

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

Orders reserved on : 25.08.2026

Orders pronounced on : **16.09.2026**

CORAM :

**THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

O.A.Nos.823 and 824 of 2026  
in E.L.P.No.47 of 2026

E.V.Velu

.. Applicant  
(in both the cases)

**Versus**

1. Arul Arumugam
2. The Chief Election Officer,  
Election Commission of India,  
Nirvachan Sadan, Ashoka Road,  
New Delhi – 110 001.
3. The Chief Electoral Officer and  
The Principal Secretary to Government,  
Public (Elections) Department,  
Secretariat, Fort St. George,  
Chennai – 600 009.
4. The District Election Officer-cum-  
The Collector,  
Collectorate, Thiruvannamalai,  
Thiruvannamalai District – 606 601.
5. The Returning Officer-cum-  
The Revenue Divisional Officer,  
No.63, Thiruvannamalai Assembly Constituency,  
Thiruvannamalai District – 606 601.

6. Velu
7. M.Venkateshan
8. M.Vignesh
9. Raja
10. V.Ramesh
11. Moorthy
12. E.Maarikannu
13. G.Makeswari
14. M.Pazhani
15. M.Salims
16. B.Kothandapaani
17. C.Elumalai
18. C.Elumalai
19. A.Elumalai
20. A.Anand
21. A.Aadidya Pazhani Samy
22. M.Anbzhakan
23. V.Arul Aanand
24. K.Arul
25. V.Velu
26. S.Vijayakumar
27. V.Malli
28. A.Nakkiran
29. P.Kannan
30. S.Vignesh
31. S.Raj
32. C.Elumalai
33. J.Raajan
34. R.Karthikeyan
35. R.Sridharan
36. Mohanaraman
37. Senthil Kumar
38. Raja

.. Respondents  
(in both the cases)

**Prayer in O.A.No.823 of 2026 :** Original Application filed under Order XIV Rule 8 of O.S. Rules and Rule 3 of the Rules of the Madras High Court Election Petitions, 1967 read with Order VI Rule 16 of the Code of Civil Procedure, 1908, to strike off paragraph Nos.3, 6 to 62 of the Election Petition and grounds 1 to 32 in the above Election Petition No.47 of 2026.

**Prayer in O.A.No.824 of 2026 :** Original Application filed under Order XIV Rule 8 of O.S. Rules and Rule 3 of the Rules of the Madras High Court Election Petitions, 1967 read with Order VII Rule 11 of the Code of Civil Procedure, 1908, to reject the above Election Petition No.47 of 2026.

For Applicant : Mr.P.Wilson, Senior Counsel  
and Mr.Apoorv Malthotra,  
for Mr.Richardson Wilson and  
Ms.N.Kalaivani

For Respondents : Mr.B.Arvind Srevatsa,  
for Mr.N.D.Sivakumaran for R1

: Mr.Niranjana Rajagopalan, for RR-2 to 5

: Mr.Deepan, for RR-21 and 31

: RR-9, 15, 18, 22, 23, 24, 29, 32 and 33 -  
Set exparte

**COMMON ORDER**

***A. The Applications & The Election Petition:***

O.A.No.823 of 2026 is filed praying to strike off paragraph Nos.3, 6 to 62 of the Election Petition and ground Nos.1 to 32 in the Election Petition No.47 of 2026 under Order XIV Rule 8 of the Original Side Rules and Rule 3 of the Rules of the Madras High Court Election Petitions, 1967, read with Order VI Rule 16 of the Code of Civil Procedure, 1908.

1.1. O.A.No.824 of 2026 is filed praying for rejection of the Election Petition No.47 of 2026 under Order XIV Rule 8 of the Original Side Rules and Rule 3 of the Rules of the Madras High Court Election Petitions, 1967, read with Order VII Rule 11 of the Code of Civil Procedure, 1908.

