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WP No. 20680 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 29-05-2026

Pronounced on : 08.06.2026

CORAM

THE HON'BLE MR JUSTICE G. R. SWAMINATHAN

AND

THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

WP No. 20680 of 2026

P.Milany
S/o.Ponnuram,
No.7-5-5/9, Sanjay Gandhi 1st Street,
Selvaraj Illam,
Palanichettipatti,
Theni - 625531.

..Petitioner

Vs

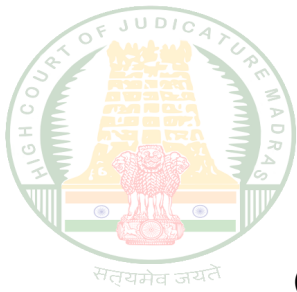
1. Election Commission of India
Rep by its Commissioner,
Nrivachan Sadan,
Ashoka Road,
New Delhi – 110001.
2. The District Election Officer/Commissioner,
Greater Chennai Corporation,
Ripon Building,
Chennai - 03.

..Respondents

Directing the 2nd Respondent to forthwith issue certified copies of the election papers sought for by the petitioner by considering his representations dated 15.05.2026 and 20.05.2026.

For Petitioner : Mr.J.Vinoth

For Respondents : Mr. Niranjan Rajagopalan,
Standing Counsel



Order

(Order of the Court was made by V.Lakshminarayanan J.)

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The petitioner contested the recently concluded General Election to the Tamilnadu Legislative Assembly. He stood for election at the Chepauk Thiruvallikeni Assembly Constituency. Unfortunately, he was not successful.

2. Even before the election, the petitioner made representations on 20.04.2026 and 27.04.2026 seeking for the following details:

“A. Certified copies of all the objections that were raised during the scrutiny of nomination papers on 07.04.2026 and the reasoned decisions taken by the Returning Officer after the summary inquiry of accepting/rejecting the nomination papers submitted by the candidates.

B. Certified copy of FORM-7A (list of contesting candidates).

C. Certified copies of the following candidate's accepted affidavit in FORM-26.

1. AADIRAJARAM (All India Anna Dravida Munnetra Kazhagam)

2. AYSHA (Naam Tamilar Katchi)

3. UDHAYANIDHI STALIN (Dravida Munnetra Kazhagam)

4. MOHAMMED YASSER (Bahujan Samaj Party)

5. SELVAM. D (Tamilaga Vettri Kazhagam)

6. RAJESHKUMAR. K (Independent) ”



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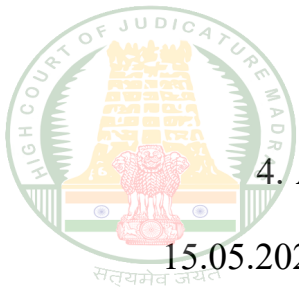
3. The said representation was received by the Returning Officer on the very same days. For both these representations, the Returning Officer gave the following replies:

“(a) Whatever objections received against any candidates has been displayed at the display board in the Returning Officer’s Office, No.19, Chepauk-Thiruvallikeni Assembly Constituency for public view.

As per Hand Book for Returning Officer, Para 5.20.2 “a copy of the affidavits furnished by the candidates should be made available at the earliest by the Returning Officer to the DEO who will consolidate all such affidavits received by the Returning Officer in his district and make available the same to any person or persons desirous of obtaining the same on payment of nominal copying charges.”

(b) Certified copy of Form-7A (List of contesting candidates) – Displayed at RO Office and also available at website. (<https://affidavit.eci.gov.in/>)

(c) The certified copies of the candidate’s accepted affidavit in Form-26 and all the copies of affidavit shall be downloaded from the ECI website. (<https://affidavit.eci.gov.in/>)



4. After the results were declared, the petitioner gave a representation on 15.05.2026 to the second respondent. In the said representation, he stated that he is proposing to file an election petition before this Court and for that purpose, he requires the following documents:

*“1. **Accepted Nomination paper** in Form-2B and the **Accepted affidavit** in Form-26 submitted by the Returned candidate Thiru S.Udhayanidhi, sponsored by the Dravida Munnetra Kazhagam Party and the “**Check List of the documents**” in connection with said Accepted Nomination.*

*2. **Rejected Nomination papers** in Form-2B and the **Rejected affidavit** in Form-26 submitted by the Returned candidate Thiru S.Udhayanidhi, sponsored by the Dravida Munnetra Kazhagam Party and the “**Check List of the documents**” in connection with said Rejected Nominations.*

*3. All the **Orders**/decisions of the Returning Officer **rejecting** the fifteen (15) Nominations filed by the candidates during the scrutiny of Nominations on 07.04.2026.*

4. All the objections for the Nominations that are received by the Returning Officer for the purpose of scrutiny on 07.04.2026.

