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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
12.10.2026	25.11.2026

CORAM

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

OA.No.859 of 2026
in
ELP No. 9 of 2026

Leemarose Martin, W/o.Martin,
No.135/1, Thiruvalluvar Street,
VellakinarPirivu, G.N. Mills Post,
Coimbatore 641 029

..Petitioner(s)

Vs

1. T.Parivallal, No.1/35, North Street,
   North Makilambadi, Lalgudi Taluk,
   Tiruchirappalli 621 111

2. The Returning Officer
   143-Lalgudi Assembly Constituency,
   Paramasivam, Trichy District,
   Tamil Nadu 621 601

3. The Election Commission of India
   Represented by its Chief Election
   Commissioner, Nirvachan Sadan,
   Ashoka Road, New Delhi 110 001.

..Respondent(s)

Prayer: Petition filed to strike out the pleadings in paragraph 6, 7, 8, 9, 10, 11, 12, 13 and 14 of the present Election Petition filed by the 1st Respondent.

For Petitioner(s): Mr.A.K.Sriram,
Senior Counsel
for Mr.S.R.Anish Kumar

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For Respondent(s): Mr. Richardson Wilson for R1

Mr.Niranjan Rajagopalan for R2 & R3

ORDER

The petitioner herein has filed O.A.No.859 of 2026 to strike out the pleadings in paragraphs 6 to 14 of the Election Petition in E.L.P.No.9 of 2026, filed by the 1st respondent herein.

2.E.L.P.No.9 of 2026 was filed by Mr.T.Parivallal/1st respondent herein, who contested the election to the 17th Tamil Nadu Legislative Assembly, 2026, along with 24 other candidates. The election was notified on 15.03.2026. In the said election, the Applicant was declared elected as a Member of Legislative Assembly from No.143, Lalgudi Assembly Constituency, having contested on behalf of the All India Anna Dravida Munnetra Kazhagam and secured 60,795 votes under Two Leaves symbol. The Election Petition was filed on various grounds. After issuance of notice by this Court, Applicant/1st respondent in the Election Petition filed the present Application in O.A.No.859 of 2026.

3.Before going into the merits of the arguments, let us examine the paragraphs that have been set out by the Election Petitioner/1st Respondent which are sought to be struck out by the applicant herein. Those paragraphs are extracted hereunder:

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"6.It is submitted that the 1st respondent has wilfully suppressed her shares and directorship in seven (7) companies in her Form 26 affidavit filed along with her nomination form. In her Form 26 affidavit, in the table in para 7, column (iii) deals with details of shares. The 1st Respondent has filled up "Annexure C attached" in this column. A perusal of the said Annexure C filed along with the Form 26 affidavit shows that she has declared shares and directorship in 181 companies. However, as per information publicly available in the Company Master Data operated by the Ministry of Corporate Affairs, Government of India, the 1st Respondent is a Director and shareholder in the following companies:

i. *Martin Farms Private Limited;*
ii. *Modern & Creative Constructor and Distributor Private Limited;*
iii. *LMS Builders and Engineers Private Limited;*
iv. *Martin Housing Private Limited*
v. *Martin Landscape Private Limited*
vi. *Hall Marc Hospitality Private Limited*
vii. *Dominant Villas and Agencies Private Limited*

7. It is submitted that the screenshots of the Master Company Data found on the website of the Ministry of Corporate Affairs, Government of India is filed along with this election petition and may be treated as part and parcel of this election petition. The 1st Respondent has wilfully suppressed the fact that she holds shares and is a Director in the above companies in Annexure – C of her Form 26 affidavit and the same is a violation of section 33 & 33-A of the RP Act, 1951 and Rule 4-A of the Conduct of Election Rules, 1961. This violation has materially affected the election of the 1st Respondent as the voters have not had the opportunity to learn that the 1st Respondent is associated with these companies and have lost

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the opportunity to question the activities of these companies and whether it is in their best interests. The contracts entered by these companies and also the income earned by the 1st Respondent through these companies have been suppressed. Hence, the election of the 1st Respondent is liable to be set aside under section 100(1)(d)(iv) of the RP Act, 1951. The screenshot of the directorship of the aforesaid seven companies are filed along with this election petition as Doc Nos. 6 to 12.

