

IN THE HIGH COURT OF JUDICATURE AT MADRAS
 (ORDINARY ORIGINAL CIVIL JURISDICTION)
 FRIDAY, THE 7TH DAY OF FEBRUARY 2020
 THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU
 Election Petition No. 6 of 2016

ELP No.6 of 2016

A.Marimuthu,,
 S/o.Ayyakannu,
 residing at Porayar Salai,
 Balaji Nagar,
 Poovam, Varichikudi,
 Kottucheri Commune,
 Karaikal 609 609.
 Puduchery union Territory. Petitioner

-VS-

1.S.Chandirapriyanga,
 W/o.N.S.Shanmugam,
 Door No.38, Vadamattam Road,
 Kuber Nagar, Kottucheri,
 Karaikal District.

Originally residing at
 Plot No.29, 2nd Main Road,
 Murugavel Nagar,
 Tiruchirapalli 620 021.

2.G.Panneerselvam,
 S/o.Ganapathi,
 No.12, 1st Cross Street,
 Suriyagandhi Nagar,
 Puducherry 605 005.

3.S.Jayaseelan,
 S/o.Selvaraj,
 No.13-B, Thenkarai Street,
 Kottuchari,
 Karaikal 600 609.

4.Anandhan,
 S/o.Jaganathan,
 Plot No.A-B-1,
 Templebay Avenue,
 Lawspet,
 Puducherry 605 008.

<https://hcservices.ecourts.gov.in/hcservices/>

5.R.Mahendiran,
 S/o.Radha,

No.34, Athangarai Street,
Panchatcharapuram,
Nedungadu,
Karaikal.

6.U.Kamaraj,
S/o.Uthirapathi,
No.19, Pandara vadai,
Kurumabagaram,
Nedungadu 609 603.

7.P.Mathiazhagan,
S/o.Pakirisamy,
No.10, Perumal Koil Street,
Vadamattam,
Puthakudy,
Kottichari Commune,
Karaikal.

8.Munisamy,
S/o.Ponnusamy,
No.2, Southpet,
Surakudi,
Thirunellaar Commune,
Karaikal.

9.Dhanabal,
S/o.Muniyandi,
No.2, Vadakattalaipet,
Nedungadu and Post,
Karaikal.

10.The Returning Officer,
Nedungadu Assembly Constituency,
Karaikal,
Puducherry Union Territory.

... Respondents

** R10 struck off from the array of
respondents in ELP.No.6/2016 as per
order of this Court dated 11.09.2017
made in OA.735/2017 in ELP.No.6/2016)

Election Petition praying that this Hon'ble Court be
pleased to

a)Declare the election of the 1st respondent as the

Assembly Constituency on 19.05.2016 as null and void

b)declare the petitioner who has polled higher number of votes next to the 1st respondent as elected candidate for the Nedungadu (SC) Assembly.

This Election Petition having been heard on 07.01.2020 in the presence of Mr.T.P.Prabakaran, advocate for the Election Petitioner and Mr.T.Sai Krishnan, advocate for the 1st respondent herein; and the respondents 2 to 9 having been set ex-parte on 17.03.2017 and upon reading the Election Petition of A.Marimuthu and Counter affidavit of S.Chandirapriyanga filed herein and this Court having stood over for consideration till this day and coming on this day before this Court for orders in the presence of the above said advocates,

The Court made the following order:-

This election petition is filed under Sections 81, 100(1)(D)(III), 100(1)(D)(IV), 101, 129, 134 of the Representation of People Act, 1951 read with Rule 2 of the Madras High Court (Election Petitions) Rules 1967, seeking for the relief of declaration to declare the election of the first respondent as a successful returned candidate for the 24th Nedungadu (SC) Assembly Constituency on 19.05.2016 as null and void and to declare the petitioner, who has polled higher number of votes next to the first respondent as elected candidate for the said Constituency. This

election petition is contested by the first respondent/returned candidate. Respondents 2 to 9, though were served with notice, they did not appear and therefore, they were set exparte.

2. The case of the petitioner is as follows:

He is the Member of Indian National Congress Party. He belongs to Scheduled Caste Community. He contested in the Puducherry Union Territory Legislative Assembly Elections 2016 from the Nedungadu reserved assembly constituency. Including the petitioner and the first respondent, there were ten candidates contested. Since the first respondent was fielded by the ruling AINRC party, the Police and other Officers involved in the election process turned a blind eye to the lapses and contravention of the code of conduct by the first respondent. The first respondent had suppressed and misrepresented several material facts in her affidavit filed under Section 33-A(1) of Representation of the People Act, 1951. She forged certain documents to claim her residential status inside the Union Territory of Puducherry. The first respondent's parents are residing within the Puducherry Union Territory. The first respondent married one N.S.Shanmugam on 24.06.2009, who is a permanent resident of Tamil Nadu State. After the said marriage, the first respondent shifted her residence to

Trichirappalli permanently. Hence, she is not eligible to contest as a candidate for election at Nedungadu Assembly Constituency.

b) Form-26 filed by the first respondent contained several misrepresentation and suppression of material facts. Thus, it attracts provisions under Section 125-A of the said Act. The first respondent has forged several documents and obtained the Origin Certificate and Residence Certificate to become eligible to contest in the MLA election. Therefore, she should be having permanent residence for 5 years before the date of election notification within the jurisdiction of Puducherry Union Territory.

c) The first respondent has given birth to one S.Pranil out of her wedlock on 11.08.2011 and the Birth Certificate issued to the said child would reveal that the permanent address of the first respondent at the time of birth of the said Pranil is Plot No.29, 2nd Main Street, Murugavel Nagar, K.K.Nagar, Trichy-1. Thus, it would reveal that as on 11.08.2011, the first respondent was not at all residing at any place within Union Territory and she was living at Trichy, Tamilnadu State. Hence, the first respondent is not entitled to contest in the subject matter election in the reserved constituency. The first respondent forged several documents using her father's influence as

Ex-Minister and obtained Residential Certificate, which is the basis for inclusion of her name in the electoral roll of Nedungadu Assembly Constituency.

d) The first respondent forged her Birth Certificate. Two Birth Certificates were issued in her name. One Birth Certificate was registered by the Registrar of Births and Deaths, Commune Panchayat, Nedungadu on 17.07.1989. On the same day, i.e. 17.07.1989, the first respondent obtained another Birth Certificate from R.B.D. Section, Puducherry Municipality. In the said Certificate, the place of birth is mentioned as Maternity Hospital, Puducherry. Hence, it is established that both Birth Certificates were issued on the same day and inconsistent with each other and they are forged ones. Hence, the Origin Certificate issued to the first respondent on the basis of the forged Birth Certificates is also legally unsustainable.

e) The first respondent also obtained two Birth Certificates for her son Pranil. One showing the place of birth as Trichy and another showing the place of birth as Keezhaparithikudi. The first respondent's husband's address as per Ration Card issued to his parent is at Trichirappalli. That Ration Card still contains the name of the first respondent's husband. He went on to obtain another Ration Card at Nedungadu having address as

Vadamattam Kottucheri Commune. Hence, it is established that solely for the purpose of contesting 2016 MLA Election, the first respondent has created fictitious records to enable herself to become eligible to contest in the MLA General Election.

f) A National Census was conducted during the year 2013 and in the Census report, the first respondent's residential address is given as Plot No.29, Murugavel Nagar, 2nd Main Road, Tiruchirappalli, Tamil Nadu. Hence, it is established that the permanent address of the first respondent is only at Tiruchirappalli and not at Nedungadu.

g) In Form No.26, the first respondent has stated that the place of residential house as "no" and "not applicable" in column No.4 of information of immovable properties. The first respondent purchased one property at Puducherry Union Territory on 16.09.2010 immediately after her marriage. In the sale deed, her residential address was given as Kilaparuthikudi Village, Tirunallar Taluk, Nedungadu. Hence, it is established that the first respondent purchased property at Puducherry Union Territory stating a false residential address and used those documents for filing an affidavit before the Returning Officer to establish that she is having properties within the jurisdiction of Puducherry Union Territory.

h) The first respondent cannot be deemed to be a candidate set up by the political party, AINRC, since it failed to comply with the requirements stipulated under election symbols (Reservation and allotment) Order 1969. As per the said Order, Form A should be delivered to the Chief Electoral Officer and the Returning Officer not later than 3 p.m. on the last date for making nomination. But the first respondent failed to deliver Form A to the Returning Officer and the Chief Electoral Officer on the last date for submitting her nomination. Hence, her nomination became invalid.

i) The first respondent belongs to a caste named "Conemotto". The above mentioned caste is not mentioned in the schedule mentioned in the Act. Hence, Caste Certificate issued to the first respondent itself becomes unconstitutional and unlawful. Hence, the first respondent is not having locustandi to contest as a candidate for the Nedungadu (SC) Assembly Constituency.

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j) The Caste Certificate dated 11.04.2016 issued to the first respondent is unsustainable in law, since it does not contain any designation, name or seal of issuing Authority. The competent Authority to issue Caste Certificate is Tahsildar, Thirunallar Taluk but the said Certificate was issued to the first respondent by Tahsildar, Karaikal Taluk Office, who is not competent.

Hence, the Caste Certificate becomes unsustainable in law and consequently, the first respondent is not at all eligible to contest for MLA in Nedungadu Reserved Assembly Constituency.

3. The first respondent/Returned Candidate filed a counter statement, wherein it is stated as follows:

This respondent was elected with the margin of 1094 votes than the petitioner herein. It is false to state that the police and other officers involved in the election process always turned a blind eye on the lapses and contravention of the code of conduct. It is false to state that this respondent suppressed and misrepresented several material facts in her affidavit filed under Section 33(a) (i) of the Representation of the People Act, 1951. It is false to state that this respondent has forged certain documents to claim her residential status. The father of this respondent is a native of Puducherry and they belong to 'Parayan' community and origin, which is coming under the Schedule Caste.

b) Since birth, this respondent is residing in the village of Paruthikudi, Nedungadu, Karaikal, Puducherry. For the past 3 to 4 decades, they are residing in the same village and therefore, there is no need to forge any documents.

On 24.06.2009, she got married with one N.S.Shanmugam, having residence at Trichy. Even after

marriage, this respondent never shifted her residence to Trichy. Her husband migrated to Karaikal and employed at MARG Port as Senior Engineer and till today, he is working therein. Her husband applied for deletion of his name from the Ration Card and by an order dated 16.07.2010, his name was included to this respondent's Ration Card. Therefore, this respondent is eligible to contest at Nedungadu Assembly Constituency. Only after verification of all these details, she has been issued residence and nativity certificate.

c) Form 26 filed by this respondent does not contain any misrepresentation or suppression of material facts. This respondent belongs to Schedule Caste and origin of Puducherry. She never shifted her residence to her husband's native at Trichy. Due to wedlock, she gave birth to her son named Praneel on 11.08.2011. Mere address of her husband mentioned in the Birth Certificate does not mean that the first respondent is residing there. Since her husband is native of Trichy and maternity delivery was attended at Lalitha Nursing Home, Trichy, the said address was furnished. Only due to sentimental reason, she has gone to Trichy and gave birth to her son. She never shifted her residence to Trichy. She did not influence any official to issue residence or nativity certificate merely because her father was Speaker and Ex-Minister of

Union Territory of Puducherry. She did not forge her Birth Certificate. While she was born at General Hospital, Puducherry, her father was the Deputy Speaker of Puducherry Assembly and as such, their residence was at Beach Road, Puducherry. Her birth was duly registered at her native at Nedungadu, within the jurisdiction of Karaikal. Absolutely, there is no legal impediment for the said proceedings of her birth. Origin and Community Certificate are not at all issued on the basis of Birth Certificate. Even though there were two registration of her birth, both reveals that she was born at General Hospital, Puducherry. Therefore, her birth as well as father's native is only at Puducherry and as such, her Community Certificate as well as the Residence Certificate are valid. She gave birth to her son Praneel on 11.08.2011 at Lalitha Nursing Home at Trichy. She had gone to Trichy for delivery, even though she was residing at Karaikal. Since her first delivery was complicatory in nature and the child died after its birth, due to sentimental reason, she was admitted at Trichy and she gave birth to her son. As such, his birth was also registered at Karaikal on 08.09.2014 on the information submitted by this respondent's father. Absolutely, there is no intention to register at two places. It has nothing to do with this respondent's electoral candidature, since she is the native of Puducherry. This respondent never placed her son's Birth Certificate to claim her residence and Community Certificate at Puducherry.

d) It is false to state that Ration Card of this respondent's husband still contains his name. His name was already deleted from the said address and included in her ration card even in the year 2010 itself. Merely his name found in the census report as if the resident of Trichy, does not mean that she is also the resident of the said address. There may be several circumstances not to have husband's residence as their matrimonial home. Therefore, it is not at all the criteria to fix husband's home as the domicile of wife after her marriage. In Form No.26, the first respondent correctly mentioned as that her dependent has no property and expenditure incurred for development of construction of immovable property. In all the sale deeds, she had mentioned the same address as No.15, Kizhapparuthikudi Village, Nedungadu, Karaikal. While purchasing those properties, she was residing in the said address. Therefore, she never mentioned any false residential address in those documents. She is the permanent resident of Puducherry and origin of Puducherry by Schedule Caste and as such, there is absolutely no circumstances warranting her to submit any false address.

e) The first respondent was duly sponsored by her party, AINRC Constituency to contest for the post of MLA Nedungadu (SC) Constituency and Form A and Form B were duly signed by her party leader. Form A was delivered to the

Chief Electoral Officer and to the Returning Officer before 3 p.m. on the last day of making nominations. It is false to state that she failed to deliver Form A to the Returning Officer and the Chief Electoral Officer. She submitted those documents within the time stipulated. It is false to state that this respondent belongs to a caste by name "Conemotto" community. She belongs to community called "Parayan" a Schedule Caste community. There is absolutely no evidence to show that they belong to "Conemotto" community. Even assuming that she born outside the jurisdiction of Puducherry, she is entitled to get a residential certificate of Union Territory of Puducherry, since her parents are residing in Puducherry for the past two decades. As per the Presidential Order 1964, those who have born before 31.03.1964, have to be treated as origin of Puducherry Schedule Caste. Therefore, her Birth Certificate and other details issued by the concerned departments are valid. The information obtained by the petitioner under the RTI Act has nothing to do with her eligibility or criteria to contest in the election. While applying the residence/community certificate before the concerned officials, she had enclosed all the proofs as required under law and after verifying all the documents, the concerned Officials issued residential/community certificate to this respondent. The non filling up of the blanks in the application has nothing to do with the consideration of the said application, since she had

enclosed all the proofs.

f) The Caste Certificate was issued by the competent authority that too, after verifying all the documents and information furnished by this respondent. It is a copy of the caste certificate attested by the Tahsildar, Taluk Office, Karaikal as True Copy. Therefore, it is a valid one.

g) The election petition is liable to be dismissed on the grounds of no cause of action. Allegations made by the petitioner are not supported by the documentary evidence. The election petitioner never made representation before the Returning Officer to cancel the election of the first respondent. Therefore, there is no cause of action to file the present election petition. The application filed under the RTI Act contained completely different allegations in respect of this respondent's election. Only to wreck vengeance, the election petitioner filed this election petition. In the last election i.e., in the year 2011, the respondent's husband duly voted in the Assembly Election and thereafter, also in the Parliamentary Election. Therefore, without any voter ID and residence proof, he could not have voted in the election. This respondent's name was never deleted from her Ration Card and her name was never included in the husband's Ration Card. Therefore, even assuming that she had shifted

her residence to Trichy, absolutely there is no proof that her name was included in the Tamil Nadu Voters' list or in her husband's Ration Card. Therefore, the first respondent is eligible to contest in the election to the Nedungadu Reserved Constituency.

h) The election petitioner never raised any objections on the grounds raised in the election petition. While scrutinising this respondent's nomination papers, even though sufficient time was given to file objections on the nomination, nobody had ever raised any objection including the petitioner herein. Therefore, no cause of action arises to file this petition. The petitioner had lost four elections as against this respondent's father and therefore, he is unable to digest winning of the MLA seat by this respondent. Only to wreck vengeance, the election petition is filed without any ground. Hence, the election petition is liable to be dismissed.