5. All the Orders/decisions of the Returning Officer accepting the Nominations by overruling the objections raised during the scrutiny of Nominations on 07.04.2026.

*6. “**FORM-7A**” (List of contesting candidates).*

*7. Certified extract of “**PARA 6.10.1 GROUNDS FOR REJECTION OF NOMINATION PAPERS**” from the*



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Handbook for Returning Officer, 2023 issued / published by the Election Commission of India.

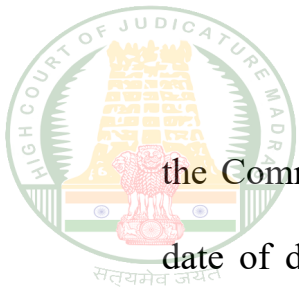
8. English version of “Affidavit in Form-26” issued by the Election Commission for an Election to the Tamil Nadu Legislative Assembly, 2026.”

5. The petitioner sent the first of the representations by Registered Post with Acknowledgement Due. It was duly received and acknowledged. He renewed the request by giving an application in person on 20.05.2026. As none of the representations were responded to favourably, he is before this Court by way of this Writ Petition.

6. When the matter came up on 27.05.2026, Mr.Niranjan Rajagopalan, learned Standing Counsel for the Election Commission of India, took notice on behalf of the respondents and sought time to get instructions.

7. Considering that it is a matter relating to election and that too, by a candidate who is proposing to challenge the election, we have listed the matter on 29.05.2026.

8. Mr.Niranjan Rajagopalan submitted that the Principal Secretary of the first respondent had issued circular No.4/2024/SDR/Vol.II on 06.09.2024, stating that the Election Commission of India stating that the records relating to



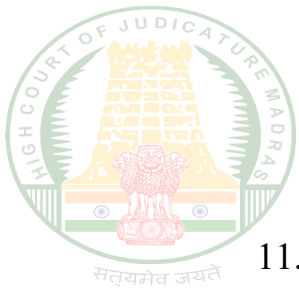
the Commission will be issued only after the completion of 45 days from the date of declaration of results of the election and that too, on payment of the prescribed fee. He added that as the said period of 45 days is yet to expire, the petitioner does not have the cause of action for the writ petition. Consequently, he seeks for dismissal of the same.

9. We heard Mr.J.Vinoth for the petitioner and Mr.Niranjan Rajagopalan for the respondents in detail. We have perused the records.

10. The factum that the petitioner stood as a candidate in the Chepauk Thiruvallikeni Constituency is not in dispute. The petitioner has disclosed in his representation that he is proposing to file an election petition. As per Section 81(1) of the Representation of the People Act, 1951 (hereinafter referred to as “1951 Act”). A petition challenging the State Legislative Assembly election results can be filed by two categories of persons, namely,

- i. any candidate who contested in that specific election; and
- ii. any elector who was entitled to vote in that specific election.

The provision also mandates that an election petition calling into question any election must be presented to the High Court within 45 days. The limitation period starts from the date of election of the returned candidate. Section 67-A of the 1951 Act defines the date on which the Returning Officer declares the candidate elected as the commencing period of limitation.