8. It is further submitted that the 1st Respondent has not correctly disclosed details of pending Income Tax dues. In her Form 26 affidavit, in the tabular column in para 8, sl. No. (ix), the 1st Respondent has stated that there is an IT demand under dispute pertaining to AY 2022-23 for a sum of Rs. 86,76,780/-. However, the 1st Respondent has suppressed the pendency of an income tax demand and dispute pertaining to a search and seizure action conducted by the Income Tax Department in her house and office premises on 12.10.2023 by Authorized Officer under the control of the Principal Director of Income Tax (Investigation), Kolkata. Pursuant to this search and seizure action, the 1st Respondent has also received a notice dated 26.12.2023 proposing to transfer the investigation to Kolkata. The 1st Respondent has filed a reply dated 27.12.2023 to this show cause notice and subsequently, the IT Department has transferred the investigation into this case to the Kolkata circle vide notification dated 25.04.2024. The 1st Respondent has filed W.P. Nos. 15524of 2024 before the Hon'ble Madras High Court challenging the transfer of these income tax proceedings from Coimbatore to Kolkata and the same was dismissed vide order of this Hon'ble Court dated 19.08.2024. From

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the said order, it can be seen that there is an income tax proceedings pending out of the search and seizure action conducted on 12.10.2023 which would fall in FY 2023-2024 and AY 2024-2025 which has been suppressed by the 1st Repsondent in her Form 26 affidavit. This has materially affected the election of the 1st Respondent as the voters have not had an opportunity to know about the income suppressed by the 1st Respondent which has come out only due to a raid by the Income Tax Department. Suppressing facts in the Form 26 affidavit filed along with the election petition is a violation of sections 33 & 33-A of the RP Act, 1951 and Rule 4-A of the Conduct of Election Rules, 1961. Thus, the election of the 1st Respondent is liable to be set aside under section 100(1)(d)(iv) of the RP Act, 1951.

9. It is submitted that the 1st Respondent has used minor children in her campaign throughout the constituency. The 1st Respondent has uploaded a campaign video on her official Instagram page - @leema.martin.77 which shows children being used by the 1st Respondent, her agents and party workers in campaign activity. In a video uploaded on the URL: https://www.instagram.com/reel/DXQ_KuSkr9c/?utm_source=ig_web_copy_link&igsh=MzRlODBiNWFlZA, the 1st Respondent on 18.04.2026 has used children for campaigning. The children are made to wear AIADMK colouredshawls and hold posters and banners with the photo of the AIADMK General Secretary Eddapadi K Palanisamy, two leaves symbol of the AIADMK party and seek votes for the 1st Respondent.

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10.It is submitted that the ECI vide letter dated 05.02.2024 has directed as follows:

> *"...*
> *(iii) Political parties are directed not to use children in election campaign/rallies in any form whatsoever including distribution of posters/pamphlets or to participate in slogan shouting, campaign rallies, election meeting etc.*
> *...*
> *Note 2: It is clarified to obviate any doubt that all political leaders/ candidates should not use children for campaign/canvassing/rallies/yatras etc. in any manner, including holding a child in their arms. carrying a child in their vehicles or making child a part or election campaign/rallies etc. Further, use or child to create semblance or political campaign either by spoken words/poem/songs, display of insignia of political party/candidate, exhibiting ideology of political party promoting achievements of a political party or criticizing the opponent political parties/candidates shall not be resorted to."*

11.It is submitted that the involvement of children has given a huge advantage to the 1st Respondent. The children have emotionally appealed to their parents, grandparents and family members and have garnered votes for the 1st Respondent. Thus, the 1st Respondent has violated the binding directions of the ECI which has materially affected her election and which renders her election liable to be set aside under section 100(1)(d)(iv) of the RP Act, 1951.

12. It is submitted that the 1st Respondent, being a Christian has visited several churches and sought for votes in the name of religion. One such instance is on 10.04.2026 at 10.40 a.m., when

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the 1st Respondent visited the St. Antony's church at Edaiatrumangalam, Melatheru, Lalgudi Taluk and campaigned inside the church in the presence of a priest. A photo of the 1st Respondent inside the Church is filed along with this election petition as Doc No.15. The said photo was also uploaded by the 1stRespondent on her Facebook account. Another instance is on 09.04.2026 when the 1st Respondent visited the St. Xavier's church at Varakuppai, at about 11 a.m. and campaigned inside the church in the name of religion. The video of her campaign inside church is filed along with this election petition as File No.4 in the DVD filed as Doc No. 13.