4. Based on the above pleadings of the respective contesting parties, the following issues are framed for trial:

"a) Whether Origin Certificate, Residence Certificate, Birth certificate and Ration Card obtained by the first respondent to contest in the election are forged

<https://hcservices.ecourts.gov.in/hcservices/documents?>

b) Whether the first respondent has

got a valid Ration Card in her name at Thiruchirapalli, Tamilnadu, showing that she is a resident of Tamilnadu and not of Union Territory of Puducherry?

c) Whether the National Census Report shows the first respondent residential address at Trichirapalli?

d) Whether the first respondent has made incorrect particulars in the affidavit filed before the tenth respondent in Form-26?

e) Whether the first respondent had failed to deliver Form-A to the tenth respondent/Chief Electoral Officer within the stipulated time on the last date for making the nomination and if so, whether the first respondent cannot be deemed to be a candidate belonging to the political party namely AINRC?

f) Whether the Caste Certificate issued by the first respondent is invalid in the eye of law and whether the caste named as "Conemottu" is not included in the schedule contained in Appendix-IV of the Constitution (Puducherry) Scheduled Caste order 1964?

g) Whether all proof were placed by the first respondent before the Election Commission and verified and confirmed by the authorities and if so, whether suppression of material facts do exists?

h) Whether the Birth Certificate of the child can be the evidence for the parents to show their residential address and if so, whether the first respondent's

parents residence bear address in Puducherry?

i) Whether the first respondent is justified in relying on her son's Birth Certificate to claim her Puducherry address to contest in Puducherry?

j) Whether the Census Report is proof of one's nativity or residence?

k) To what other reliefs, the Election Petitioner is entitled to?"

5. (a) The election petitioner examined himself as PW.1. Through him, Exs.P1 to P20 were marked. In his chief-examination, PW.1 has deposed as follows:

"I belong to Indian National Congress Party. I contested in the Puducherry Assembly Election held in the year 2016 from Nedungadu Assembly Constituency, reserved for S.C. I belong to Adi-Dravidar Community, which comes under the Scheduled Caste. I had submitted my caste certificate to the Returning Officer. Previously, I was an M.L.A., for twice. In the said constituency, including me, ten candidates contested. The first respondent belongs to N.R.Congress Party. The first respondent was allotted the symbol of ''Jug''. The community certificate and origin certificate produced by the first respondent are not genuine. Ex.P1 series (6 sheets) are the original letter dated 22.06.2016 issued by the Public Information Officer, Karaikal Taluk Office, attested true copy of the application for issuance of caste certificate, attested true copy of the origin certificate, attested true copy of the field verification report and attested true copy of caste certificate. The first respondent is not permanently residing in Puducherry. Witness Adds: She resides in Trichy. The first respondent was given in marriage to one Mr.Shanmugam, resident of K.K.Nagar-Murugavel Nagar, Trichy. Ex.P2 is the marriage invitation for the marriage took place between the first respondent and

Mr.K.N.S.Shanmugam. The first respondent obtained two birth certificates. Ex.P3 is the original birth certificate in respect of the first respondent dated 25.05.2016. Ex.P4 is the original birth certificate in respect of the first respondent dated 26.05.2016. The first respondent has two children. The name of the first child of the first respondent is Praneel. For the aforesaid Praneel also, two birth certificates were obtained. Ex.P5 is the photocopy of the birth certificate of the aforementioned Praneel, dated 08.09.2014. Ex.P6 is the original birth certificate of the aforesaid Praneel, dated 29.09.2014. The first respondent has family card in Puducherry. Ex.P7 is the photocopy of the family card in respect of the family of the first respondent, bearing Serial No.190517. The name of the first respondent finds a place in Ex.P7. As per the census report, the first respondent resides in Trichy. Ex.P8 is the photocopy of the census report (learned counsel appearing for the first respondent objected to mark this document as exhibit stating that there is no reference in the document from where it has been obtained). Ex.P9 (series) are the original letter, dated 06.06.2016, issued by the Returning Officer-IX, Karaikkal, certified copies of Form-20 and Form-26. I had obtained the affidavit filed by the first respondent before the Returning Officer. Ex.P10 is the photocopy of the affidavit filed by the first respondent before the Returning Officer (learned counsel appearing for the first respondent objected to mark this document as exhibit stating that this document has not been downloaded from the website of the Election Commission and that the Website address mentioned in the document is not that of the Election Commission). The first respondent did not submit Form-A within time on the last date of filing of the nomination i.e., on 29.04.2016. The community certificate in respect of the first respondent was not issued in a proper manner. The first respondent had purchased properties in Puducherry. Ex.P11 is the photocopy of the sale deed dated 13.07.2015 executed in favour of the first respondent in respect of the property situated at Kallikudi-South village, Tiruchirappalli District. Ex.P12 is the photocopy of the absolute sale deed dated 24.07.2015 executed in favour of the husband of the first respondent in respect of the property situated at

No.69, Periyanaayaki Chathiram Village, Tiruchirappalli District. Ex.P13 (series- 2 Nos.) are the certified copies of the sale deeds, both executed in favour of the first respondent, dated 12.02.2014 and 16.09.2010. Ex.P14 is the certified copy of the sale deed dated 04.10.2007 executed in favour of the first respondent in respect of the property situated at Nedungadu village, comes under the jurisdiction of the Registration District of Puducherry. Ex.P15 is the photocopy of the voter's information in respect of the first respondent bearing EPIC No.SJU0023846. Ex.P16 is the photocopy of the declaration of the result of the election in Form-21- C in respect of the Nedungadu Assembly Constituency. I have given representation against the result declared in respect of the Nedungadu Assembly Constituency. Ex.P17 is the office copy of my representation dated 20.05.2016 addressed to the Chief Election Officer, Puducherry. Ex.P18 is the photocopy of the reply given by the Returning Officer-IX, Karaikkal, dated 25.05.2016 in response to my representation (Ex.P17). I secured 7695 votes in the election conducted for the Nedungadu Assembly Constituency in the year 2016. Ex.P19 is the statement containing votes secured by the candidates (Trends at a glance) in respect of General Elections to Puducherry Legislative Assembly-2016. Ex.P20 is an article published in weekly Tamil News Paper viz., "Seidhi Oli" for the week May 04-10, 2016. I have filed this election petition to declare the election of the first respondent as null and void."

He was cross examined by the learned counsel for the 1st respondent/ returned candidate. In his cross examination, he has deposed as follows:

"At the time of scrutiny of nominations, not only myself, but also all the other eight candidates had submitted our objections to the Returning Officer. I have not filed any document in writing before the Hon'ble Court to show that I have given objections to the Returning Officer at the time of scrutiny of the nomination papers. I know the father of the 1st respondent. The father and mother of the 1st respondent are not belonging to the caste mentioned in the caste certificate marked as Ex.P1 series. Witness adds that I

recently came to know that they belong to the caste "Conemotto". I have not filed any document in this petition to show that the 1st respondent belongs to a different caste. It is correct to state that in Ex. P2, the address of the first respondent is mentioned as "Nedungadu, Karaikkal". It is correct to state that what is mentioned in Ex.P2, is the place of birth of the 1st respondent. Witness further adds that the 1st respondent resides at Kizhaparuthikudi, Pondicherry; that as per records, the 1st respondent was born in the maternity hospital, Pondicherry and that her birth was also registered at Nedungadu. I am aware that the birth will be registered based on the information given by the hospital, in which the child will be born. It is correct to state that in Ex.P3 and Ex.P4, the only difference is with regard to the residential address and that apart, all other particulars including place of birth entered therein are similar. It is correct to state that at the time of birth of the 1st respondent, the father of the 1st respondent was a Minister in the Pondicherry Government. It is also correct to state that only because of his official position, he was residing at Pondicherry, which is why the address in the birth certificate, Ex.P4, is mentioned as "Beach Road, Pondicherry". The 1st respondent is a voter only in Trichy constituency and not in Nedungadu constituency. It is incorrect to state that the 1st respondent had submitted her electoral identity card along with her nomination papers. It is correct to state that in Ex.P7, Family card, the caste of the 1st respondent is mentioned. It is correct to state that Ex.P7 was downloaded from Internet on 31.05.2016. It is correct to state that in Ex.P7 also, the address of the 1st respondent is mentioned as "Paruthikudi, Nedungadu". It is correct to state that in Ex.P8, there is no information to the extent as from where, from whom and on which date it was obtained. It is incorrect to state that Ex.P8 is not a census report. Witness adds that in Ex.P8, mobile number of the 1st respondent, mobile numbers of her husband and father-in-law and her residential address i.e., "Murugavel Nagar 2nd Main Road, K.K.Nagar, Trichirapalli-29", are clearly mentioned. It is incorrect to state that based on the census report, electoral identity card will not be issued. It is incorrect to state that the 1st respondent's name finds a place in Pondicherry electoral roll. Witness adds that her

name is also available in Trichy electoral roll. It is incorrect to state that the 1st respondent's name is not available in the electoral roll of Trichy and that I have not mentioned in my election petition that her name is available in Trichy electoral roll. I have not filed any proof to show that the 1st respondent is a voter in Trichy constituency. It is correct to state that in Ex.P10, the name of the 1st respondent is available as a voter in the voters list under Srl.No.1016 of Nedungadu constituency. It is incorrect to state that the 1st respondent had submitted her affidavit on time and that I have falsely stated in my petition that the 1st respondent did not submit her affidavit on time. It is incorrect to state that in Ex.P10, the 1st respondent has correctly mentioned the assets owned by her. I have submitted an affidavit along with this election petition to the effect that the 1st respondent had not submitted the correct particulars along with her nomination papers. I deny the suggestion that I have not filed the affidavit along with this election petition stating the properties owned by the 1st respondent, therefore, this election petition is not maintainable. It is correct to state that in Ex.P15, it is mentioned that the 1st respondent is a voter in Nedungadu constituency. It is correct to state that in Ex.P12, the address of the buyer, namely Shanmugam, the husband of the 1st respondent, is mentioned as Kizhapparuthikudi, Nedungkadu. Witness adds that the address of the buyer in Ex.P12 is incorrect. It is correct to state that in Ex.P11 also, the address of the buyer namely, Mrs.Chandra Priyanka, the 1st respondent herein, is mentioned as Kizhapparuthikudi, Nedungkadu. Witness adds that even this address is wrong. It is incorrect to state the contents of my complaint given to the Chief Election Officer and the averments in my election petition are totally contrary to each other. It is correct to state that in my complaint, Ex.P17, I have not stated that the 1st respondent is not a voter in the Pondicherry constituency. It is incorrect to state that this election petition is an outcome of after thought. It is incorrect to state that the husband of the 1st respondent got transferred to Karaikkal from Trichy and that he has been working in Karaikkal. It is incorrect to state that the name of the husband of the 1st respondent was removed from the family card at Trichy and that his name was

included in the 1st respondent's family card at Karaikkal. I deny the suggestion that I have filed this election petition based on false information. It is incorrect to state that Ex.P20, "seithivoli" weekly paper, is not at all in circulation and that it has been fabricated by me only for the purpose of this case. Witness adds that an article in "Seithivoli" weekly paper was published, wherein it is stated that the 1st respondent had been contesting elections using forged documents; that despite the said news article, the 1st respondent, without responding to the said news article, contested in the election and that the 1st respondent had not raised any objection even after publication of the said news article. It is incorrect to state that the reasons put-forth by me in my election petition, do not affect the election result concerning the 1st respondent."

(b) The Returning Officer of Nedungadu (SC) Assembly Constituency was examined as P.W.2. Through him, Exs.P21 and P22 were marked. In his chief examination, PW.2 has deposed as follows:

"I joined government service in Puducherry in 1978 as Lower Division Clerk (LDC). I retired from service on 30.06.2017. The election to the Puducherry Assembly Constituency was held on 16.05.2016. At the time of election, I was Deputy Secretary-Establishment in the Secretariat of Puducherry Government. I was the Returning Officer-IX in Nedungadu (SC) Assembly Constituency. I was appointed as Returning Officer by the Chief Election Officer, Puducherry. Since I was appointed as Returning Officer just prior to filing of nomination papers, I did not attend the training conducted by the Election Department. Form 26 is a nomination form, along with which, property statement, caste certificate, birth certificate, affidavit and bank account statement have to be filed. Ex.P9 (Series) is the Form 26 filed by the first respondent. I accepted the said nomination based on Form A and Form B issued by the party, All India NR Congress for the said

candidate. Form A is issued by the party President authorising their party functionary to issue the Form B to the candidate. Form B is issued by such party functionary nominating the candidate from their party. Form A and Form B have to be submitted by 03:00 p.m. on 29.04.2016, which was the last date for filing nomination. Form A and Form B in respect of the first respondent was submitted at 01.50 p.m. on 29.04.2016. Ex.P21 (now marked) is the original letter dated 25.08.2016 issued by the Joint Chief Electoral Officer to the Petitioner. It is stated in Ex.P21 that Form A and Form B in respect of the first respondent was not submitted within the stipulated time. The statement made in Ex.P21 in paragraph-3 that Form A and Form B were not submitted on 29.04.2016 is wrong. That statement in Ex.P21 is erroneous. Ex.P21 may have been issued by the Joint Chief Electoral Officer based on the documents sent by me by fax to the Chief Electoral Officer on the same day. Ex.P22 (now marked) is the photocopy of the Checklist annexed to Form 26. (original produced, verified and compared with the photocopy and original returned to the Department staff). On the basis of Ex.P22 Checklist, I have stated that Form A and Form B were submitted along with Form 26 at 01:50 p.m. on 29.04.2016. Since there is no entry with regard to 'no documents due' found in Ex.P22, I am stating that Form A and Form B were submitted at 01.50 p.m. on 29.04.2016. The witness adds: the date and time that is 29.04.2016 and 01.50 p.m have been recorded in Ex.P22. Form A and Form B have to be submitted to the Returning Officer. Even the affidavit has to be submitted along with the documents with the nomination papers. We receive the entire set of nomination papers and check it and accept it. On receipt of nomination papers along with connected documents, I have not put my signatures on each and every papers including Form A and Form B. We receive the nomination papers along with connected documents and we assign a nomination number to each nomination. Subsequently, we assign page numbers continuously in the nomination papers. It is a possibility that Form A and Form B can be inserted later on, but it was not done so in this case. The statement of the Joint Chief Electoral Officer in Ex.P21 that they did not receive Form A and Form B within the time on 29.04.2016 would be because one copy of Form A and Form B would be submitted to Chief Electoral Officer and they

might have received it late and one copy would be submitted to the Returning Officer. But I received Form A and Form B in time. I do not know on what basis Ex.P21 letter has been issued. The caste certificate and origin certificate in respect of the first respondent were filed along with nomination papers and I satisfied with the same since they were issued by the competent authorities and it was also not objected at the time of scrutiny. The affidavit in Form 26 in Ex.P9 is accepted by us as it is. Unless and otherwise objections raised with regard to a particular nomination papers, we would accept the same. The time limit stipulated for submission of Form A and Form B under para-13 of the Election Symbol (Reservation and Allotment) Order, 1968 is mandatory. After the submission of nomination papers, the Returning Officer has to check whether all the forms prescribed as per the Rules had been submitted or not and whether the certificates from the competent authorities had been submitted or not. In case, anything is left out, the Returning Officer has to intimate the concerned candidate in writing to submit the same within the stipulated time. The candidates also have to take oath in the name of God and submit a signed declaration thereof. Also, we check whether Form A and Form B have been submitted from the party. We do not verify the veracity and truthfulness of the documents submitted along with nomination papers. On the day of scrutiny, we call all the candidates who have submitted nominations and we declare the number of nominations received, the records submitted by the candidates and the number of nominations found to be in order. We also declare to the candidates that if they have any objection with regard to any nomination, they can raise the same. If any objection is raised by any candidate, we record the same and scrutinize the papers and make a summary enquiry and record a proceeding. As soon as we receive nomination papers along with connected documents we put up the copies of the same in our office notice board and in the website of the Election Commission and send the same to the Chief Electoral Officer by fax. The nomination received on the last day would be put up in the notice board as well as in the website of the Election Commission and to the Chief Electoral Officer on the very same evening. It is mandatory to submit Form A to the Chief Electoral Officer. I am not aware whether the

time limit prescribed for submission of Form A applies for submission of the same to the Chief Electoral Officer."

