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O.A.No.103 of 2025 in
El.P.No.2 of 2024

In the High Court of Judicature at Madras

Reserved on
26.2.2025

Delivered on :
07.3.2025

Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Original Application No.103 of 2025
in Election Petition No.2 of 2024

Mr.Dayanidhi Maran

...Applicant in OA
No.103 of 2025
& R2 in El.P.No.
2 of 2024

Vs

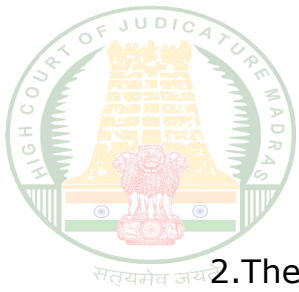
1.Mr.M.L.Ravi

...R1 in OA No.
103 of 2025 &
Petitioner in
El.P.No.2 of 2024

The Election Commission of
India, Nirvachan Sadan,
1, Ashoka Road, New Delhi-1.

The Chief Electoral Officer of
Tamil Nadu, Public (Elections)
Department, Secretariat,
Fort St.George, Chennai-9.

**(deleted/struck off from the array
of respondents by order dated
21.1.2025 in O.A.No.890 of
2024 by NAVJ)**



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2.The Returning Officer, No.04-
Chennai Central Loksabha
Constituency, Greater
Chennai Corporation Zonal
Office, Shenoy Nagar,
Chennai-30.

...R2 in OA.No.
103 of 2025 &
R1 in El.P.No.
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ORIGINAL APPLICATION under Order XIV Rule 8 of the Original
Side Rules read with Order VI Rule 16 of the Civil Procedure Code
seeking to strike off paragraphs 6 to 23 and 27 from Election Petition
No.2 of 2024.

For Applicant : Mr.T.Mohan, SC for
Mrs.M.Sneha

For R1 : Mr.T.Sivagnanasambandan

ORDER

This is an application filed by the applicant under Order VI Rule
16 of the Civil Procedure Code (CPC) seeking to strike off the pleadings
from paragraphs 6 to 23 and 27 in the main election petition.

2. Heard both.



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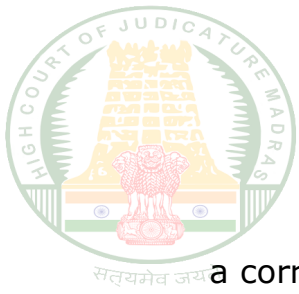
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3. The first respondent/election petitioner filed the main election petition seeking to (a) declare that the election held in Chennai Central Lok Sabha Parliament Constituency was not free and fair and was vitiated by undue influence; (b) declare that the accounts submitted were suppressed and exceeded the limit prescribed and were of corrupt practice; (c) declare that the accounts submitted were violative of Section 77 of the Representation of the People Act, 1951 (for short, the Act) and disqualify the applicant under Section 10-A of the Act; and (d) declare the election to the Chennai Central Lok Sabha Parliament Constituency as null and void.

4. In the main election petition, the first respondent alleged as follows :

(i) The campaign for the Lok Sabha elections came to an end on 17.4.2024. The "**silence period**" commenced whereby every one was expected to refrain from influencing the voters through any means till the conclusion of the polling as per Section 126 of the Act. However, the party, to which, the applicant belongs, gave a full page advertisement in four daily newspapers on 19.4.2024, which was the polling day and this was in violation of Section 126 of the Act and was



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a corrupt practice as per Section 123 of the Act.

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(ii) The applicant had pasted stickers depicting his photograph, the symbol of the party, to which, he belongs and the leader of the party during the campaign in all the houses of the entire constituency. The expenditure of those stickers was not accounted for nor reflected in the accounts submitted by him towards election expenditure. The stickers did not bear the name of the publisher. The quantity of stickers that were printed was also not available and the stickers are still visible till date. Therefore, the cost of the stickers, which approximately worked out to Rs.58,50,000/-, was not added to the total expenditure.

(iii) Apart from that, the booth agents were provided with breakfast, lunch and tea expenses, which would cost at least Rs.100/- per head and which had led to incurring the additional expenses to the tune of Rs.1,15,300/-. Further, for the tables and chairs, which were provided near every polling booth for 1153 booths, the applicant incurred the further expenses to the tune of Rs.1,15,300/- and the applicant would have incurred the additional expenses of Rs.96,17,493/- in excess of the prescribed limit.

(iv) A massive rally was conducted on 14.4.2024 and 15.4.2024,



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for which, the applicant would have incurred expenses to the tune of Rs.96,51,493/-. But, this amount was also not accounted for. Therefore, the accounts that were submitted by the applicant to the Election Commission of India were vitiated as they did not reflect the actual expenditure incurred by the applicant and thereby, there is a violation of Section 77(3) of the Act, which would tantamount to a corrupt practice under Section 123(6) of the Act. With all these allegations, the first respondent sought for declaring the election held for the Chennai Central Lok Sabha Parliament Constituency as null and void.

