

**IN THE HIGH COURT OF KERALA AT ERNAKULAM  
PRESENT  
THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH**

Tuesday, the 7<sup>th</sup> day of April 2026 / 17th Chaithra, 1948  
IA.NO.6/2025 IN EL.PET. NO. 1 OF 2025

**APPLICANT/1ST RESPONDENT:**

SURESH GOPI, AGED 68, S/O. GOPINATHAPILLAI, RESIDING AT 10/219/2, BHARAT HARITAGE, NETTISSERY, NETTISSERY P.O., MAHADEVA TEMPLE ROAD, THRISSUR DISTRICT, PIN - 680 651.

**RESPONDENTS/PETITIONER : RESPONDENT R2 TO R11:**

1. JOSHI VILLADOM , AGED 54 YEARS, S/O. CHERU, THAIKKADAN HOUSE, RAMAVERMAPURAM P.O., THRISSUR - 680631.
2. ADV. V.S.SUNILKUMAR, AGED 56 YEARS, S/O. SUBHRAHMANIAN, VELICHAPPATT HOUSE, ANTHIKAD P.O., THRISSUR - 680641.
3. K.MURALIDHARAN, AGED 67 YEARS, S/O. K.KARUNAKARAN, JYOTHIS, T C/ 2611/B.N.R.A, 171/A, BHAGAVATHY NAGAR, KOWDIAR, THIRUVANANTHAPURAM - 20.
4. ADV. P.K.NARAYANAN, AGED 64 YEARS ,S/O. KORAN, PUTHSSERY HOUSE, KADUPPASSERY P.O., THRISSUR - 680683.
5. DIVAKARAN PILLATH, AGED 70 YEARS, S/O. AYYAPPANKUTTY, PALLATH HOUSE, PULLAMBUZHA, EDASSERY P.O., THRISSUR - 680669.
6. M.S.JAFARGHAN, AGED 37 YEARS, S/O. SULAIMAN, MUNNAKKAPARABIL HOUSE, PONJANAM P.O., THRISSUR - 680702.
7. PRATHAPAN, AGED 51 YEARS, S/O. RAGHAVAN, PATTARA HOUSE, KOTHACHIRA P.O., PERINGODU, PALLAKKAD - 679535.
8. SUNIL KUMAR, AGED 51 YEARS, S/O. PRABHAKARAN, THEVILAPURATH HOUSE, 8/377, VALLISSERY DESAM, AVINISSERY P.O., THRISSUR - 680 306.
9. CHIEF ELECTION OFFICER \*(DELETED) , ELECTION COMMISSION OF INDIA, NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI - 110 001.
10. RETURNING OFFICER \* (DELETED) , THRISSUR ELECTION OFFICE, THRISSUR COLLETRATE, AYYANTHOLE P.O., THRISSUR - 680 003.
11. THRISSUR ELECTION OFFICER \*(DELETED) , THRISSUR ELECTION OFFICE, THRISSUR COLLETRATE, AYYANTHOLE P.O., THRISSUR - 680003. \*R9 TO R11 ARE DELETED FROM THE ARRAY OF RESPONDENTS AS PER ORDER DATED 26.08.25 IN IA 3/25 IN EL.PET 1/25.

Application praying that in the circumstances stated in the affidavit filed therewith the High Court be pleased to dismiss the above Election Petition, in the interest of justice.

This Application coming on for orders upon perusing the application and the affidavit filed in support thereof, and upon hearing the arguments of M/S.B.N.SHIVSANKAR, TINU T.JOSEPH, SINI V.S. & ADITHYA KIRAN V.E., Advocates for the Applicant in I.A./Respondent 1 in Election Petition and of SRI. JOSHI VILLADOM (PARTY- IN - PERSON), Respondent 1 in I.A./Petitioner in Election Petition, the court passed the following:

**DR.KAUSER EDAPPAGATH, J.**

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I.A No.6/2025

in

Election Petition No.1/2025

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Dated this, the 7<sup>th</sup> day of April, 2026

## **O R D E R**

The election petitioner contested as an independent candidate from the Thrissur Lok Sabha constituency in the 18<sup>th</sup> Lok Sabha election held in 2024. The respondents in the Election Petition are the remaining contested candidates. The 1<sup>st</sup> respondent, who contested as the Bharatiya Janata Party (BJP) candidate, was declared elected. The above Election Petition has been filed by the election petitioner under Section 81(1) of the Representation of the People Act, 1951 (for short, 'the RP Act') calling into question the election of the 1<sup>st</sup> respondent on the ground specified in sub-sections (1)(b) and 1(d)(i) of Section 100 of the RP Act.

