



W.P. No.16375 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2026

CORAM

THE HONOURABLE MR. SUSHRUT ARVIND DHARMADHIKARI,
CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

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K.S.Senthilkumar
S/o.Kamalakkannan
Pillaiyar Koil Street
T.Kenippattu Village
Koottaripattu Post
Tindivanam Taluk
Villupuram- 604302.

: Petitioner

Vs

- 1.Director General of Income Tax (Investigation)
Aayakarkaaryaalay, 121, M.G.Road
Nungambakkam Chennai- 034.
- 2.The Election Commission of India
Nirvachansadan, Ashoka Road,
New Delhi-110 001.
- 3.The Returning Officer
Mailam Assembly Constituency
Collectorate Office, Vilupuram, Tamil Nadu.
- 4.C.V.Shanmugam
S/o.C.Venugopal
No.1/1 Bajanai Kovil Street



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Avvaiyar Kuppam, Mupuli Post,
Thindivanam Circle, Vizhupuram District
Tamil Nadu- 604 302.

: Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking a writ of Mandamus directing the respondents to examine and verify the correctness of the disclosures made by the fourth respondent in his Form 26 affidavits for the years 2021 and 2026 and to take appropriate action in accordance with law.

For Petitioner : Mr.Umar Ali

For Respondents : Mr.AR.L.Sundaresan,
Additional Solicitor General,
assisted by Ms.Sheela,
Senior Standing Counsel,
and Mr.H.Siddarth,
Junior Standing Counsel,
for the first respondent

Mr.Niranjan Rajagopalan,
for respondents 2 and 3

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 direction to the respondents to examine and verify the correctness of the disclosures made by the fourth respondent in his Form 26 affidavits for the years 2021 and 2026 and



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to take appropriate action in accordance with law.

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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

¹ (2014) 14 SCC 162



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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



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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 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.



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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.

(SUSHRUT ARVIND DHARMADHIKARI,CJ) (G.ARUL MURUGAN,J)
27.04.2026

Index : Yes/No
Neutral Citation : Yes/No
SRA



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To
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THE HON'BLE CHIEF JUSTICE
AND
G.ARUL MURUGAN,J.

(SRA)

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