



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on : 26.02.2025

Pronounced on : 04.03.2025

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

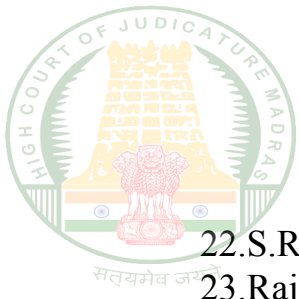
O.A.Nos.921 & 922 of 2024
in E.L.P.No.4 of 2024

B.Manickam Tagore

.. Applicant in both O.As.

Versus

- 1.V.Vijaya Prabakaran
- 2.Suresh
- 3.R.Radikaa
- 4.M.Ashok Kumar
- 5.S.Kaushik
- 6.S.Sekar
- 7.P.Palanichamy
- 8.S.Mariselvam
- 9.C.Muthukannu
- 10.G.Ganeshamoorthi
- 11.N.Sankaranarayanan
- 12.M.Sudalaimani
- 13.M.Selvakumar
- 14.V.V.Selvarajan
- 15.K.Selvi
- 16.K.Palanisamy
- 17.R.Pandiyammal
- 18.P.Mahendra Ramakrishnan
- 19.M.Manikandan
- 20.Mayak Kannan
21. M.Marieeswari



22.S.Rajagopal

23.Rajesh

24.V.K.Venkateswaran

25.Vedha @ Dhamodharan

26.T.Jayaraj

27.The Returning Officer

34–Virudhunagar Parliamentary Constituency

The District Collector

Virudhunagar

.. Respondent in both O.As.

Prayer in O.A.No.921 of 2024: Original Application filed under XIV Rule 80F of O.S.Rules read with Order VI Rule 16 of Code of Civil Procedure, praying to strike of the pleadings mentioned in the schedule as scandalous, frivolous, vexatious and abuse of process of law.

Prayer in O.A.No.922 of 2024: Original Application filed under XIV Rule 80 of O.S.Rules read with Order 7 Rule 11 of Code of Civil Procedure, praying for allowing the application and rejection the election petition.

In both applications

For Applicant : Mr.Abdul Saleem, Senior Counsel
for Mr.S.Elambharathi

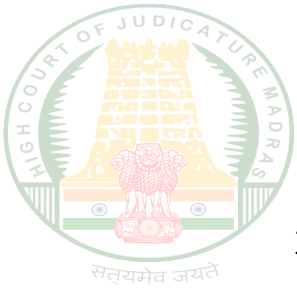
For Respondents : Mr.N.C.Ashok Kumar for R1
Mr.Niranjan Rajagopalan for R27
for M/s.G.R.Associates
Mr.Chevanan Mohan for R19
for M/s.Viruksham Legal
Mr.S.Shyam Kumar for R20
No appearance for R2 to R18
and R21 to R26

**COMMON ORDER**

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The first respondent herein filed election petition ELP. No. 4 of 2024 challenging the Election held on 19.04.2024 for 34, Virudhunagar Parliamentary Constituency on the grounds of improper acceptance of the nomination of the respondent/applicant herein and also for suppressing the material facts in the nomination papers regarding the entire assets and criminal antecedents; bribing of voters-congress party guarantee card and cash distribution; votes were not counted due to erase of mock poll votes; booth capturing; stoppage of vote counting; expenditure has been incurred more than the amount prescribed by the ECI and malpractices during counting of postal ballots.

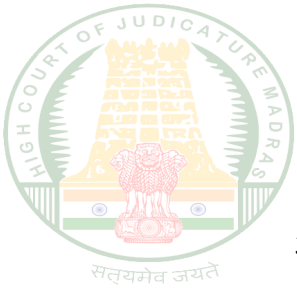
2. After serving of summons on the respondents in the Election Petition, the first respondent/applicant filed these applications in OA.Nos. 921 and 922 of 2024 to strike out the pleadings in paragraphs 6 to 9, 11 to 16, 18 to 28, 32 to 37, 40 and 42 and to dismiss the Election Petition respectively.



