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Order QR

O.A.No.915 of 2026 in E.L.P.No.34 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 17.09.2026

PRONOUNCED ON : 28.09.2026

CORAM

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Original Application No.915 of 2026
in
E.L.P.No.34 of 2026

R.Seenivasa Sethupathi

...Applicant

Vs

- 1.K.R.Periyakaruppan
- 2.M.Bakiyalakshmi
- 3.Dr.T.Vinayaga Meyyarasu
- 4.A.Mallika
- 5.S.Marimuthu
- 6.M.Panchavarnam
- 7.P.Piraman
- 8.K.P.M.Raja
- 9.Ramya Mohan
- 10.P.Sethu
- 11.M.Shanmugam
- 12.K.C.Thirumaran
- 13.S.Uma Devi
- 14.S.Vishwanathan
- 15.The Returning Officer - cum - The Collector
No.185, Tiruppattur Assembly Constituency,
Sivagangai District 630 502
- 16.The Returning Officer - cum - Collector
No.50, Tiruppattur Assembly Constituency,
Tirupattur District



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17.The District Election Officer - cum -
The Collector, Collectorate
Sivagangai District

18.The District Election Officer - cum - The
Collector, Collectorate
Tirupattur District

19.The Chief Electoral Officer and the Principal
Secretary to Government
The Secretariat,
Fort St.George, Chennai 600 009

20.Election Commission of India,
Rep. by its Chief Election Commissioner,
Nirvachan Sadan, Ashoka Road, New Delhi 110 001

...Respondents

Prayer : Election Petition is filed under Sections 80, 80A, 81, 82, 83, 84, 98(b)(c) r/w Section 100, 100(i)(d)(iii), 100(1)(d)(iv) of the Representation of the People Act, 1951, read with the Conduct of Election Rules, 1961 and the Madras High Court (Election Petitions) Rules, 1967, to (a) declare the election of the Returned Candidate namely Mr.K.A.Sengottaiyan, the 1st respondent herein in No.106-Gobichettipalayam Assembly Constituency to be null and void (ii) direct the respondents to pay the cost of this Election Petition.

For Applicant : Mr. V.Raghavachari,
Senior Counsel
and Mr.K.P.Anantha Krishnan
for M/s.Dixita Gokil
Pranjal Agarwal
Yash S.Vijay

For Respondents: Mr.T.Mohan,
Senior Counsel
for Mr.D.Ravichander for R1
M/s.S.Indu Bala for R4
Mr.C.Jayaprakash for R6
Mr.V.Arunagiri for R8



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Mr.S.Arumugam for R10
Mr.U.Nanmaran for R11
Mr.V.Jayan for R14
Mr.Niranjan Rajagopal for R15 to 20

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This Original Application has been filed under Order VII Rule 11 of CPC, seeking to reject the Election Petition in ELP.No.34 of 2026.

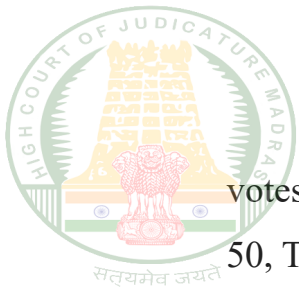
2. The first respondent in the present application has filed the Election Petition seeking declaration that the election of the applicant as the returned candidate from No.185, Tiruppattur Legislative Assembly Constituency, Sivaganga District, as null and void, along with other consequential reliefs.

3. The Election Petition has been filed to:

a) declare the election of the 1st Respondent herein as the successful returned candidate on 05.05.2026 for No. 185, Tiruppattur Legislative Assembly Constituency, as null and void;

b) declare the Impugned Order dated 04.05.2026 issued by the 15th Respondent herein as illegal and to direct the 15th Respondent herein to re-verify the rejected postal votes in accordance with law and recount the EVM votes as per the Election Petitioner's representation dated 04.05.2026;

c) recount the entire polled votes, both postal and EVM, of No.185, Tiruppattur Assembly Constituency, including those postal



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votes which had been illegally rejected by the Returning Officer of No. 50, Tiruppattur Assembly Constituency;

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d) set aside the rejection of the postal votes of voters on election duty, absentee voters under Senior Citizen Category (AVSC) and Absentee voters of persons with disabilities (AVPD) on the ground of discrepancies in the Form 13A declaration as illegal and consequently to direct the 15th Respondent herein to recount the aforesaid votes;

e) declare that the election of the 1st Respondent herein is void on account of the Electronic Voting Machines having been configured in a manner contrary to Rule 49T read with the proviso to Rule 49A, Rule 49B (4) and Rule 49E of the Conduct of Election Rules, 1961;

f) direct the 15th Respondent herein to count the printed paper slips of all the VVPATs of No. 185, Tiruppattur Assembly Constituency and to verify the same with the EVM results, and to check and verify the burnt memory/ micro-controller of the EVMs of the said constituency;

g) direct the 15th Respondent herein to declare the Election Petitioner as the successful returned candidate, if he secures a victory margin on such re-counting;

h) award the costs of this Petition; and

i) pass such further or other orders as this Hon'ble Court may deem fit and necessary in the facts and circumstances of the case and thus render justice.



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4. The Election Petition has been filed raising the following major grounds:-

- a) There were discrepancies in the accounting of votes;
- b) There were illegal misdirection and rejection of one postal ballot;
- c) The Returning Officer failed to follow the mandatory re-verification process contemplated under Clause 15.25 of the Handbook for Returning Officers, 2023, issued by the Election Commission of India pursuant to Article 324 of the Constitution of India;
- d) There was illegal rejection of postal ballots cast by AVSC, AVOD, AVES and persons belonging to the election-duty categories; and
- e) The Electronic Voting Machines were allegedly configured in violation of Rule 49T of the Conduct of Election Rules, 1961.