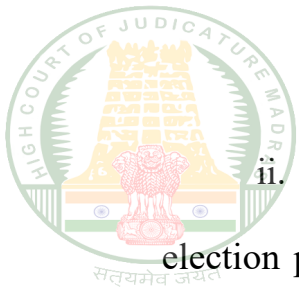


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11. The 1951 Act, being a self-contained complete code, Section 4 to Section 24 of the Limitation Act of 1963, including Section 5, which allows a court to condone the delay for a sufficient cause, do not apply to an election petition. Further, under Section 86(1) of the 1951 Act, the Election Court i.e., this Court is statutorily bound to dismiss any election petition that does not comply with the 45 days filing period. The court does not have any discretionary power or the equitable jurisdiction to extend the time frame for presentation of such a petition beyond the 45 days period. Furthermore, the rules of pleadings of election petition are exceptionally strict and are governed by Section 83 of the 1951 Act. Unlike regular civil proceedings, a defect in the pleading of an election petition normally leads to the immediate dismissal of the petition, at the threshold, without waiting for trial.

12. Under Section 83(1) of the 1951 Act, the following requirements are mandatory:

i. Concise statement of the material facts on which the petitioner relies upon. These material facts are treated as primary & essential facts that constitute a cause of action. If an election petition leaves even one material fact, the petitioner runs the risk of being rejected in terms of Order VII Rule 11 of the Code of Civil Procedure.

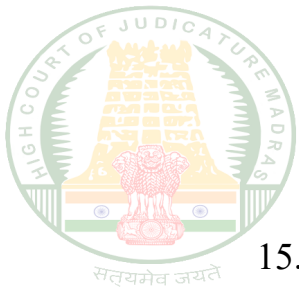


ii. If an election is challenged on the grounds of corrupt practice, the election petition must set forth full details and particulars, including a precise statement on the names of the parties alleged to have committed such corrupt practice and the date and place as to where they occurred.

iii. Signature and verification - The election petitioner must sign the petition and verify it in the manner as laid down in the Code of Civil Procedure, with respect to the verification of pleadings.

13. The Supreme Court has made a specific distinction between material facts and material particulars. Material facts are those facts which establish the foundation of the case and material particulars are the finer details that satisfy the aforesaid facts. While material particulars can be amended, the material facts cannot be expanded later on. In addition, when the allegations of corrupt practices are raised, the party is also called upon to file an affidavit in terms of Proviso to Section 83(1) of the 1951 Act. Failure to file an affidavit or filing an affidavit which is not properly sworn, has been held to be a vital defect that can leave to summary dismissal of such petitions,.

14. We have set forth in a nutshell, the position of law on election petitions, to point out the strict manner in which an election petition has to be pleaded, presented and the limited scope of amendment that is available to the petitioner in such cases.



15. We now have to look into the manner in which the production of election papers are dealt with. The Rules have also been made for the said purpose under the title “*Conduct of Election Rules of 1961*” (hereinafter referred to as 1961 Rules). Part-IX of the said Rules titled “*Miscellaneous*” runs from Rule 91 to Rule 99. Rule 93 of the 1961 Rules reads as hereunder:

Production and inspection of election papers.— (1)

While in the custody of the district election officer or, as the case may be, the returning officer—

(a) the packets of unused ballot papers with counterfoils attached thereto;

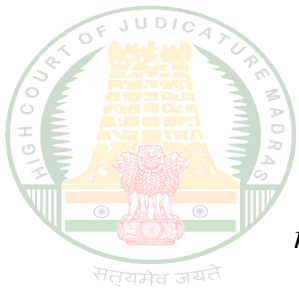
(b) the packets of used ballot papers whether valid, tendered or rejected;

(c) the packets of the counterfoils of used ballot papers;

(d) the packets of the marked copy of the electoral roll or, as the case may be, the list maintained under sub-section (1) or sub-section (2) of section 152; and

[(dd) the packets containing registers of voters in form 17-A;]

(e) the packets of the declarations by electors and the attestation of their signatures; shall not be opened and their contents shall not be inspected by, or produced before, any person or authority except under the order of a competent court.



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[(1-A) The control units sealed under the provisions of rule 57C and kept in the custody of the district election officer shall not be opened and shall not be inspected by, or produced before, any person or authority except under the orders of a competent court.]

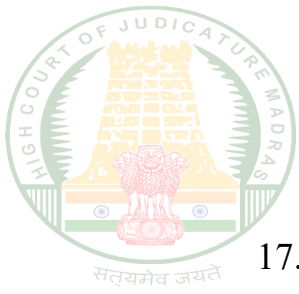
(2) Subject to such conditions and to the payment of such fee as the Election Commission may direct, —

(a) all other papers relating to the election shall be open to public inspection; and

(b) copies thereof shall on application be furnished.