13.It is submitted that the 1st Respondent has not properly tagged AI videos posted on her Instagram account @leema.martin.77. On 13.04.2026, the 1st Respondent has uploaded a video post made through Artificial Intelligence (AI) projecting as if two farmers are talking about the price of food crops. As per the instructions of the ECI vide its press note No. ECI/PN/029/2026 dated 15.03.2026, the ECI has directed as follows:

> *"30(iii)…*
> *All political parties shall ensure responsible communication during elections. The Commission has advised the parties against misuse of AI based tools to create deep fakes that distort information or propagate misinformation, emphasizing the need to uphold the integrity of the electoral process. Further, all Political Parties and their leaders, candidates and star campaigners shall take necessary measures for prominent labelling of Al-generated/synthetic content, if any, being shared for campaigning through their social media platforms using clear notations such as "AI- Generated", "Digitally Enhanced", or "Synthetic Content". Additionally, all such campaign materials*

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whether in the form of advertisements or promotional content must carry appropriate disclaimers wherever synthetic content is used."

14. It is submitted that the 1st Respondent has not used the "AI-Generated" tag on her AI videos. The people of the constituency have therefore been misled into believing such a video is a conversation between two farmers, which has prejudiced the Petitioner's electoral prospects and hampered his election. Thus, the failure of the 1st Respondent to adhere to the ECI's binding guidelines materially affects her election and the same is liable to be set aside under section 100(1)(d)(iv) of the RP Act, 1951. "

4.Mr.A.K.Sriram, learned senior counsel submitted that the Election Petition is not maintainable and that paragraphs 6 to 14 need to be struck out as contemplated under Order VI Rule 16 of the CPC. His further submission is that the applicant has complied with the provisions of Sections 33, 33A of the Representation of the People Act, 1951 (in short, "the RP Act") and Rule 4 of the Conduct of Elections Rules, 1961. He primarily contended that in the paragraphs sought to be struck out, the Election Petitioner/1st Respondent has not disclosed any material facts warranting consideration of this Court. He pointed out that the applicant herein had not suppressed the details relating to the income tax dues or the search and seizure conducted by the Income Tax Department.

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5.His further contention is that the allegation that children were used for the election campaign, is not supported by any statutory provision or rule as the letter of the Election Commission dated 05.02.2024 would not fall within the ambit of Section 100 (1)(d)(iv) of RP Act. He further pointed out the allegation that election campaign was conducted within religious places, such as churches, was stated to be a violation of the Model Code of Conduct and stated that the photograph filed by the election petitioner/1st respondent is not sufficient to suggest that the applicant's mere presence in the Church was for the purpose of seeking votes. With regard to the uploading of certain videos on social media, more specifically on the Instagram page of the applicant herein, he contended that the allegations do not disclose a legally sustainable ground for declaring the election void. Apart from this, he also submitted that the use of videos created through Artificial Intelligence are not in violation of the RP Act, 1951.

6.The learned senior counsel referred to Section 83(1) of the RP Act, which contemplates that the election petition shall contain a concise statement of (a) material facts on which the petition relies and (b) shall set forth full particulars of any corrupt practice that the petitioner alleges, including as full a statement 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.

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7.He pointed out that Form 26, referred to in Rule 4A of the Conduct of Elections Rules, 1961, requires disclosure of the candidate's name, PAN, the financial year for which the last income tax return has been filed and the total income shown in the income tax returns for the prescribed financial years and relevant particulars concerning the candidate, their spouse, HUF and dependants. He further pointed out that the form requires disclosure of assets held jointly, indicating the extent of joint ownership and further submitted that these particulars had already been furnished by the applicant in Form 26, as it is evident from Document No. 2 filed along with the Election Petition. Learned senior counsel further submitted that as required in Annexure C in Form 26, as contemplated under Rule 4A, the applicant had furnished the details.