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3. In both the applications under Order VI Rule 16, Order VII Rule 11 of Code of Civil Procedure and Order XIV Rule 8 of Original Side Rules supported by affidavits submitting that the election petition does not disclose any cause of action, the pleadings were lacking in precision and were vague, unspecific, ambiguous and irrelevant to some extent also scandalous and hence amounted to abuse of process of the Court, the pleadings did not disclose any cause of action worth being tried by this Court and paragraphs 6 to 9, 11 to 16, 18 to 28, 32 to 37, 40 and 42 of the Election petition No.4 of 2024 is liable to be struck off and therefore, the election petition is liable to be rejected.

4. The first respondent filed counter affidavits in both the applications stating that he has denied the averments made in the affidavit and stated that the election petition discloses the cause of action and the material facts and particulars, the allegations are relevant and essential to grant relief sought for in the election petition filed under the Representation of People Act, 1951 [herein after referred to as “RP Act”] and there is no ground to either strike off the pleadings or to reject election petition and the same are liable to be dismissed.



5. The learned senior counsel for the applicant in OA.Nos. 921 and 922

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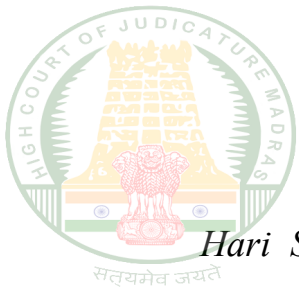
of 2024/first respondent in Election Petition No.4 of 2024 would submit that as per Section 83 of the Representation of People Act, 1951 the 1st respondent/election petitioner cannot maintain the election petition without pleading material facts and full particulars as to how the election has materially affected the results in the election. It is alleged that the applicant committed corrupt practice and raised the same as one of the grounds to declare the election as null and void without setting forth the material facts and full particulars of the corrupt practice alleged by him. The 1st respondent/election petitioner does not disclose any grounds under the Act to declare the election as null and void. The non compliance of the mandatory requirement under the provisions of the Act warrants the rejection of the election petition. The 1st respondent/election petitioner has come forward with vague pleadings and the same does not disclose any cause of action. The election petitioner has not pleaded material particulars and material facts. As per Section 83(1)(a) of the Act, the election petition should contain concise statement of material facts on which the election petitioner relies upon and as per Section 83(1)(b) of the Act, if there is any allegation of corrupt practice the election petitioner shall set forth full particulars of alleged corrupt



practice including the full statement regarding the names of the parties alleged to have committed such practice and the date and place of commissions of each corrupt practice.

6. As far as striking out the pleadings is concerned, in paragraphs 6 to 9, 11 to 16, 18 to 28, 32 to 37, 40 and 42 in the election petition does not disclose any cause of action and the allegation does not contain any material facts or full particulars which are essential ingredients for an election petition. With regard to the allegations pertaining to issuance of guarantee card with the consent of the applicant is concerned, it is settled position of law that the issuance of a Guarantee card does not amount to corrupt practice. Further, it was contended by the learned senior counsel for the applicant that the averments made in the election petition which may be unnecessary, scandalous, frivolous or vexatious, or tend to prejudice, embarrass or delay the fair trial of the election petition and which is otherwise an abuse of the process of the Court.

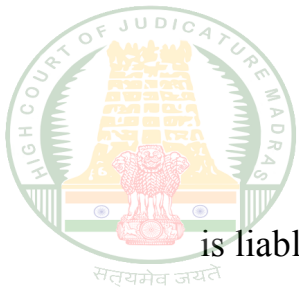
7. Placing reliance on the decision of this Court in the case of *Ram Sukh vs. Dinesh Aggarwal* reported in (2009) 10 SCC 541 and in the case of



Hari Shanker Jain v. Sonia Gandhi, reported in (2001) 8 SCC 233, he

submitted that the material facts would include positive statement of facts as also positive averment of a negative fact, if necessary, and that in absence thereof, the Election petition is liable to be dismissed on that ground alone.

8. It is well settled law that when the election petition does not contain material facts and full particulars and if any paragraph does not disclose any cause of action for the election petition, the same is liable to be struck off and rejected. The paragraphs in the election petition does not contain any cause of action for the election petition and does not contain any material particulars or material facts. The election petition is bereft of particulars and does not disclose any material particulars or material facts which would give rise to cause of action to set aside the election petition. The provisions of Sections 81 to 84, 98, 100(1), (b), (d), (i), (ii) and (iv) are not at all attracted. The allegations are as vague as vagueness could be and the same does not disclose cause of action and are liable to be struck down, the pleadings in the election petition lack any material particulars and they do not disclose any cause of action. The affidavit filed by the first respondent herein under Form-25 along with Election Petition is defective. Therefore, the Election Petition



is liable to be rejected.