5. Notice was ordered in the main election petition on 30.8.2024.

6. After service of notice, the applicant has come forward with the above original application seeking for striking off the pleadings as contained in the main election petition contending as follows :

(i) The pleadings in paragraphs 6 to 15 and 23 of the main election petition are not supported by any material. The so-called advertisement pointed out by the first respondent was not published by the applicant, but it was actually published by the party, to which,



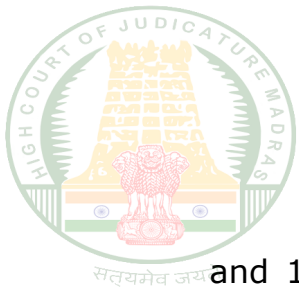
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he belongs and it is in line with Clause (iii) of Instruction Sl.No.31 of the Compendium of Instructions on Model Code of Conduct, 2024 issued by the Election Commission of India. Consequently, those pleadings will have to be necessarily struck off.

(ii) In so far as the averments made in paragraphs 16 and 17 of the main election petition are concerned, even according to the first respondent, the name of the applicant was not found in any of the stickers and therefore, rendering of accounts for the alleged stickers does not arise. The expenses incurred for providing food and beverages to the booth agents and the tables and chairs, which were used by them outside the booths, were not arranged by any candidate. The booth agents were volunteers belonging to the political party and participated as the agents on their own volition and the candidates have nothing to do with those expenses. Accordingly, the applicant sought for deletion of paragraphs 16 and 17 of the main election petition.

(iii) In so far as the allegations made in paragraph 18 of the main election petition are concerned, the applicant took a stand that even as per the video clippings relied upon by the first respondent, the applicant did not participate in the rally that took place on 14.4.2024



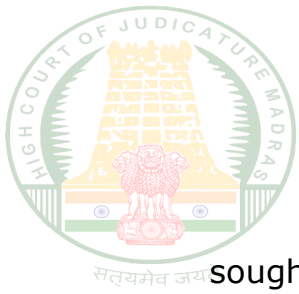
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and 15.4.2024 and it was only organized by the party, to which, he belongs and therefore, the expenses incurred for this rally cannot be mulcted on the applicant.

(iv) In so far as the averments as contained in paragraphs 19 to 22 of the main election petition are concerned, the stand of the applicant is that it pertains to maintenance of a register and submitting the accounts to the Election Commission. The applicant already submitted the entire election expenditure, which was in line with the shadow register maintained by the Election Commission and the same was also accepted by the Election Commission. The so-called discrepancy pointed out by the first respondent is not supported by any material particulars and by no stretch, it can be held to be a ground to declare the election as null and void.

(v) With respect to the averment as contained in paragraph 27 of the main election petition that the applicant had flouted the laws, according to the applicant, the first respondent has not explained as to how the applicant had violated the laws.

7. The first respondent filed a counter affidavit to this original application reiterating the stand taken in the main election petition and



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sought for dismissal of the above original application.

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8. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record.

9. The main ground that was alleged by the first respondent as against the applicant is that the election of the applicant is vitiated by corrupt practice on the part of the applicant.

10. Section 83 of the Act deals with the contents of an election petition. It is now too well settled that the pleadings in an election petition have to be construed strictly. The initial ingredients of pleadings in the case of election due to corrupt practice must necessarily contain the details of every important particular giving the time, names of persons, name of the place, use of words and expressions, etc. It must also clearly appear from the allegations that the corrupt practices alleged were indulged by the candidate himself and/or by his authorized election agent or any other person with his express or implied consent.



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11. The Court should not venture into drawing any inference and the Court can only act upon the clear and specific pleadings to prima facie see if a cause of action has been made out for the allegation of corrupt practice. The Apex Court has held that there is a marked difference between the material facts and the material particulars and that the failure to plead material facts will be fatal to the election petition and not even an amended pleading can be allowed to introduce such material facts after the time limit that was prescribed for filing the election petition is over. That apart, the Court should not look beyond the pleadings to find out as to whether the election petition disclosed a cause of action.

12. The sum and substance of the law laid down by the Supreme Court with respect to the nature of pleadings in election cases can be summarized thus :

"(a) The pleadings of the election petition should be absolutely precise and clear containing all necessary details and particulars as required by law.

(b) The allegations in the election petition should not be vague, general in nature or lacking of materials or frivolous or vexatious because the



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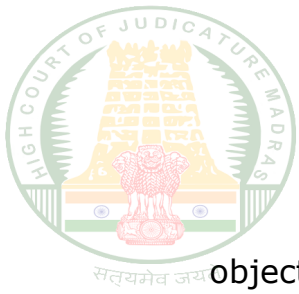
court is empowered at any stage of the proceedings to strike down or delete pleadings which are suffering from such vices as not raising any triable issue.