5. While the Election Petition is pending, the present application has been filed by the applicant, who is the first respondent in the Election petition, seeking rejection of the said Election Petition on the following grounds:-

a) The Election Petition does not contain a concise statement of the material facts constituting the cause of action and, therefore, is liable to be rejected for want of a cause of action;

b) The Election Petition does not disclose any cause of action and fails to plead the material facts necessary to establish that the alleged postal ballot was



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incorrectly received by the wrong constituency or, more importantly, how such alleged irregularity materially affected the result of the election;

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c) The first respondent in the Election Petition had raised objections to the counting procedure only belatedly and, therefore, no cause of action arises for filing the Election Petition on the said ground;

d) The Election Petition contains glaring discrepancies in the number of votes allegedly counted, polled and otherwise received by the election petitioner, and therefore, does not disclose a sustainable cause of action; and

e) The Election Petition contains vague and illusory averments regarding the alleged configuration of the Electronic Voting Machines, without pleading the material facts as to how such alleged irregularity materially affected the result of the election, and therefore, fails to disclose a cause of action.

6. The learned Senior Counsel appearing for the applicant submitted that, in order to maintain an Election Petition, a concise statement of material facts is mandatory under Section 83(1)(a) of the Representation of the People Act, 1951 (hereinafter referred to as “the Act”). The Election Petition must contain all the material and foundational facts constituting a complete cause of action, and the omission of even a single material fact would render the cause of action incomplete.

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It is further submitted that the Election Petition does not disclose any material facts to demonstrate that the result of the election was materially affected by any alleged non-compliance with the Constitution of India, the Act or the Rules made thereunder. The Election Petition also does not contain any specific averment against the applicant with regard to any corrupt electoral practice, wrongful act in the course of campaigning or any other electoral malpractice. Instead, it merely raises allegations relating to discrepancies in the counting of votes, rejection of postal ballots and alleged failure to undertake re-verification, without pleading the material facts demonstrating how such alleged irregularities materially affected the result of the election. The allegations are bald, vague and unsupported by any substantive material. There is also no specific pleading disclosing any violation of the mandatory procedural requirements which could have materially affected the election or its ultimate result.

6.1. The learned Senior Counsel further submitted that there is no material basis for the allegation that a postal ballot intended for No.185 Tiruppattur Legislative Assembly Constituency, Sivanganga district was wrongly received in No.50 Tiruppattur Legislative Assembly Constituency. Except the affidavit filed by one of the election agents of No.50 Tiruppattur Legislative Assembly Constituency, there is no material on record to establish that any postal ballot pertaining to No.185 Tiruppattur Legislative Assembly Constituency, Sivanganga



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district was received or rejected in No.50 Tiruppattur Legislative Assembly

Constituency. It is further submitted that the first respondent did not raise any objection at the time of counting with regard to the alleged irregularity in the counting procedure. The email was sent only on 05.05.2026 and the representation was submitted by the first respondent only on 08.05.2026, after the declaration of the election results on 04.05.2026. Thus, the objection was raised belatedly and only after the declaration of the result. He further submitted that even the election agent of No.50 Tiruppattur Legislative Assembly Constituency, who allegedly noticed that a postal ballot intended for No.185 Tiruppattur Legislative Assembly Constituency, Sivanganga district had been wrongly received there, did not raise any objection at the time of counting. Except the affidavit of the said election agent, the first respondent has not produced any other document, such as a requisition addressed to the Returning Officer or any communication evidencing a request to transmit the alleged postal ballot from No.50 Tiruppattur Legislative Assembly Constituency to No.185 Tiruppattur Legislative Assembly Constituency, Sivanganga district.

6.2. The learned Senior Counsel further submitted that Rule 54A of the Conduct of Elections Rules, 1961 contemplates that, after expiry of the prescribed time, the covers containing postal ballots cannot be opened and the votes therein cannot be counted. The said provision does not contemplate or provide for transfer



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of postal ballots from one constituency to another. Therefore, the allegation regarding the transfer of a postal ballot between constituencies is contrary to the procedure contemplated under the Rules. He further submitted that the Election Petition contains glaring and material discrepancies with regard to the number of postal ballots allegedly rejected and the total number of postal ballots stated to have been received or counted. The discrepancy cannot be brushed aside as a mere typographical error, since the entire case of the election petitioner regarding the alleged misdirection or non-accounting of postal ballots rests upon the identification of the correct total number of postal ballots and the computation of the alleged shortfall. Therefore, the Election Petition itself fails to set out the material facts regarding the exact number of postal ballots allegedly received, polled, counted and rejected. In the absence of such foundational particulars, the alleged irregularity cannot be quantified or connected to the result of the election.

6.3. The learned Senior Counsel further submitted that the first respondent has not pleaded any specific defect, malfunction, tampering or improper configuration in the Electronic Voting Machines (EVMs). There is also no specific averment explaining how the alleged irregularity in the configuration of the EVMs materially affected the result of the election. A mere prayer for recounting cannot be sustained in the absence of specific material facts demonstrating that the alleged non-compliance or irregularity had a material bearing on the election

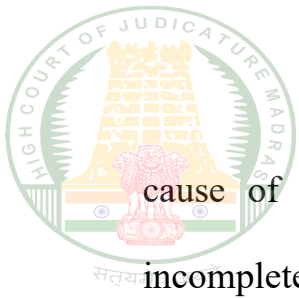


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result. He further submitted that even assuming that the guidelines or instructions issued by the Election Commission of India to the Returning Officer were not strictly complied with, such alleged non-compliance would not vitiate the election or the declaration of the returned candidate, unless it is specifically pleaded and established that such non-compliance materially affected the result of the election. Mere violation of administrative guidelines, without pleading the necessary foundational facts and the consequential effect on the election result, cannot constitute a cause of action for maintaining an Election Petition. In support of his contentions, he relied upon several judgments of this Court as well as the Hon'ble Supreme Court of India.