He was not cross examined by the first respondent.

(c) The then Deputy Director, Department of Civil Supplies, Government of Puducherry, was examined as P.W.3. In his chief examination, he has deposed as follows:

"I was working as Deputy Director, Department of Civil Supplies, Govt. of Puducherry. As Deputy Director of the Department of Civil Supplies, my job was to issue family cards. When I was working so, I did not know about the first respondent viz., Chandrapriyanga. I know the father of Chandrapriyanga. His name is Chandrakasu. He was a Minister in Puducherry Government and he died. He was a Minister for several Departments, but I do not know exactly the portfolio he held. I do not know about the marriage of the first respondent Chandrapriyanga. I did not see the marriage invitation (Ex.P2) during my tenure. I do not know whether the first respondent was a continuous resident of Puducherry or she shifted her residence after her marriage. I do not know whether the family card under Ex.P7 was issued by the Department of Civil Supplies, Puducherry. The name of the first respondent finds a place in Ex.P7. The name of the husband of the first respondent does not find a place in Ex.P7. I do not know exactly when the Family card (Ex.P7) was issued. Witness adds: family cards are issued once in 5 years or 10 years; to my remembrance, for the last time, family cards were issued in the year 2005. I do not know whether the web site address found at the top of Ex.P7 is the official website address of the Department of Civil Supplies, Puducherry. When I was working for the Government of Puducherry, I took census in 2011. I only remember that I had collected data, but I do not know in which form Census Report would be prepared. In Ex.P8, the name of the first respondent is mentioned. In Ex.P8, the address of the first respondent is mentioned as Murugavel nagar, 2nd main road, Trichirapalli, Tamilnadu. In

Form-26 marked as Ex.P9 series, the address of the first respondent is mentioned as Door No.38, Kuber Nagar, Vadamattam Road, Kottuchery, Karaikal District. I am not aware of the norms in filing nomination papers before the Election Commission. If any person marries and settles outside puducherry, he or she cannot be a voter in Puducherry."

He was not cross examined by the 1st respondent.

(d) The then Commissioner of Commune Panchayat, Negungadu, was examined as P.W.4. In his chief examination, he has deposed as follows:

"I have been working as Assistant in the Department of Animal Welfare, Karaikal, from 01.10.2016. From 01.08.2013 to 30.09.2016, I was working as Commissioner, Commune Panchayat, Nedungadu, on deputation. I was also the Registrar of Birth and Death, Commune Panchayat, Nedungadu during the said period. Ex.P3 was issued by me. Ex.P3 is the Birth Certificate issued for the birth of Chandrapriyanga. The date of birth of Chandrapriyanga is mentioned as 11.07.1989 in Ex.P3. In Ex.P3, the place of birth is mentioned as Paruthikudi. The registration number assigned to Ex.P3 is N198900106. Ex.P3 was issued on 25.05.2016. Ex.P4 is the Birth Certificate issued for the birth of Chandrapriyanga, by the Government of Puducherry. Ex.P4 was issued by the Registrar, No.1, Rue Dumas, Puducherry - 605 001. In Ex.P4, the date of birth of Chandrapriyanga is mentioned as 11.07.1989 and the place of birth is mentioned as Maternity Hospital, Pondicherry and the father's address is mentioned as Beach Road, Pondicherry. The Registration number assigned to Ex.P4 is M198905506. The date of issue of Ex.P4 is mentioned, in Ex.P4, as 26.05.2016. The date of registration of birth is mentioned as 17.07.1989 in Ex.P4. The date of registration of birth mentioned in Ex.P3 is 17.07.1989. I did not register the birth of Chandrapriyanga. I only issued an extract of the birth certificate from the records available in my office, when I assumed charge in 2013. I do not know who was the birth registering officer on 17.07.1989,

i.e., the date of registration of birth under Ex.P3. Issuing two birth certificates for a single person at different places is wrong. Ex.P5 is the birth certificate in respect of son of Chandrapriyanga, viz., Praneel. The extract of the birth certificate of Praneel (Ex.P5) was issued by me. In Ex.P5, the date of birth is mentioned as 11.08.2011, the place of birth is mentioned as Keelparuthikudi. The registration number mentioned in Ex.P5 is N201100001 and the date of registration mentioned is 25.08.2011. The copy of Ex.P5 was issued by me based on the records available in the office. Ex.P6 is the Birth Certificate, issued in respect of Praneel, by the Registrar of Birth and Death, Head Quarters, Tiruchirapalli City Corporation. In Ex.P6, the date of birth is mentioned as 11.08.2011, the place of birth is mentioned as Lalitha Nursing Home, B2(S), 10th A Cross, Thillai Nagar, Trichirapalli. The Registration Number of Ex.P6 is 2141/2011/56. In Ex.P5, the address of the father of the child is mentioned as No.29, Second Main road, Murugavel Nagar, K.K.Nagar, Trichy-21. The permanent address of the father of the child is also mentioned as No.29, Second Main Road, Murugavel Nagar, K.K.Nagar, Trichy-21, in Ex.P6. I do not know as to which one is genuine out of the two birth certificates issued in respect of Chandrapriyanga and her son Praneel. In the affidavit marked as Ex.P9 series, the address of the first respondent is mentioned as Puducherry; in Ex.P5 and Ex.P6, the address of the first respondent is mentioned as Puducherry and Trichirapalli respectively; I do not know which address is correct and I had only issued copies of birth certificates based on the records available in the office. I have no connection with the family card - Ex.P7. At the time of registration of the birth of Chandrapriyanga and her son Praneel, I was not holding the office concerned, therefore, I do not know about their genuineness. "

He was cross examined by the learned counsel for the 1st respondent. In his cross - examination, he has stated as

follows:

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"It is correct to state that birth of any

child will be registered based on the information received from the hospital also. "

(e) The then Tahsildar, Karaikal, was examined as P.W.5. In his deposition, he has stated as follows:

"At present, I am working as a Tahsildar, Karaikal since February 2016. The information in Ex.P1 was furnished by me along with connected documents. The copies of the documents annexed in Ex.P1 were furnished out of our office copies. The Ex.P1 also contains the copy of the application submitted by the first respondent for issue of origin and caste certificate. The above said application submitted by the first respondent is incomplete. Based on the said application, resident certificate was issued. The first respondent has not furnished the information in the said application as to how long she is residing there. The first respondent has not stated the purpose for which she has submitted the said application. The declaration in the said application is also not filled up by the first respondent. The above said application was submitted to the concerned VAO, though it is addressed to the Tahsildar, Thirunallar. Though the said application was submitted to the concerned VAO, Nedunkadu, Thirunallaru Taluk, the VAO reported that the application is not residing in the said place and therefore, he forwarded the same to Karaikal. The verification was done by the VAO, Kottucheri and the Revenue Inspector, Kottucheri. The VAO, Kottucheri and the Revenue Inspector, Kottucheri have made their recommendations in Ex.P1. Those recommendations are proper. There are several corrections in the report of the VAO and the Revenue Inspector, Kottucheri and the same are not counter signed by them. Based on the recommendations by the above said VAO and Revenue Inspector, I issued Caste Certificate. The report submitted by the VAO, Nedunkadu, Thirunallar Taluk, is also in Ex.P1. The VAO, Nedunkadu, Thirunallar Taluk, may have submitted a report based on field verification and he is not working under me. The Caste Certificate in Ex.P1 was issued by me. The Caste

Certificate in Ex.P1 do not bear the name, designation and seal of the issuing authority. The Caste Certificate in Ex.P1 issued by me was based on the recommendations of the VAO and the Revenue Inspector working under my control and the same is found in Ex.P1. Ex.P7 is a family ration card. In Ex.P7, the name of the first respondent Chandrapriyanga finds place. Her husband's name Shanmugam do not finds place in Ex.P7. I am aware that the first respondent is married. I do not know as to where the marriage of the first respondent with Shanmugam took place. I do not know as to whether Shanmugam's residence as per the Census report is Tiruchirapalli. If the residence of Shanmugam is Tiruchirapalli, then the name of the first respondent Chandirapriyanga should have been removed from the ration card in Ex.P7. Ex.P15 is the voter's information pertaining to the first respondent in respect of Nedunkadu Assembly Constituency. If the first respondent has shifted her residence, she would have applied for change of residence in the electoral list. At the time of filed verification done by the VAO and the Revenue Inspector, they would visit the applicant's house and would enquire as to whether the applicant is married or not and whether the applicant has shifted her residence or not. Along with the recommendations, the VAO and the Revenue Inspector would enclose the applicant's Voter ID card, ration card, educational certificates and birth proof. However, the same have not been furnished in Ex.P1. In the recommendation of the VAO and the Revenue Inspector, there is no information as to whether the applicant married or not and after marriage, whether she shifted her residence to her husband's place. I do not know the residence of Shanmugam, husband of the first respondent."

He was not cross examined by the 1st respondent.

(f) The then Tahsildar, Thirunallar, was examined as

PW.6. In his chief examination, he has deposed as follows:

"I am working as a Tahsildar, Thirunallar from 16.02.2016. The application for issue of origin and caste certificate was submitted to me by the first respondent. The said application is

not proper and is incomplete. The first respondent's address in the said application has been erased by using correction fluid. The first respondent has not stated in the said application as to for how long she is residing in Karaikal. The first respondent has to mention her annual income, but she has not stated the same. The first respondent has not stated in the said application the reason for applying for Caste Certificate. She has not filled up the declaration in the said application. The said application ought to have been corrected, but the same was not corrected. Accepting the incomplete application for issue of Caste and Original Certificate is not proper. The above said application was first submitted to me and I forwarded the same to the VAO, Nedunkadu. The Origin and Caste Certificate was issued by the Tahsildar, Karaikal. Since the first respondent's address was not within my jurisdiction, the certificate was issued by the Tahsildar, Karaikal. The Previous Report in Ex.P1 was issued by the VAO, Nedunkadu, who is working under my control. The VAO, Nedunkadu has submitted the Previous Report to the Tahsildar, Karaikal without obtaining my counter signature. I entertained the application for issue of origin and caste certificate of the first respondent though her residence was not within my jurisdiction, because she was residing in my jurisdiction previously. At the time of issuance of family ration card in Ex.P1, the first respondent's residence was within my jurisdiction. I am aware that the first respondent was married. I do not know as to where she got married. I know the first respondent husband's name and his name is Shanmugam. I do not know as to from which place, Shanmugam hails from. I know the first respondent's father and mother. I do not know as to whether the first respondent shifted her residence after her marriage to her husband's place. The first respondent's name should have been removed from Ex.P7-Ration Card after her marriage and if she had shifted to her husband's place. Similarly, her name should have been removed from the voters' list of Nedunkadu Assembly Constituency."

He was cross examined by the 1st respondent. In his

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cross examination, he has deposed as follows:

"The application for issue of origin and caste certificate in Ex.P1 is not original. By seeing the original of the said application, if there are any corrections, the same would be found. It is correct to state that only by seeing the original, I can say whether correction fluid was applied on the address of the first respondent in the said application in Ex.P1. In the said application, there is no correction on the Nedunkadu address of the first respondent. For obtaining caste certificate, what are all information required finds place in the said application. The first respondent's father's monthly income has been mentioned in the said application."

He was re-examined by the learned counsel for the election petitioner. In his re-examination, he has deposed as follows:

"The above said application in Ex.P1 has been certified as True copy by the Tahsildar, Karaikal. The documents in Ex.P1 has been issued by the Tahsildar, Karaikal, under Right to Information Act and not by me."

(g) The Chief Electoral Officer, Puducherry, was examined as PW.7. In his chief examination, he has deposed as follows:

"I am, at present, working as Chief Electoral Officer, Puducherry and also as Secretary (in-charge) for Finance and Health Department, Govt. of Puducherry. Assembly Elections in Puducherry were held on 16.05.2016. As the Chief Electoral Officer, my job was to coordinate with the District Electoral Officer and Returning Officer in conduct of elections for various constituencies in Puducherry, and I was also acting as link between the Election Commission of India and various election conducting authorities. Returning Officer is the authority for conducting elections. Ex.P21-letter was issued by the office of the Chief Electoral Officer, signed by the Joint Chief Electoral Officer. Form A is a form prescribed for a

recognised political party to indicate party authority, who can nominate candidates for contesting election under the party's name and symbol. Form B is a form prescribed for furnishing name of the candidates, nominated by the political party, for contesting election. The time limit prescribed for submission of Forms A and B was, not later than 3 p.m. on the last day of nomination. Form A has to be sent to the office of the Chief Electoral Officer by 3 p.m. on the last day of nomination. Forms A and B in respect of the first respondent, were not received by my office before the time stipulated. However, a letter dated 29.04.2016 (received by my office on 30.04.2016) was submitted to our office stating that Forms A and B were submitted by the first respondent to the Returning Officer before the time stipulated. On receipt of nomination papers, the Returning Officer would mention the date and time of receipt of the nomination papers, in the nomination papers. My function was to coordinate the conduct of election."

He was not cross examined by the 1st respondent.

(h) The Sanitary Officer, Trichy Municipal Corporation, was examined as P.W.8. In his chief examination, he has deposed as follows:

"I am, at present, working as Sanitary Officer, Trichy Municipal Corporation. From the date of my appointment till 2016, I was working as Registrar of Births and Deaths, Tiruchirapalli. Ex.P6 was not issued by me. Ex.P6 was issued by the Registrar of Births and Deaths at Headquarters, who was keeping the records. The records were sent by me only. In Ex.P6, names of parents are mentioned as "Shanmugam and Chandrapriya". I do not know whether the child mentioned in Ex.P6 was born in the permanent residential address/address of parents at the time of birth, mentioned therein. The details in Ex.P6 were recorded as per the information furnished by the Hospital Authorities at Lalitha Nursing Home, Trichirapalli, where the child was born. Only the parents of the child would furnish to the hospital authorities, the

details regarding the permanent address of the parents and address of the parents at the time of birth."

He was not cross examined by the 1st respondent.

(i) The then Assistant Commissioner, Trichy Corporation Ponmalai Zone, was examined as P.W.9. Through him, Ex.P23 was marked. In his chief examination, he has deposed as follows:

"I am, now, working as Assistant Commissioner, Trichy Corporation, Ponmalai Zone. In 2011, when census took place, I was working as Assistant Commissioner (Personnel), Trichy Corporation. I was, in no way, involved in census took place in 2011. I was not working as Charge Census Officer in 2011. I have brought the available relevant records concerning census data to this Hon'ble Court today, in connection with this petition. Ex.P23 is the certified true extract of National Population Register concerning Block No.0156, Ward No.0038 of Tiruchirapalli Municipal Corporation. As per Ex.P23, the present address of the first respondent at the time of census was "flat No.29, Murugavel Nagar, 2nd Main Road, Trichirapalli, Tamil Nadu, Pin 620 021". It was recorded by the Census Enumerator by name C.Beula Florance.

He was cross examined by the learned counsel for the 1st respondent. In his cross examination, he has deposed as follows:

"I have brought the summons received by me from this Hon'ble Court. Ex.R1 is the original summons received by me. It is correct to state that in Ex.R1-summons, I was not asked to bring any records. I deny the suggestion that I have brought Ex.P23 to this court only at the request of the petitioner. Witness adds:- I do not know the petitioner. I have not verified whether the contents found in Ex.P23 are true or not."

He was re-examined by the learned counsel for the election petitioner. Though him, Ex.R1 summons were marked. In his re-examination, he has deposed as follows:

"In Ex.R1-summons, the first document is mentioned as "Ex.P8- Extract of Census Report in respect of the first respondent". Ex.P23, produced by me today, is connected to census report."