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9. In support of his contentions, the learned senior counsel for the applicant placed his reliance on the following judgments:

a. *Laxmi Narayanan Nayak vs. Ramratan Chaturvedi and others* reported in (1990) 2 SCC 173

b. *Hari Shanker Jain v. Sonia Gandhi* reported in (2001) 8 SCC 233

c. *Kanimozhi Karunanidhi vs. A.Santhana Kumar & Others* reported in 2023 SCC OnLine SC 573

d. *Karim Uddin Barbhuiyya vs. Aminul Haque Laskar and others* reported in 2024 SCC OnLine SC 509

10. The learned counsel for the first respondent/election petitioner would submit that the election petitioner has met out the requirements under the provisions of the Act. The election petition has to be read out in toto and not as isolated paragraphs. While stating that material facts and particulars has to be given at the very same time under Section 83 of the Act would say that particulars has to be given as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the



commission of each such practice, the election petitioner has given all the possible materials to disclose the cause of action. The affidavit filed by the election petitioner under Form-25 is in accordance with the law. The election petitioner discloses material facts and particulars, the non supply of the materials itself in the election petition is not a ground for rejecting the election petition under Order VII Rule 11 CPC.

11. He further submitted that at the outset the election petition can be filed only under Sections 80A and 100(1)(d)(iv) of the Representation of People Act, 1951 pertaining to the issues of law and fact raised in the process of the election as there is a explicit bar under Article 329(b) of the Constitution of India. Thus, in accordance with law, the petitioner has filed the above election petition. Further, the applicant under the pretext of party manifesto had distributed the congress party guarantee card with a promise to pay money inducing the voters to vote in favour of the applicant, this amounts to corrupt practice within the meaning of Section 123 of the Representation of People Act. It is not a general manifesto of the party, it is an one to one agreement with the voters. It is the further contention that the law is well settled that the averments in the election petition has to be taken



as true and it should be seen that the averments disclosed sufficient cause of action and now, it is not the stage where the veracity of the pleadings is tested.

12. It is also his contention that particulars with regards to distribution of money is also furnished by the election petitioner and the persons who involved in distribution of money will be brought under trial; voters of postal ballots were rejected; election has been conducted without deleting the mock poll; booth capturing were done at the polling station and further, Rule 60 of Conduct of Election Rules, 1961 were violated, wherein, the returning officer shall during intervals when the counting has been suspended, keep the ballot papers and other papers relating to the election sealed with his own seal and take sufficient precaution for his safe custody, however, the returning officer has abruptly stopped the counting, and after the intervals, the election petitioner was shocked to note that the EVMs has not been sealed. Thus, the election petitioner has made out triable issues and the election petition cannot be dismissed in limine.



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13. Further, it is also his contention that as per Section 100 (1)(d)(iv) of the Representation of People Act ("RP Act" hereafter), any non compliance with the provisions of the Constitution of RP Act or any rules or any orders made under this Act is a ground for challenging the validity of the election. On the basis of the above provisions, the election petitioner has filed the above election petition contending that the information given in Form 26 by the applicant is in violation of the provisions of the RP Act, wherein, the applicant has suppressed his criminal antecedents, properties owned by his and his family members, such material facts are to be adjudicated by conducting trial. Thus, the election petitioner has made out triable issues and the election petition cannot be dismissed in limine.

14. It is his further contention that the above applications is filed only on the ground as if the election petition is bereft of material facts, whereas, in compliance with Section 83(1) (a) of RP Act, the election petitioner has filed this election petition which contains a concise statement of the material facts, emphasizing the violation of law, highlighting non disclosure of criminal antecedents, properties, for which material facts could be proved later and the demand of the applicant that everything should be stated in the election



petition is frivolous and against the law.