2. According to the election petitioner, the 1<sup>st</sup> respondent has committed corrupt practices under Section 123(3-A) and (4) of the RP Act. It is further alleged that the nominations of all the

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respondents in the Election Petition were improperly accepted. The prayer in the Election Petition is to declare the election of the 1<sup>st</sup> respondent as void and to further declare that the election petitioner has been duly elected.

3. On receipt of the notice issued by this Court under Rule 212 of the Kerala High Court Rules, 1971, the 1<sup>st</sup> respondent entered appearance. The remaining respondents in the Election Petition did not enter appearance. The 1<sup>st</sup> respondent filed IA No.6/2025 to dismiss the Election Petition as not maintainable under Section 86(1) of the RP Act on the following grounds:

(i) The mandate of Section 81(3) of the RP Act that every copy of the Election Petition shall be attested by the petitioner under his own signature to be a true copy of the petition is patently breached.

(ii) The Election Petition does not contain full particulars of the alleged corrupt practices as required under Section 83(1)(b) of the RP Act.

(iii) Affidavit under Rule 94-A of the Conduct of Elections Rules, 1961 does not refer to any corrupt practices or the details under Form 25.

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(iv) None of the Annexures produced along with the Election Petition are attested as a true copy as mandated in Section 83(2) of the RP Act. They are also not verified, as is required by law.

(v) There is no Election Petition at all to be entertained or adjudicated, as none of the requirements in law mandated under the RP Act or Conduct of Elections Rules, 1961, are fulfilled or satisfied.

4. The election petitioner filed a counter statement refuting the allegations in the affidavit filed in support of IA No.6/2025.

5. In this order, I refer to the status of the parties as they have been shown in the Election Petition.

6. I have heard Sri.Joshi Villadom, the election petitioner, who appeared in person, Sri.K.Ramakumar, the learned Senior Counsel instructed by Sri.B.N Shivsanker, the learned counsel for the 1<sup>st</sup> respondent.

7. The definite case of the 1<sup>st</sup> respondent is that the copy of the Election Petition supplied to him is not attested by the election petitioner under his own signature to be a true copy of

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the Election Petition. Section 81(3) of the RP Act provides that every election petition shall be accompanied by as many copies thereof as there are respondents mentioned in the petition, and every such copy shall be attested by the petitioner under his own signature to be a true copy of the petition. It is settled that the requirement that every copy of the election petition which is intended for service on the respondent should be attested by the petitioner under his own signature is a mandatory requirement and the non compliance with that requirement should result in the dismissal of the petition as provided in Section 86(1) of the Act (*Sharif - Ud - Din v. Abdul Gani Lone*, AIR 1980 SC 303), *Rajendra Singh v. Usha Rani*, AIR 1984 SC 956, *Kaveri Amma v. Devaki*, 1996 (2) KLT 189).

8. As per Rule 212(1) of the Kerala High Court Rules, 1971, every Election Petition must be accompanied by three authenticated copies of the application for the Court's use, along with twice the number of additional copies as there are respondents to be produced, along with the summons and the application for service. The learned Senior Counsel for the 1<sup>st</sup> respondent submitted that only a photocopy of the Election

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Petition was served on the 1<sup>st</sup> respondent, which does not contain any original signature of the election petitioner or attestation. However, the 1<sup>st</sup> respondent has not produced a copy of the Election Petition served to him. Therefore, I have called for all records from the Registry to verify whether twice the number of additional copies produced by the election petitioner, along with the Election Petition, contain an attestation of the election petitioner as 'True Copy.'

