



W.P.No.15622 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.15622 of 2026
& W.M.P.No.16834 of 2026

S.P.Muthuraman
S/o S. Ponnusamy
D.No.204, Railway Feeder Road
Sankar Nagar Post
Tirunelveli District 627 357.

Petitioner(s)

Vs

1. The Chief Election Commissioner
Election Commission of India
Nirvachan Sadan Ashoka Road
New Delhi 110 001.
2. The Returning officer
Modakkurichi Assembly Constituency (100)
and Assistant Commissioner (Excise)
Modakkurichi Taluk Office
Erode District 638 104.
3. Kirthika Shivakumar
Candidate
Modakkurichi Assembly Constituency (No 100)
Old No H-125, New No H-72, Periyar Nagar
Erode Taluk and District 638 001.

Respondent(s)



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Prayer : Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorarified Mandamus calling for the entire records pertaining to the order passed by the 2nd respondent vide his proceedings in Roc.No.777/2026/A6 dated 07.04.2026 and quash the same and consequently reject the candidature's nomination of 3rd respondent in the Assembly Election scheduled to be taken place on 23.04.2026 for Modakkurichi Assembly Constituency (No 100) Erode District.

For Petitioner(s): Mr.S.Rajkumar
(Through video-conferencing)

For Respondent(s): Mr.Niranjan Rajagopalan for R1 & R2
Mr.Naveen Kumar Murthi for R3

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 challenging order passed by the second respondent in proceedings in Roc.No.777/ 2026/ A6 dated 07.04.2026 and to reject the nomination of third respondent in the Assembly Election scheduled on 23.04.2026 for Modakkurichi Assembly



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Constituency (No 100) Erode District on the ground that second respondent, while filing nomination, has not disclosed the pendency of criminal case in Form 26.

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:

¹ (2014) 14 SCC 162



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“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 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



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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 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



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shall be no order as to costs. Consequently, the interim application is also dismissed.

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

Index : Yes/No
Neutral Citation : Yes/No

kpl

To

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