1.2. The Election Petition No.47 of 2026 is filed by one *Arul Arumugam* to declare the election of the returned candidate, the fifth respondent, namely *E.V.Velu*, as Member of the Tamil Nadu Legislative Assembly from No.63 – Tiruvannamalai Assembly Constituency, declared

on 04.05.2026, null and void under Section 100 of the Representation of the People Act, 1951 (hereinafter referred to as 'Act'), and consequently to declare the election petitioner as the duly elected candidate from No.63 – Tiruvannamalai Assembly Constituency in the election held on 23.04.2026 under Section 101 of the Act.

***B. The Facts in Brief:***

2. The General Elections to the Tamil Nadu State Legislative Assembly were conducted on 23.04.2026, and the counting of votes was held on 04.05.2026. The election petitioner contested the election on behalf of the political party, Tamilaga Vettri Kazhagam (TVK), in respect of the No.63 – Tiruvannamalai Assembly Constituency. The returned candidate contested the election on behalf of the political party, Dravida Munnetra Kazhagam (DMK). The returned candidate polled 88,273 votes, while the election petitioner polled 85,818 votes. Thus, the returned candidate won by a slender margin of 2,455 votes, about 1.11% of the total votes polled in the constituency.

2.1. The election is sought to be set aside on the ground that

there were irregularities and illegality in the scrutiny of nominations; that there were polling day irregularities, including the election agent of the election petitioner not being permitted to remain at the Polling Station and the booth agents of the election petitioner not being permitted to stand in respect of certain booths; that there were postal ballot irregularities, whereby an unduly large number of postal ballots were rejected and treated as invalid during the counting; and that there were counting day irregularities, under which persons connected with the returned candidate alone were permitted to carry mobile phones and other gadgets inside the counting areas. There were also EVM and VVPAT irregularities, by which one control unit was changed without notice to the election petitioner, and in another Polling Station, the machine was changed again. The above irregularities materially affected the election result declared in favour of the returned candidate. Therefore, raising grounds relating to the aforementioned irregularities, the Election Petition is filed.

2.2. The aforesaid applications are filed by the returned candidate on the ground that none of the grounds raised or averments made meet the strict requirements that are to be carefully considered while

entertaining the Election Petition so as to unseat a democratically elected candidate. Since all the allegations are either vague, incomplete, or lacking material particulars, the aforementioned Original Applications, i.e., for striking off paragraph Nos.3, 6 to 62 of the Election Petition, and consequently, after striking them off, since the Election Petition does not disclose any cause of action, the application to reject the Election Petition, are filed.

***C. The Arguments for the Returned Candidate:***

3. *Mr.P.Wilson*, learned Senior Counsel for the returned candidate, by pointing out Section 83(1)(a) of the Act, would submit that the Election Petition shall contain a concise statement of the material facts on which the petitioner relies. He would submit that the material facts are those which must invariably be pleaded, and only material particulars can be furnished to complete the picture at a later stage. The omission of even a single material fact renders the cause of action incomplete. He would submit that the Election Petition has to be dismissed if it does not disclose a cause of action, and the Court has a duty to act at the threshold. While the lack of material particulars and certain defects are curable, total and

complete non-compliance with Section 83 of the Act renders the pleading incapable of being considered an Election Petition at all. Thus, if the Election Petition suffers from a wholesale failure to plead the identity of the single objector, agent, officer or witness, the date and time of a single incident, or any document, complaint or representation in support of any of its 62 paragraphs, the pleadings are liable to be struck off, and the Election Petition is liable to be rejected.

