender Nath (supra)*,  
 which is extracted below, would highlight the distinction between the  
 two expressions.

G           **"50.** There is distinction between facta probanda (the facts required  
 to be proved i.e. material facts) and facta probantia (the facts by  
 means of which they are proved i.e. particulars or evidence). It  
 is settled law that pleadings must contain only facta probanda and

<sup>1</sup> 1986 (Supp) SCC 315

<sup>2</sup> (1996) 1 SCC 399

H           <sup>3</sup> (2007) 3 SCC 617

not facta probantia. The material facts on which the party relies for his claim are called facta probanda and they must be stated in the pleadings. But the facts or facts by means of which facta probanda (material facts) are proved and which are in the nature of facta probantia (particulars or evidence) need not be set out in the pleadings. They are not facts in issue, but only relevant facts required to be proved at the trial in order to establish the fact in issue."

9. *Virender Nath Gautam (supra)* dealt with an Election Petition that did not have any allegation of corrupt practice and therefore the contents thereof were examined in the context of the requirement under Section 83 (1) (a) and not Section 83 (1) (b) of the Act of 1951. In case of an Election Petition founded on allegations of corrupt practice not only the 'material facts' have to be pleaded but even the full particulars thereof have to be furnished at the stage of filing of the Election Petition itself. This is specifically provided for in Section 83(1)(b) of the R.P. Act.

10. Reading the averments made by the election petitioner in paragraphs 10 and 11 of the Election Petition, extracted above, in our considered view, it cannot be said that full particulars of the allegation of corrupt practice have not been set out by the election petitioner. The dates on which the advertisements had appeared; the particulars of the newspapers in which such advertisements were published; the cost incurred for each type of advertisement in each newspaper, have all been mentioned. When details to the above extent have been mentioned in the Election Petition, it cannot be said that full particulars as required under Section 83(1)(b) of the R.P. Act have not been furnished by the election petitioner.

11. The insistence on furnishing photocopies of the newspapers alongwith the Election Petition on the strength of the decisions of this Court in *Azhar Hussain(supra)* and *Ramakant Mayekar(supra)* will now have to be dealt with.

In *Azhar Hussain(supra)*, the posters in question which were not furnished along with the Election Petition, itself, contained the ingredients of the corrupt practice alleged. Hence the failure of the election petitioner to include the said posters as a part of the Election

- A Petition was held to be fatal. Similarly, in *Ramakant Mayekar(supra)* the pleaded case of the election petitioner was that the returned candidate had used posters, banners and wall-paintings canvassing for votes in the name of Hindu religion. The election petitioner specifically averred that he had taken photographs of the wall-paintings which, however, were not enclosed to the Election Petition. The Election petitioner in the said case had prayed for leave to produce the same at a later stage of the case. It is in the above situation, namely, where the wall-paintings itself contained the ingredients of the commission of corrupt practice alleged that the non-furnishing of the same along with the Election Petition was held to be fatal. The above is not the situation in the present case. We, therefore, hold that the averments made with regard to election expenses in paragraph 10 and 11 of the Election Petition require to go for a full-fledged trial and the appeal insofar as the aforesaid part of the decision of the High Court has to fail.

12. In paragraphs 12 to 15 of the Election Petition, the respondent-election petitioner, by giving details of expenditure incurred by the appellant in connection with public meetings held on different dates and in different venues, has contended that the expenses incurred on these public meetings is much more than what has been shown in the return of election expenses under the said head (Rs.1,83,466/-). While the details of the meetings i.e. the time, date and venue are mentioned and so is the number of persons who are claimed to have attended the meetings, we do not find any basis as to how the election petitioner had arrived at the quantum of expenses which he alleges to have been incurred by the returned candidate in holding each of the said meetings. What are the source(s) of information of the election petitioner with regard to the details furnished; whether he has personal knowledge of any of the said meetings; who are the persons who informed him of the details of such meetings; what is the basis of the estimate of the number of persons present and the facilities (chairs etc.) that were hired and the particulars of the refreshments served are nowhere pleaded. All such particulars that are an integral part of the allegation of corrupt practice alleged are absent.

- In the absence of the aforesaid particulars, there can be no doubt that insofar as the allegations made in paragraphs 12 to 15 of the Election Petition is concerned, the same do not disclose any triable issue so as to justify a regular trial of the said allegations. The allegations mentioned in paragraphs 12 to 15, so far as commission of corrupt practice of

submission of false/incorrect return of election expenses is concerned, A  
are, therefore, struck off.

13. This will take the Court to the second category of allegations B  
on which the Election Petition is founded. The same is with regard to the  
assistance allegedly received by the appellant, as the returned candidate,  
from one Jagjit Singh Suchu. The specific case of the respondent-election C  
petitioner in the Election Petition filed is that Jagjit Singh Suchu was  
posted as the Grid Executive Engineer, Amritsar and he is a gazetted  
officer in the Punjab State Electricity Board. Shri Suchu was transferred,  
at the instance of the appellant, as Additional Superintending Engineer,  
East Division, Verka Circle, Amritsar which is a gazetted post in the D  
State of Punjab. It is also alleged that the returned candidate i.e. the  
appellant had taken the help of Shri Suchu while he was working in the  
said capacity so as to further the appellant's election prospects. The  
detailed pleadings in this regard are contained in paragraphs 17, 18, 19  
and 20 of the Election Petition. We have perused the said pleadings.

14. The contention advanced on behalf of the appellant is that the D  
aforesaid Jagjit Singh Suchu, on the pleadings of the election petitioner  
himself, is admittedly a gazetted officer of the Punjab State Electricity  
Board and, therefore, under the provisions of Section 123(7) of the R.P.  
Act, prior to its amendment by Act 41 of 2009 with effect from 1<sup>st</sup>  
February, 2010, the assistance of Jagjit Singh Suchu, even if obtained, E  
did not amount to corrupt practice inasmuch as the said person was not  
in service of the Government.

15. The pleadings contained in paragraphs 17 to 20 of the Election F  
Petition makes it clear that it is alleged that while Jagjit Singh Suchu was  
an officer of the Punjab State Electricity Board the appellant had got  
him transferred to the post of Additional Superintending Engineer, East  
Division, Verka Circle, Amritsar under the State of Punjab and that the  
appellant had received assistance from him so as to further his election  
prospects. The allegation in the Election Petition is that the post to which  
Jagjit Singh Suchu was transferred from the Punjab State Electricity  
Board was under the State Government and the assistance received by G  
the returned candidate from the said person is while he was rendering  
service as Additional Superintending Engineer, namely, while he was  
performing the duties in the State Government. If that be so, the aforesaid  
issue also will have to go for a full trial as ordered by the High Court.  
The appeal to the aforesaid extent will, therefore, have to be dismissed. H

A            16. Insofar as the third allegation of the election petitioner is concerned, we are of the view that it would not be necessary for us to deal with the said question. The said allegation pertains to the action taken by the Returning Officer on the complaint filed by the election petitioner with regard to counting of votes. The election took place in the year 2009. The life of the House for which the election took place has long expired. The third allegation is not one with regard to commission of any corrupt practice. Hence by efflux of time the said issue has become academic rendering it unnecessary for us to enter into any discussion on the said question.

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C            17. Consequently and in the light of the above, the appeal is partly allowed to the extent indicated above. The trial of the election petition on the issues/allegations that survive in terms of the present order will have to recommence. We order accordingly.

Kalpana K. Tripathy

Appeal partly allowed.

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