6. (a) The contesting 1st respondent/returned candidate examined herself as R.W.1. Through her, Exs.R2 to R8 were marked. In her chief examination, she has deposed as follows:

"I had contested in Puducherry Assembly Elections held in the year 2016 from Nedungadu Constituency on the ticket of NR Congress Party. Nedungadu Constituency is a reserved constituency. My father was a politician for about 40 years. He contested from the same constituency six times, out of which, he won 4 times and lost twice. My father was holding the post of Deputy Speaker, Speaker and Minister in the Government of Pondicherry. My native place is Paruthikudi, Nedungadu. I was born in the year 1989 and my father was Deputy Speaker then. As per the birth certificate submitted to the school in which I studied, I was born at Paruthikudi, Nedungadu. But in the election petition, it is stated that I was born in the Government Hospital at Pondicherry. I am not aware of the birth certificate filed along with this election petition, in which it has been mentioned that I was born in Pondicherry. Ex.P3 (Birth Certificate) is my birth certificate, wherein my name is correctly mentioned as "Chandirapriyanga". Ex.P3 was the certificate submitted to my school and used for all the official purposes. I got married in Karaikal in the year 2009. At the time of my marriage, my husband was working in Bangalore. My husband's native place is Trichy. My father-in-law was Deputy Superintendent of Police. After my marriage, my husband got a job in Marg Port at

Karaikal. Therefore, we were residing in Karaikal. The contention in the election petition that I was residing in Trichy, is incorrect. Since I am the only daughter of my father, my father allowed us to stay separately at Karaikal. After our marriage, the name of my husband was included in my family ration card. Ex.R2 (3 sheets) is the photocopy of my duplicate family ration card bearing Serial No.223776, issued by the Department of Civil Supplies and Consumer Affairs, Government of Pondicherry (marked after comparing and verifying with the original). Ex.R3 is the photocopy of my electoral identity card bearing No. SJU0023846 (marked after comparing and verifying with the original). Ex.R4 is the photocopy of my Aadhar Card bearing No. 415373277277 (marked after comparing and verifying with the original). Ex.R5 is the photocopy of the electoral identity card of my husband Shanmugam bearing No. SJU0023853 (marked after comparing and verifying with the original). Ex.R6 is the photocopy of the Aadhar card of my husband bearing No. 690137364767 (marked after comparing and verifying with the original). I begot three children. My first child was born in March 2010 in Karaikal. A day after his birth, he died due to the mistake committed by the Doctors. My second child Praneel was born in the year 2011 and my third child Stalin was born in the year 2014. My second and third children were born at Lalitha Nursing Home, Trichy. Since facilities were not upto the mark at Karaikal and it was cesarian and the Doctor in Lalitha Nursing Home was the family doctor of my father-in-law, I came to Trichy to have better facilities. We have not registered the birth of my child Praneel. The hospital, in which he was born, might have registered his birth. My father would have registered his birth in Nedungadu. The birth certificate issued at Nedungadu is being used by us for all purposes. The address mentioned in Ex.P6 is that of my father-in-law's. When my father was Minister, I was given appointment as Watch and Ward staff in the Government of Pondicherry. Ex.R7 is the original office order dated 12.03.2012 passed by the Private Secretary to Chief Minister, Government of Puducherry, appointing me as Watch and Ward on co-terminal basis in the office of the Agriculture Minister, Puducherry. I was appointed for the reason that my father was undergoing dialysis from the year 2007 and that no one should question me when I

help my father in discharging his official duties. Witness adds: The year mentioned above must be 2005. Ex.R8 is the original office order dated 18.05.2015 passed by the Private Secretary to Chief Minister, Government of Puducherry, relieving me from the post of Watch and Ward. In 2016 elections, 9 members contested against me. Out of them, the election petitioner herein namely Mr.A.Marimuthu is the main contestant, who contested on the token of Congress Party. I deny the contention of the election petitioner raised in his election petition that I have committed several irregularities and illegalities with regard to birth and caste certificates, concerning me and my children."

She was cross examined by the learned counsel for the election petitioner. In her cross-examination, she has deposed as follows:

"My father has two children i.e., one daughter (myself) and one son. But the son died within one month from his birth. Now, I am the only child to my parents. My father was elected as an M.L.A for four times and he was a Minister thrice. My father was Minister for Department of Industries, Agriculture and Local Administration. I married at the age of 19 years. My husband hails from Trichy. Before our marriage, my husband had his name in the ration card held at Trichy, but after marriage, his name was removed from the ration card held at Trichy. I do not remember exactly when my husband's name was removed from the ration card held at Trichy. After removing his name from the ration card, we produced a Certificate to that effect to include his name in the ration card held at Karaikal. I do not know whether my husband's name now finds a place in the ration card held at Trichy, as I have never seen that ration card. My name was not included in the ration card held at Trichy. The details of the family members contained in Ex.P7 are ours only, but I do not know when it was obtained. Mrs.Sumathi, who finds a place in Ex.P7, is my aunt i.e. my mother's sister. Ex.P4-Birth Certificate is mine only. The date of registration mentioned in Ex.P4 is 17.07.1989. In Ex.P4, the place of birth is mentioned as "Maternity Hospital, Pondicherry" and permanent address is mentioned as "Beach Road,

Pondicherry". It is true that Ex.P3-Birth Certificate is also mine. In Ex.P3, the place of birth is mentioned as "Paruthikudi" and the date of registration is mentioned as "17.07.1989" and the address is mentioned as "Paruthikudi". I do not know how two different birth certificates with different particulars were issued for a single person. Out of the two birth certificates Ex.P3 and Ex.P4, Ex.P3 is the correct one. I know only the birth certificate marked as Ex.P3 and I do not know about Ex.P4. I have three children. Out of them, my first son died immediately after his birth, my second son is Praneel and my third son is Stalin Chandra. My second son Praneel was born at Lalitha Nursing Home, Trichy, in August, 2011. I have not obtained birth certificate for my son Praneel. Since all the particulars mentioned in Ex.P6 are correct, I believe that Ex.P6 is the birth certificate of my son Praneel. It is true that Ex.P5 is also the birth certificate of my son Praneel. In Ex.P5, the place of birth is mentioned as Keela Paruthikudi. In Ex.P6, the place of birth is mentioned as Lalitha Nursing Home, Tiruchirapalli.

Q: In your chief examination, you have stated that your son Praneel was born at Lalitha Nursing Home, Trichy, and Ex.P6 also contains the place of birth of your son Praneel as Lalitha Nursing Home, Trichy. Therefore, I put it to you that Ex.P6 is the correct birth certificate.

A: We have not obtained the birth certificate marked as Ex.P6 and I do not know how it was issued.

I do not know how Ex.P5 was issued. Out of Ex.P5 and Ex.P6, Ex.P5 contains the correct particulars. My father was Minister for Department of Local Administration, Puducherry, for five years. My educational qualification is 10th standard pass. Ex.R7-Appointment Order was issued appointing me as Watch and Ward.

Q: Have you applied for the post of Watch and Ward?

A: No, I have not applied. If a Minister thinks, he can appoint anybody as Watch and Ward.

Ex.R7-Appointment Order was issued to me by the then Secretary of my father. In Ex.R7, reference number is mentioned as "I. D. 76/AM/OCM/2012". I worked in the post of Watch and Ward upto 2015. To contest in elections, I got relieved from the post of Watch and Ward. The

educational qualification required for the post of Watch and Ward is X Standard. I have X Standard pass Certificate. It is true that Ex.P10 is the Statement of Assets and Liabilities furnished by me to the Election Commission. It is true that the first and second properties mentioned in the column of immovable properties in Ex.P10 are the properties of myself and my husband respectively. The aforesaid first property is a residential plot standing in my name, measuring an extent of 2400 sq. ft. The aforesaid second property is also a residential plot standing in the name of my husband. Both the properties are situate at Trichy. The total value of the assets mentioned in Ex.P10 is Rs.1,36,00,000/-. At the time of filing nomination, my age was 26 years. The aforesaid two plots were purchased out of my income and also the income of my husband. In Ex.P10, the total value of the assets of my husband is mentioned as Rs.7,00,000/-. My husband has been working as Senior Engineer in Karaikal Port. My husband studied upto B.Tech. My husband's age at the time of filing of nomination was 34 years. The sale deed dated 12.02.2014 marked as Ex.P13 Series is executed in my favour. The sale consideration paid under the aforesaid sale deed is Rs.22,00,000/-. It is true that in 2014, I was working as Watch and Ward in Puducherry Government. I do not know whether prior permission was obtained from the employer viz., Government of Puducherry, before purchase of the property. The sale deed dated 16.09.2010 marked as Ex.P13 Series is executed in my favour. In 2010, I was not working. The sale consideration mentioned in the sale deed dated 16.09.2010 was given by my father. Ex.P14-Sale Deed dated 04.10.2007 was executed for the property purchased in my name. In 2007, my age was 18 years. The sale consideration mentioned in Ex.P14 was also paid by my father as I was unmarried then. All the details regarding filing of nomination was known to my husband and my father, as they took care of the same. I deny the suggestion that though I am having permanent residence at Tiruchirapalli, I contested from Nedungadu Constituency, by submitting forgery documents and defrauding the Election Commission."

(b) The husband of the 1st respondent was examined as RW2. Ex.R9 was marked through him. In his chief examination, he has deposed as follows:

"The first respondent Chandrapriyanga is my wife. I got married in the year 2009. My educational qualification is B.Tech. At the time of my marriage, I was working in Bangalore. The native place of my parents is Trichy. I am now working in Karaikal Port. I joined as Senior Engineer in Karaikal Port in August 2009. Ex.R9 is the original appointment order dated 27.08.2009 issued to me by Marg Limited. I had ration card in my name at Trichy before my marriage. After my marriage, my name in the ration card that we had at Trichy was deleted and it was included in the ration card at Karaikal. The ration card that we have at Karaikal has already been marked as Ex.R2. My electoral identity card has already been marked as Ex.R5. My Aadhaar card has already been marked as Ex.R6. After my marriage, I have never lived at Trichy along with my wife. "

He was cross examined by the learned counsel for the election petitioner. In his cross examination, he has deposed as follows:

"Marg limited is a Private Company. Marg Company is run by one Mr.G.R.K.Reddy. Witness adds: I do not know the abbreviation of the initial "G.R.K". Mr. G.R.K. Reddy is an individual Entrepreneur. and he is the Chairman of Marg Limited. In Ex.R9, there is no file Number. In Bangalore, I was working as Piping Designer and was earning Rs.15,000/- per month. The activities of Marg Limited in Karaikal Port are port handling, loading and unloading of coal, etc. I deny the suggestion that the appointment order (Ex.R9) was obtained only for the purpose of having address at Karaikal. I do not know about the census report (Ex.P23), wherein it is mentioned that I was residing at Trichy in 2011. My son Praneel was born on 11.08.2011 at Lalitha Nursing Home, Trichy. At the time of my son Praneel's birth, I was in Trichy. The details that

shall be furnished to the hospital, were furnished by my father to Lalitha Nursing Home, Trichy. My father had given the details to the hospital one day before my reaching Trichy. The permanent address mentioned in Ex.P6-Birth Certificate as Trichy might have been given by my father and I do not know anything about it. I deny the suggestion that I had never shifted my residence from Trichy to Karaikal and that only to facilitate my wife to contest in the elections, I had obtained forged and fabricated documents."

(c) The Assistant Vice President of M/s. Karaikal Port Private Limited was examined as R.W.3. Through him, Exs.R10 to R17 were marked. In his chief examination, he has deposed as follows:

"From the year 2005, I have been working for Karaikal Port. Initially in January 2006, Marg Limited entered into an agreement with the Government of Pondicherry for carrying out work in Karaikal Port and subsequently, we floated a special purpose vehicle as M/s.Karaikal Port Private Limited. Earlier, I was an employee of Marg Limited and now, I am the first employee of M/s.Karaikal Port Private Limited. Ex.R10 is the photocopy of my employee identity card, issued by M/s.Karaikal Port Private Limited (marked after comparing and verifying with the original and the original has been returned to the witness). I know Mr.K.N.S.Shanmugam. Initially Mr.K.N.S.Shanmugam joined Marg Limited and subsequently, he was transferred to M/s.Karaikal Port Private Limited. Now, he is an employee of M/s.Karaikal Port Private Limited. Ex.R11 is the original letter dated 24.09.2019 issued by Senior Manager, HR (Admin), M/s.Karaikal Port Private Limited. Ex.R12 is the original letter of offer dated 17.08.2009 issued appointing Mr.K.Shanmugam as Senior Engineer - Project in Marg Limited. Ex.R13 is the original letter dated 01.11.2011 issued transferring Mr.K.N.S.Shanmugam from Marg Limited to M/s.Karaikal Port Private Limited. Ex.R14 is the computer generated salary slip for the month of June 2019 in respect of Mr.K.N.S.Shanmugam, wherein his provident fund number etc., have been

mentioned. Ex.R15 is the computer generated salary slip for the month of July 2019 in respect of Mr.K.N.S.Shanmugam. Ex.R16 is the computer generated salary slip for the month of August 2019 in respect of Mr.K.N.S.Shanmugam. Ex.R17 is the certificate dated 25.09.2019 given by me as required under Section 65B(4) of the Indian Evidence Act, for the computer generated salary slips marked as Ex.R14 to Ex.R16."

He was cross examined by the learned counsel for the election petitioner. In his cross examination, he has deposed as follows:

"Marg is a public limited company. It was started in the year 1995 and its headquarters is at Chennai. Now I am working at M/s.Karaikal Port Private Limited. M/s.Karaikal Port Private Limited is a separate entity and Marg Limited is a separate entity. Mr.K.N.S.Shanmugam joined Marg Limited in the year 2009. In the year 2009, I was working in M/s.Karaikal Port Private Limited. In the year 2009, my company is different and the company of Mr.K.N.S.Shanmugam is different. Since Marg Limited had done all EPC works for M/s.Karaikal Port Private Limited, I know Mr.K.N.S.Shanmugam. Mr.K.N.S.Shanmugam transferred from Marg Limited to M/s.Karaikal Port Private Limited in the year 2011. Mr.K.N.S.Shanmugam submitted his application for appointment in Marg Limited. I only know that he was appointed in Marg Limited, but I do not know about his selection particulars. In the year 2009, Mr.K.N.S.Shanmugam was working as Site Engineer. At that time, he was a graduate in B.Tech (Mechanical). In the year 2011, he was transferred to M/s.Karaikal Port Private Limited as Site Engineer. It is correct to state that in the year 2009, my employer was M/s.Karaikal Port Private Limited and the employer of Mr.K.N.S.Shanmugam was Marg Limited. Mr.K.N.S.Shanmugam was appointed by Mr.Bhavani Shankar, HR (Admin) and Assistant Vice-President. In M/s.Karaikal Port Private Limited, I am looking after Engineering as well as Administration. Since both Marg Limited and Karaikal Port Private Limited are group companies, Mr.K.N.S.Shanmugam was transferred from Marg Limited to Karaikal Port

Private Limited in the year 2011. In the year 2009, Marg Limited operations were looked after by Mr.Venkatachari, Vice-President (Projects). Ex.R11 to Ex.R13 are obtained from M/s.Karaikal Port Private Limited. yesterday. I have come to this Hon'ble Court to depose to the effect whether Mr.K.N.S.Shanmugam is an employee of M/s.Karaikal Port Private Limited or not. On the basis of the transfer letter-Ex.R13, I am deposing now. I deny the suggestion that without knowing the particulars of appointment of Mr.K.N.S.Shanmugam, which was done in the year 2009, I am deposing falsely."