3.1. He would submit that the imputations against the Returning Officer, Assistant Returning Officer and the Police officials, as if they favoured the returned candidate, in paragraph Nos.15, 42 and 43, in substance, are allegations that Government Servants rendered assistance to a candidate, which squarely fall within the definition of corrupt practice under Section 123(7) of the Act. The proviso to Section 83(1) of the Act mandates that such an allegation be accompanied by an affidavit in Form 94A, and no such affidavit is filed in the instant case. The verification appended to the Election Petition does not disclose which of the 62 paragraphs verified are based on the first respondent's personal knowledge and which are based on information from his election, polling or counting

agents, and, as such, is not in the required form and is mandatory. Merely because, in paragraph Nos.55 to 62, it is repeatedly pleaded that the victory margin is narrowed, the same does not qualify as a free-standing ground for relief. As per Section 100 of the Act, specific grounds have to be pleaded and ultimately proved as to the specific non-compliance or irregularity and that it materially affects the result of the election.

3.2. The learned Senior Counsel would submit that each ground of challenge, if taken at its highest, does not disclose any cause of action against the returned candidate. The first discrepancy, with reference to the scrutiny of nomination, though mentioned as age discrepancies, provides no further details as to what the correct age of the returned candidate is, what official records show, and how the information furnished in the nomination form is incorrect. Similarly, the second discrepancy is that the returned candidate does not disclose the criminal cases pending against him. In this regard, the relevant undertaking as well as Form-26 clearly require disclosure of the criminal cases pending as on the date of the affidavit or the cases in which the candidate is convicted. There is no mandate to disclose cases that are closed, withdrawn, dropped, quashed,

acquitted, or discharged. The returned candidate has no case against him pending as on the date of the affidavit. The election petitioner has not furnished any details, including a single F.I.R. number or case status, in support of his claim that the materials are suppressed. Merely because, during the previous nomination in the election conducted five years ago, cases were pending and have since concluded without any conviction of the election petitioner, does not amount to suppression. Thus, the entire grounds relating to scrutiny of nomination are made without full and correct particulars, and the Election Petition cannot be in the nature of a fishing expedition to conduct a roving enquiry after making vague pleadings.

3.3. The learned Senior Counsel would also point out that no written objection, representation or complaint was made with reference to the acceptance of nomination as prescribed in the Handbook for Returning Officers, 2023. The Returning Officer conducted scrutiny and summary enquiry as per Clause 6.6.1 read with Clause 6.10.1(i)-(x) of the Handbook for Returning Officers, 2023. With reference to the allegations of DMK agents creating a ruckus and a threatening environment, it is contended that

the allegations are scandalous and vague, unsupported by material facts as to the identity of the person, the date and time of the incident, or any contemporaneous complaint, and, as such, are pleaded to be struck off. With reference to the allegations relating to the Polling Station, in the absence of particulars as to the Principal Election Agent, the Presiding Officer, or the Police Constable concerned, and the date and time of the incident, the averments are liable to be struck off.

3.4. With reference to the plea that he was not furnished with a complete list of voters, it must be noted that Section 78A of the Act confers only a right to a copy of the electoral roll, and the ECI's Guidelines dated 02.02.2021 for facilitation of postal ballot voting by absentee voters do not contemplate furnishing elector-wise particulars to the candidates. The entire electoral roll is uploaded on the website. With reference to the plea relating to rejection of postal ballots, the learned Senior Counsel would submit that no specific pleading is made as to how any vote was erroneously rejected, and in the absence of such allegations, the sweeping statement that 955 postal ballots were rejected does not permit a roving enquiry by this Court. With reference to the replacement

of Control Units and VVPATs, the learned Senior Counsel would submit that the circular of the Election Commission of India dated 06.01.2009 on replacement of EVM during poll, and Clauses 12.5.13 and 13.18 to 13.19 of the Handbook for Returning Officers, 2023, expressly prescribe the protocol for replacement of non-functional units during the commissioning and during poll. Mere replacement, effected without any allegation of irregularity, would render the plea vague and unsustainable.

3.5. With reference to the plea relating to the replacement of EVMs causing prejudice to the election petitioner at two polling stations, namely Nos. 197 and 153, it must be noted that the returned candidate received fewer votes in both booths. In Polling Station No. 197, while the returned candidate polled 144 votes, the election petitioner polled 227 votes. Similarly, in Polling Station No. 153, while the returned candidate polled 288 votes, the election petitioner polled 310 votes. With reference to the counting process, allegations are generally made that DMK functionaries carried mobile phones, and there is absolutely no pleading as to how this materially affected the outcome of the election.

