

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (C) NO. 29882 OF 2011

IN THE MATTER OF:

Ashok Shankarrao Chavan

...Petitioner.

VERSUS

Madavrao Kinhalkar & others

...Respondents.

COUNTER AFFIDAVIT ON BEHALF OF UNION OF INDIA
[Respondent No. 5]

I, Jose Thomas, son of Late Shri Thomas, aged about 58 years and at presently working as Deputy Secretary to the Government of India, Ministry of Law & Justice, Legislative Department, Shastri Bhawan, New Delhi, do hereby solemnly affirm and state as under:-

1. I am Deputy Secretary to the Government of India, Ministry of Law and Justice, Legislative Department and as such I am conversant with the facts and circumstances of this case and competent to swear this affidavit on behalf of Union of India. I have read and understood the contents of Special Leave Petition.
2. That the deponent respectfully submits that the Union of India through Ministry of Law and Justice, Legislative Department is a proforma party in this case and the issue involved is purely a question of law.
3. That the deponent craves leave of this Hon'ble Court to submit this counter affidavit as a short reply on behalf of the Union of India limited to the question of law as to whether the Election Commission of India, under section 10A of the Representation of the People Act, 1951 has jurisdiction and power to conduct an enquiry and to look into the correctness or falsity of the return of elections expenses maintained and filed by a candidate in an election.

4. That I am advised to say that a plain reading of section 10A of the Representation of People Act, 1951 and Rule 89 of the Conduct of Election Rules, 1961 indicates that power of the Election Commission to disqualify a person arises only in the event of failure to lodge an account of election expenses and not for any other reasons including the correctness or otherwise of such accounts.

5. That in view of the above, it is respectfully prayed that the said Special Leave Petition may be disposed of with appropriate orders.



DEPONENT

VERIFICATION :-

I, the above named deponent, do hereby verify that the contents of this affidavit are true and correct to my knowledge based on record and nothing material has been concealed there from.

Verified at New Delhi on this ____ day of February, 2013.



DEPONENT