

PETITIONER:
DR. (SMT.) SHIPRA

Vs.

RESPONDENT:
SHRI SHANTI LAL KHOIWAL

DATE OF JUDGMENT: 03/04/1996

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
BHARUCHA S.P. (J)
PARIPOORNAN, K.S.(J)

CITATION:
1996 AIR 1691 1996 SCC (5) 181
JT 1996 (5) 681 1996 SCALE (3)369

ACT:

HEADNOTE:

JUDGMENT:
WITH
CIVIL APPEAL NOS.8080 OF 1994 AND 6635 OF 1995.
AND
CIVIL APPEAL NO.200 OF 1993

Jhamak Lal
V.
Dr. Laxminarayan Pande & Ors.

J U D G M E N T

BHARUCHA, J.

I am in respectful agreement with the judgment and order of our learned brother, K. Ramaswamy, J. I would set out my reasons, briefly, thus:

The question that must be posed, as indicated by this Court's previous decisions, is : does the document purporting to be a true copy of the election petition mislead in a material particular ? The "true copy" of the election petition furnished by the appellant election (election petitioner) to the respondent (the successful candidate) did not show that the appellant's affidavit supporting his allegations of corrupt practice had been duly sworn or affirmed. Where corrupt practice is alleged, the election petitioner must support the allegation by making an affidavit in the format prescribed. An affidavit must be sworn or affirmed in the manner required by law, or it is not an affidavit. The document purporting to be a true copy of the election petition furnished by the appellant to the respondent gave the impression that the appellant's affidavit supporting his allegations of corrupt practice had not been sworn or affirmed and was, therefore, no affidavit at all; it misled in a material particular and its supply was, as the High Court held, fatal to the election petition.