3.6. The learned Senior Counsel would submit that the Hon'ble Supreme Court of India, in a catena of decisions, has reiterated the need to summarily reject Election Petitions that contain vague averments and lack material facts, so that a sword of Damocles is not kept hanging over a returned candidate on the strength of a vague and unsubstantiated Election Petition. The larger public interest lies in the constituency being represented without the cloud of protracted litigation founded on pleadings that, even taken at their highest, disclose no triable cause of action against the returned candidate.

3.7. The learned Senior Counsel would rely upon the judgment of the Hon'ble Supreme Court of India in ***Kanimozhi Karunanidhi Vs. A.Sathana Kumar and Ors.***<sup>1</sup>, specifically paragraphs 12, 17, 18, 22, 23, 26, 27 and 28 of the said judgment. He would further place reliance upon paragraph No.10 of the judgment of this Court in ***Sreedevi and Ors. Vs. Wooltop Design Private Limited and Ors.***<sup>2</sup> to plead that the pleadings should be struck off. The learned Senior Counsel would rely upon the judgment of the Hon'ble Supreme Court of India in ***Abdul Razak Vs.***

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1 (2024) 18 SCC 592

2 2017 SCC OnLine Mad 37981

**Mangesh Rajaram Wagle**<sup>3</sup>, placing reliance on paragraph Nos.16 to 19 relating to the circumstances in which the power to strike off pleadings should be exercised.

3.8. The learned Senior Counsel would then place reliance on the judgment of the Hon'ble Supreme Court of India in **S.Subramanian Balaji Vs. State of Tamil Nadu and Ors.**<sup>4</sup> to contend that the Handbook and the other instructions issued by the Election Commission are within the powers conferred on it under Article 324 of the Constitution of India for the conduct of free and fair elections. The learned Senior Counsel would rely upon the judgment of the Hon'ble Supreme Court of India in **Arikala Narasa Reddy Vs. Venkata Ram Reddygaru and Anr.**<sup>5</sup> for the proposition that the Returning Officers are bound by the rules and instructions. In effect, the learned Senior Counsel would contend that the pleadings with reference to the four sub-headings should all be struck off, and that the Election Petition does not disclose any cause of action whatsoever and, as such, it has to be rejected.

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3 (2010) 2 SCC 432

4 (2013) 9 SCC 659

5 (2014) 5 SCC 312

***D. The Arguments for the Election Petitioner:***

4. Per *contra*, Mr.B.Aravind Srevatsa, learned Counsel for the election petitioner, would submit that the Election Petition raises substantial grounds of challenge relating to improper acceptance of nomination, polling day irregularities, postal ballot irregularities, counting day irregularities, and EVM/VVPAT-related irregularities. With reference to the non-joinder of the other candidates who contested, the learned Counsel would submit that the same is curable. The extraordinary remedy of striking off the paragraphs as prayed for cannot be granted, as the principles contained in Order VI Rule 16 of the Code of Civil Procedure apply. To strike out specific pleadings, no grounds are made out that they are unnecessary, scandalous, frivolous, or vexatious. Merely because the returned candidate disagrees with the averments, the pleadings cannot be struck off.

4.1. With reference to nomination scrutiny, the allegations made in paragraph Nos.7 to 17, including a specific plea regarding discrepancies in age particulars between official records, non-disclosure of 9 criminal cases that were disclosed in the year 2021 affidavit, the specific conduct of

DMK cadres, including the Advocate whose name is mentioned in the Election Petition, creating a ruckus, and the failure of the Returning Officer to conduct a summary enquiry and to pass a reasoned order, are all categorically pleaded, and the material facts, if proved, would affect the result of the election.