8.He further pointed out that paragraphs 6 and 7 in the Election Petition are vague and cannot be taken into consideration, as the Election Petition did not disclose any violation as contemplated under the RP Act. Form 26 filed by the applicant, more specifically in Table 7, Column 3, states the details of investments in bonds, debentures/shares and units in companies/mutual funds and others and the amount. He pointed out that the Election Petitioner/1st Respondent has claimed that the applicant had not disclosed the directorship in seven companies where she holds shares. When all the particulars have been furnished by the applicant herein as required in Form 26, paragraphs 6 and 7 are vague in nature and therefore, those paragraphs have to be struck out.

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9.With regard to paragraph 8 of the Election Petition, the learned senior counsel submitted that the applicant had disclosed the existing income tax demand in Form 26 and had not suppressed any relevant particulars. He pointed out that the search and seizure conducted by the Income Tax Department on 12.10.2023 and the subsequent proceedings concerning the transfer of the investigation to Kolkata did not reveal the existence of an undisclosed income tax demand. He further submitted that a notice dated 26.12.2023 was issued proposing the transfer of the investigation and the applicant had submitted a reply dated 27.12.2023. Thereafter, the investigation was transferred to the Kolkata circle by notification dated 25.04.2024.

10.He further pointed out that under Section 127 of the Income tax Act, a showcause notice had been issued with regard to the transfer of the investigation and contended that the issuance of the said notice did not reveal the existence of an undisclosed tax demand. In respect of the allegations in paragraph 8, he submitted that the details required to be disclosed in Form 26 regarding disputed income tax demands had already been furnished by the applicant.

11.The learned senior counsel submitted that though the election petitioner relies upon the writ petition filed by the applicant in relation to the transfer of investigation, no such document was annexed along with the

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Election Petition and the search and seizure was prior to the assessment year and there was no demand and therefore, the allegations are grave, bald and without any substance.

12.He pointed out that as disclosed in Form 26, the applicant had furnished the details of the disputed income tax demand of Rs. 86,76,780/- for the assessment year 2022–2023. The learned senior counsel therefore, contended that the allegation regarding the transfer of the investigation was vague. He submitted that the proceedings initiated by the Income Tax Department, including the showcause notice did not reveal the suppression alleged by the Election Petitioner/1st Respondent and that paragraph 8 was liable to be struck out.

13.With regard to paragraphs 9, 10 and 11 of the Election Petition, the alleged use of children in the election campaign and the uploading of videos on the applicant's official Instagram page, on 18.04.2026, the learned senior counsel submitted that the Election Petitioner/1st Respondent had alleged that children were made to wear AIADMK coloured shawls and hold posters and banners displaying the photograph of the party's General Secretary and the Two Leaves symbol.

14.The learned senior counsel contended that children belonging to the

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families of party members might naturally have attended and witnessed the election campaigns. Their presence at such events, would not amount to a violation, particularly when they were accompanied by their family members. He therefore submitted that the allegation with regard to the use of children was not sufficient to warrant the relief sought in the Election Petition.

15.With regard to the reliance placed on Section 100(1)(d)(iv) of the RP Act, the learned senior counsel submitted that an election could be declared void under that provision only when the result had been materially affected by non-compliance of the provisions of the Constitution and the RP Act. He contended that the letter issued by the Election Commission of India on 05.02.2024 was not supported by any specific statutory provision that would automatically render the election void for its alleged violation.

16.He further submitted that the Election Petitioner/1st Respondent had not furnished any particulars demonstrating the circumstances in which the children were allegedly made to wear AIADMK coloured shawls or hold posters displaying the photograph of the party's General Secretary and the Two Leaves symbol. According to the learned senior counsel, the allegations in paragraphs 9 to 11 did not satisfy the requirements of Section 83 of the RP Act and they are liable to be struck out.

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17.With regard to paragraph 12 of the Election Petition, the learned senior counsel referred to the allegation that the applicant, being a Christian, had visited several churches and sought votes in the name of religion on 10.04.2026 @ 10.40 a.m., at the St. Anthony's Church, Edaiatrumangalam, Melatheru, Lalgudi Taluk and campaigned inside the church in the presence of a priest. The Election Petitioner/1st Respondent relied upon the photograph filed as Document No.15. The learned senior counsel submitted that the applicant's visit to a church during the election campaign would not establish a violation of the RP Act. He contended that the applicant had visited several places, including churches, temples and mosques as part of her election campaign. According to him, the photographs did not reveal the date, place, time or nature of the conversation made by the applicant. He further submitted that the video filed as File No.4 in Document No.13, showed that the applicant visiting a temple and interacting with devotees, and visiting a church and interacting with people there and visiting a mosque, where she sat down for a meal and interacted with people there. He further contended that these activities did not reveal any violation of the RP Act or direction issued by the Election Commission of India. He therefore submitted that the Election Petitioner/1st Respondent had not established a *prima facie* case of a corrupt practice under Section 123(3) of the RP Act and that paragraph 12 is liable to be struck out.

