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**IN THE HIGH COURT OF KARNATAKA
DHARWAD BENCH**

EP NO.100001/2020

DULY SWORN ON : 23.05.2022

WITNESS :

NAME : Mahesh Iranagouda Kumathalli
FATHER'S NAME : Iranagouda Kumathalli
AGE : 60 years
OCCUPATION : Agriculturist
ADDRESS : R/o No.4362, Vikrampura,
Athani, Tq: Athani,
Dist: Beagavi-591304

**EXAMINATION-IN-CHIEF BY SRI. PRASHANT KADADEVAR
ADVOCATE FOR RESPONDENT NO.1 IN CONTINUATION OF
THE AFFIDAVIT FILED IN LIEU OF CHIEF EXAMINATION.**

I have submitted my affidavit in lieu of my chief examination. The contents of the affidavit are true and correct. Now, I see the documents produced by me. The certified copy of the nomination checklist is marked at Ex.R1. Certified copy of my affidavit in Form No.26 submitted before the Returning Officer is marked at Ex.R2.

CROSS-EXAMINATION BY SRI. CHAITANYA KUMAR

2. During 2000-2001, I joined Indian National Congress Party. Before joining the said party, I was doing business and agriculture. I am a B.E. (Civil) Engineering graduate. In 2019, I resigned to the membership of Indian National Congress Party.

3. I am not aware of the provisions of Sections 81, 83, 86(1), 100 and 153 of the Representation of the People Act, 1951 which are referred to in my affidavit. Witness volunteers that after discussing with his advocate he has stated about that in his affidavit.

4. Now I see Ex.P4(a). I have submitted the same to the Returning Officer. I have submitted Ex.R2 also before the Returning Officer. Without looking into Ex.P4(a) and Ex.R2, I cannot state the date of the submission of those documents. But, I submitted both of them on the same day.

5. After submitting the affidavit as per Ex.P4(a), I came to know that the same is incomplete. Therefore, on the same day, I submitted another affidavit as per Ex.R2. The technical mistake referred to by me in para 5 of my affidavit filed along with IA No.1/2022 is the omission of one particular in one column of Form No.26.

6. In Ex.R1, the Returning Officer has not mentioned about omission in any column of Form No.26. It is not true to suggest that Returning Officer never mentioned about any omission in Form No.26. It is not true to suggest that I have not submitted any affidavit as per Ex.R2 before the Returning Officer. It is not true to suggest that Ex.R2 is a concocted document.

7. I am aware that in the affidavit in Form No.26, I had to declare about the assets of my Hindu un-divided family. It is not true to suggest that in Ex.P4(a) and Ex.R2, I have deleted the column meant for declaration of the assets of Hindu undivided family.

8. Question- In Ex.P4(a) and Ex.R2 whether you have declared about the assets of your Hindu undivided family?

Answer- I have declared my share in my ancestral properties. That is the declaration regarding the assets of our Hindu undivided family.

9. It is true to suggest that I have not mentioned in Ex.P4(a) and Ex.R2 about the year of completion of my final educational course. It is true to suggest that the stamp paper on which the affidavit Ex.R2 is engrafted is purchased on 18.11.2019. It is true to suggest that in the verification column of Ex.R2 the verification date is mentioned as 14.11.2019.

Witness volunteers that that is a clerical error, but the affidavit was sworn to on 18.11.2019. Witness further volunteers that the said date is reflected above his signature after verification.

It is not true to suggest that Ex.R2 is antedated.

10. It is true to suggest that before the Supreme Court, I challenged the order of disqualification passed by

the Speaker of the Assembly against me. It is true to suggest that the Speaker by his order had disqualified me from the post of Member of Legislative Assembly as well as from contesting the election for the rest of my tenure as MLA.

11. I do not remember if the Hon'ble Supreme Court had granted any interim stay to the order of disqualification passed by the Speaker. I was not personally present in the Supreme Court when the oral observation for deferring the bye-election as mentioned in para No.7 of my affidavit evidence were made. But my advocate was present.

Question-Whether you will examine your advocate who was said to be present in the Court Hall of the Supreme Court during such oral observation?

Answer- It is difficult for me to examine the said advocate.

12. I do not remember, if I challenged the notification Ex.P1 before the Supreme Court.

Question- In your affidavit para No.7 you have said that the Single Judge in the writ petitions filed challenging the notification dated 27.09.2019 observed that the said notification prima facie is not in accordance with Section 153 of the R.P. Act. Whether you have challenged that order?

Ruling- The witness has not stated that there was an order to that effect. According to him that was only an observation. Therefore, the question of filing any case before the Supreme Court against such oral observation does not arise. Therefore, question is rejected.

13. Question- If there was no extension of time under the notification Ex.P19, you were not eligible to submit the nomination paper under the notification Ex.P18?

Answer- Ex.P19 was issued in view of the proceedings in the Supreme Court. Therefore, the question of eligibility under Ex.P18 does not arise.

14. It is not true to suggest that Election Commission of India has issued Ex.P19 at our behest. It is not true to

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suggest that I have suppressed the material information in Ex.P4(a) and Ex.R2. It is not true to suggest that I have committed irregularities in submission of Ex.R2 and Ex.P4(a), therefore, my election is liable to be set aside. It is not true to suggest that I am deposing falsely.

RE-EXAMINATION: NIL

(TYPED TO MY DICTATION IN THE OPEN COURT)

ROI & AC

**(K.S.MUDAGAL)
JUDGE**