4.2. Similarly, with reference to paragraph Nos.18 to 26 relating to polling day irregularities, the Election Petition specifically points to Polling Station Nos.25 and 81. One *Captain Gowtham*, the Principal Election Agent, is named and was excluded. The election petitioner's polling agents, *Saleem* and *Rashid*, were kept outside Polling Station No.81. It identifies the Presiding Officer at Polling Station No.25. The incidents are covered by CCTV surveillance, which can be produced during the course of evidence and are verifiable from the official records.

4.3. With reference to postal ballot irregularities, paragraph Nos.27 to 35 detail the same. The entire process of postal vote collection and counting is required to be entered into the register of the Returning Officer, and these documents will be summoned by subpoena at the

appropriate stage. Paragraph No.11.5.7 of the Handbook of Returning Officers speaks about postal vote counting, and no opportunity is granted to the election petitioner.

4.4. With reference to counting day irregularities, the incidents are specifically pleaded, and the names of the Advocates, *Karthi* and *Sridhar*, are specifically identified as having used mobile phones inside the counting centre on behalf of the returned candidate. The complaints were also specifically pleaded as written complaints submitted to the fourth respondent and the General Observer. The presence of the ARO Tahsildar and DSP *Senthil Kumar*, who remained silent, is also specifically pleaded.

4.5. With reference to EVM/VVPAT irregularities, the plea is that there is a lack of transparency, documentation, and procedural compliance. The same is clearly pleaded. Therefore, when the pleadings are clear and categorical, there is no question of striking off the pleadings.

4.6. The learned Counsel would rely upon the judgment of the Hon'ble Supreme Court of India in *Sathi Vijay Kumar Vs. Tota Singh*

*and Ors.*<sup>6</sup> to contend that the power to strike off the pleadings is extraordinary and must be exercised by the Court sparingly, with extreme care, caution and circumspection. The legitimate statutory right of the election petitioner to challenge the election cannot be extinguished by filing an application to strike off the pleadings. The prayer to strike off the pleadings as vague cannot be countenanced, as vagueness is not a ground under Order VI Rule 16 of the Code of Civil Procedure.

4.7. By relying upon the judgment of the Hon'ble Supreme Court of India in *Harkirat Singh Vs. Amarinder Singh*<sup>7</sup>, the learned Counsel would submit that the Election Petition cannot be rejected by entering into the inquiry as to the correctness or otherwise of the facts stated, and that the facts as mentioned in the Election Petition should be taken as true and correct, and that, if so taken, they disclose a cause of action. By further relying on the same judgment with reference to the distinction between material facts and particulars, the learned Counsel would submit that in this case, all the material facts are pleaded. The Election Petition is in compliance with Section 83 of the Act. The learned

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6 (2006) 13 SCC 353

7 (2005) 13 SCC 511

Counsel would further rely upon the judgment of the Hon'ble Supreme Court of India in ***Virender Nath Gautam Vs. Satpal Singh***<sup>8</sup> to plead that it is enough if the pleadings contain *facta probanda* and not *facta probantia*.

4.8. The learned Counsel, by relying upon the judgment of the Hon'ble Supreme Court of India in ***Madiraju Venkata Ramana Raju Vs. Peddireddigari***<sup>9</sup>, contends that the quality of the materials and facts, and whether they would stand the test of trial, should not be debated at the stage of deciding the rejection petition. With reference to the election petitioner's contention that no affidavit relating to corrupt practice has been filed, the said violations can either be relied upon as corrupt practice or as violations of the Act and Rules, thereby materially affecting the elections. As far as verification of the pleadings is concerned, it is stated that the verification is based on the election petitioner's own knowledge and information and is not violative of the form. The relevant decisions in ***G.M.Siddeshwar Vs. Prasanna Kumar***<sup>10</sup>, ***A.Manju Vs. Prajwal Revanna @ Prajwal***<sup>11</sup>, ***Mairembam Prithviraj Vs. Pukhrem Sharatchandra Singh***<sup>12</sup>

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8 (2007) 3 SCC 617

9 (2018) 14 SCC 1

10 (2013) 4 SCC 776

11 (2022) 3 SCC 269

12 (2017) 2 SCC 487

and ***Saritha S. Nair Vs. Hibi Eden***<sup>13</sup> are relied upon.