7. The learned Senior Counsel appearing for the first respondent submitted that, while considering an application under Order VII Rule 11 of the Code of Civil Procedure, 1908, the Court is required to confine its consideration to the averments contained in the Election Petition and the documents filed along with it, which have to be read as a whole. At this stage, the Court cannot travel beyond the four corners of the Election Petition or take into consideration the defense of the returned candidate or the pleas raised in the affidavit filed in support of the application seeking rejection of the Election Petition. It is further submitted that the present application has been filed solely on the ground that the Election Petition does not disclose a cause of action. Even according to the applicant, the



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cause of action pleaded in the Election Petition is alleged to be distorted, incomplete, improper or implausible. Such contentions involve disputed questions which can be determined only upon appreciation of evidence during the trial and cannot be adjudicated at the threshold under Order VII Rule 11 of the Code of Civil Procedure. He further submitted that the Election Petition contains a concise statement of the material facts on which the first respondent relies, as mandated under Section 83(1)(a) of the Representation of the People Act, 1951, and the averments when read as a whole, disclose a complete and legally sustainable cause of action. Hence, the Election Petition cannot be rejected at the threshold and the issues raised therein necessarily require adjudication upon evidence.

7.1. The learned Senior Counsel further submitted that the Election Petition has been filed mainly on the ground that, out of a total of 2,276 postal ballots allegedly polled, only 2,275 were counted, while 306 postal ballots were rejected and 1,969 were found to be valid, thereby disclosing an apparent shortfall in the accounting of postal ballots. It is further submitted that one postal ballot pertaining to No.185 Tiruppattur Legislative Assembly Constituency, Sivaganga district was allegedly misdirected to the Returning Officer of No.50 Tiruppattur Legislative Assembly Constituency. The said irregularity was also objected by the election agents, and the postal ballot was allegedly found to have been marked in favour of the first respondent. According to the learned Senior Counsel, the



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Returning Officer of No.50 Tiruppattur Legislative Assembly Constituency had no jurisdiction to reject a postal ballot pertaining to No.185 Tiruppattur Legislative

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Assembly Constituency, Sivanganga district. He further submitted that Clause 15.25 of the Handbook for Returning Officers, 2023, issued by the Election Commission of India, contemplates mandatory re-verification of rejected postal ballots where the margin of victory is less than the number of rejected postal ballots. Further, the postal ballots pertaining to AVSC, AVBD, AVES and persons belonging to the election-duty categories were wrongly rejected on the ground of discrepancies in Form 13A, though such discrepancies were attributable to the polling officials themselves. It is also submitted that the Electronic Voting Machines (EVMs) were allegedly configured contrary to Rule 49T of the Conduct of Elections Rules, 1961, read with the proviso to Rules 49A, 49B(4) and 49E thereof.

7.2. The learned Senior Counsel further submitted that the alleged shortfall of 18 votes in the EVM count, the wrongful rejection of 306 postal ballots and the failure to conduct the mandatory re-verification, if established during the course of trial, would materially affect the result of the election, particularly when the election was decided by a margin of a single vote. Therefore, each of the grounds pleaded by the first respondent satisfies the statutory requirement of demonstrating that the alleged non-compliance materially affected the result of the



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election within the meaning of Section 100(1)(d) of the Act. Consequently, the requirements and object underlying Sections 83 and 100(1)(d) of the Act stand duly satisfied in the Election Petition. It is further submitted that the contentions raised by the applicant with regard to the nested cover system, Forms 12, 12C, 12D and 13A to 13D, and Rule 18A read with Rules 23(4) and 54A of the Conduct of Elections Rules 1961, essentially relate to the merits of the Election Petition and constitute matters of defence. These are disputed questions of fact which can be properly adjudicated only upon appreciation of evidence during the Trial and cannot be examined at the threshold while considering an application under Order VII Rule 11 of the Code of Civil Procedure.

7.3. The learned Senior Counsel further submitted that the first respondent had raised objections and submitted representations at the earliest possible stage. During the counting on 04.05.2026 itself, objections were allegedly raised seeking recounting. Objections were also raised at Counting Centre No.50 of Tiruppattur Legislative Assembly Constituency on the same day. Thereafter, representations were submitted by email dated 05.05.2026 and further representations were made on 07.05.2026 and 08.05.2026. Therefore, the allegations relating to the counting of votes, rejection of postal ballots, re-verification and EVM configuration involve questions of fact and evidence which cannot be conclusively determined at the threshold stage. The Election Petition when read as a whole, discloses sufficient



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material facts and a triable cause of action and, therefore, cannot be rejected under

Order VII Rule 11 of the Code of Civil Procedure.

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7.4. The learned Senior Counsel further submitted that the first respondent has not suppressed the fact that he had earlier filed W.P.No.19287 of 2026 and thereafter approached the Hon'ble Supreme Court of India by way of a Special Leave Petition. The said Writ Petition was subsequently withdrawn with liberty to the first respondent to raise all his grievances in the Election Petition. It is further submitted that the Hon'ble Division Bench of this Court had also granted an interim injunction restraining the applicant herein from voting on the floor of the Legislative Assembly for proving majority. The learned Senior Counsel further submitted that the reference to 316 rejected postal ballots instead of 306 in the Election Petition is only a typographical error and cannot be construed as a failure to plead the material facts or as a ground for holding that the Election Petition does not disclose a cause of action. The Election Petition when read as a whole, contains the necessary foundational facts and the alleged discrepancy in the numerical figure does not render the entire cause of action illusory or incomplete. In support of his contentions, the learned Senior Counsel relied upon several judgments of this Court as well as the Hon'ble Supreme Court of India.



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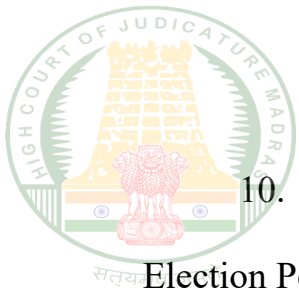
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8. Heard, the learned counsel appearing on either side and perused all the materials placed before this Court.

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9. On perusal of the Election Petition, the present application seeking rejection of the Election Petition, the counter affidavit filed by the first respondent herein, and upon hearing the submissions of the learned counsel appearing on either side, the following issues arise for consideration in the present application seeking rejection of the Election Petition:-

- 1) Whether the Returning Officer failed to follow the procedure prescribed under Clause 15.25 of the Handbook for Returning Officers 2023, issued by the Election Commission of India?
- 2) If the Returning Officer of No.185, Tiruppattur Legislative Assembly Constituency, Sivaganga District, failed to follow the procedure prescribed under the aforesaid Clause, whether such non-compliance would vitiate the election or the declaration of the returned candidate?
- 3) Whether the Election Petition discloses a cause of action and satisfies the requirements under Sections 80 to 84, 100(1)(d)(iii) and (iv), and 101 of the Act?



