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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.10.2026

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

O.A.No.933 of 2026
in
ELP No.28 of 2026

Vijayakumar (A) Navalpattu S.Viji ..Applicant/
1st Respondent

Vs

Anbil Mahesh Poyyamozhi,
S/o.Anbil Poyyamozhi

..Respondent/Petitioner

Prayer: Application filed under Rule 12 of the Rules of the Madras High Court Election Petitions, 1967 read with Order XIV Rule 8 of the High Court O.S. Rules read with Sections 86 and 87 of the Representation of People Act, 1951 read with Order VII Rule 11(a) and Section 151 of CPC to (i) treat this application as urgent; (ii) reject the Election Petition No.28 of 2026 under Order VII Rule 11(a) of the Code of Civil Procedure, 1908 read with Section 87(1) of the Representation of the People Act, 1951 based on the fact and grounds stated in the affidavit accompanying this application; and (iii) pass such other or further orders as this Court may deem fit in the circumstances of the case.

For Applicant: Mr.Antony R Julian

For Respondent(s): Richardson Wilson

ORDER

This application is filed by the applicant/first respondent in the election petition to reject the election petition in E.P.No.28 of 2026.

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2. Mr.Antony R Julian, learned counsel appearing for the applicant would contend that even though the first respondent/election petitioner had raised four grounds in challenging the election petition, there has been no averment as to how such grounds had materially affected the election. Relying upon a judgment of the Hon'ble Apex Court reported in ***(1954) 2 SCC 32*** in the case of ***Vashist Narain Sharma vs. Dev Chandra and others***, he would submit that this Court had to render a finding that the result of the election had been materially affected on the grounds made thereunder. When there is no pleading primarily as to how the result had materially affected the election, he would submit that the election petition itself need not be sent to trial for adjudication. He had further relied upon a judgment of the Karnataka High Court reported in ***2004 SCC OnLine Kar 332*** in the case of ***Bashiruddin Halhipparga vs. Rajasehkhar Basavaraj Patil and others*** to contend that even a mere violation of instructions as alleged, cannot be a ground, as such instructions also do not spell out the consequences of such violations and utmost it could only be an election offence and nothing else. In that regard, he would pray this Court to reject the election petition.

3. In the contrary, Mr.Richardson Wilson, learned counsel appearing for the respondent/election petitioner, relying upon a judgment of the Hon'ble Apex Court reported in ***(2013) 9 SCC 659*** in the case of ***S.Subramaniam Balaji vs.***

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State of Tamil Nadu and Ors. and ***(2014) 5 SCC 312*** in the case of ***Arikala Narasa Reddy vs. Venkata Ram Reddy Reddygari and another*** would submit that it is fairly easy to contend that the instructions given by the Election Commission do not constitute a law, of which violation would not treat the election void. He would submit that the instructions given by the Election Commission would arise out of the powers under Article 324 of the Constitution of India and that the instructions, which are issued by the Election Commission in exercise of its statutory function are binding on the Returning Officer, as also the candidates. Hence, he would pray this Court to dismiss the application and take up the trial in the election petition.

4. I have considered the submissions made by the learned counsel on either side and carefully perused the material available on record.

5. The present application to reject the election petition had been filed primarily on the ground that there is no averment/pleading as to how the ground that had been raised materially affects the election and the violations based on instructions that are sought to be relied upon by the first respondent/petitioner could not have a statutory force. It is to be noted that the judgment relied upon by the learned counsel for the applicant in ***Vashist Narain Sharma's case*** was a judgment that was rendered after the final disposal of the election petition, wherein an election was set aside, after recording of evidence. The Hon'ble

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Apex Court, on the facts of the said case, based on the evidence on record, had categorically held that the result was not materially affected based upon the allegations sustained therein.

6. In the present case, grounds have been raised and only if the grounds are substantiated, the issue as to whether such substantiated allegations had materially affected the election could be gone into. One of the grounds that had been raised is that instructions have been given not to engage the children during the election campaign.

7. It is to be noted that instructions given to a candidate in exercise of statutory powers under the Representation of the People Act, 1951 are binding on the candidate, as it has a statutory force. Material particulars of the violation committed by the applicant had been made and the veracity of such statement could only be gone into at the time of trial. When it is found that there had been a violation of instruction, this Court is of the view that it may have a material effect on the election. Such decision could be only taken after completion of the trial in the election petition.

8. In that regard, this Court is of the view that the present application is devoid of merits.

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9. In fine, the application stands dismissed. The applicant, who is the returned candidate is directed to file his reply to the election petition by a period of four weeks' and the parties are also directed to give the list of witnesses to be examined by them within a period of two weeks' thereafter.

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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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K.KUMARESH BABU, J.

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