(c) The evidence adduced in support of the pleadings should be of such nature leading to an irresistible conclusion and unimpeachable result that the allegations made, have been committed rendering the election void under Section 100 of the Representation of the People Act, 1951.

(d) The evidence produced before the Court in support of the pleadings must be clear, cogent, satisfactory, credible and positive and also should stand the test of strict and scrupulous scrutiny.

(e) It is unsafe in an election case to accept oral evidence at its face value without looking or assurances for some surer circumstances or unimpeachable documents."

13. While dealing with an application for striking off the pleadings under Order VI Rule 16 of the CPC, the Court is expected to examine the election petition and see if the material facts have been properly pleaded. If the Court finds that the pleadings, as it is, do not disclose any cause of action, it will be justified in striking off the pleadings. For that purpose, the Court need not wait till the final stage or even till the defendant/respondent files a written statement/



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objections. This ground is available apart from striking off the pleadings, which are unnecessary, scandalous, frivolous or vexatious.

14. The reason as to why so much importance is given to the pleadings in an election petition is that success of a candidate, who has won at an election, should not be lightly interfered with and therefore, any election petition seeking for such interference must strictly conform to the requirements of law. Setting aside an election involves serious consequences not only for the returned candidate and the constituency, but also for the public at large in as much as re-election involves enormous load on the public funds and administration. Hence, unless the person, who files the election petition, pleads the entire material facts, the Court has been given the power to strike off the pleadings and to even reject the election petition on the ground that the pleadings do not make out a cause of action.

15. Having considered the law on the issue, this Court will now go into the pleadings set out in the main election petition.



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16. The averments as contained in paragraphs 6 to 15 and 23 in the main election petition deal with the so-called violation of Section 126 of the Act on the ground that the applicant campaigned by means of publishing a full page advertisement in four newspapers during the silence period. There is a prohibition of public meetings or processions or through any other means to campaign during the silence period, which is 48 hours ending with the hour fixed for the conclusion of the poll for any election in the polling area. The language used in the provision is that the concerned candidate should not indulge in any such activities during the silence period.

17. The pleadings as contained in the election petition from paragraphs 6 to 15 and 23 pertain to a one page advertisement that was given in the front page of four daily newspapers by the party, to which, the applicant belongs and not by the applicant. However, there is no reference to the applicant in those advertisements, which were relied upon by the first respondent.

18. For this purpose, it will be relevant to take note of Clauses (iii) to (v) of Instruction Sl.No.31 of the Compendium of Instructions



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on Model Code of Conduct, 2024 issued by the Election Commission of India. For proper appreciation, the relevant portions are extracted as hereunder :

".....

(iii) (1) no person shall –

(a) convene, hold or attend, join or address any public meeting or procession in connection with an election; or

(b) display to the public any election matter by means of cinematograph, television or other similar apparatus.

(c) Propagate any election matter to the public by holding, or by arranging the holding of, any musical concert or any theatrical performance or any other entertainment or amusement with a view to attracting the members of the public thereto, in any polling area during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll for any election in the polling area. (Section – 126 of the Representation of the People Act, 1951).

(iv) Clause (b) of Sub-Section (1) of Section 126 prohibits display of election matter through T.V. or similar apparatus. It is clarified that radio would be treated as 'other similar apparatus' for this purpose and hence broadcasting /propagating any election matter through Radio would be



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covered under Clause (b) and would not be permissible during the period of 48 hours mentioned in the said section. (Commission's instruction No.3/9/2007/JS-II Dated: 3rd August, 2007).

(v) No Political Party or Candidate or any other Organization or Person shall publish any Advertisement in the print media on poll day and one day prior to poll day in all the phases, unless the contents of political advertisements are got Pre-certified by them from the MCMC Committee at the State/District level, as the case may be.(Commission's instruction No.491/MCMC/2019/Communication, dated 6th April, 2019).

....."

19. The above instructions make it clear that the prohibition is relatable to the concerned candidate and even such prohibition for publication of advertisement in the print media on the poll day and/or one day prior to the poll day is not completely banned if the political advertisements are pre-certified by them as provided in Clause (v).

20. Admittedly, the DMK party, which had published those advertisements, has satisfied Clause (v). In any event, even as per the pleadings, there is no reference to the applicant in any of those



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advertisements and it is only a general party propaganda in the newspapers.

21. In the light of the above, this Court holds that the averments contained in paragraphs 6 to 15 and 23 in the main election petition do not make out a cause of action for violation of Section 126 of the Act and consequently, it cannot be held that the applicant has induced the voters and committed corrupt practices under Section 123 of the Act.