4.9. The learned Counsel for the election petitioner would counter the submissions of the learned Senior Counsel for the returned candidate by stating that the decision in ***Kanimozhi Karunanidhi***'s case (cited *supra*) is one in which no grounds were made out. The other judgments reiterate the election petitioner's contention that striking off the pleadings has a serious adverse impact on the rights of the party concerned and, as such, must be exercised with great care and circumspection. The learned Counsel relies upon the judgment of the Hon'ble Supreme Court of India in ***Mairembam Prithviraj***'s case (cited *supra*) to contend that if the returned candidate's nomination is improperly accepted, it materially affects the election and nothing further need be proved. Therefore, in that scenario, the learned Counsel would submit that the applications are liable to be dismissed and the Election Petition to be tried further.

### ***E. Analysis & Findings:***

5. I have considered the rival submissions made on either side and perused the material records of the case. On a careful perusal of the

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<sup>13</sup> (2021) 14 SCC 148

various rulings submitted by either side, the legal position that is relevant to the case on hand can be summarised as follows:-

***I. Striking off Pleadings:***

(a) The principles contained in Order VI Rule 16 of the Code of Civil Procedure would, *mutatis mutandis*, apply to the Election Petition;

(b) Pleadings can be struck off only with great care and circumspection, if they satisfy all or any of the grounds mentioned in Order VI Rule 16 of the Code of Civil Procedure, i.e., if they are unnecessary, scandalous, frivolous or vexatious, or if they tend to prejudice, embarrass or delay the fair trial of the suit, or if they are otherwise an abuse of the process of the Court;

(c) If the pleadings lack the material facts required under Section 83 of the Act, and are too general and vague to prevent the returned candidate from raising a proper defence, it will impede the right to a fair trial; they can be struck off.

***II. Rejecting the Election Petition:***

(a) The Election Petition can be rejected if any of the grounds under Order VII Rule 11 of the Code of Civil Procedure are made out, i.e.,

when it does not disclose a cause of action, when the relief claimed is undervalued, when it is barred by any law, when the petition is not filed in duplicate, or when it fails to comply with the provisions of Rule 9, etc;

(b) The Election Petition can be rejected if it does not comply with the mandates under Section 81, 82, 83, 100, 101, 117, 123, etc., of the Representation of the People Act, 1951;

(c) At the stage of rejection of the petition or striking off the pleadings, the respondent's dispute regarding the correctness cannot be taken into account, and the pleadings are to be taken as such;

(d) The Election Petition must be read as a whole to determine whether it discloses a cause of action;

(e) Concise pleading of the material/foundational facts amounting to the grounds pleaded and, in respect of corrupt practice, specific and full particulars with name, date, place, etc. of such commission, with specificity and completeness, would alone disclose a cause of action;

(f) Even the omission of pleading of a single material fact is deemed to be fatal;

(g) The material facts (*facta probanda*), which are those on

which the party relies for his claim, must be stated in the pleadings. The material particulars (*facta probantia*), which are the relevant facts required to be proved during trial to establish the fact in issue, need not be set out in the pleadings. What can be termed ‘material facts’ and ‘material particulars’ would depend upon the nature of the allegations that are made and has to be decided by taking into account the context of the case and the nature of the allegations that are made;

(h) Scrutiny, as to the disclosure of cause of action or continuing the Election Petition for a triable issue, is the duty of the Court irrespective of the written statement or the plea made by any of the respondents;

(i) The principle of strict scrutiny shall apply in an election petition, and meaningless litigation should be aborted at the threshold, as the pendency of the litigation is likely to inhibit the functioning of the elected representative in discharge of his public duties.