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15. In support of his contentions placed his reliance on the following judgments:—

- a. *Harkirat Singh v. Amarinder Singh* reported in (2005) 13 SCC 511
- b. *Virender Nath Gautam v. Satpal Singh* reported in (2007) 3 SCC 617.
- c. *Ponnala Lakshmaiah v. Kommuri Pratap Reddy* reported in (2012) 7 SCC 788.
- d. *Ashraf Kokkur vs. K.V.Abdul Khader and others* reported in (2015) 1 SCC 129
- e. *Ajay Arjun Singh vs. Sharadendu Tiwari and others* reported in (2016) 15 SCC 219
- f. *Madiraju Venkata Ramana Raju vs. Peddireddigari Ramachandra Reddy and others* reported in (2018) 14 SCC 1.
- g. *Ashwani Kumar Sharma vs. Yaduvansh Singh and others* reported in 1998 (1) SCC 416;

16. Heard the rival submissions made on both sides and perused the materials placed before this Court along with the election petition.



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17. The first respondent has filed Election Petition No.4 of 2024 challenging the Election held on 19.04.2024 for 34, Virudhunagar Parliamentary Constituency and to declare the election as null and void, on the grounds of improper acceptance of the nomination of the respondent/applicant herein and also for suppressing the material facts in the nomination papers regarding the entire assets and criminal antecedents; bribing of voters-congress party guarantee card and cash distribution; votes were not counted due to erase of mock poll votes; booth capturing; stoppage of vote counting; incurred expenditure more than the amount prescribed by the ECI and malpractices during counting of postal ballots. Hence, the election petition is filed challenging the legality of the election of the returned candidate/1st respondent in the election petition.

18. The returned candidate is shown as 1st in the election petition. After receiving the summons the applicant/1st respondent filed these applications strike out the pleadings in paragraphs 6 to 9, 11 to 16, 18 to 28, 32 to 37, 40 and 42 of the election petition and to dismiss same on the ground that there is no specific allegation against applicant and the allegations contained in the paragraphs of the election petition is unnecessary, scandalous, frivolous or



vexatious, or tend to prejudice, embarrass or delay the fair trial of the election petition and also discloses any allegations or cause of action in the election petition and the election petition is not supported with any material facts and material particulars, hence, the pleadings in the above paragraphs are to be struck out and therefore, the election petition should be dismissed.

19. No doubt, Order VI Rule 16 and Order VII Rule 11 CPC would be applicable to proceedings under the Representation of the People Act, 1951. Further, this Court has power to strike out the pleadings even before filing of written statement by the respondent, when it finds that the pleadings does not disclose a cause of action and the Court has powers to reject the petition under Order VII Rule 11 of the Code of Civil Procedure.

20. In this case, on a perusal of the election petition No.4 of 2024, the same does not attract any of the conditions mentioned in Order VI Rule 16 and Order VII Rule 11 of Code of Civil Procedure and therefore it need not be struck out, the election petitioner discloses cause of action, the cause of action means bundle of facts, it can be gathered from the election petition in whole and it cannot be isolated from any of the particulars from particular



paragraph and particular portion. On reading of the election petition in entirety, it discloses the cause of action and there is no scandalous and vexatious pleadings and no particulars to delay the fair trial of the election petition.

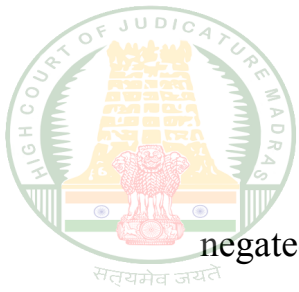
21. It is no doubt as contended by the learned senior counsel for the applicant that if the material facts constituting the cause of action in an election petition are missing, they cannot be supplied later on after the expiry of the period of limitation under the Representation of the People Act, 1951, statement of material facts and particulars of alleged illegalities are to be furnished in an election petition. Omnibus allegations of commission of illegalities and irregularities do not make out a valid cause of action. However, the rejection of a election petition on the ground that it disclosed no cause of action is to be ordered only on the basis of the allegations made in the election petition. The Court cannot probe into the facts on the basis of controversy raised by the respondents. The well settled position is that while considering the application under Order VII Rule 11 CPC, Court is not required to take into consideration the defence set up by the respondent in his written statement or other documents. The question whether election petition



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discloses any cause of action and whether it is barred by the law is to be decided by looking at the averments contained in the election petition itself and not the defence set up in the written statement. While considering the application, the strength or weakness of the case of the election petition is not to be examined. The election petition cannot be rejected on the basis of the allegations made in written statement or in an application for rejection of the election petition.