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10. On perusal of the entire Election Petition, it is revealed that the

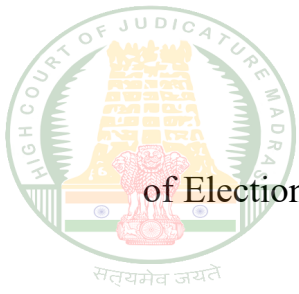
Election Petition has been filed mainly on the following grounds:-

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(i) Out of the total 2,276 postal ballots allegedly polled in No.185, Tiruppattur Legislative Assembly Constituency, Sivaganga District, 306 postal ballots were rejected as invalid and 1,969 were found valid. According to the first respondent, there is a shortfall of 18 votes in the accounting of postal ballots. It is contended that such discrepancy constitutes a serious anomaly in the accounting of votes and assumes considerable significance, particularly when the election was decided by a margin of a single vote.

(ii) In No.50, Tiruppattur Legislative Assembly Constituency, one postal ballot was allegedly found to have been cast in favour of the first respondent herein, who contested from No.185, Tiruppattur Legislative Assembly Constituency, Sivaganga District, but was wrongly received by the Returning Officer of No.50 Tiruppattur Legislative Assembly Constituency. It is alleged that the said postal ballot was noticed by one of the election agents, who raised an objection. However, the postal ballot was not transmitted to the Returning Officer of No.185, Tiruppattur Legislative Assembly Constituency, Sivaganga district. The said fact was allegedly brought to the notice of the first respondent by one Rajendran, who has also filed an affidavit in support of the said contention. According to the first respondent, the failure to transmit the said postal ballot amounts to a contravention under Rule 27-I r/w. 27(F) and 27(G) of the Conduct

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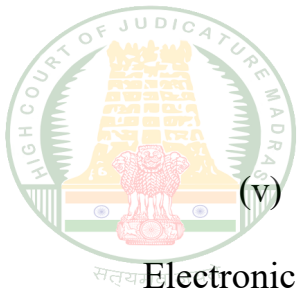
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of Election Rules, 1961.

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(iii) It is further alleged that, despite the election being decided by a margin of one vote, the Returning Officer failed to undertake re-verification of the rejected postal ballots as contemplated under Clause 15.25 of the Handbook for Returning Officers, 2023, issued by the Election Commission of India pursuant to Article 324 of the Constitution of India. According to the first respondent, the requirement of re-verification is mandatory in the circumstances pleaded in the Election Petition and the failure to undertake such re-verification constitutes a serious infraction of the instructions issued by the Election Commission of India, thereby attracting the grounds contemplated under Section 100(1)(d)(iii) and (iv) of the Act, as the alleged non-compliance materially affected the result of the election.

(iv) It is also alleged that several postal ballots were rejected on account of alleged discrepancies or infirmities in the declaration in Form 13A. According to the first respondent, such rejection adversely affected postal ballots cast by voters belonging to categories such as persons on election duty, absentee voters in the senior citizen category and absentee voters with disabilities. It is contended that, when the election was decided by a margin of one vote, the Returning Officer ought to have undertaken re-verification of the rejected postal ballots.



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(v) The first respondent has also challenged the configuration of the

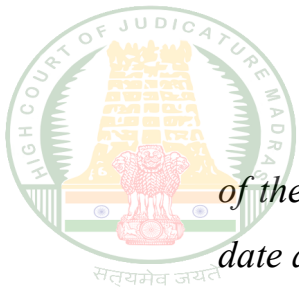
Electronic Voting Machines on the ground that it was allegedly contrary to Rule 49T of the Conduct of Election Rules 1961, read with the proviso to Rules 49A, 49B(4) and 49E thereof. According to the first respondent, the aforesaid provisions contemplate a direct connection between the Balloting Unit and the Control Unit and, though a printer with a drop box may be attached to the Balloting Unit, there is no provision under the Rules permitting such printer to be connected by interposing it between the Balloting Unit and the Control Unit. According to the first respondent, the aforesaid irregularities and more particularly in the context of the election having been decided by a margin of one vote, materially affected the result of the election and therefore, constitute grounds for declaring the election of the applicant as void under Section 100(1)(d)(iii) and (iv) of the Act.

11. The present application has been filed seeking rejection of the Election Petition for want of a cause of action. In this regard, it is relevant to extract the provision contained in Section 83(1)(a) of the Representation of the People Act, 1951, which reads as follows:-

83. Contents of petition. — (1) 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



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of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice; and

(c) shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908, for the verification of pleadings:

Provided that where the petitioner alleges any corrupt practice, the petition shall also be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice and the particulars thereof.

Thus, it is clear that an Election Petition must contain all the material and foundational facts necessary to constitute a complete cause of action. The omission of even a single material fact, which is essential for establishing the cause of action, would render the Election Petition incomplete and liable to rejection.

12. On perusal of the entire Election Petition, it is seen that there is no specific pleading demonstrating as to how the alleged non-compliance with the Constitution of India, the Act or the Rules materially affected the result of the election. One of the main grounds raised by the first respondent is that a postal ballot pertaining to No.185, Tiruppattur Legislative Assembly Constituency, Sivaganga District, where the first respondent and the applicant contested for the election to the Legislative Assembly, was allegedly received by the Returning Officer of No.50, Tiruppattur Legislative Assembly Constituency. In support of the



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said allegation, the first respondent has relied upon the affidavit dated 08.05.2026

filed by one Rajendran. On perusal of the said affidavit, it is revealed that

Rajendran had acted as an election agent of the Dravida Munnetra Kazhagam (DMK) for No.50, Tiruppattur Legislative Assembly Constituency. According to him, during the counting of postal ballots, the Returning Officer informed the election agents that one postal ballot had not been accounted for on the ground that it pertained to No.185, Tiruppattur Legislative Assembly Constituency, Sivaganga District, and that the said postal ballot was kept aside without being counted.

