



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 3RD DAY OF DECEMBER 2021

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

O.A. No. 634 of 2021

in

Election Petition No. 6 of 2021

ELP No. 6 of 2021

S.Gopal,
S/o.Singaram,
No.9/6A, 1st Cross Street,
Navashakthi Nagar,
Thattanchavady,
Puducherry – 605 009. ... Petitioner

-VS-

1. G.Nehru @ Kuppusamy,
S/o. Gopalsamy,
No.32D, Bharathipuram Main Road,
Govindasalai,
Puducherry – 605 011.
2. Omsakthisekar,
S/o.Subramanian,
No.35, NetajiSubhash Chandra Bose Street,
Kosaplayam, Puducherry – 605 013.
3. A.Siraj @ Kanimohammed,
S/o. Abdul Muthaleef,
No.6, 7th Cross Street,
Subbiah Nagar,
Puducherry – 605 001.
4. S.Shakthivel,
S/o.B.Seethapathy,



No.46, 1st Street, Thiru Vi.Ka Nagar,
Mudaliarpettai,
Puducherry – 605 004.

5. L.Karunanithi,
S/o. Louis,
No.12, Sangothiamman Koil Street,
Orleanpet, Puducherry - 605 001.
6. K. Purushothaman,
S/o. Kesavan,
No.16, Reddiyar Street,
IrulanSanthai,
Kuruvinatham Post,
Bahour Commune, Puducherry.
7. J. Ravi @ Purushothaman,
S/o. Jayaraman,
No.20, D-2 Block,
Kandoctor Thottam,
Priyadharshini Nagar,
Govindasalai, Orleanpet,
Puducherry – 605 011.
8. G.Gopal,
S/o.Gunasekar,
No.24, Karungara Pillai Street,
DR Nagar, Kosapalayam,
Puducherry – 605 013.
9. M.Gopalakrishnan,
S/o.Munusamy,
No.60, SundaraMaistry Street,
Kosapalayam, Puducherry - 605 013.
10. M. Sankar,
S/o. D. Mohampuri,
No.36, Othavadai Street,
Orleanpet, Puducherry - 605 005.



11. P.Gopalakrishnan,
S/o. Perumal,
No.21, Vanidasan Street,
Kuyavarpalayam, Puducherry - 605 013.
12. R.Cadiressan,
S/o. Radhakrishnan,
No.3, 1st Cross School Street,
VeeraraghavaMudaliar Thottam,
Govindasalai, Puducherry - 605 011.
13. R. Raja,
S/o.Rajamanickam,
No.112, Anthonyar Koil Street,
Govindasalai, Puducherry - 605 113.
14. V.Hariharane,
S/o.Veeraraghavan,
No.134, ThiyaguMudaliar Street,
Raj Bhavan, Puducherry - 605 001.
15. The Returning Officer No.VI,
Orleanpet Constituency,
General Elections to Puducherry Legislative Assembly 2021,
O/o The Returning Officer cum Deputy Labour Commissioner,
Labour Departmental Complex,
Vazhudavoor Road,
Puducherry - 605 009.
16. The Election Commission of India,
Represented by its Chief Electoral Officer - Puducherry,
O/o. The Chief Electoral Officer,
Villiainur Road, Reddiarpalyam,
Puducherry - 605 010.

...Respondents/Respondents

**O.A.No.634 of 2021:**

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1. The Returning Officer No.VI,
Orleanpet Constituency,
General Elections to Puducherry Legislative Assembly 2021,
O/o The Returning Officer cum Deputy Labour Commissioner,
Labour Departmental Complex,
Vazhudavoor Road,
Puducherry - 605 009.
2. The Election Commission of India,
Represented by its Chief Electoral Officer - Puducherry,
O/o. The Chief Electoral Officer,
Villaiinur Road, Reddiarpalyam,
Puducherry - 605 010. ... Applicants/15th & 16th Respondent

-VS-

1. S.Gopal,
S/o.Singaram,
No.9/6A, 1st Cross Street,
Navashakthi Nagar,
Thattanchavady,
Puducherry – 605 009. ... Respondent/Election Petitioner
2. G.Nehru @ Kuppusamy,
S/o. Gopalsamy,
No.32D, Bharathipuram Main Road,
Govindasalai,
Puducherry – 605 011.
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Subbiah Nagar,
Puducherry – 605 001.



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No.112, Anthonyar Koil Street,
Govindasalai, Puducherry - 605 113.
15. V.Hariharane,
S/o.Veeraraghavan,
No.134, ThiyaguMudaliar Street,
Raj Bhavan, Puducherry - 605 001. ...Respondents/Respondents

This Original Application praying that this Hon'ble Court be pleased to strike off the 15th and 16th Respondents as a Respondent in the Election Petition No.6 of 2021.