22. In so far as the pleadings as contained in paragraphs 16 and 17 are concerned, the allegation is against the stickers, which were stated to have been pasted in the houses of the constituency and which contained the photograph of the candidate, the leader of the party and the party symbol. Admittedly, the name of the printer or the publisher is not available and it is not the case of the first respondent that the name of the applicant is found to be behind the pasting of such stickers in the constituency.



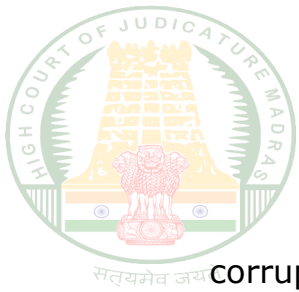
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23. For this purpose, it will be relevant to take note of the Handbook for Candidate, 2023 issued by the Election Commission of India, in which, Clauses 7.11.1 to 7.11.4 are relevant.

24. On a careful reading of the same, it is clear that such advertisement must be attributable/traceable to the candidate and only then, he is made accountable for showing it as an election expenditure. In the absence of the same, the expenditure cannot be thrust upon the candidate.

25. The first respondent has merely come up with approximation of what expenditure would have been incurred by the applicant towards pasting of stickers in the houses of the constituency. There is no material available to even prima facie conclude that the stickers that were pasted in the houses of the constituency were directly attributable to the applicant. The first respondent wants this Court to act upon the approximation of the expenditure that could have been incurred by the applicant so as to add it to the total expenditure of the applicant. This attempt made by the first respondent is too far-fetched and the pleadings available do not make out a cause of action for



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corrupt practice or in violation of Section 77 of the Act.

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26. The next issue pertains to the allegations made by the first respondent regarding the expenses towards providing breakfast, lunch and tea to the booth agents and the expenses that could have been incurred for providing the tables and chairs used by them outside the booths.

27. This allegation made by the first respondent is bereft of particulars and it is more in the nature of an assumption. It must be borne in mind that these booth agents are none other than the party cadres, who are working for their political party and the Court cannot assume that all these party cadres were provided with food, beverages, chairs and tables by the candidates themselves.

28. As already held, the election petition is not dealt with on the basis of any assumption and it is dealt with only based on the material facts pleaded in the election petition. In view of the above, it is too far-fetched to act upon the approximation made by the first respondent in bringing out a figure towards the expenditure incurred



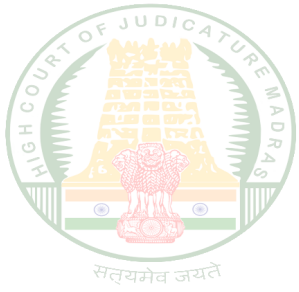
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for the booth agents and adding it to the total expenditure incurred by the candidate.

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29. The last portion of the election petition pertains to the averments as contained in paragraphs 19 to 22, which dealt with the mismatch between the expenditure, which was actually incurred by the candidate and which was not properly reflected in the register and the accounts submitted by the candidate to the Election Commission. In paragraph 18 of the main election petition, the first respondent speaks about a rally that was conducted on 14.4.2024 and 15.4.2024. For this purpose, he relied upon the video clippings.

30. In the considered view of this Court, those video clippings nowhere show that the applicant had participated in the rally. Without any materials, the first respondent assumed that this rally was organized by the applicant. The averments made neither show the participation of the applicant nor are material facts available to add the expenditure submitted by the applicant towards the conduct of the political rally.



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31. In the light of the above findings, if any of the approximate expenditure calculated by the first respondent from the averments as contained in paragraphs 16 to 18 of the main election petition is not attributable to the applicant, it cannot be added to the total expenditure of the applicant. Consequently, there is no cause of action to establish that the applicant incurred expenditure as prescribed under Section 77(3) of the Act. In any case, the applicant submitted the election expenditure to the Election Commission. Further, the Election Commission itself has not found any discrepancy. Therefore, there is no corrupt practice as alleged by the first respondent under Section 123(6) of the Act.

32. It is quite evident from the averments contained in paragraphs 16 to 22 of the main election petition that the first respondent assumed certain expenditure to be attributable to the applicant without any material facts and based on mere presumptions and it does not make out a cause of action to prima facie establish that there is a corrupt practice.



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33. In so far as the averments as contained in paragraph 27 of the main election petition are concerned, it makes out a general allegation that the applicant flouted the laws through undue influence and inducement and suppressed the actual expenditure.

34. This Court has already held that none of these allegations is substantiated either by pleading the material facts or through the relied upon documents, which have been filed by the first respondent along with the main election petition.

35. This Court ultimately holds that the pleadings in paragraphs 6 to 23 and 27 require to be struck off the main election petition.

36. Accordingly, the above original application is allowed and the pleadings in paragraphs 6 to 23 and 27 of the main election petition are struck off. No costs.

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Index : Yes
Neutral Citation : Yes

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