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W.P.No.15228 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2026

CORAM

THE HONOURABLE MR. SUSHRUT ARVIND DHARMADHIKARI,
CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P.No.15228 of 2026

and W.M.P.Nos.16422 and 16423 of 2026

K.Varadharajan
S/o. Karivalavan,
3/162, Kullappa Naickan Patti,
Kottapatti Post, Omalur Taluk,
Salem District.

..Petitioner

Vs

1. The Chief Election Commissioner,
Election Commission of India,
Nirvachan Sadan, Ashoka Road,
New Delhi-110001.
2. The State Election Commissioner
State Election Commission,
No.208/2 Jawaharlal Nehru Road, Opp.
CMBT, Arumbakkam,
Chennai-600 106.
3. The Returning Officer,
S/o. K. M. Muthiah,
No.1469-A, Vinayagampatti,
Kondappanaickanpatti, Kannan Kurichi Post,
Salem -636 008
4. M. Karthi, S/o. K.M. Muthiah,



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No.1469-A Vinayagampatti,
Kondappanaickanpatti, Kannan Kurichi Post,
Salem -636 008.

..Respondents

Prayer : Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorarified Mandamus calling for the records relating to the impugned Nomination Affidavit dated 06.04.2026 and its decision of acceptance passed by the 4th Respondent/Returning Officer with respect of Salem West (Constituency No.88) Constituency for Tamil Nadu Assembly Election -2026 and quash the same as illegal, arbitrary, unconstitutional and in violation of Representation of People Act, 1951 and consequently prayed that directing the 1st and 2nd Respondents for staying the operation of the impugned Nomination and decision for contesting the 4th Respondent in Salem -West (Constituency No.88) Tamil Nadu State Assembly Election.

For Petitioner : Mr.S.Mariselvam

For Respondents : Mr. Niranjan Rajagopalan for R1 & R3
Mr.S.Sivashanmugam, Standing
Counsel – for R2
Mr.M.R.Jothimaniyan – for R4

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

This petition has been filed under Article 226 of the Constitution of India seeking for a writ of Certiorarified Mandamus calling for the records relating to the impugned Nomination Affidavit



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dated 06.04.2026 and its decision of acceptance passed by the 4th Respondent/Returning Officer with respect of Salem West (Constituency No.88) Constituency for Tamil Nadu Assembly Election -2026 and quash the same as illegal, arbitrary, unconstitutional and in violation of Representation of People Act, 1951 and consequently prayed that directing the 1st and 2nd Respondents for staying the operation of the impugned Nomination and decision for contesting the 4th Respondent in Salem -West (Constituency No.88) Tamil Nadu State Assembly Election.

2. The prayer made in this petition is not maintainable in the light of Article 329(b) of the Constitution of India which provides that no election to either House of Parliament or to the House or either House of the Legislature of a State shall be called in question except by an election petition presented to such authority and in such manner as may be provided for or by or under any law made by the appropriate legislature.

3. In Section 100 of the Representation of the People Act,



1951, grounds for declaring election to be void have been set out, which can be raised only by way of election petition.

4. The Supreme Court in the case of **Kisan Shankar Kathore v. Arun Dattatray Sawant**¹, has held in paragraph 38 as under:

“38. When the information is given by a candidate in the affidavit filed along with the nomination paper and objections are raised thereto questioning the correctness of the information or alleging that there is non-disclosure of certain important information, it may not be possible for the returning officer at that time to conduct a detailed examination. Summary enquiry may not suffice. Present case is itself an example which loudly demonstrates this. At the same time, it would not be possible for the Returning Officer to reject the nomination for want of verification about the allegations made by the objector. In such a case, when ultimately it is proved that it was a case of non-disclosure and either the affidavit was false or it did not contain complete information leading to suppression, it can be held at that stage that the nomination was improperly accepted. Ms. Meenakshi Arora, learned senior counsel appearing for the Election Commission, right argued that such an enquiry can be only at a later stage and the appropriate stage would be in an election petition as in the instant case, when the election is

¹ (2014) 14 SCC 162



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challenged. The grounds stated in Section 36(2) are those which can be examined there and then and on that basis the Returning Officer would be in a position to reject the nomination. Likewise, where the blanks are left in an affidavit, nomination can be rejected there and then. In other cases where detailed enquiry is needed, it would depend upon the outcome thereof, in an election petition, as to whether the nomination was properly accepted or it was a case of improper acceptance. Once it is found that it was a case of improper acceptance, as there was misinformation or suppression of material information, one can state that question of rejection in such a case was only deferred to a later date. When the Court gives such a finding, which would have resulted in rejection, the effect would be same, namely, such a candidate was not entitled to contest and the election is void. Otherwise, it would be an anomalous situation that even when criminal proceedings under Section 125A of the Act can be initiated and the selected candidate is criminally prosecuted and convicted, but the result of his election cannot be questioned. This cannot be countenanced.”

5. The Apex Court, in the judgment supra, has held that when an information is given by a candidate in an affidavit along with the nomination paper and objections are raised thereto questioning the



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correctness of the information or alleging that there is non-disclosure of certain important information, it may not be possible for the Returning Officer at that time to conduct a detailed examination. The non-disclosure of material information in the affidavit is a valid ground for setting aside election by filing an election petition and such relief cannot be sought by way of a writ petition.

6. In view of the above, we are not inclined to entertain the writ petition. Accordingly, the writ petition is dismissed. However, petitioner is at liberty to work out his remedies in accordance with law. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

(SUSHRUT ARVIND DHARMADHIKARI,CJ) (G.ARUL MURUGAN,J)
20.04.2026

Index : Yes/No
Neutral Citation : Yes/No

kst



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To

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