5.1. With the above legal position in the background, if the Election Petition is read as a whole, it is filed complaining of a violation of Section 100(1)(d) of the Act, i.e., that the result of the election has been materially affected by the improper acceptance of nomination, the

improper rejection of votes, or non-compliance with the provisions of the Act or the Rules made thereunder. The averments are made, and the grounds are presented under five distinct heads.

### ***III. Scrutiny of Nomination:***

5.2. Firstly, with reference to the improper acceptance of the nomination, the pleadings are contained in paragraph Nos. 7 to 17. The first plea relates to the discrepancy in the age particulars of the returned candidate. Although it is stated that the age particulars differ between the official records of the returned candidate, no concise or specific pleading is made as to what date of birth is given in those records or how the discrepancy arises. It is vague to the extent that it does not enable the returned candidate to meet the allegation and justify his case, vitiating a fair trial.

5.3. The second allegation of non-disclosure of criminal cases. It is seen that the returned candidate disclosed nine criminal cases pending against him in the previous election. As per the Form, the returned candidate has stated that he is not convicted and that no criminal case is

pending against him. In the teeth of the requisites as per the Form, there is no plea as to what particulars are suppressed, which First Information Report or criminal case is pending against the election petitioner, or that he has been convicted in any case. Therefore, the said pleading is vexatious. As a matter of fact, during the course of the argument, this Court granted opportunities to the election petitioner that even now, if he had information with reference to any case that is pending and suppressed, the same can be furnished. However, none is produced.

5.4. The third allegation relates to the behaviour of the cadres of the political party, including an Advocate at the time of scrutiny, in a manner intended to create a ruckus. By taking advantage of their association with the ruling political party, they create an unnecessary ruckus, and when the election petitioner feels treated unfairly, that by itself does not take the election petitioner anywhere. The said pleadings, as such, are not relevant with reference to grounds as to illegality in scrutiny of nomination. With reference to the failure of the Returning Officer, there is no specific pleading as to the material fact that the enquiry violates any particular provision or that it violates any Rule or Regulation made by the

Election Commission of India. In the absence of the same, the entire paragraph Nos.7 to 17 are unnecessary and too vague to ensure a fair trial, and vexatious allegations that are made in the Election Petition with a view to conduct a roving enquiry thereafter. Thus, the pleadings in paragraph Nos.7 to 17 are liable to be struck off.

***IV. Polling Day Irregularities:***

5.5. With reference to polling day irregularities at the two booths, although it is stated that the election petitioner's agent was not allowed inside for some time, there is no plea that any malpractice was committed inside the booths that materially affected the election. As such, the averments in paragraph Nos.18 to 26 do not disclose material facts and are too vague to elicit a defence and vitiate a fair trial.

5.6. The allegations further relate to EVM/VVPAT irregularities. They are made with reference to two Polling Station Nos.153 and 197, where the machines were changed. The documents filed by the election petitioner himself show that he received more votes than the returned candidate in those two polling booths. Further, whenever allegations

against the non-working or irregularity of EVM/VVPATs are made, the Hon'ble Supreme Court of India, in *Association For Democratic Reforms Vs. Election Commission of India*<sup>14</sup>, held that, in the absence of clear-cut and material allegations, questions relating to EVMs/VVPATs or their working cannot be entertained by Courts. The Election Commission of India has detailed specific procedures, and the election petitioner does not categorically plead which rule is violated to bring his case under Section 10(1)(d)(iv), which makes the pleading frivolous.

#### ***V. Counting of Postal Ballots:***

5.7. With reference to paragraph Nos.25 to 35 relating to postal ballot irregularities, it must be noted that 955 postal ballots have been rejected, which is abnormal and alarming. Though it is argued that further details as to how any postal ballot was rightly made; how any was wrongly rejected; how many were rejected at the threshold; and how many were invalid after opening are not provided, still the plea on its face has merits since, unduly, 955 postal ballots were rejected. However, the margin of votes between the election petitioner and the returned candidate is 2455; thus, even accepting that all the postal votes rejected were only in favour

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14 2024 INSC 341

of the election petitioner, the counting illegality does not affect the outcome of the election. Thus, the pleading in this regard does not warrant scrutiny of the mandate under Section 83 read with Section 100 of the Act and, as such, becomes unnecessary.