22. Though it is contended by the learned senior counsel for the applicant for relying on the judgment of Hon'ble Supreme Court in the case of Subramaniam Balaji vs. State of Tamil Nadu reported in (2013) 9 SCC 659 that there is no scope for applying the provisions relating to the corrupt practices contained in the RP Act to the manifesto of a political party is concerned, it is the contention of the learned counsel for the election petitioner that the so-called manifesto is not a party manifesto and the manifesto is one to one promise from the returned candidate/applicant with the voters and the same can be gone into only during the trial. Thus, this Court is of the view that the above judgment cannot be applied mechanically and hence, the contention of the learned senior counsel in this regard is



negated.

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23. At this juncture, it is relevant to note the decision of the Hon'ble Supreme Court in the case of *Ajay Arjun Singh v. Sharadendu Tiwari* reported in (2016) 15 SCC 219, the relevant portion of the judgment is extracted hereunder:—

“5. Before we examine the various questions that arise in this appeal, we think it profitable to examine the scheme of Order 6 Rule 16.

“16. Striking out pleadings.- The Court may at any stage of the proceedings order to be struck out or amended any matter in any pleading-

(a) which may be unnecessary, scandalous, frivolous or vexatious, or

(b) which may tend to prejudice, embarrass or delay the fair trial of the suit, or

(c) which is otherwise an abuse of the process of the Court.”

It authorises the court to order that any matter in any pleading before it be struck out on the grounds specified under clauses (a), (b) and (c). Each one of them is a distinct ground. For example, clause (a) authorises the court to strike out the pleadings which may be (i) unnecessary, (ii) scandalous, (iii) frivolous, (iv) vexatious. If a pleading or part of it is to be struck out on the ground that it is unnecessary, the test to be applied is whether the allegation contained in that pleading is relevant and essential to grant the relief sought. Allegations which are unconnected with the relief sought in the proceeding fall under this category. Similarly, if a pleading is to be struck out on the ground that it is scandalous, the court must first record its satisfaction that the pleading is scandalous in the legal sense and then enquire whether such scandalous allegation is called



for or necessary having regard to the nature of the relief sought in the proceeding. The authority of the court under clause (c) is much wider. Obviously, such authority must be exercised with circumspection and on the basis of some rational principles. The very purpose of the Rule is to ensure that parties to a legal proceeding are entitled *ex debito justitiae* to have the case against them presented in an intelligible form so that they may not be embarrassed in meeting the case

5. In the context of the application of Order 6 Rule 16 CPC to the election petition, this Court in *Bhikaji Keshao Joshi v. Brijlal Nandlal Biyani* [*Bhikaji Keshao Joshi v. Brijlal Nandlal Biyani*, AIR 1955 SC 610] held that a court examining an election petition may order striking out of charges which are vague.

6. In *Ponnala Lakshmaiah v. Kommuri Pratap Reddy* [*Ponnala Lakshmaiah v. Kommuri Pratap Reddy*, (2012) 7 SCC 788], this Court considered the scope of an application under Order 7 Rule 11 CPC. Such an application was filed by the returned candidate praying that the election petition be dismissed for nondisclosure of any cause of action. **This Court opined that for the purpose of determining such an application, the averments in the election petition must be taken to be factually correct and thereafter examine whether such averments furnish the cause of action for granting the relief to the petitioner. Such a conclusion was recorded on the basis of the law laid down in an earlier judgment of this Court. We are of the opinion that the same principles of law are applicable even while adjudicating the application under Order 6 Rule 16.”**

Emphasis supplied

24. Similarly, the Hon'ble Supreme Court in the case of *Virendar Nath Gautam vs. Satpal Singh* reported in (2016) 15 SCC 2019 has held as follows:



“52. The High Court, in our considered opinion, stepped into prohibited area of considering correctness of allegations and evidence in support of averments by entering into the merits of the case which would be permissible only at the stage of trial of the election petition and not at the stage of consideration whether the election petition was maintainable and dismissed the petition. The said action, therefore, cannot be upheld and the order deserves to be set aside.