13. It is further stated in the affidavit that the said postal ballot was shown to the election agents and that it was found to have been marked in favour of the first respondent. The said Rajendran claims to have raised an objection regarding the same and despite such objection, the Returning Officer did not transmit the said postal ballot to No.185, Tiruppattur Legislative Assembly Constituency, Sivaganga district. He thereafter informed the first respondent about the said postal ballot, pursuant to which the first respondent allegedly sent an email to the authorities concerned on 05.05.2026. However, except the aforesaid affidavit of Rajendran, no other independent material has been placed before this Court to substantiate the allegation that a postal ballot pertaining to No.185, Tiruppattur Legislative Assembly Constituency, Sivaganga district was actually received by the Returning Officer of No.50, Tiruppattur Legislative Assembly Constituency



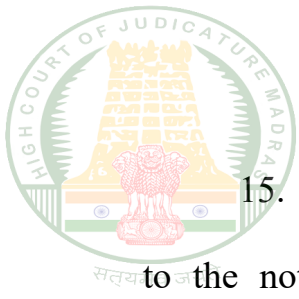
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and was thereafter wrongly retained or rejected. Thus, the allegation regarding the

alleged wrong receipt of one postal ballot rests substantially upon the affidavit of the election agent and, in the absence of supporting material, the manner in which such alleged irregularity occurred and its actual effect upon the result of the election remain unsubstantiated.

14. On perusal of the counter affidavit filed by the Chief Election Officer of the Election Commission of India in respect of respondents 15 to 20 in the Election Petition, it is revealed that after completion of the counting process in No.185, Tiruppattur Legislative Assembly Constituency, Sivaganga district, the applicant was declared as the returned candidate for the Thamizhaga Vetri Kazhagam party. Accordingly, Form 20 was issued which shows that the difference in votes between the applicant and the first respondent was one vote. The election result was declared on 05.05.2026, shortly after midnight and in the early hours of the said date. It is further seen that the email relied upon by the first respondent was sent by his election agent only on 05.05.2026, after the declaration of the election result, and a further representation was submitted on 08.05.2026. Except the aforesaid email and representation, no other material or supporting document has been produced by the first respondent to substantiate the allegation that a postal ballot pertaining to No.185, Tiruppattur Legislative Assembly Constituency, Sivaganga district was wrongly received by the Returning Officer of No.50, Tiruppattur Legislative Assembly Constituency.



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15. Significantly, the person who allegedly brought the said postal ballot

to the notice of the first respondent was the election agent of the Dravida Munnetra Kazhagam (DMK), in which party the first respondent contested the election from No.185, Tiruppattur Legislative Assembly Constituency, Sivaganga district. Except the said election agent, there is no material to show that any other person had brought the alleged misdirection of the postal ballot to the notice of either the Returning Officer or the first respondent. In fact, the representation itself was made seeking transfer of the alleged postal ballot from one constituency to another. Even assuming, that one postal ballot pertaining to No.185, Tiruppattur Legislative Assembly Constituency, Sivaganga district, had been received by the Returning Officer of No.50, Tiruppattur Legislative Assembly Constituency, the procedure contemplated under the Conduct of Election Rules, 1961, does not envisage the opening or counting of such a postal ballot after the prescribed stage of counting, nor does it contemplate transfer of a postal ballot from one Returning Officer to another after the declaration of the result. Rule 54A(2) of the Conduct of Election Rules specifically provides that no cover in Form 13C received by the Returning Officer after the expiry of the prescribed time shall be opened and no vote contained therein shall be counted.

16. The allegation that the identical names of the two Assembly Constituencies resulted in confusion and consequently caused a postal ballot to be



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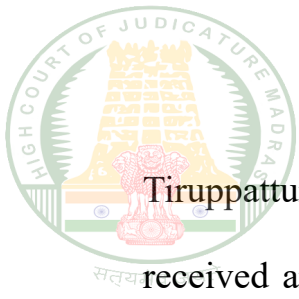
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wrongly sent to another constituency also appears difficult to reconcile with the procedural safeguards governing the handling of postal ballots. The postal ballot is

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accompanied by the requisite Forms 13B and 13C, and the cover in Form 13C contains the particulars of the Returning Officer of the concerned constituency, including the constituency number, name, district and complete address. Further, the postal ballot covers are deposited at the facilitation centre contemplated under Rule 18A of the Conduct of Elections Rules 1961, and the election officials thereafter arrange and transport the covers constituency-wise, with the constituency number serving as the principal identifier. It is also significant that the alleged communication was made only on 05.05.2026, after the declaration of the election result, followed by the representation dated 08.05.2026. Though it is stated that the election agent of the first respondent's party at No.50, Tiruppattur Legislative Assembly Constituency had informed the first respondent over telephone about the alleged postal ballot, no material has been produced to substantiate such communication. In particular, no call detail records or any other material relating to the alleged telephonic conversation between the said election agent and the first respondent have been produced.

17. Thus, except the subsequent email, representation and the statement attributed to the election agent of the first respondent's party, there is no independent material to establish that a postal ballot pertaining to No.185,



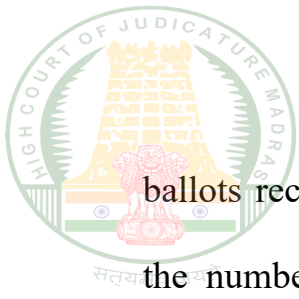
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Tiruppattur Legislative Assembly Constituency, Sivaganga district, was in fact

received and retained by the Returning Officer of No.50, Tiruppattur Legislative Assembly Constituency. Equally, there is no material to demonstrate any violation of the prescribed procedure which, even if established, could have materially affected the result of the election. In the absence of any foundational material establishing that exactly one postal ballot was received in the wrong constituency and that such alleged irregularity had any material effect upon the election result, the said allegation, by itself, cannot constitute a complete cause of action.