(3) copies of the returns by the returning officer forwarded under rule 64, or as the case may be, under clause (b) of sub-rule (1) of rule 84 shall be furnished by the returning officer, district election officer, chief electoral officer or the Election Commission on payment of a fee of two rupees for each copy.]

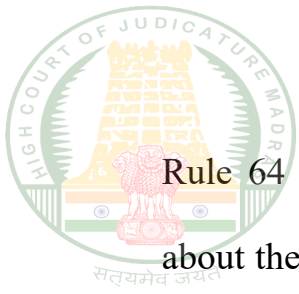
16. Insofar as the objections that have been raised during the time of scrutiny is concerned, from the response given by the Returning Officer on 27.04.2026, it is clear that it has already been displayed for public view. Furthermore, the Returning Officer herself, referring to the handbook issued by the Election Commission of India, has pointed out that the copy of the affidavits furnished by the candidates is made available with the second respondent and it is the second respondent who should make available to any person or persons so desirous of obtaining the same, on payment of nominal coping charges.



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17. Similarly insofar as the certified copies of list of contesting candidates found under Form 7A of the Act and Rules thereunder are concerned, the Returning Officer had stated that the same is available on the website of the Election Commission of India. This response holds good even for the request of the copies of affidavits filed under Form-26. However, the second respondent, on demand made by the petitioner, has not given any reply. On the contrary, Mr.Niranjan Rajagopalan seeks to take shelter of the 2024 letter issued by the Election Commission of India.

18. Under Rule 93, which has been extracted supra, the bar with respect to Rule 93(1) applies for the categories found under (a) to (e) of the said Rule. These relate to packets of unused ballot papers, packets of used ballot papers, packets of counterfoils, packets of printed paper slips, packets of the marked copy of the electoral roll, packets of copy of Registers under Form 17-A and packets of declaration by electors and the attestation of their signatures. None of the documents, which the writ petitioner has sought for in his representation dated 15.05.2026 or 20.05.2026, relate to the documents covered under Rule 93(1). Under Rule 93(2), the Election Commission has made it clear that all other papers relating to the election shall be open to public inspection and copies thereof, shall on application be furnished. Under Rule 93(3), fee payable for returns forwarded under Rule 64 and under Rule 84(1)(b) has ben specified.



Rule 64 relates to declaration of result of election and Rule 84(1)(b) speaks about the return under Form 23-B. Nowhere in the Rules, it has been stated that the details will be furnished only after 45 days.

19. We have pointed out that if an Election Petition is filed after a period of 45 days, this Court, sitting as an Election Tribunal, is duty bound to dismiss the same as barred by time. Similarly, if an Election Petition is filed bereft of any materials, it runs the risk of being rejected for having not complied with the requirements of Section 83 of the 1951 Act read with the Code of Civil Procedure.

20. The right to contest an election has been held to be a statutory one. Similarly, the right to file an election petition is also statutory. As of now, it is governed under the provisions of the Representation of the People Act, 1951.

21. We have already pointed out, the 1951 Act is a self-contained complete code. If an election petition is filed without supporting documents or material particulars, the purpose of approaching the court to resolve the dispute that the candidate seeks to raise, would in itself be rendered illusory. If the Election Commission of India were to retain all the documents till the period is over and thereafter they furnish them to the petitioner, then, his right to move the Court would in itself be rendered negatory.



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22. The purpose of law is to give a remedy to a grievance expressed, whether real or imaginary by the litigant. By refusing to part with the documents, till the limitation period to file an election petition is over, which under Rule 93(2) of the 1961 Rules call upon the Election Commission of India to disclose, violate the right to approach the court. The letter issued by the Election Commission of India cannot be so read as Mr.Niranjan Rajagopalan wants to do as it would defeat the purpose of the Rules itself. Furthermore, paragraph 6 of the Circular itself points out that those instructions are subject to Rule 93. Paragraph 6 also states that the eligible election documents will be provided after a period of 45 days. This 45 days period is not found under paragraph No.6(iii), 6(iv), 6(vi), 6(vii) and 6(ix). In fact, paragraph 6(ix) makes it clear that a candidate of the constituency concerned is entitled to any statutory documents, other than those covered under Rule 93(1) of the 1961 Rules. The request for documents that has been made by the petitioner does not fall under any of those contemplated under Rule 93(1)(a) to Rule 93(1)(e).