9. There are two authenticated original copies and eleven additional copies still in the file. Originally, there were eleven respondents, so the election petitioner produced twenty-two additional copies as required under Rule 212(1). The eleven copies now in the file are the remaining copies after sending one to each respondent. I have verified these eleven copies, which are merely photocopies of the original without any original signature of the election petitioner or attestation by him. In the context of Section 81(3) of the RP Act, attestation involves verifying that the copy is a true copy of the original. To attest a copy as a true copy, an additional signature is needed, usually accompanied by an endorsement stating 'True Copy.' Even if the

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words 'True Copy' are present, an extra signature of the petitioner is necessary to comply substantially with Section 81(3) of the RP Act (See. *Ch. Subbarao v. Member, Election Tribunal, Hyderabad* AIR 1964 SC 1027, *Dr Anup Singh v. Shri.Abdul Ghani and Others*, AIR 1965 SC 815, *Dr.K.K.Mohamad Koya v. P.M.Sayeed*, 1977 KHC 339).

10. As already stated, the copies produced by the election petitioner with the Election Petition were not attested by the election petitioner himself as a true copy of the petition, as required. Consequently, there is a violation of Section 81(3) of the RP Act, justifying the dismissal of the Election Petition under Section 86(1).

11. Section 83(2) of the RP Act prescribes that any Schedule or Annexure to the Election Petition shall also be signed by the petitioner and verified in the same manner as laid down in the Code of Civil Procedure, 1908 (for short, C.P.C.). There is no verification at all of any of the Annexures produced along with the Election Petition in the manner as laid down in C.P.C. However, it is settled that an Election Petition cannot be summarily rejected under Section 86(1) of the RP Act for non-compliance with Section

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83(2) unless it is found that Annexures and Schedules are an integral part of the Election Petition (See *F.A. Sapa and Others v. Singora and Others*, (1991) 3 SCC 375, *M. Karunanidhi v. H. V. Hande*, (1983) 2 SCC 473, *Mary Thomas v. Anil Akkara*, 2017 (2) KHC 518). There is nothing on record to show that Annexures 1 to 8 are integral part of the Election Petition.

12. Under Section 83(1) of the RP Act, an Election Petition (a) shall contain a concise statement of the material facts on which the petitioner relies, (b) shall set forth full particulars of any corrupt practice that the petitioner alleges, including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice.

13. All primary facts to be proved at the trial by a party to establish the existence of a cause of action or defence are material facts. As distinguished from material facts under Section 83(1)(a), particulars under Section 83(1)(b) would mean all the details which are necessary to amplify, refine and embellish the material facts already pleaded in the petition in compliance with the requirements of clause (a). Though the omission to comply

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with Section 83 of the RP Act is not made a ground under Section 86 for dismissal of the petition, the powers of the Court to strike out pleadings under Order VI Rule 16 and reject the petition under Order VII Rule 11 C. P. C. can be invoked in view of Section 87 of RP Act, which makes the provisions of C. P. C. applicable as nearly as may be, subject to the provisions of the RP Act and any of the Rules. Failure to allege even a single material fact will render the cause of action incomplete and render the pleadings in respect of that cause of action liable to be struck off under Order VI Rule 16 of C.P.C. If the Election Petition is based on such incomplete causes of action alone and if no other triable issue remains after the pleadings are thus struck off, the entire petition itself will be liable to be rejected under Order VII Rule 11(a) of C.P.C. as not disclosing a cause of action even at the threshold or at any later stage. (See *Azhar Hussain v. Rajiv Gandhi*, AIR 1986 SC 1253, *Manphul Singh v. Surinder Singh*, (1973) 2 SCC 599, *Kona Prabhakara Rao v. M. Seshagiri Rao*, (1982) 1 SCC 442, *Arun Kumar Bose v. Mohd. Furkan Ansari and Others*, AIR 1983 SC 1311, *Dhartipakar Madan Lal Agarwal v. Rajiv Gandhi*, (1987) Supp. SCC 93), *Balan v. Manoharan*, 1988 (1) KLT 717).