The above Original Application coming on this day before this Court in the presence of Mr.Niranjan Rajagopalan, Advocate for M/s.G.R.Associates advocates for the Applicants/15th and 16th Respondents; Mr.P.Dinesh Kumar, advocate for the 1st Respondent/Election Petitioner; and upon reading the Judges Summon and affidavit of Mr.Shurbir Singh filed herein; and



The court made the following order :

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This application has been filed by the respondents 15 and 16 in the main Election Petition, namely, the Returning Officer No.VI, Orleanpet Assembly Constituency at Union Territory of Puducherry and the Election Commission of India to strike off their names arrayed as 15th and 16th respondents in the Election Petition.

2. The first respondent herein, filed the Election Petition to declare the election of the second respondent herein in the above mentioned Assembly Constituency, as null and void and consequently, to declare that the Election petitioner has been duly elected in the said Constituency. The present application has been filed by the Returning Officer as well as the Election Commission of India, on the ground that in view of the Sections 82 and 86(4) of the Representation of the People Act, 1951, they cannot be impleaded as a party respondents in the Election Petition, as they are not necessary parties in the Election petition. Hence, they sought for strike off their names from the Election Petition.

3. Mr.Niranjan Rajagopalan, the learned counsel appearing for the applicants would contend that, Section 82 of the Representation of People Act, provides for impleading of parties in the Election Petition. As per Section 82 of the said Act, apart from the persons mentioned therein, no one can be impleaded as a party respondent. Hence, the applicants names should



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OTHERS Vs. DEBI CHOSAL AND OTHERS reported in 1982 (1) SCC 691, held as follows:-

"In view of the foregoing discussion we are of the opinion that no one may be joined as a party to an election petition otherwise than as provided by Sections 82 and 86(4) of the Act. It follows that a person who is not a candidate may not be joined as a respondent to the election petition. The appeal is therefore, allowed with costs and the names of the appellants and the 7th respondent in the appeal are directed to be struck out from the array of parties in the election petition."

In another Judgment of the Hon'ble Supreme Court in S.SUNDARA RAMI REDDY Vs. ELECTION COMMISSION OF INDIA AND OTHERS reported in 1991 Supp (2) SCC 624, held as follows:-

"The representation of the People Act, 1951 does not provide for joinder of a proper party to an election petition. The concept of joining a proper party to an election petition is ruled out by the provisions of the Act. The concept of joinder of a proper party to a suit or proceeding underlying Order I of the Civil Procedure Code cannot be imported to the trial of election petition, in view of the express provisions of Sections 82 and 87 of the



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Act. The Act is a self contained Code which does not contemplate joinder of a person or authority to an election petition on the ground of proper party. In K.Venkateswara Rao v. Bekkam Narasimha Reddy, this Court while discussing the application of Order I Rule 10 of the Civil Procedure Code to an election petition held that there could not be any addition of parties in the case of an election petition except under the provisions of sub-section (4) of Section 86 of the Act. Again in Jyoti Basu v. Debi Ghosal, this Court held that the concept of 'proper party' is and must remain alien to an election dispute under the Representation of the People act, 1951. Only those may be joined as respondents to an election petition who are mentioned in Section 82 and Section 82(4) and no others. However, desirable and expedient it may appear to be, none else shall be joined as respondents.

*The above two judgments have been considered by the 3 Judges Bench of the Hon'ble Supreme Court in **MICHAEL B. FERNANDES Vs. C.K. JAF F E R SHARIE F AND OTHERS** reported in 20 0 2 (3) SCC 51 2 and reiterated the view taken in the above two judgments.*

<https://hcservices.ecourts.gov.in/hcservices/>8. *In view of the above stated position, I am of the considered view that the 11th respondent can not be added*



as party respondent in the Election Petition. Hence, the application filed by the petitioner deserves to be allowed.

9. In the result, this application stands allowed and the name of the applicant/, namely, Returning Officer, No.72, Tindivanam Legislative Assembly Constituency(Reserved), the 11th respondent in the election petition, is strike out in the election petition.”

7. In view of the above, this Court is inclined to allow the application.

Accordingly, this application stands allowed and the names of the applicants, namely, the Returning Officer No.VI, Orleanpet Assembly Constituency and the Election Commission of India, the 15th and 16th respondents in the Election Petition, are strike out in the Election petition.

No costs.

WITNESS, THE HON'BLE MR.JUSTICE MUNISHWAR NATH BHANDARI, ACTING CHIEF JUSTICE, HIGH COURT AT MADRAS, AFORESAID THIS THE 3RD DAY OF DECEMBER 2021.

Sd/-

ASSISTANT REGISTRAR

Original Side – II

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.



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17/12/2021

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OA.NO.634 OF 2021

in

ELP.NO.6 OF 2021

ORDER

DATED: 03.12.2021

THE HON'BLE MR. JUSTICE
V.BHARATHIDASAN

FOR APPROVAL: 20/12/2021

APPROVED ON : 20/12/2021