18. On perusal of Form 20, the final result sheet relating to No.185, Tiruppattur Legislative Assembly Constituency, Sivaganga district, it is seen that the total number of votes recorded at the polling stations was 2,13,741, out of which the first respondent secured 82,191 votes and the applicant secured 83,010 votes. In respect of postal ballots, the total number recorded was 2,275, out of which 306 postal ballots were rejected and six votes were recorded under the option “None of the Above” (NOTA). The first respondent secured 1,183 postal votes, whereas the applicant secured 365 postal votes. Accordingly, the applicant secured a total of 83,375 votes, while the first respondent secured a total of 83,374 votes, thereby resulting in a difference of one vote in favour of the applicant. Thus, on a perusal of Form 20, there is no discrepancy whatsoever in the number of votes polled through the Electronic Voting Machines or in the number of postal



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ballots recorded and counted. Though the applicant has primarily contended that the number of rejected postal ballots has been wrongly stated in the Election Petition, it is evident from the pleadings that the said discrepancy is only a typographical error, since at another place in the very same Election Petition, the first respondent has correctly stated the number of rejected postal ballots as 306. Therefore, such a typographical discrepancy cannot be treated as a material defect so as to constitute a ground for rejection of the Election Petition.

19. The learned Senior Counsel appearing for the first respondent vehemently contended that the Returning Officer of No.185, Tiruppattur Legislative Assembly Constituency, Sivaganga district, failed to follow the procedure mandated under Clause 15.25 of the Handbook for Returning Officers, 2023, and that such non-compliance vitiates the declaration of election in favour of the applicant, particularly when the margin of victory was only one vote. According to the learned Senior Counsel, in such circumstances, the Returning Officer was required to order re-verification of the postal ballots. In the present case, No.185, Tiruppattur Legislative Assembly Constituency, Sivaganga district, comprised of 368 polling stations. Electronic Voting Machines were provided for each of the polling stations, and the votes recorded therein were counted sequentially. Upon completion of the counting of the votes recorded in each Electronic Voting Machine, the result was duly shown to the election agents



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representing the respective political parties, and their approval was obtained in accordance with Form 17C. Likewise, the valid and invalid postal ballots were also shown to the election agents of the respective political parties, and their approval was obtained.

20. It is further seen that the counting of all the votes, including the votes recorded through the Electronic Voting Machines and the postal ballots, was completed after following the prescribed procedure. In respect of the postal ballots, 306 ballots were rejected after being duly shown to the election agents, and thereafter the valid postal ballots were counted and the result was again shown to the election agents concerned. Thus, the entire counting process was completed after affording the election agents an opportunity to verify and raise objections, if any. It is in the above circumstances that the request made by the first respondent at about 11.45 p.m. on 04.05.2026, immediately prior to the declaration of the election result and after completion of the counting process, came to be considered by the Returning Officer. The said request was rejected on 05.05.2026. On perusal of the order dated 04.05.2026, which was signed on 05.05.2026, it is evident that each Electronic Voting Machine had been counted separately and the results thereof had been shown to the election agents of the respective political parties, who had given their approval. Similarly, the rejected postal ballots as well as the valid postal ballots were shown to the election agents, and their approval was obtained after completion of the counting process.



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21. Therefore, in view of the fact that the counting process had been completed in accordance with the prescribed procedure and the results had been duly verified and approved by the election agents representing the respective political parties, the request for recounting or re-verification made at the fag end of the counting process did not arise merely on the ground that the margin of victory was one vote. The Returning Officer, having considered the request and the materials available on record, rejected the same. In this context, it is relevant to extract the relevant guideline contained in Clause 15.25 of the Handbook for Returning Officers, 2023, which reads as follows:

15.25 MANDATORY RE-COUNTING OF ALL POSTAL BALLOT PAPERS:

Where the margin of victory is less than the number of postal ballot papers rejected as invalid at the time of counting, all the rejected Postal Ballot papers shall be mandatorily re-verified by the Returning Officer before declaration of result. Whenever, such re-verification is done, the entire proceedings should be videographed.

22. Thus, it is clear from the language of Clause 15.25 of the Handbook for Returning Officers 2023, that where the margin of victory is less than the number of rejected postal ballots, the Returning Officer may order re-verification of the postal ballots. However, the said clause does not contemplate or authorise a recount of the votes already counted. Though, in the concluding portion of the order, the Returning Officer has referred to the request of the first respondent as

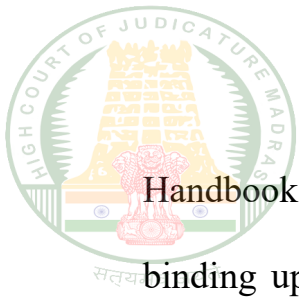


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one seeking “repolling”, the same appears to be an inadvertent reference, particularly when in the earlier portion of the very same order, the Returning Officer has correctly recorded that the request made by the first respondent was for recounting and that such request could not be considered. The learned Senior Counsel appearing for the first respondent placed reliance upon the judgment of the High Court of Karnataka in ***D.N. Jeevaraja v. T.D. Rajegowda and others***, Election Petition No.20 of 2023, dated 06.04.2026, wherein the issue as to whether the guidelines contained in the Handbook for Returning Officers have statutory force and whether compliance with such guidelines is mandatory was considered.

23. The aforesaid judgment does not advance the case of the first respondent, as the said decision arose in an Election Petition and the issue therein was considered in the context of the evidence and circumstances placed before the Court in that proceeding. In the present case, the question that arises at this stage is whether the alleged non-compliance with Clause 15.25 of the Handbook for Returning Officers 2023, is sufficient to constitute a ground for interfering with the election result. This issue relating to the binding nature of the instructions contained in the Handbook for Returning Officers has been considered by the Hon’ble Supreme Court in ***Arikala Narasa Reddy v. Venkata Ram Reddy Reddygari and another***, reported in ***(2014) 5 SCC 312***. In the said decision, the Hon’ble Supreme Court considered the effect of the instructions contained in the



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Handbook upon the Returning Officer and observed that such instructions are

binding upon the Returning Officer, particularly in the context of the procedure

relating to recounting of votes. Therefore, the Returning Officer is required to act in accordance with the instructions contained in the Handbook and cannot disregard the procedure prescribed therein. Further, the question as to whether violation of the instructions contained in the Handbook by the Returning Officer, would vitiate the election was specifically considered by the Hon'ble Supreme Court. The said decision also makes clear that the instructions contained in the Handbook for Returning Officers are binding in nature and are required to be scrupulously followed by the Returning Officer. Any violation of such binding instructions, if found to have materially affected the counting process or the result of the election, may vitiate the election.