53. On an additional ground also, the order of the High Court is liable to be set aside. All allegations in para 8 of the election petition, as also sub-paras (i) to (iv) of para 8 relate to improper and illegal reception and acceptance of votes and the election petitioner has challenged the election of the returned candidate on that ground and not on the ground of “corrupt practice”. He was, therefore, required to state material facts in the election petition under Section 83(1)(a) of the Act. It was, however, not necessary to “set forth full particulars”, which is the requirement of Section 83(1)(b) of “any corrupt practice”.

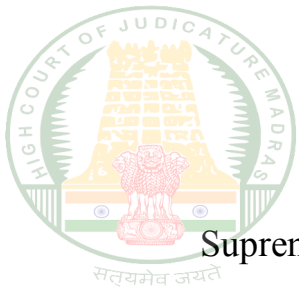
25. In *Mohan Rawale vs. Damodar Tatyaba* reported in 1994 2 SCC 392, the Hon'ble Supreme Court has held that as long as the claim in election petition discloses some cause of action or raises some questions fit to be decided by a judge, the mere fact that the case is weak and not likely to succeed is not ground for striking it out.

26. In *Roop Lal Sathi vs. Nachhattar Singh Gill* reported in 1982 (3) SCC 487, the Hon'ble Supreme Court has held that a preliminary objection that the election petition is not in conformity with Section 83(1) (a) of the



Act, i.e., does not contain the concise statement of the material facts on which the petitioner relies, is but a plea in the nature of demurrer and in deciding the question the question, the Court has to assume for this purpose that the averments contained in the election petition are true. The election petitioner is not supposed to anticipate the defence and to state what he would have to say in answer to it and therefore, such statements need not find place in the petition. Further, it was held that where the plaint disclose no causes of action, it is obligatory upon the Court to reject the plaint as a whole under Order 7 Rule 11 (a) of CPC, but the rule does not justify the rejection of any particular portion of a plaint. Therefore, the High Court could not act under Order 7 Rule 11(a) of CPC for striking down paragraphs 4 to 18 of the election petition(therein). Nor the High Court could act under Order 6 Rule 16 in the absence of anything to show that the averments in paragraphs 4 to 18 of the election petition (therein) are either unnecessary, frivolous or vexatious, or that they are such as may tend to prejudice, embarrass or delay the fair trial of the election of constitute an abuse of process of the Court.

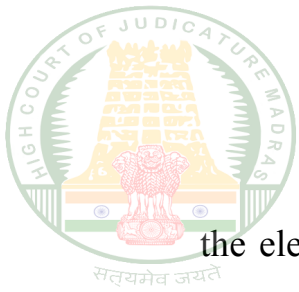
27. In *Madiraju Venkata Ramana Raju vs. Peddireddigari Ramachandra Reddy and others* reported in (2018) 14 SCC 1, the Hon'ble



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Supreme Court has held that the Court has to consider the plaint as a whole to consider whether it reveals a cause of action for trial, court cannot dissect an election petition sentence wise or para-wise to rule that it does not disclose cause of action and the Court cannot merely focus and some pleading and leave out rest. It further held that if both the applications are filed at the same time, and Court decides to hear Order 7 Rule 11 of CPC application in first instance, it should consider plaint as a whole, that does not mean that if it decides to take up Order 6 Rule 16 first and strikes off some pleadings, it would not have to decide remainder of the pleadings for the purpose of Order 7 Rule 11 to decide whether the plaint (after striking out pleadings) deserved to be rejected in limine.

28. This Court is of the prima facie opinion that all the petitions are to be tried and rejection of election petition in limine, must be on certain limited grounds. The Court is bound to ensure that whether any prima facie case is made out in the election petition, so as to conduct a Trial in respect of the issues to be formulated. The principles mainly to be borne in mind is that, whether the election petition is wholly incapable of being proceeded with or there are no material facts, enabling this Court to try the election petition or



the election petitions do not contain any details even for formulating issues with reference to the provisions of the Representation of People Act, 1951.

29. In this context, this Court has to arrive a conclusion, whether this election petition is capable of being tried or not?