7. Ex.P1 series, containing six sheets, is the information obtained under R.T.I. Act, 2005. Ex.P2 is the Marriage Invitation of the 1st respondent. Ex.P3 is the Certificate of Birth of the 1st respondent issued by the Nedungadu Commune Panchayat. Ex.P4 is the Birth Certificate of the 1st respondent issued by the Puducherry Municipality. Ex.P5 is the birth certificate of the son of the 1st respondent issued by the Nedungadu Commune Panchayat. Ex.P6 is the Birth Certificate of the son of the 1st respondent issued by the Tiruchirapalli City Corporation. Ex.P7 is the Ration Card issued by the Government of Puducherry. Ex.P8 is the xerox copy of the census report extract. Ex.P9 series are the certified copies of the documents in respect of the 1st respondent of Nedungadu Constituency, Karaikal. Ex.P10 is the details of the 1st respondent Company, the winner of Nedungadu Constituency. Ex.P11 is the photo copy of the sale deed dated 24.07.2015. Ex.P12 is the photo copy of the sale deed dated 24.07.2015. Ex.P13 is the photo copy of the certified

copies of the sale deeds dated 12.02.2014 and 16.09.2010. Ex.P14 is the photo copy of the certified copy of the sale deed dated 04.10.2007. Ex.P15 is the voters information issued by the Chief Electoral Officer. Ex.P16 is the declaration of the result of the Election at Nedungadu Assembly Constituency. Ex.P17 is the representation of the petitioner dated 20.05.2016 to the Chief Election Officer. Ex.P18 is the letter dated 25.05.2014 addressed to the election petitioner by the Returning Officer. Ex.P19 is the list of candidates as per the vote secured at Nedungadu Constituency. Ex.P20 is the paper cutting dated 04.10.2016. Ex.P21 is the letter written by the Joint Chief Electoral Officer dated 25.08.2016 to the election petitioner. Ex.P22 is the photo copy of the check list annexed to Form 26. Ex.P23 is the photo copy of Local Register of Usual Residents.

8. Ex.R1 is the summon issued to the Assistant Commissioner/ Census Officer, Trichy. Ex.R2 is the photo copy of the Family Ration Card. Ex.R3 is the photo copy of the Identity Card of the 1st respondent issued by the Election Commission of India. Ex.R4 is the photo copy of the Aadhar Card issued to the 1st respondent. Ex.R5 is the photo copy of the Identity Card issued by the Election Commission of India to the husband of the 1st respondent. Ex.R6 is the Aadhar card issued to the husband of the 1st respondent. Ex.R7 is the letter dated 12.03.2012 issued by

the Private Secretary to the Chief Ministry of Government of Puducherry, issued to the 1st respondent. Ex.R8 is the letter dated 18.05.2015 issued by the Private Secretary to the Chief Ministry, Government of Puducherry, issued to the 1st respondent. Ex.R9 is the letter dated 27.08.2009 address to the husband of the 1st respondent by Marg Limited. Ex.P10 is the identity card issued to RW3. Ex.R11 is the communication dated 24.09.2019 issued by Karaikal Port. Ex.R12 is the letter dated 17.08.2009 issued by Marg Limited to the husband of the 1st respondent. Ex.R13 is the letter dated 01.11.2011 issued by Marg Limited to the husband of the 1st respondent. Exs.R14 to R16 are the Salary certificates issued by Karaikal Port Private Limited to the husband of the 1st respondent. Ex.R17 is the Certificate dated 25.09.2019 issued under Section 65-B(4) of the Indian Evidence Act, 1872.

9. Mr.T.P.Prabhakaran, learned counsel for the Election Petitioner made his oral submissions. He has also filed his written arguments. The sum and substance of the submissions made by the learned counsel for the Election Petitioner are as follows:

Issue (a)

The 1st respondent produced forged documents in connection with her residential status. The origin of the residence certificates submitted by her before the Election Commissioner are not genuine. After her marriage on

24.06.2009, the 1st respondent shifted her residence permanently to Trichy and voluntarily ceased to be a resident of Pondicherry Union Territory. The 1st respondent has not deposed anything against series of documents contained in Ex.P1 in her cross examination. In the application submitted before the Tahsildar, Thirunallar, for issuing residential, caste and nationality certificate, the 1st respondent has not filled up the application properly and furnished vital information. There are several corrections in Ex.P1. P.W.5 admitted that he only issued the caste certificate to the 1st respondent and admitted the irregularities found in the caste certificate. The caste certificate in Ex.P1 do not bear the name, designation and seal of the issuing authority. Thus, the above oral and documentary evidence clearly establish the fact that the residential certificate and caste certificate produced by the 1st respondent are not valid documents. The evidence of P.W.6 clearly established the fact that the origin certificate and caste certificate submitted by the 1st respondent are not authenticated documents and they are improper documents. Exs.P3 and P4 Birth Certificates would reveal that they are issued on the same day and however, having two different registration numbers with different place of birth. Therefore, the Birth Certificate submitted by the 1st respondent is not genuine and forged one.

The 1st respondent's husband permanent address as per the election card issued to his parents is Tiruchirappalli. The Ration Card still mentions the name of the 1st respondent. Without taking any effort to cancel the said Ration Card, her husband went on to obtain another Ration Card at Nedungadu. Therefore, it is established that the 1st respondent created a forged Ration Card at Puducherry, solely for the purpose of contesting the election. In this regard, the deposition of P.W.3 is relevant to be noted.

Issue (c)

Exs.P8 and P23 clearly establish that the 1st respondent shifted her residence to Tiruchirappalli, Tamilnadu, after marriage and she is not the residence of Union Territory of Puducherry. The evidence of P.W.2 is relevant to be noted in this regard.

Issue (d)

In Form 26 submitted before the Election Commissioner, the 1st respondent suppressed certain material facts by referring several columns as not applicable, whereas the information relevant to such columns are available.

Issue (e)

The 1st respondent ought not to have considered to be a candidate setup by a political party namely AINRC. The said party has failed to comply with the statutory requirements stipulated under Election Symbols (Reservation and Allotment) Order 1969. The Joint Electoral Officer stated that as per the records available, Form-A and Form-B were not received by AINRC party in their office but the AINRC party informed through letter dated 29.04.2016 that Form-A and Form-B in respect of their candidates were submitted to the Returning Officers of the concerned Assembly Constituency within the stipulated time. In this regard, P.W.7 was examined. From his evidence, it is established that Form-A and Form-B were not received in the office of the Chief Electoral Officer on the stipulated date and time. The Returning Officer, Nedungadu Assembly Constituency, Karaikal, was examined as PW.2. From his evidence, it is established that the mandatory requirements were violated.

Issue (f)

Issue of Caste certificate was already discussed earlier. The 1st respondent has not submitted any document to claim her caste as "Conemottu".

Issue (g)

<https://hcservices.ecourts.gov.in/hcservices/> This issue has already been discussed supra.

Issue (h)

The 1st respondent herself has accepted that her son was born only at Trichy. Therefore, Ex.P6 has to be considered as authenticated and genuine. Therefore, it is established that Ex.P5 is a forged one. Hence, the 1st respondent is not legally entitled to contest in the said election in Nedungadu Constituency. The appointment order was issued in favour of the 1st respondent on the dictates of her father, who was working as Agricultural Minister at that time. Thus, the appointment order was issued only as a name sake.

Issue (i)

The 1st respondent is not justified in placing reliance in Ex.P5 Birth Certificate in view of her categorical admission.

Issue (j)

Exs.P8 & P23 and the deposition of P.W.9 established that the 1st respondent was having permanent resident only at Trichy, Tamil Nadu.

Issue (k)

The caste certificate submitted by the 1st respondent becomes unsustainable. The residence certificate issued by the 1st respondent is not valid. Hence, she is not

eligible to contest in Nedungadu Assembly Constituency. The 1st respondent has not established by examining anyone from Marg Company that her husband was appointed in that Company. Ex.R9, appointment order is not genuine. The 1st respondent failed to establish that she had permanent resident at Karaikal after marriage with P.W.2.

10. In support of his submissions, he relied on the following decisions:

- (i) ***Election Petition No.20/2009 dated 10.04.2013;***
- (ii) ***149 (2008) DLT 205 (Sh.Jaspal Singh Vs Sh.O.P.Babbar);***
- (iii) ***2004 (2) ALT 157, (Nimmaka Jaya Raju vs. Satrucharla Vijaya Rama Raju)***

11. Mr.T.Sai Krishnan, learned counsel for the first respondent made his oral submissions. He also filed written submissions and additional written submissions, on behalf of the first respondent. The sum and substance of submissions made on behalf of the first respondent are as follows:

a) None of the grounds under which an election can be challenged have been made out by the election petitioner. No averments were made in the election petition

the People Act, 1951 and therefore, it will have to be construed that the election petition is filed only under Section 100(1)(d)(iv). It is not stated as to which of the provisions of the Constitution of India or of the Representation of the People Act or of any rules and orders made under the said Act have not been complied with. No specific allegations or material evidence necessary to support such allegations have been made in the election petition. Article 173 and 191 of the Constitution of India prescribed the qualification and disqualification for a candidate to contest in an Assembly Constituency. Section 2(1)(e) of the Representation of People Act, 1951 defines as to who is an "elector" and Section 16 of the said Act spells out the disqualifications for registration in an electoral roll. The first respondent fully qualifies to be a candidate for being elected to the legislative assembly of the Union Territory of Puducherry. There is absolutely no disqualification. The allegations of the petitioner, if at all can border upon Section 17 of the Representation of People Act, 1950, which is not a disqualification and the Hon'ble Supreme Court held that the violation of Section 17 is not a disqualification. Anyhow, it is not the case of the petitioner that the first respondent's name has been registered in the electoral roll for more than one constituency. The election petitioner has not been able to produce any evidence to show that the name of the first respondent finds place in the electoral roll at Trichy.

Sections 19 and 20 of the Representation of the People Act defines the meaning of "ordinarily resident" and the election petitioner, who never had any objections to the name of the first respondent finding place in the electoral roll at the Union Territory of Puducherry, cannot raise the said objection in the election petition.

b) **Issue (a)** falls outside the purview of the election petition and cannot be considered herein. It is not a ground mentioned in Section 100(1)(d)(iv). The first respondent is a native of Nedungadu, Karaikal and her parents, being natives of the same place and also belonging to "Paraiyan" community, admittedly, a Schedule Caste. Therefore, the entire allegations of the election petitioner, as if the first respondent had shifted her residence to Trichy, after her marriage, is only on the basis of presumptions, to which, no evidence has been let in. Ex.P1 does not in anyway support the case of the election petitioner. Mere oral testimony of the election petitioner, who is not a competent person to speak about the genuinity of the Community Certificate, does not in anyway further the case of the petitioner. Relevant and material details for issuance of those certificates are furnished by the first respondent and only after verification of the records and the reports, the concerned officials have issued the certificates. With regard to the allegations regarding the Birth Certificate, the first

respondent had no role to play in the matter of registration of her birth in Exs.P3 and P4, as such information regarding her birth can be given by the Head of the house or the nearest relative or the oldest adult male person in a house or by a Medical Officer. On receipt of information from any source, the details are entered in Birth Register and there is no process of verification involved. When the first respondent had no role to play regarding the entries made in Exs.P3 and P4, she cannot be blamed or the contents of those certificate cannot be put against her. In any event, both Exs.P3 and P4 would show that she is native of Puducherry. Thus, she is fully entitled to contest in the election. As regards Exs.P5 and P6, regarding the Birth Certificate of her son, it is the categorical evidence of RW1 that the hospital at Trichy where he was born, might have registered his birth and that her father-in-law would have registered his birth in Nedungadu. The addresses in Birth Certificates cannot be said to be in conclusive proof of the residential address of the parents. There is absolutely no evidence as to the source of the information for the certificates Exs.P3 to P6. It cannot be used as proof of evidence or nativity. Therefore, the reliance placed on the Birth Certificate is of no consequence and no adverse inference can be drawn against the first respondent. Though the election petitioner has alleged that the documents are forged, he has not been able to establish as to what is false in those

documents. In the present case, there is absolutely no allegation as to how, when and where the first respondent made any false documents with an intention of committing any forgery in the absence of any evidence to make out a case of forgery, simply allegation of forgery does not further the case of the election petitioner. Required details have been furnished by the first respondent to the Tahsildar of Tirunallar in an application submitted for obtaining Ex.P1. The witnesses have categorically spoken about the Caste Certificate issue in favour of the first respondent and that the same was issued by the Tahsildar of Karaikal, who is the competent Authority. An official act is presumed to have been done legally and unless the election petitioner produces strong material and evidence to displace such presumption, no contrary inference can be drawn merely on the basis of certain premises and conjectures. No questions have been put forth while cross-examining RW1 regarding the alleged falsity or forgery in the Caste Certificate or Residence Certificate furnished by her.

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c) With regard to **issue (b)**, it is to be noted that Ex.P7 photocopy of the Family Card does not contain the date on which such card was obtained or downloaded by the election petitioner and the source of such document is also not disclosed whereas PW3 has denied Ex.P7. Ex.R2 is the duplicate of the Ration Card issued to the family of the

first respondent which contains her husband's name also. Therefore, it is obvious that the name of the first respondent's husband has been deleted from the Ration Card at Trichy and included with that of the first respondent issued at Karaikal. The allegations of forgery are absolutely misconceived and no case is made out to that effect. PW3 has categorically stated that a person cannot be a voter in Puducherry, if he or she settled outside Puducherry after marriage. When there is no proof produced by the petitioner to show that the first respondent settled outside Puducherry, such argument is not available to the election petitioner.

d) With regard to **issue (c)**, the first respondent had raised objections for marking Ex.P8, an alleged Census Report, which does not bear the source of the same and therefore, cannot be received and looked into as evidence. Ex.P23 does not contain the date of visit of the enumerator. P.W.9, who produced the said document, stated that he has not involved in the census that took place in 2011. He further stated in the cross examination that he did not verify whether the contents found in Ex.P23 are true or not. Therefore, no reliance can be placed in Ex.P23. On the other hand, the election petitioner has produced Ex.P15 showing that she is a voter in the Nedungadu Constituency. Ex.R3 Voter I.D. Card of the first respondent and Aadhaar Card under Ex.R4, Exs.R5 and R6

would show that the first respondent and her husband are the voters of the Nedungadu Constituency. Ex.R7 is an Office Order showing that the first respondent was engaged as Watch and Ward with effect from 08.06.2011, which goes to show that the first respondent never got shifted her residence at Trichy.

e) Regarding **issue (d)**, the first respondent has furnished the relevant information in the columns provided in Form 26. Therefore, the allegation made by the election petitioner as if the election petitioner did not furnish informations in Form 26 is incorrect.

f) Regarding **issue (e)**, it is to be noted that P.W.2 the Returning Officer has deposed that Form A and Form B in respect of the first respondent were submitted at 01.50 p.m. on 29.04.2016. Therefore, it is clear that the requisite forms have been submitted within time. Rule 13 of the Election Symbols (Reservation and Allotment) Order, 1968 states that a notice by the political party in writing in Form B to the effect that the candidate as a Member of the political party be delivered to the Returning Officer not later than 3 p.m. on the last day of making nominations. What is contemplated is the delivery of Form B before 3 p.m. on the last day of nomination to the Returning Officer. Therefore, the same cannot be extended to include the Chief Electoral Officer also. The evidence

of P.W.7 also supports the case of the first respondent that Form A and B have been received at 01.50 p.m. by the Returning Officer. There is nothing in Ex.P21 to indicate that the same were not submitted to the Returning Officer before 3.00 p.m. The very same issue in respect of the very same election 2016 of the Union Territory of Puducherry came to be considered by this Court in a batch of election petition and this Court has held that delivery of Form A and B to the Returning Officer within the time is substantial compliance of requirements of law and non delivery of such communication to the Chief Electoral Officer within the time was held to be not a ground for challenging the election.

g) Regarding **issue (f)**, it is stated that the first respondent belongs to 'Paraiyan' caste, which is one of the caste mentioned in Schedule to The Constitution (Puducherry) Schedule Caste Order, 1964. It is not the case of the first respondent that she belongs to "Conemottu" rather it is the case of the election petitioner. However, the election petitioner has not produced any evidence to show that the first respondent does not belong to 'Paraiyan' Community and belongs to some other community. The petitioner in Ex.P17 itself admitted that the father of the first respondent had contested in the very same constituency and became successful. P.W.1 has categorically admitted that he has not filed any

document to show that the first respondent belongs to different caste.

h) Regarding **issue (g)**, it is stated that all necessary particulars and proofs have been produced by the first respondent before the Election Commission and her nomination has been accepted in a lawful manner.

i) Regarding **issue (h)**, the Birth Certificate of the child cannot be conclusive to show the residential address of the parents.

j) Regarding **issue (i)**, the first respondent is an Elector within the Union Territory of Puducherry and she is not relying upon her son's Birth Certificate to contest the election.

k) Regarding **issue (j)**, Census is an official count or survey of the population and the same cannot be elevated to the status of the legal proof of the persons residence. In this case, the person, who prepared Ex.P23, has not been examined and it is not known as to what basis, the same came to be recorded. Therefore, no credence can be attached to Ex.P23.