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14. Even though in paragraph 8 of the Election Petition, it is alleged that the 1<sup>st</sup> respondent has committed corrupt practices under Sections 123(3-A) and (4) of the RP Act, the allegations are so vague in nature. The basic ingredients to attract those provisions have not been pleaded at all. It is alleged that the 1<sup>st</sup> respondent committed corrupt practices under Section 123(3-A) and (4) of the RP Act, appealing on the ground of religion by visiting Holy Qurbana of Catholic churches. It is further alleged that the 1<sup>st</sup> respondent's party members exerted influence on the voters of the Christian community and appealed to them to vote in the society. It is also alleged that the 1<sup>st</sup> respondent gave the Thrissur Lourde Church a golden crown on 15/1/2024, but the crown was not pure gold. None of these allegations constitute any of the corrupt practice defined in Section 123 of the RP Act. Apart from that, there is absolutely no allegation that these alleged corrupt practices were made by the 1<sup>st</sup> respondent for the furtherance of the prospect of his election or for prejudicially affecting the election of any other candidate. There is also no allegation that the 1<sup>st</sup> respondent has appealed to vote on the ground of his religion. Even the religion of the 1<sup>st</sup>

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respondent is not pleaded in the Election Petition. Hence, as rightly submitted by the learned Senior Counsel for the 1<sup>st</sup> respondent, the averments contained in the Election Petition cannot, by any stretch of imagination, be construed to constitute allegations of corrupt practice as envisaged under the provisions of the RP Act and thus do not make out a triable case.

15. An Election Petition levelling a charge of corrupt practice is, by law, required to be supported by an affidavit of the election petitioner. The proviso to Section 83(1) of the RP Act mandates that if the relief claimed in the Election Petition is on the allegation of corrupt practice indulged in by the respondent, an affidavit in the prescribed form in support of the allegation of such corrupt practice should accompany the Election Petition. Rule 94-A of the Conduct of Elections Rules, 1961 prescribes that the affidavit referred to in the proviso to sub-section (1) of Section 83 shall be sworn before a Magistrate of the First Class, a Notary or a Commissioner of Oaths and shall be in Form 25.

16. The learned Senior Counsel for the 1<sup>st</sup> respondent submitted that the affidavit that accompanies the Election Petition, based on allegations of corrupt practice, is not in

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accordance with the requirements of the proviso to Section 83(1) of the Representation of the People Act, 1951, Rule 94-A of the Conduct of Elections Rules, 1961 and Form 25 referred to in that Rule.

17. The affidavit is found on page 142 of the Election Petition. It is not in accordance with the requirement of the proviso to Section 83(1) of the RP Act, Rule 94-A of the Conduct of Elections Rules and Form 25 referred to in that Rule. The affidavit does not specify the name of the corrupt practice. The alleged corrupt practices are not specified in particular with reference to the contents of the paragraphs of the Election Petition. Strict compliance with the requirements of Rule 94-A of the Conduct of Elections Rules and Form 25 is mandatory, and the affidavit being obviously defective, the Election Petition itself is not maintainable. (See *Dr.Shipra (Smt) and Others v. Shantil Lal Khoiwal*, AIR 1996 SC 1691 and *A. Mohammed v. Nalakath Soopy*, 1997 (1) KLT 697).

18. The election petitioner has vaguely pleaded in the Election Petition that there is an improper acceptance of the nominations of the respondents. But there is no pleading on what

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ground he alleges that the nominations were improperly accepted. It is simply alleged that the address furnished by the 1<sup>st</sup> respondent is a fake one. What is the correct address of the 1<sup>st</sup> respondent has also not been stated. There is also no specific pleading that by improper acceptance of the nominations, the result of the election, insofar as it concerns the returned candidate, has been materially affected to attract the ingredients of Section 100(1)(d)(i) of the RP Act.

The upshot of the above discussions and findings is that the challenge to the maintainability of the Election Petition raised by the 1<sup>st</sup> respondent must succeed. The mandate of Section 81(3) of the RP Act is patently breached. The Election Petition not only lacked the material facts, but it also lacked material particulars. The affidavit filed was not in the form prescribed. The ingredients to attract Section 100(1)(d)(i) of the RP Act are also lacking. The Election Petition read as a whole does not disclose any cause of action or triable issue. In short, there is no Election Petition at all to be entertained or adjudicated, as none of the requirements in law mandated under the RP Act or Conduct of Elections Rules, 1961, are fulfilled or satisfied. Accordingly, IA No.6/2025 stands

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allowed and the Election Petition is dismissed *in limine*. The Registry shall communicate the substance of the decision to the Election Commission and the Speaker of the House of Parliament, besides sending an authenticated copy of this Order to the Election Commission as contemplated under Section 103 of the RP Act.

Sd/-

**DR. KAUSER EDAPPAGATH**  
**JUDGE**

Rp