24. However, the Hon'ble Supreme Court, in **Ramesh Rout v. Rabindra Nath Rout**, reported in **(2012) 1 SCC 762**, has held that mere non-compliance with a direction contained in the Handbook or Manual, does not furnish a cause of action for declaring the election of the returned candidate invalid under Section 100(1)(d)(iv) of the Representation of the People Act, 1951. Therefore, mere failure on the part of the Returning Officer to undertake re-verification of the postal ballots, without establishing the requisite statutory conditions and that such non-compliance materially affected the result of the election, cannot, constitute a



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ground for vitiating the election. In this regard, this Court has also considered the

effect of non-compliance with the instructions contained in the Handbook for

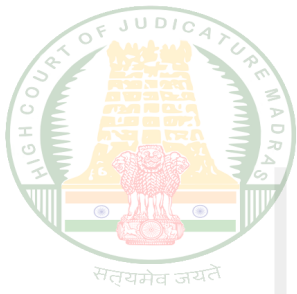
Returning Officers in *S.M. Nasar v. K. Pandiarajan and others*, reported in

(2023) 4 CTC 50, wherein this Court has held as follows:

17. This issue relates to the conduct of the Returning Officer. Mr.P.Wilson, learned Senior Counsel appearing for the petitioner would rely upon the directions contained in the handbook for Returning Officers, particularly Clause 15.15.5.1 which reads as follows:

“In case the victory margin is less than total number of postal ballots received then there should be a mandatory re-verification of all postal ballots. In the presence of Observer and the RO all the postal ballots rejected as invalid as well as the postal votes counted in favour of each and every candidate shall once again be verified and tallied. The observer and the RO shall record the findings of re-verification and satisfy themselves before finalizing the result. The entire proceeding should be videographed without compromising the secrecy of ballot and the video-cassette/CD should be sealed in a separate envelope for future reference.”

17.1 Admittedly, there was no such recounting. The question is whether non-compliance with certain



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directions or with certain best practices suggested in the manual for Returning Officers could be a ground for declaring the Election as void. The learned Senior Counsel would rely upon the judgment of the Hon'ble Supreme Court in *Arikala Narasa Reddy v. Venkata Ram Reddy Reddygari and another*, reported in (2014) 5 SCC 312, to contend that the directions contained in the hand book of the Election Officers do have a statutory force and any violation thereof would lead to the election being vitiated.

17.2. *The learned counsel appearing for the first respondent, on the other hand would contend otherwise and draw my attention to the judgments of the Hon'ble Supreme Court in [Ramesh Rout v. Rabindra Nath Rout](#), reported in (2012) 1 SCC 762; and [Jitu Patnaik v. Sanatan Mohakud and Others](#), reported in (2012) 4 SCC 194. He would also draw my attention to the judgment of the Hon'ble Supreme Court in [N.Chinnasamy v. K.C.Palanisamy and Others](#), reported in (2004) 6 SCC 341, to contend that the recounting cannot be ordered for the mere asking.*

17.3. *In [Arikala Narasa Reddy v. Venkata Ram Reddy Reddygari and another](#), the Hon'ble Supreme Court was concerned with the instructions contained in the hand book for Returning Officers particularly instruction No.16 which dealt*



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with rejection of ballots. In that context, the Hon'ble Supreme Court at para 32 of [the said judgment](#) observed that instructions contained in the hand book for Returning Officers are binding on the Returning Officers. The question as to whether violation of such instructions by the Returning Officers particularly with reference to recounting of votes would vitiate the election was gone into by the Hon'ble Supreme Court. No doubt, the judgment in Arikala Narasa Reddy, is that of a Larger Bench, but I find that the judgment in [Jitu Patnaik v. Sanatan Mohakud and Others](#), would be more apt and relevant on the facts of the present case.

17.4. While considering the question, as to whether, a non-compliance with a particular provision in the handbook would lead to vitiating the elections, the Hon'ble Supreme Court after referring to the judgment of [Ramesh Rout v. Rabindra Nath Rout](#), held that mere non-compliance with a direction contained in the manual will not offer a cause of action for declaring the election of the returned candidate invalid under [Section 100\(1\)\(d\)\(iv\)](#). The relevant portion of [the said judgment](#) reads as follows:

38. In a recent decision of this Court in [Ramesh Rout v. Rabindra Nath Rout](#), one of us (R.M. Lodha, J.) speaking for the Bench observed as follows:

"14. The handbook, as it states, has been designed to give to the Returning Officers the information and guidance which they may need in performance of their functions; to acquaint them with up-to-date rules and procedures prescribed for the conduct of elections and to ensure that there is no scope



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for complaint of partiality on the part of any official involved in the election management. We shall refer to the relevant provisions of the handbook a little later. The handbook does not have statutory character and is in the nature of guidance to the Returning Officers".

39. In view of the above legal position that the Handbook does not have statutory character and there being no non-compliance with the provisions of the Constitution or the 1951 Act or any rules framed or orders made under 1951 Act by the returning officer insofar as death of an independent candidate was concerned, the averments made in paragraph 7(A) of the election petition do not furnish any cause of action for declaring the election of the returned candidate to be void under [Section 100\(1\)\(d\)\(iv\)](#). The High Court seriously erred in holding otherwise and ordering trial of the election petition on the pleadings set out in paragraph 7(A)."