<https://hcservices.ecourts.gov.in/hcservices/> l) Regarding **issue (k)**, the election petitioner has not made out any of the grounds to challenge the election

of the first respondent.

m) It is submitted that the Election Petitioner has not filed the Election Petition under section 100(1)(a) and (or) 100 (1)(d)(i) of the Representation of People Act, 1951. The Election Petition has been filed only under the grounds enumerated in Section 100(1)(d)(iii) & (iv). Therefore, it is not open to the Election Petitioner to advance any submissions or make any contentions regarding the qualification and eligibility of the 1st respondent's candidature for contesting in the election. Likewise, he cannot advance any submissions or contentions regarding the alleged non-submission of Form A to the Chief Electoral Officer within the time stipulated by law and as regards the allegations of suppression of material facts in the Affidavits filed by the 1st respondent along with her nomination. Those are specific grounds set out in Section 100 and when the Election Petitioner has consciously chosen not to file the Election Petition under those specific grounds, it has been deemed that he has waived his right to challenge the election of the 1st respondent on those grounds. It cannot be contended by the Election Petitioner that the entire submissions being made by him as regards the qualification of the 1st respondent and as well as the alleged procedural violations to come within the sweep of Section 100(1)(d)(iv) of the Representation of People Act, 1951. Section 100(1)(d) (iv) can only be read as a residual

provision to cover such grounds which are not specifically provided for in the Section 100. When the Election Petition consciously omitted to file the Election Petition under section 100(1)(a) and (d) (i), it is not open to him to make submissions on those grounds to challenge the election of the 1st respondent. Hence, the election petitioner, who has filed the election petition under the general provision of Section 100(1)(d)(iv) and not under the specific provisions of section 100(1)(a) and (or) section 100(1)(d)(i) cannot take the benefit of the grounds in section 100(1)(a) and (or) section 100(1)(d)(i) to challenge the election of the 1st respondent. Section 83 of the Representation of People Act, 1951, provides for the contents of the election petition which stipulates that the election petition shall contain concise statement of the material facts on which, the petitioner relies. Having omitted to raise the specific grounds, the election petitioner cannot take the 1st petitioner by surprise by urging other grounds on the basis of which, the election petition was not filed and therefore, it deserves no consideration by this Court.

12. Learned counsel for the first respondent, in support of his submission relied on the following decisions.

(i) (1999) 5 SCC 38 (Baburao v. Manikrao & Anr.)

ii) 1970 (3) SCC 147 (Rampakavi Rayappa Belagali

vs. B.D.Jatti &

Ors.)

iii) 1974 (3) SCC 415 (Hari Prasad Mulshankar

Trivedi vs. V.B.Raju

& Ors.)

iv) 2007 (11) SCC 1 (Pothula Rama Rao v. Pendyala Venkata Krishna

Rao)

v) 1969 (2) SCC 452 (Kabul Singh v. Kundan Singh and Ors.)

vi) 1984 (3) SCC 649 (Ganu Ram v. Rikhi Ram Kundal)

13. Heard the learned counsel for the election petitioner and the learned counsel for the contesting first respondent. Perused the pleadings of the respective parties, evidence let in by them both oral and documentary and the case laws relied on in support of their respective contention.

14. The present election petition is filed under Sections 81, 100(1)(d)(iii), 100(1)(d)(iv), 101, 129 and 134 of the Representation of the People Act, 1951. The prayer sought for in this election petition is to declare the election of the first respondent from the Nedungadu Assembly Constituency, Puducherry of Union Territory as null and void and to declare the election petitioner as the elected candidate for the said constituency.

15. Section 81 of the said Act deals with the presentation of election petition. Section 100 of the said Act deals with grounds for declaring election to be void. Under the abovesaid provision, sub clause (1)(d)(iii) contemplates that if this Court is of opinion that the result of the election, insofar as it concerns a returned candidate, has been materially affected by the improper reception, refusal or rejection of any vote or the reception of any vote which is void.

16. Perusal of the entire facts and circumstances of the present case and the allegations made by the election petitioner against the first respondent would clearly indicate that no specific and material averment is made against the first respondent as if any vote or reception of any vote by her is void. Therefore, I find that the election petition filed under the abovesaid ground, without there being any material pleadings, cannot be sustained. Section 101 of the said Act deals with grounds for which a candidate other than the Returned Candidate may be declared to have been elected. Under the above said provision, if this Court is of the opinion that the election petitioner or such other candidate would have received majority of the valid votes but for the votes obtained by the returned candidate by corrupt practices, this Court shall declare the election of the returned candidate to be void and declare the election petitioner or such other candidate as

the case may be, to have been duly elected. Therefore, in order to attract Section 101, the election petitioner has to prove that but for the votes obtained by the first respondent herein by corrupt practices, he would have obtained a majority of the valid votes.

17. Therefore, in order to attract Section 101, the election petitioner has to plead and prove that the first respondent received a majority of valid votes by indulging in corrupt practices. In other words, the election petitioner has to plead and prove that but for such corrupt practices, the election petitioner would have become successful by obtaining the majority of the valid votes than that of the first respondent. In this case, I do not find any material averments as to what is corrupt practice of the first respondent made her to receive majority of the valid votes than that of the election petitioner. At this juncture, it is relevant to note that the act of corrupt practice must have direct relevance in obtaining votes. Absolutely, there is no pleading and evidence to that effect. Therefore, I find that this election petition is not maintainable under Section 101.

18. Section 129 of the said Act contemplates that Officers of elections not to act for candidates or to influence the vote. Section 134 deals with the breaches of official duty in connection with elections. The election

petitioner has not pleaded that the officers at the election have acted in a such way to influence the votes in favour of the first respondent. Equally, the election petitioner did not make any material averments as to what are the official duties, in connection with the elections, have been breached in this case, in order to attract Section 129 as well as 134 of the said Act. Therefore, I find that the election petition filed under those two provisions also is not sustainable.

19. The learned counsel for the petitioner submitted that the election petition, though may not cover the ground under 100 (1) (d) (iii), it would cover and fall under Section 100(1)(d)(iv) of the said Act based on the allegations made and proved against the first respondent.

20. Section 100(1)(d)(iv) contemplates that if the High Court is of the opinion that the result of the election, insofar as it concerns a Returned Candidate, has been materially affected by any non compliance of the provisions of the Constitution of India or of the Representation of the People Act, 1951 or of any Rules or orders made under the said Act, this Court shall declare the election of the Returned Candidate to be void.

<https://hcservices.ecourts.gov.in/hcservices/> 21. Therefore, this Court has to now see as to whether the petitioner has made out a case under Section

100(1)(d)(iv) of the said Act to declare the election of the first respondent void, based on his pleadings and evidence.

22. The sum and substance of the allegations made by the election petitioner against the first respondent/returned candidate are as follows:

a) The first respondent, in order to contest in the election, forged documents such as Origin Certificate, Residence Certificate, Birth Certificate and Ration Card. In other words, the specific case of the election petitioner is that the first respondent is not a permanent resident of Pondicherry Union Territory for more than 5 years before the date of election and on the other hand, she is a permanent resident of Tamilnadu at Trichirappalli.

b) The first respondent made incorrect particulars in the affidavit filed before the Returning Officer in Form 26 and that she failed to deliver Form A within the stipulated time on the last day for making the nomination.

c) The Caste Certificate issued in the name of the first respondent is invalid and she belongs to 'Conemottu' caste, which is not included in the schedule contained in

Appendix -IV of the Constitution of (Puducherry) Schedule Caste order 1964.

d) The Birth Certificate issued in the name of the first respondent's son cannot be relied on by the first respondent to claim her permanent status as Puducherry to contest the election.

23. I have already pointed out that the election petitioner did not make any averments in the election petition to bring the same under purview of Section 100(1)(d)(iii). Therefore, the election petition filed under the abovesaid provision cannot be sustained in the absence of any specific pleadings and evidence. The learned counsel for the petitioner however contended that the allegations made in the election petition, if not covered under Section 100(1)(d)(iii) would certainly attract the ground referred to under Section 100(1)(d)(iv).

24. I have already pointed out that this Court can declare the election of the returned candidate to be void under the above referred ground viz., Section 100(1)(d)(iv) provided the election petitioner made clear and categorical averments as to which are the provisions of the Constitution of India or the representations of People Act, 1951 or any rules or orders made under the said Act are not complied with by the first respondent and that he has also proved those allegations with material evidence.

25. As rightly pointed out by the learned counsel for the first respondent, except showing Section 100(1)(d)(iv) also as one of the provision under which the election petition is filed, the election petitioner has not made any specific averments as to which are the provisions of the Constitution or the said Act and Rules are either violated or not complied with by the first respondent. Needless to state that in the absence of any specific allegations made in the election petition, the first respondent cannot be expected to meet such allegations in the counter and contest the election petition. It is also well settled that any amount of evidence without material pleadings cannot be looked into. In other words, specific pleadings with material details alone can sought to be established by placing supportive evidence and not by adducing any evidence to presume a pleading. Even otherwise, if this Court go into the allegations made in the election petition with regard to the origin, residence, birth of the first respondent and evidence let in by both path parties, it would only show that the petitioner has not made out a case for declaring the election of the first respondent as void. The reasons for such conclusion are as follows.

26. The subject matter constituency is a reserved constituency. The election petitioner and the first respondent along with other candidates contested the

election by claiming themselves as persons belonging to scheduled caste. The first respondent claims to belong "Parayan" community, which is admittedly a notified schedule caste. In support of her claim, the first respondent filed the Caste Certificate, which is found in Ex.P1 series showing that she belongs to Hindu Parayan caste, which is recognised as a scheduled caste. Except to state that the first respondent has not properly filled up the application before the Tahsildar to obtain the residential, caste and nationality certificates, the election petitioner did not produce any contra evidence to show that the first respondent belongs to some other caste or she does not belong to a scheduled caste community to contest in the reserved constituency.

27. Certain corrections made in the applications submitted by the first respondent itself cannot be stated as vital factor to conclude as if the caste certificate issued to the first respondent is not genuine, in the absence of any contra evidence. On the other hand, the Tahsildar, who was examined as P.W.5, has stated that he only issued caste certificate in Ex.P1 and based on the recommendations given by the Village Administrative Officer and Revenue Inspector, he issued the Caste Certificate to the first respondent. The report submitted by the Village Administrative Officer, Nedungadu forms part of Ex.P1 series, wherein he has clearly stated that the first

respondent was a resident of Nedungadu from her birth i.e. 11.07.1989 to 24.06.2009 and 25.06.2009, December 2010 (After marriage) and further shifted to Rasathi Nagar, Karaikal due to personal problem. In the said report, it is also stated that the first respondent belongs to Hindu Parayan by origin. Except certain corrections made in the application submitted by the first respondent, nothing adverse against the caste and residence certificate issued in favour of the first respondent is spoken to by any of the independent/official witnesses, except the interested testimony of the election petitioner as PW1. It is not enough to state that a document is bogus without substantiating such claim by adducing material evidence. The officials have not deposed that the caste and residence certificates produced by the first respondent are not issued by them. On the other hand, they admit the issuance of the same by themselves.

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28. The question before this Court is as to whether the first respondent possessed the relevant caste, residence certificate and produced the same before Election Officials and not with regard to certain corrections made in her application before the Authority to obtain such certificate. Hence, much focus made on the correctness of the application made before certificate issuing authorities is not going to serve any purpose for deciding this election petition.

29. No doubt, it is contended by the election petitioner that the first respondent possesses two birth certificates and that her son was also issued with two birth certificates. Exs.P3 and P4 are the Birth Certificates of the first respondent. Perusal of the both certificates would show that they were given in the name of the first respondent showing her date of birth as 11.07.1989. Both were registered on 17.07.1989. While Ex.P3 refers the place of birth as Paruthikudi, Ex.P4 refers the place of birth as maternity hospital, Pondicherry. There is no dispute to the fact that both Exs.P3 and P4 would show that the first respondent was born in the Union Territory of Puducherry. No other contra evidence is let in by the election petitioner to disprove her origin of birth at Union Territory of Puducherry. It is true that two different places are referred to in those two certificates as the place of birth. As rightly pointed out by the learned counsel for the first respondent, the informations contained in the Birth Certificate are the informations furnished to the officer concerned by head of the House or the nearest relative or the oldest adult male person or by a Medical Officer as contemplated under Section 8 of the Registration of Birth and Deaths Act, 1969. Based on such information, the birth is recorded in the register without making any verification of such statement. It is not known as to why and under what

circumstances, the place of birth in those two certificates were referred to differently. However, the fact remains that both the places fall within the Union Territory of Puducherry and therefore, the claim of residence of the first respondent within the Union Territory of Puducherry has not been disproved by the election petitioner by adducing any contra evidence. Even otherwise, the first respondent cannot be faulted or found to have created the documents of her birth, when she has no role to play at the time of her birth with regard to correctness of the entries made in the Birth Certificate. Therefore, the contention of the election petitioner that the first respondent has forged the documents viz., the Birth Certificates and Residence Certificates is without any substance, as he has not adduced any evidence in support of his claim of forgery of those documents. The election petitioner has not made any allegation or averments in the election petition as to how and in what manner, the first respondent had falsified the documents with an intention to commit forgery. As already stated supra, mere allegation of forgery is not sufficient without there being any material evidence in support of such claim.

30. The official witness in relation to caste and residence certificate have clearly spoken and admitted that the same were issued by the competent authority in favour of the first respondent. Therefore, the contention of the

election petitioner that the documents obtained by him under the Rights to information Act, which are only copies, do not bear the signature of the issuing Authority, is not furthering the case of the election petitioner in any manner.

31. Likewise, the Birth Certificate issued in the name of the first respondent's son cannot speak about the place of birth of the first respondent in any manner. It is not relevant to consider in this election petition as to why two Birth Certificates were issued in the name of the son of the first respondent showing two different places of birth. Even otherwise, the place of birth found in the Birth Certificate of the first respondent's son cannot be construed as an evidence to prove the place of birth of the first respondent. Therefore, reliance placed on Exs.P5 and P6 by the election petitioner is not going to help him in any manner.

32. The election petitioner marked Exs.P8 and P23, the extract of the census report in support of his contention that the 1st respondent shifted her residence to Tiruchirapalli after her marriage and that she is not residing in Union Territory of Puducherry. He examined the Census Officer as P.W.9. Marking of Ex.P8 was objected to by the learned counsel for the 1st respondent, since it does not bear the source of the said document. Perusal of

Ex.P8 does not show as to what the said document is about and who issued the said document. Except a tabular column, it does not have a head or tail. It does not contain any of the particulars regarding its nature and authenticity. Ex.P23 is the extract of the National Population Register. It is seen that one C.Buela Florence, the enumerator, had prepared the said register. She was not examined as witness. P.W.9 who produced Ex.P8 and Ex.P23 clearly deposed that he was not involved in the census that took place in the year 2011 and that he had not verified whether the contents found in Ex.P23 are true or not. Therefore, it is not safe to rely on Ex.P8 and Ex.P23. On the other hand,

Ex.P15 is showing the 1st respondent as a voter of Nedungadu Constituency. Ex.R3 is the voter identity card of the 1st respondent. Aadhaar card marked as Ex.R4 clearly shows that the 1st respondent is the resident and an elector within the Union Territory of Pondichery. Further, Ex.R5 voter identity card and Ex.R6 Aadhaar card of the husband of the 1st respondent also clearly indicate that her husband is the voter of the Nedunkadu constituency. The above official documents, namely voter identity card (Ex.R3), Aadhaar card (Ex.R4) and voters information regarding the 1st respondent issued by the Chief Electoral

Officer, Puducherry (Ex.P15), would show that the 1st respondent is the resident within the Union Territory of Puducherry and an elector entitled to and qualified for contesting in the subject matter constituency. The above official documents were not disproved as either bogus or forged one. So long as those documents are in existence and force, the contra pleadings made by the election petitioner regarding the residential status of the first respondent, without any supportive evidence, cannot be accepted.