***VI. Counting Day Irregularities:***

5.8. With reference to the allegations in paragraph Nos.36 to 45 relating to counting-day irregularities, it is pleaded that one Advocate, *Karthi*, and one *Sreedhar* smuggled mobile phones into the centre, and that despite notice, the Deputy Superintendent of Police and the Assistant Returning Officer remained silent. They said persons made video calls and showed the counting process, while any other candidate or agent was not permitted to do so. Thus, even if taken as true, the action *ipso facto* does not show how it materially affects the election, except if construed as a corrupt practice of the official favouring the returned candidate. Admittedly, no mandatory affidavit, as required under Section 123 of the Act, is filed, and the necessary pleadings relating to the corrupt practice, by disclosing full and correct material facts, are also not made. Thus, the pleadings in paragraph Nos.36 to 45 are unnecessary in the absence of a

plea of material facts as to how the elections stood vitiated or full particulars and affidavit relating to corrupt practice, and as such, are liable to be struck off.

***VII. Consideration as a Whole:***

5.9. A complete and careful reading of the Election Petition which runs to very many paragraphs, only discloses two facts. The election petitioner, being a first-time candidate, has throughout had to undergo humiliation and suffer the one-upmanship of the returned candidate, who belonged to the then ruling party. Despite this, the margin was only 2455 votes. The election petition, though, categorically demonstrates the same; it does not clinchingly or concisely point out any single circumstance that vitiates the election so as to make out a triable issue to elicit the defence of the returned candidate. The Election Petition, though it makes multiple and several allegations, does not contain a clinching material fact disclosing a triable issue to proceed with the Election Petition. Even read together, the allegations struck off fall short of making out material facts and a concise statement of any ground to declare the election void.

5.10. Once the averments relating to all the five heads are struck off, the consequential grounds raised in various paragraphs have also to be struck off. Once all the material averments are struck off, nothing remains in the election petition. No clear and triable issue was originally disclosed. And after the exercise of striking off pleadings, certainly no triable issue remains. The election petition is liable to be rejected as it does not disclose a cause of action.

***F. The Result:***

6. In the result,

(i) O.A.No.823 of 2026 stands allowed, and the pleadings in paragraph Nos.3, 6 to 62, and grounds 1 to 32 of the Election Petition stand struck off;

(ii) O.A.No.824 of 2026 stands allowed, as Election Petition No.47 of 2026 does not disclose any cause of action;

(iii) Consequently, Election Petition No.47 of 2026 stands rejected;

(iv) There shall be no order as to costs. Hence, the security

deposit paid shall be refunded to the petitioner.

16.09.2026

Neutral Citation: yes  
grs

To

1. The Chief Election Officer,  
Election Commission of India,  
Nirvachan Sadan, Ashoka Road,  
New Delhi – 110 001.
2. The Chief Electoral Officer and  
The Principal Secretary to Government,  
Public (Elections) Department,  
Secretariat, Fort St. George,  
Chennai – 600 009.
3. The District Election Officer-cum-  
The Collector,  
Collectorate, Thiruvannamalai,  
Thiruvannamalai District – 606 601.
4. The Returning Officer-cum-  
The Revenue Divisional Officer,  
No.63, Thiruvannamalai Assembly Constituency,  
Thiruvannamalai District – 606 601.

*O.A.Nos.823 and 824 of 2026  
in E.L.P.No.47 of 2026*

**D.BHARATHA CHAKRAVARTHY, J.**

grs

O.A.Nos.823 and 824 of 2026  
in E.L.P.No.47 of 2026

16.09.2026