25. The aforesaid judgment is squarely applicable to the facts of the present case. Therefore, mere failure on the part of the Returning Officer to adhere to the directions contained in the Handbook, without any further material or evidence demonstrating the effect of such alleged non-compliance upon the election result, cannot have the effect of vitiating the election. The Handbook issued to the Returning Officers does not have the force of a statutory provision so as to render the election invalid merely on account of an alleged deviation therefrom. Consequently, the alleged failure on the part of the Returning Officer to undertake re-verification of the postal ballots, in the absence of any pleading or



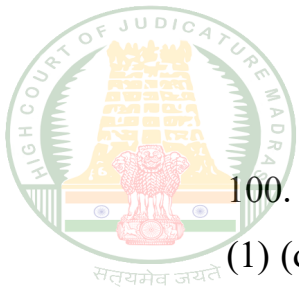
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material establishing that such failure materially affected the result of the election,

cannot constitute a ground to invalidate the election. In the present case, the first respondent has failed to plead the necessary material facts establishing the manner in which the alleged non-compliance with Clause 15.25 materially affected the result of the election. In the absence of such material facts, the Election Petition would fail to disclose a complete cause of action.

26. On careful perusal of the Election Petition, this Court finds that the allegations raised therein are bald, vague and unsupported by any independent material. Such allegations, in the absence of the necessary foundational facts demonstrating the alleged irregularities and their material effect upon the election result, cannot constitute a complete cause of action so as to warrant the matter being put to trial. It is also relevant to note that, in respect of the very same allegations, the first respondent had earlier approached this Court by filing a Writ Petition, which was subsequently withdrawn with liberty to agitate the grievances in the Election Petition. However, apart from the grounds referred to hereinabove, no further material facts have been pleaded to establish that the alleged non-compliance materially affected the result of the election. In the absence of the requisite material facts and particulars, the Election Petition cannot be permitted to proceed to trial and is liable to be rejected. It is relevant to extract the provision contained in Section 100(1)(d) of the Representation of the People Act, 1951, hereunder:



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100. Grounds for declaring election to be void:-

(1) (d) that the result of the election, in so far as it concerns a returned candidate, has been materially affected—

- (i) by the improper acceptance or any nomination, or
- (ii) by any corrupt practice committed in the interests of the returned candidate by an agent other than his election agent, or
- (iii) by the improper reception, refusal or rejection of any vote or the reception of any vote which is void, or
- (iv) by any non-compliance with the provisions of the Constitution or of this Act or of any rules or orders made under this Act, the High Court shall declare the election of the returned candidate to be void.

27. Therefore, the allegations raised in the Election Petition, would not fall within the ambit of Section 100(1)(d)(iv) of the Representation of the People Act, 1951. When a declaration is sought that the election of the returned candidate is void on the ground of breach or non-compliance with the provisions of the Constitution of India, the Act, or any Rules or orders made thereunder, it is incumbent upon the election petitioner to specifically plead the material facts demonstrating that the result of the election, insofar as it concerns the returned candidate, has been materially affected by such breach or non-compliance. It is only on the basis of such specific pleadings and the evidence adduced in support thereof that this Court can examine whether the alleged breach or non-compliance had materially affected the result of the election and, consequently, whether the election of the returned candidate is liable to be declared void.



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28. The other contentions raised by the first respondent in the Election

Petition with regard to the alleged reconfiguration of the Electronic Voting Machines are also vague and illusory and do not disclose the material facts necessary to constitute a cause of action. The first respondent has not pleaded any specific defect, malfunction, tampering or improper configuration in respect of any particular Electronic Voting Machine. Equally, no material facts have been pleaded to demonstrate the nature of the alleged error in the reconfiguration or the manner in which such alleged irregularity occurred. More importantly, the first respondent has failed to plead how the alleged reconfiguration of the Electronic Voting Machines materially affected the result of the election. In the absence of specific pleadings identifying the alleged defect or irregularity and establishing its nexus with the election result, the said allegations do not satisfy the requirement of pleading material facts so as to constitute a complete cause of action under the Representation of the People Act, 1951.

29. The statutory procedure governing the counting of votes recorded in the Electronic Voting Machines contemplates that the votes recorded in the Control Unit are displayed candidate-wise, with the corresponding figures being entered in Part II of Form 17C and thereafter reflected in Form 20. In the present case, the allegations raised by the first respondent regarding the alleged reconfiguration of the Electronic Voting Machines are unsupported by the necessary material facts.



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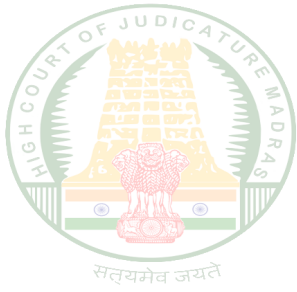
The allegations are general in nature and unsupported by the requisite material particulars or any material demonstrating that the alleged irregularities materially affected the result of the election. They consequently fail to satisfy the requirements of the Code of Civil Procedure, 1908, the Representation of the People Act, 1951, and the Conduct of Elections Rules, 1961, insofar as they relate to the pleading of a complete cause of action for relief under Sections 100 and 101 of the Act. Therefore, in the absence of the foundational and material facts necessary to establish the alleged irregularities and their material effect upon the election result, the Election Petition fails to disclose a complete cause of action and is liable to be rejected at the threshold.

30. Accordingly, the Original Application in O.A.No.915 of 2026 is allowed. Consequently, the Election Petition in E.L.P.No.34 of 2026 is rejected for want of the requisite material facts and failure to disclose a complete cause of action.

28.09.2026

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

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G.K.ILANTHIRAIYAN, J.

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To

1. The Returning Officer - cum - The Collector
No.185, Tiruppattur Assembly Constituency,
Sivagangai District 630 502
2. The Returning Officer - cum - Collector
No.50, Tiruppattur Assembly Constituency,
Tirupattur District
3. The District Election Officer - Cum - The Collector
Collectorate, Sivagangai District
4. The District Election Officer - Cum - The Collector
Collectorate, Tirupattur District
5. The Chief Electoral Officer and the Principal Secretary to Government
The Secretariat, Fort St.George,
Chennai 600 009
6. Election Commission of India,
Rep. by its Chief Election Commissioner,
Nirvachan Sadan, Ashoka Road,
New Delhi 110 001

Original Application No.915 of 2026
in E.L.P.No.34 of 2026

28.09.2026