33. With regard to the contention of the Election Petitioner on the ration card marked as Ex.P7 is concerned, P.W.3 the Deputy Director of Directorate of Civil Supplies has deposed that he does not know whether the family card under Ex.P7 was issued by the Department of Civil Supplies, Puducherry and when exactly the said card was issued. On the other hand, the 1st respondent marked Ex.R2, the duplicate ration card issued by the Civil Supplies Department of Karaikal showing the names of the 1st respondent and her husband along with other family members, as members in the family. In any event, Ex.P7 showing the name of the 1st respondent as one of the members of the family is also issued by Department of Civil Supplies and Consumer Affairs of Puducherry Government, indicating the address of the 1st respondent as Paruthikudi Nedungadu. Therefore, Ex.P7 is not helping the election petitioner to

establish that the 1st respondent was not the resident of Union Territory of Puducherry. It is to be noted at this juncture that the election petitioner seems to have not raised any objection regarding the caste and residence certificate of the first respondent at the time of scrutiny of nomination.

34. In fact, the Apex Court in a decision made in **(1999) 5 SCC 38, (Baburao v. Manikrao & Anr.)**, observed that if a person's name finds a place in more than one constituency it does not automatically entail the disqualification from contesting in anyone of the constituencies. Likewise, in **1970 (3) SCC 147 (Rampakavi Rayappa Belagali vs. B.D.Jatti & Ors.)**, it is observed that in an election petition, the correctness of the Electoral Roll cannot be gone into. In **1974 (3) SCC 415 (Hari Prasad Mulshankar Trivedi vs. V.B.Raju & Ors.)**, the Apex Court categorically held that it would defeat the object of the 1950 Act, if the question whether a person was ordinarily a resident in a constituency were to be tried afresh by a court or tribunal, trying an election petition. In **2007 (11) SCC 1 (Pothula Rama Rao v. Pendyala Venkata Krishna Rao)**, the Apex Court again reiterated that double entry of the name of a citizen in an electoral roll of a constituency is not a ground for disqualification. The Apex Court in **1969 (2) SCC 452 (Kabul Singh v. Kundan Singh**

and Ors.), has in categorical terms observed that entries found in the electoral roll are final and they are not open to challenge either before a Civil Court or before a Tribunal, which considers the validity of an election. In **1984 (3) SCC 649 (Ganu Ram v. Rikhi Ram Kundal)**, the Apex Court observed that certificate which was produced by the appellant as an annexure to the nomination paper has to be treated as forming part of the nomination paper and the declaration contained therein must be understood and treated as a declaration by the appellant in the nomination paper.

35. The relevant paragraphs of the above decisions are extracted hereunder:

(i) In **(1999) 5 SCC 38, (Baburao v. Manikrao & Anr.)**, the Hon'ble Supreme Court has observed at paragraphs 15 and 16 as follows:

"15. There is nothing to suggest in Section 16 of the 1950 Act that if a person's name finds a place in more than one constituency that would automatically entail disqualification from contesting in any one of the constituencies. It is relevant to note that Section 2(1)(e) of 1951 Act refers disqualification under Section 16 of 1950 Act alone while interpreting the word 'Elector'

and has not mentioned any contravention of Section 17 as disqualification. No doubt Section 17 of 1950 Act expressly states that no person shall be entitled to be registered in the electoral roll for more than one constituency. But if a person's name finds a place in more than one constituency does it automatically entail the disqualification under Section 16? We do not think so. Objection under Section 17 could have been successfully raised to prevent respondent No. 1's name from being included in Nilanga Constituency.

16. Likewise, a reading of other sections also does not come to the help of the appellant to sustain his contention. We are unable to find any ground after reading Section 16 of the 1950 Act and Articles 173 and 191 of the Constitution of India to hold that the nomination of the first respondent ought to have been rejected. The contention based on Section 33(5) of the 1951 Act is misconceived. As the respondent No. 1 did not file his nomination to the 214 Nilanga Constituency on the basis of his name finding a place in 206 Latur Constituency. On the other hand he filed the nomination to 211 Nilanga Constituency only on the basis of his name finding a place in that Constituency. That being the position,

the contention based on Section 33(5) cannot be accepted and the citations have no relevance. Likewise, after reading Section 100 of the 1951 Act we are unable to declare the election of the first respondent void under any one of the grounds set out therein. It is not in dispute that the appellant did not raise any objection before the Electoral Registration Officer about inclusion of the name of the first respondent in 211 Nilanga Constituency. After carefully going through the judgments cited by the learned Counsel for the appellant, we find that that have no application to the facts of this case.

ii) In 1970 (3) SCC 147 (**Rampakavi Rayappa Belagali vs. B.D.Jatti & Ors.**), the Hon'ble Supreme Court has observed at paragraphs 8 and 9 as follows:

"8. The other provisions relating to election are contained in Part XV of the Constitution. Article 324 deals with the superintendence, direction and control of elections which are vested in the Election Commission. Article 325 declares that no person shall be ineligible for inclusion in an Electoral Roll on account only of religion, race, caste, sex or any of them. Article 326 says that the elections to the House of the People and the Legislative Assemblies of States shall be on the basis

of adult franchise. Article 327 gives power to the Parliament to make provisions with respect to elections to Legislatures. Article 329 bars the interference of courts in electoral matters. By virtue of that Article no election shall be called in question except by an election petition. It is abundantly clear that in the present case the question whether respondent No. 1 was ordinarily resident in Jamkhandi constituency during the material period and was entitled to be registered in the Electoral Roll could not be the subject matter of enquiry except in accordance with the provisions of the Act of 1950. The grounds on which the election can be declared to be void under the Act are set out in Section 100 of the Act. Clause (d) is "that the result of the election, in so far as it concerns a returned candidate, has been materially affected-(i) ... (ii) ... (iii) ... (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." Nothing could be clearer than the ambit of this provision. It does not entitle the court in an election petition to set aside any election on the ground of non-compliance with the provisions of the Act of 1950 or of any rules made there under, with the exception of Section 16.

appreciated the correct ratio and true determination of the points involved in Durga Shanker Mehta's case (supra). The distinction is too obvious to bear repetition. It seems that a Bench decision of the Mysore High Court in K. Sriramulu v. K. Deviah (1965) 1 Mys. L.J. 676. was distinguished without any justification by the learned judge. It was clearly laid therein that in an election petition the correctness of the Electoral Roll cannot be gone into. The decision of a Full bench of the Punjab and Haryana High Court in Roop Lal Mehta v. Dhan Singh and Ors. (1967) P.L.R. 618. about the finality of the Electoral Roll was also not noticed. In this view of the matter the evidence relating to issue No. 1(a) becomes wholly irrelevant and redundant. The decision on that issue in favour of respondent No. 1. is however, affirmed."

iii) In 1974 (3) SCC 415 (Hari Prasad Mulshankar

Trivedi vs. V.B.Raju & Ors.), the Hon'ble Supreme Court has observed at paragraphs 29,30, 31 and 32 as follows:

"29. And concerned as we are in this case only with the question whether the High Court trying an election petition has jurisdiction to try and decide whether these respondents were ordinarily resident in the respective parliamentary constituency in Gujarat, we should think the matter is concluded by the decision of this Court in

Jatti's case (supra).

30. The requirement of ordinary residence as a condition for registration in the electoral rolls in one created by Parliament by Section 19 of the 1950 Act, and as we said, we see no reason why Parliament should have no power to entrust to an authority other than a court or a tribunal trying an election petition the exclusive power to decide the matter finally. We have already referred to the observation of this Court in *Kabul Singh's case (supra)* that Sections 14 to 24 of the 1950 Act are integrated provisions which form a complete code in the matter of preparation and maintenance of electoral rolls. Section 30 of that Act makes it clear that civil courts have no power to adjudicate the question. In these circumstances we do not think that it would be incongruous to infer an implied ouster of the jurisdiction of the court trying an election petition to go into the question. That inference is strengthened by the fact that under Section 100(1)(d) (iv) of the 1951 Act the result of the election must have been materially affected by noncompliance with the provisions of the Constitution or of that Act or of the rules, orders made under that Act in order that High Court may declare an election to be void. Non-compliance with the provisions of Section 19 of the 1950 Act cannot furnish a

ground for declaring an election void under that clause.

31. We, therefore, return to the question whether these respondents were not qualified or were disqualified to be chosen to fill the seat under the Constitution or the 1950 Act or the 1951 Act. As we said, there was no allegation that they were disqualified under Section 16 of the 1950 Act. Nor was there any ground taken that they were not qualified in the sense of their being not citizens or under the age as required. As their names were entered in the electoral roll and as they did not suffer from any of the disqualifications mentioned in Section 16 of the 1950 Act, they were electors within the definition of the term in Section 2(1)(e) of the 1951 Act. They were, therefore, qualified to be chosen as candidates under Section 3 of the 1951 Act.

32. We think that the intention of the Parliament to oust the jurisdiction of the court trying an election petition to go into the question whether a person is ordinarily resident in the constituency in the electoral roll of which his name is entered is manifest from the scheme of the 1950 and the 1951 Acts. It would defeat the object of the 1950 Act if the question whether a person was ordinarily resident in a constituency were to be tried afresh in a court or tribunal, trying an election petition."

iv) In **2007 (11) SCC 1 (Pothula Rama Rao v. Pendyala Venkata Krishna Rao)**, the Hon'ble Apex Court has observed at paragraph 10 as follows:

"10. The second ground urged by the appellant was that the Returning Officer ought to have rejected the nomination of the first respondent, as his name was entered twice in the General Electoral Roll for 'No.72 - Kovvur Assembly Constituency' at Sl. No. 797 and also at Sl. No. 802 of Part 50. Section 18 of Representation of the People Act, 1950 ('1950 Act' for short), no doubt, provides that no person shall be entitled to be registered in the electoral roll for any constituency, more than once. But the question is whether the nomination of a candidate is liable to be rejected, if his name is entered in more than one place in the electoral roll. If the name of a voter is entered more than once, the consequence is that it can be corrected by the Electoral Registration Officer under Section 22 of the 1950 Act either on an application or suo moto. Section 2(1)(e) of the Act defines 'elector' in relation to a constituency as a person whose name is entered in the electoral roll of that constituency for the time being in force and who is not subject to any of the disqualifications mentioned in Section 16 of the 1950 Act. Double entry of the name of a citizen in the electoral roll of a constituency is not a ground of disqualification (for registration in an electoral roll) under Section 16 of the 1950

Act. Nor is it a ground for rejecting the nomination under Section 36(2) of the Act."

v) In **1969 (2) SCC 452 (Kabul Singh v. Kundan Singh and Ors.)**, the Hon'ble Apex Court has observed at paragraph 8 as follows:

"8. It is not the case of the appellant that Tarsem Singh had incurred any of the disqualifications mentioned therein. No other provision of law in the Act or in any other law was brought to our notice disqualifying him from exercising his vote. The right to vote being purely a statutory right, the validity of any vote has to be examined on the basis of the provisions of the Act. We cannot travel outside those provisions to find out whether a particular vote was a valid vote or not. In view of Section 30 of the 1950 Act, civil courts have no jurisdiction to entertain or adjudicate upon any question whether any person is or is not entitled to register himself in the electoral roll in a constituency or to question the illegality of the action taken by or under the authority of the electoral registration officer or any decision given by any authority appointed under that Act for the revision of any such roll. Part III of the 1950 Act deals with the preparation of rolls in a constituency. The provisions contained therein prescribe the qualifications for being registered as a voter (Section 19), disqualifications which disentitle a person from being registered as a voter (Section 16), revision of the rolls

(Section 21), correction of entries in the electoral rolls (Section 22), inclusion of the names in the electoral rolls (Section 23), appeals against orders passed by the concerned authorities under Sections 22 and 23 (Section 24). Sections 14 to 24 of the 1950 Act are integrated provisions. They form a complete code by themselves in the matter of preparation and maintenance of electoral rolls. It is clear from those provisions that the entries found in the electoral roll are final and they are not open to challenge either before a civil court or before a tribunal which considers the validity of any election. In *B.M. Ramaswamy v. B.M. Krishnamurthy and others*, this Court came to the conclusion that the finality of the electoral roll cannot be challenged in a proceeding challenging the validity of the election."

vi) In **1984 (3) SCC 649 (Ganu Ram v. Rikhi Ram Kundal)**, the Hon'ble Supreme Court has observed at paragraph 5 as follows:-

"5. Section 33 of the Act deals with the topic of presentation of nomination paper and requirements for a valid nomination. Sub-section (2) of the said section which alone is relevant for our present purpose reads :

(2) In a constituency where any seat is reserved, a candidate shall not be deemed to be qualified to be chosen to fill that seat unless his nomination paper contains a declaration by him

specifying the particular caste or tribe of which he is a member and the area in relation to which that caste or tribe is a Scheduled Caste or, as the case may be, a Scheduled Tribe of the State.

It is not disputed that in the nomination form filed by the appellant and his proposer, no written declaration had been made specifying the caste to which the appellant belongs and the area in relation to which that caste is a scheduled caste of the State. But it is common ground that along with the nomination paper the appellant had filed as an annexure thereto a certificate issued by the Sub-Divisional Magistrate, Ghumarwin certifying that the appellant belonged to a scheduled caste namely 'Lohar'. The said certificate was appended to the nomination paper obviously with the sole purpose and intention of making it known to the Returning Officer and all others concerned that the appellant is filing his nomination as a candidate belonging to a scheduled caste namely 'Lohar' and it was in proof of that assertion and for eliminating doubt or controversy in the matter that the Sub Divisional Magistrate's certificate was produced. The High Court has taken the view that since Section 33 of the Act requires that the nomination paper must be in the prescribed form and Form 2B is a self-contained one, the filing of any enclosure

or certificate along with the Form is not contemplated. We are unable to agree with this view. When the nomination paper has been made in the prescribed form there is no legal prohibition against the other requisite particulars being furnished in a separate paper appended to the form instead of writing them out in the form itself. This is very often done in the matter of filing returns of Income-tax, Wealth-tax etc. In such cases the annexure appended to the form should be treated as part of the nomination paper. We are therefore of opinion that the certificate which was produced by the appellant as an annexure to the nomination paper has to be treated as forming part of the nomination paper and the declaration contained therein that the appellant belongs to the scheduled caste of 'Lohar' must be understood and treated as a declaration by the appellant in the nomination form within the meaning of Sub-section (2) of Section 33. We have to remember that we are dealing with nomination papers pertaining to candidates belonging to scheduled castes and scheduled tribes, who, for well known historical reasons, are unfortunately, extremely backward socially, economically and educationally in comparison with other sections of our people. In such a context we consider that the Court has to place a liberal and benevolent interpretation on the provisions contained in Section 33(2) of the Act rather than adopt a narrow, rigid, technical and purely literal construction.