23. To read, the limitation period of 45 days, as found under paragraph No.6(i), to all other categories would defeat the purpose of the Circular. We have already pointed out that the letter issued by the Election Commission cannot take precedence over Rule 93, as there is a statutory duty to disclose and since the demand made by the petitioner has not been complied with, and if the



stand taken by the Election Commission, if accepted, will affect the right of the petitioner to approach the High Court by way of an election petition, we are inclined to consider this Writ Petition.

24. Accordingly, this Writ Petition is **allowed**. The second respondent is directed to issue a certified copy of the election papers sought for by the petitioner in his representation dated 15.05.2026 and 20.05.2026 within a period of two weeks from the date of uploading of this order onto the website of this Court. No cost.

25. We reserved the orders after hearing both sides on 29.05.2026. Just before pronouncing the orders today, Mr.Niranjan Gopalan, learned Standing counsel appearing for the Election Commission has filed a memo stating that the certified copy of the accepted nomination papers of Thiru.S.Udhayanidhi, DMK candidate, certified copy of the rejected nomination papers of Thiru.S.Udhayanidhi, DMK candidate, certified copies of Form 7A-List of contesting candidates and affidavit in Form 26 (English version) have been communicated to the petitioner by way of e-mail dated 06.06.2026. He also states that the remaining copies have been despatched to the petitioner today. The memo is scanned and extracted hereunder:



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WP No. 20680 of 2



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**IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Special Original Jurisdiction)**

W.P. No. 20680 of 2026

P. Milany

...Petitioner

-vs-

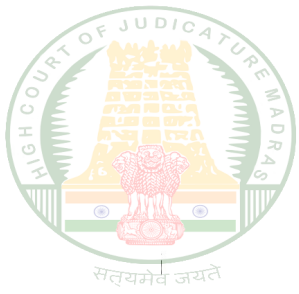
Election Commission of India & Anr.

...Respondents

MEMO FILED ON BEHALF OF THE RESPONDENTS

It is respectfully submitted on behalf of the Respondents as follows:

1. Pursuant to the representations of the Petitioner dated 15.05.2026 and 20.05.2026, to the office of the District Election Officer, Chennai, the 2nd Respondent herein, the 2nd Respondent vide letter dated 05.06.2026, has issued the certified copies of the following documents:
 - a. Certified copy of accepted nomination papers of Thiru. S. Udayanidhi, DMK Candidate
 - b. Certified copy of rejected nomination papers of Thiru. S. Udayanidhi, DMK Candidate
 - c. Certified copies of Form 7A - List of Contesting Candidates
 - d. Affidavit in Form 26 (English Version).
2. The above was also communicated to the Petitioner, by way of email dated 06.06.2026 as well.



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3. In respect of the Other documents, copies of the same have been arranged and will be provided by today.

4. In the circumstances, it is prayed that this Hon'ble Court may be pleased to take this memo on record and thus render justice.

Dated at Chennai on this the 8th day of June, 2026.

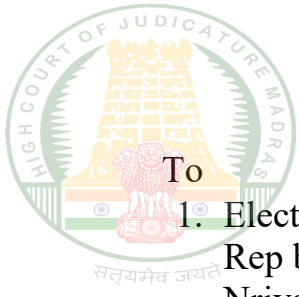
COUNSEL FOR RESPONDENTS

26. He further assures this Court that a typed set of papers containing all the documents sought for by the counsel for the writ petitioner will be handed over to Mr.Gopinath, his counsel by the end of the day of tomorrow. His statement is recorded.

(G.R.S.,J.) (V.L.N.,J.)
08-06-2026

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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No



To

1. Election Commission of India
Rep by its Commissioner,
Nrivachan Sadan,
Ashoka Road,
New Delhi - 110001.
2. The District Election Officer/Commissioner,
Greater Chennai Corporation,
Ripon Building,
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WP No. 20680 of 2



**G.R.SWAMINATHAN J.
AND
V.LAKSHMINARAYANAN J.**

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08-06-2026