30. Equally, this Court is aware of the fact that appreciation of evidences or material facts set out in the pleadings, cannot be considered at this juncture. In the event of any such appreciation or findings, the same would affect the further proceedings, if at all undertaken pursuant to the election petition by this Court. Therefore, this Court, with caution, has to exercise the power of considering these rejection petitions as well as the petition to strike off the paragraphs. Any appreciation of material facts, particulars or other documents, undoubtedly would cause prejudice to the interests of the parties. Any such conclusion or appreciation of documents would undoubtedly cause certain inconvenience and prejudice to the parties for the purpose of conducting the trial in a free and fair manner. All the merits and the demerits of the issues are to be decided only during the full fledged trial and on appreciation of evidences or documents, and the same



cannot be done in respect of the petitions filed to reject the election petition.

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All these principles are to be borne in mind, while deciding the rejection petitions by this Court.

31. In the present case, to understand the prima facie case with reference to the election petition filed, it is contended by the applicant/1st respondent that the election petition is wholly vague and bereft of material facts. In the absence of any such material facts, the Courts would not be in a position to try the election petition and therefore, the election petition is to be treated as a vague petition and filed in order to achieve the political mileage and therefore, the election petition is to be rejected in limine. Per contra, the 1st respondent/election petitioner disputed the contentions by stating that there are violations in respect of submitting the particulars in Form 26.

32. It is contended that as per Section 100(1)(d)(iv) of the Representation of the People Act, 1951, any non compliance with the provisions of the Constitution or of the Representation of the peoples Act or of any rules or orders made under this Act is a ground for challenging the validity of election. Relying on the said provision, the 1st respondent/election



petitioner contended that the informations given in Form 26 by the applicant/1st respondent is in violation of the provisions of the RP Act and such material facts are to be adjudicated by conducting trial. Thus, the Election Petition cannot be rejected in limine as the respondents/Election Petitioner has substantially set out grounds for trial. This Court is of the considered opinion that the 1st respondent/election petitioner raised certain grounds with reference to Section 100(1)(d)(iv) of the Representation of the People Act.

33. The 1st respondent/election petitioner questioned the manner, in which, the informations are provided by the applicant/1st respondent in Form 26. The contention of the 1st respondent/election petitioner is that those particulars furnished by the applicant/1st respondent are not only insufficient, but in violation of the constitutional provisions as well as in violation of the provisions of the Representation of the People Act, 1951.

34. Perusal of the allegations and counter allegations set out by the respective parties in these applications, this Court is of an opinion that elaborate arguments were made and the pleadings regarding the averments



are also met out. However, all such disputed issues are to be tried with reference to the documents as well as the evidences to be produced. Such disputed facts and issues cannot be decided in this application filed to reject the election petition itself. Such a course is impermissible and the Courts cannot form any opinion at this stage with reference to the averments and counter averments made by the respective parties. Though the parties have elaborately made certain allegations and counter allegations in order to prove or disprove their contentions, the same cannot be appreciated by this Court nor any findings can be given in these applications. All such exercise is to be done by the High Court only at the time of dealing with the election petition and in the event of any such appreciation of the contentions made by the respective parties, undoubtedly, would cause prejudice to the interests of either of the parties, which is impermissible and cannot be done in a petition to reject the Election Petition. The only endeavour is to verify whether the Election Petition is wholly vague or bereft of material facts.

35. Perusal of the entire materials placed before this Court, this Court has no hesitation in arriving a conclusion that the Election Petition cannot be held as vague or bereft of material facts. The material facts contended, must



be considered at the time of conduct of trial and not at this stage. When there are prima facie allegations, which all are made and such allegations are traceable with reference to the provisions of the Representation of the Peoples Act, then the Courts would not reject the Election Petition in limine, but to proceed for trial, which would be appropriate in the interest of justice. This being the principles, this Court is of an opinion that rejection of the Election Petition is unacceptable and accordingly, this Court is inclined to proceed with the Election Petition in accord with the principles.

36. Accordingly, these applications are dismissed. No costs.

37. Registry is directed to post the Election Petition No.4 of 2024 on 14.03.2025 for framing issues.

04.03.2025

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Internet : Yes/No

Neutral Citation : Yes/No



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N. SATHISH KUMAR, J.

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O.A.Nos.921 & 922 of 2024
in E.L.P.No.4 of 2024

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