In S. Sivaswami v. V. Malaikannan and others which was also a case arising under the Act, one of us speaking on behalf of a three Judge Bench of this Court had occasion to make the following observations which are apposite to the present context also :

In this context it is necessary to remember that nearly 90 per cent of the electorate in this country consists of illiterate and uneducated rural folk totally unacquainted with the intricacies of the rules & technicalities of procedure pertaining to elections. Even if the best of endeavour is made to explain to them such complicated rules and procedures they may not be capable of grasping and fully understanding all the implications and actually carrying them into effect while exercising their franchise. If the right conferred on the people to choose their representatives to the State Legislatures and the Parliament through the process of free and fair elections is to be meaningful the will of the illiterate and unsophisticated voter expressed through a marking on the ballot paper which though not strictly inside the column of the particular candidate is clearly indicative of the identity of the candidate for whom the vote is cast has to be respected and given its full effect."

^{36.} Learned counsel for the petitioner relied on <https://hcservices.ecourts.gov.in/hcservices/>

Rama Raju, a decision of the Andhra High Court. Perusal of the facts and circumstances of the said case would show that the first respondent/Returned candidate therein did not place any documentary evidence to prove that he belongs to 'Konda Dora' Tribe and that no mention in the caste that his family belongs to 'Konda Dora' Tribe. The facts of the present case and the evidence let in by the first respondent are totally different. In this case, the first respondent has filed her caste certificate to prove that she belongs to "Parayan" community, which is admittedly a Scheduled Caste. Therefore, the abovesaid decision is not helping the petitioner.

37. The other citation relied by the learned counsel for the petitioner is the decision of the Delhi High Court reported in **149 (2008) ELT 205, Sh. Jaspal Singh vs. Sh. O. P. Babbar**. Facts of the above case would reveal that the challenge made was against the order of the Returning Officer rejecting the nomination paper filed by one S. Ranjit Singh on the reason that the affidavit filed by him is not completed and not attested by Notary and that in Form 26, he did not declare as to whether he is convicted of an offence or not. The Delhi High Court found that non compliance with Section 33(A) of the Representation of People Act, 1951 and Rules 4A of the Conduct of Elections Rules, 1961, renders a nomination paper liable to be rejected. I do not find that the above decision, which is

factually distinguishable, would help the petitioner herein in any manner, especially when the petitioner herein has not questioned or raised any objection against the nomination papers of the first respondent before the election officials at the appropriate time.

38. The other decision relied on by the learned counsel for the petitioner is by the Madhya Pradesh High Court in **Election Petition No.20 of 2009** dated **10.04.2013**. Perusal of the facts and circumstances of the said case would show that the election petitioner therein had established his case against the contesting respondent therein that the caste certificate produced by the contesting respondent is not a genuine document and that the said respondent belongs to Dheemar caste. In this case, I have already pointed out that the petitioner has not produced any contra evidence to disprove the claim of the first respondent with regard to her caste supported by caste certificate marked as exhibit. Therefore, the above decision also is not helping the petitioner in any manner.

39. In view of the above stated discussions and findings, Issues (a), (b), (c), (h), (i) & (j) are answered accordingly.

40. It is the case of the election petitioner that

the 1st respondent suppressed certain material facts by not disclosing the correct details therein. It is his case that the 1st respondent filled some of the columns as "No" and "Not applicable". It is the contention of the election petitioner that when the 1st respondent purchased certain properties at Puducherry Union Territory after her marriage, she did not fill up the relevant columns showing those details.

41. A careful perusal of Ex.P9 series would show that the 1st respondent has disclosed the details of the properties purchased by her in her name under the caption "non agricultural land". Therefore, the above contention of the election petitioner as if the 1st respondent has suppressed some material facts in Form 26 is factually incorrect. She has furnished the permanent account number and the status regarding the income tax returns as well as the particulars in respect of her husband. Under such circumstances, I find that the allegation of the election petitioner that the 1st respondent made incorrect particulars in Form 26 is not correct. Thus, Issue (d) is answered accordingly.

Issue (e)

42. According to the election petitioner, Form-A should have been delivered to the Chief Electoral Officer and to the Returning Officer not later than 3.00 p.m. on

the last date of filing nomination. The election petitioner relied on Ex.P1 information furnished by the Joint Electoral Officer on 25.08.2016 stating that Form-A and Form-B were not received from AINRC party in their office but the said party informed through their letter dated 29.04.2016 that those forms in respect of their candidates were submitted to the Returning Officer of the concerned Assembly Constituency within the stipulated time. In support of the above contention, the election petitioner examined the Chief Election Officer as P.W.7. However, P.W.2, Returning Officer has deposed that those forms in respect of the 1st respondent were submitted before him at 1.50 p.m on 29.04.2016. Therefore, it is evident that Form-A and Form-B were submitted before the Returning Officer within time, as contemplated under Rule 13 of the Election Symbols (Reservation and Allotment) Order 1968. Learned counsel for the 1st respondent pointed out that the very same issue in respect of the very same election conducted in the year 2016 to the Union Territory of Puducherry pertaining to the same political party of the 1st respondent was considered by this Court in Election Petition No.12/2016 and by order dated 05.01.2018, this Court found that submitting those forms to the Returning Officer is substantial compliance. At paragraph No.59 of the said order, this Court has observed as follows:

<https://hcservices.ecourts.gov.in/hcservices/> "From a reading of Section 33 of the R.P. Act extracted above, it is clear

that the nomination paper of a candidate sponsored by a political party needs only one proposer and that it should be submitted in the prescribed format before 3 p.m. on the last date appointed by the Election Commission of India. In other words, the nomination paper can be filed upto 2.50 p.m. Mr.G.Masilamani, learned Senior Counsel appearing for the Returned candidate contended that it will be impossible for a candidate contesting in Mahe Constituency in Kerala and Yanam Constituency in Andhara Pradesh to submit Form A, both to the Returning Officer and the Chief Electoral Officer if the mandates of Paragraph 13(d) of the Election Symbols Order are to be followed blindly because, the office of the Chief Electoral Officer is located in Puducherry and therefore, a persona cannot be at two places in and around the same time. That apart, it is common knowledge that till the eleventh hour, there will be scramble for party tickets and in several cases, the party high command would announce the list or change the list in the nick of time. In any event, the provisions of the Election Symbols Order cannot frustrate the right conferred by Section 33 of the R.P. Act to submit the nomination papers upto 3.00 p.m. Therefore, the Election Commission of India had stated in Paragraph 8.4.2.(q) of the Handbook which was followed by all the Returning officers in Puducherry, that the submission of Form A

to the Returning Officer would amount to substantial compliance. To reiterate, Form A is not the creature of the R.P. Act or the Conduct of Election Rules, 1961, but, the creature of the Election Symbols Order. Thus, the provisions of the Election Symbols Order cannot be interpreted in such a manner as to frustrate the provisions of Section 33 of the R.P. Act."

In view of the above decision of this Court made on the very same issue, Issue (e) is answered accordingly.

Issue (f)

43. The Election Petitioner claims that the 1st respondent belongs to the caste called "Conemotto" and that the 1st respondent has not submitted any document to claim her status as "Conemotto". On the other hand, the 1st respondent claims that she belongs to "Parayan" caste which is one of the caste mentioned in the Schedule to the Constitution, Puducherry Scheduled Caste Order, 1964. It is her clear case that she never belongs to "Conemotto". In support of her contention, she filed caste certificate showing that she belongs "Parayan" community. it is an admitted fact that the father of the 1st respondent also contested the very same constituency earlier claiming him as a person belonging to "Parayan" community. Moreover the election petitioner only claims that he recently came to

know that the 1st respondent belongs to "Conemotto" and admitted that he did not file any document to show that the 1st respondent belongs to a different caste. In view of the above stated facts and circumstances, I find that the petitioner has not proved by any evidence that the 1st respondent belongs to other caste namely "Conemotto". Thus Issue (f) is answered accordingly.

Issue (g)

44. In view of the above discussions and facts and circumstances, this Court is of the view that all the necessary particulars and proofs have been produced by the 1st respondent before the Election Commission. Therefore, her nomination has been rightly accepted by the authorities concerned, without there being any suppression of material facts. Hence issue (g) is answered accordingly.

45. Caste/Community, Residential/Nativity and Birth Certificates issued by the competent authorities, if not proved to have been forged and that on the other hand, they are proved to have been genuine issued by the competent authorities, the same are to be taken as valid documents for the purpose for which it was produced, so long as those documents were not declared as invalid or found to be bogus

by the competent forum. In this case, the first respondent produced all those material documents before the election

officials and contested the election. Her nominations submitted at the time of election with relevant documents were not disputed by the election petitioner before the Returning Officer. Therefore, in this election petition, the validity of those certificates cannot be gone into and decided, as the forum of challenge of those documents is not the election Tribunal. What is to be seen in this election is as to whether the certificates produced by the first respondent/Returned candidate are true documents entitling the candidate to contest the election. Needless to state that consideration of the genuinity of a document is different from considering its validity. Unless and until validity of such document is declared by the competent authority or Court of law, the first respondent herein is entitled to act based on the genuinity of such document.

46. This Court in ***Election Petition No.8 of 2011*** dated **23.09.2016**, by following the decision of the Apex Court made in **2011 (1) SCC 78, Kalyan Singh vs. C.P.Joshi**, has held that a party to the election petition cannot seek for a roving enquiry during the trial of the election petition and on the other hand, such party must plead the material fact and adduce evidence to substantiate the same so as to enable the Court to adjudicate upon the issue. At

<https://hcservices.ecopn.gov.in/hcservices/> No.17, this Court has observed as follows:

"17.At this juncture, it is to be noted

that during the trial of an election petition, a party to such proceedings cannot seek for a roving enquiry and on the other hand, such party must plead the material fact and adduce evidence to substantiate the same so as to enable the court to adjudicate upon the issue. Likewise, it is also well settled that in the absence of pleading any evidence let in cannot be considered so also in the absence of any evidence, in support of a pleading, such pleading cannot be held to be proved especially, when the same is denied and disputed by other side. The issues are framed only to see that no party is taken by surprise in the trial and only those issues should be addressed by the parties by letting in relevant evidence. In the decision of the Hon'ble Supreme Court reported in **Kalyan Singh vs. C.P.Joshi, (2011) 11 SUPREME COURT CASES 786**, it has observed at paragraph Nos.17 and 28 as follows:

"17. During the trial of an election petition, it is not permissible for the court to permit a party to seek a roving enquiry. The party must plead the material fact and adduce evidence to substantiate the same so that the court may proceed to adjudicate upon the issue.

..28. Therefore, in view of the above, it is evident that the party to the election petition must plead the material fact and substantiate its averment by adducing sufficient evidence. The court cannot travel beyond the pleadings and the issue cannot be framed unless there are pleadings to raise the controversy on a particular fact or law. It is, therefore, not

permissible for the court to allow the party to lead evidence which is not in the line of the pleadings. Even if the evidence is led that is just to be ignored as the same cannot be taken into consideration."

Issue (k):

47. In view of the findings and observations made supra, while dealing with all other issues, this Court is of the firm view that the election petitioner has not made out a case in this election petition under any of the provisions under which it was filed, for interfering with the election of the 1st respondent in the subject matter constituency. Consequently, the petitioner is not entitled to any other relief as well.

48. In view of the above stated facts and circumstances, the election petition fails and the same is dismissed. No costs.

WITNESS, THE HON'BLE THIRU AMRESHWAR PRATAP SAHI,
CHIEF JUSTICE, HIGH COURT AT MADRAS, AFORESAID THIS THE 7th
DAY OF FEBRUARY, 2020.

SD/-
ASSISTANT REGISTRAR (O.S.II)

//CERTIFIED TO BE TRUE COPY//

DATED THIS THE DAY OF 2020

COURT OFFICER (OS)

cns 11.02.2020

ELP. NO. 6 of 2016

ORDER

DATED: 07.02.2020

THE HON'BLE MR. JUSTICE

K.RAVICHANDRABAABU

FOR APPROVAL: 12/02/2020

APPROVED ON: 12/02/2020

To

The Returning Officer,
Nedungadu Assembly
Constituency,
Karaikal,
Puducherry Union Territory.

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 7TH DAY OF FEBRUARY 2020

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

Election Petition No. 6 of 2016

ELP No.6 of 2016

A.Marimuthu,
S/o.Ayyakannu,
residing at Porayar Salai,
Balaji Nagar,
Poovam, Varichikudi,
Kottucheri Commune,
Karaikal 609 609.
Puduchery Union Territory. Petitioner

-VS-

1.S.Chandirapriyanga,
W/o.N.S.Shanmugam,
Door No.38, Vadamattam Road,
Kuber Nagar, Kottucheri,
Karaikal District.

Originally residing at
Plot No.29, 2nd Main Road,
Murugavel Nagar,
Tiruchirapalli 620 021.

2.G.Panneerselvam,
S/o.Ganapathi,
No.12, 1st Cross Street,
Suriyagandhi Nagar,
Puducherry 605 005.

3.S.Jayaseelan,
S/o.Selvaraj,
No.13-B, Thenkarai Street,
Kottuchari,
Karaikal 600 609.

4.Anandhan,
S/o.Jaganathan,
Plot No.A-B-1,
Templebay Avenue,
Lawspet,
Puducherry 605 008.

- No.34, Athangarai Street,
Panchatcharapuram,
Nedungadu, Karaikal.
- 6.U.Kamaraj,
S/o.Uthirapathi,
No.19, Pandara vadai,
Kurumabagaram,
Nedungadu 609 603.
- 7.P.Mathiazhagan,
S/o.Pakirisamy,
No.10, Perumal Koil Street,
Vadamattam,
Puthakudy,
Kottichari Commune,
Karaikal.
- 8.Munisamy,
S/o.Ponnusamy,
No.2, Southpet,
Surakudi,
Thirunellaar Commune,
Karaikal.
- 9.Dhanabal,
S/o.Muniyandi,
No.2, Vadakattalaipet,
Nedungadu and Post,
Karaikal.
- 10.The Returning Officer,
Nedungadu Assembly Constituency,
Karaikal,
Puducherry Union Territory.
- ... Respondents
- ** R10 struck off from the array of
respondents in ELP.No.6/2016 as per
order of this Court dated 11.09.2017
made in OA.735/2017 in ELP.No.6/2016)

Election Petition praying that this Hon'ble Court be
pleased to

a)Declare the election of the 1st respondent as the
successfully returned candidate for the 24th Nedungadu (SC)
Assembly Constituency on 19.05.2016 as null and void

b)declare the petitioner who has polled higher number of votes next to the 1st respondent as elected candidate for the Nedungadu (SC) Assembly.

This Election Petition having been heard on 07.01.2020 in the presence of Mr.T.P.Prabakaran, advocate for the Election Petitioner and Mr.T.Sai Krishnan, advocate for the 1st respondent herein; and the respondents 2 to 9 having been set ex-parte on 17.03.2017 and upon reading the Election Petition of A.Marimuthu and Counter affidavit of Mrs.S.Chandirapriyanga filed herein and this Court having stood over for consideration till this day and coming on this day before this Court for orders in the presence of the above said advocates and this Court is of the firm view that the election petitioner has not made out a case in this election petitioner under any of the provisions under which it was filed, for interfering with the election of the 1st respondent in the subject matter constituency and consequently, the petitioner is not entitled to any other relief as well,

IT IS ORDERED AS FOLLOWS :-

1. That the Election Petition No.6 of 2016 be and is hereby dismissed.

2.That there shall be no order as to costs.

WITNESS, THE HON'BLE THIRU AMRESHWAR PRATAP SAHI,
CHIEF JUSTICE, HIGH COURT AT MADRAS, AFORESAID THIS THE 7th
DAY OF FEBRUARY 2020.

SD/-
ASSISTANT REGISTRAR (O.S.II)

//CERTIFIED TO BE TRUE COPY//

DATED THIS THE DAY OF 2020

COURT OFFICER (OS)

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certified copies of the Orders/Judgments/Decrees in this
format.

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Cns- 11.02.2020

ELP. NO. 6 of 2016

DECREE

DATED: 07.02.2020

THE HON'BLE MR. JUSTICE

K.RAVICHANDRABAABU

FOR APPROVAL: 12/02/2020

APPROVED ON : 12/02/2020

To

The Returning Officer,
Nedungadu Assembly
Constituency,
Karaikal,
Puducherry Union Territory.

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