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18.With regard to paragraphs 13 and 14, the learned senior counsel submitted that the allegations with regard to a video posted on the applicant's Instagram page on 13.04.2026, depicting a conversation between two farmers about the price of agricultural produce, are created using Artificial Intelligence. He contended that the alleged failure to label the video as "AI generated" did not reveal a violation warranting the declaration of the election as void under Section 100(1)(d)(iv) of the RP Act. He therefore, submitted that paragraphs 13 and 14 were liable to be struck out.

19.The learned senior counsel further referred to the handbook issued to the candidates who participated in the election, particularly Annexure 10, Chapter 4, paragraph 4.11, concerning the Model Code of Conduct for political parties and candidates. Under the heading "General Conduct", the handbook states as follows:

> *"There shall be no appeal to caste or communal feelings for securing votes. Mosques, Churches, Temples or other places of worship shall not be used as a forum for election propaganda"*

By referring to the above, the learned senior counsel submitted that the 1st respondent has failed to state the material facts pertaining to the election campaign of the applicant to substantiate the allegation made against the applicant.

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20.By referring to Document No.1 filed along with the Election Petition, particularly inner page 28, the learned senior counsel submitted that the directions concerning AI generated or synthetic content required political parties, their leaders, candidates and star campaigners to take necessary measures for prominent labelling of such content and to provide appropriate disclaimers wherever synthetic content was used. He vehemently contended that the circulars, letters or directions issued by the Election Commission of India were not sufficient to declare the election void in the absence of the necessary statutory foundation and proof to satisfy the requirements of Section 100 of the RP Act. He therefore submitted that the materials relied upon by the Election Petitioner/1st Respondent were insufficient for striking out paragraphs 6 to 14.

21.Now let us examine the judgment relied upon by the learned senior counsel for the applicant in the case of ***K.M.Mani Vs. P.J.Antony and others*** reported in ***1979 (2) SCC 221*****,** particularly paragraph 23**,** which is extracted hereunder:

> *"23. An allegation regarding the commission of a corrupt practice at an election is a very serious matter not only for the candidate but for the public at large as it relates to the purity of the electoral process. Where therefore the allegation relates to the charge that a candidate obtained the assistance of a police officer for the purpose of addressing a meeting on the eve of the poll and exhorting those present to work for his victory,*

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it is reasonable to expect that, wherever possible, a transcript of his speech shall be made available to the Court in support of the allegation. Besides furnishing the precise material relating to the allegation to the Court, it has the advantage of giving the respondent an opportunity of meeting a precise allegation. But it may be that this may not be possible in a given situation. In that case it will be reasonable and fair to expect that the Election Petitioner/1st Respondent will produce a contemporaneous record of the points that were made in the speech, or at least its substance. But no such record has been made available in this case. Even a gist of what Joseph Thomas said at the meeting, has not been stated in the election petition and the election petitioner has contented himself by making the cryptic statement that Joseph Thomas "addressed this meeting exhorting to work for the victory of the 1st respondent". That may well have been the impression or the opinion of the Election Petitioner/1st Respondent on hearing what others told him about the speech because he was admittedly not present at the meeting. All the same, some other witnesses have been examined about the purport of the speech, and we shall examine what they have stated."

The dictum of the Hon'ble Supreme Court is that when an allegation of corrupt practice is made, there should be a piece of material to establish the allegation which will also enable the returned candidate to get to know about the allegation. By referring to the aforesaid judgment, the learned senior counsel submitted that the Election Petitioner/1st Respondent had not filed the material particulars relating to the allegations or furnished sufficient details against the applicant. He contended that, in the absence of such particulars, the challenged pleadings are liable to be struck out.

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22.He further relied upon the judgment of the Hon'ble Supreme Court in ***Azar Hussain Vs. Rajiv Gandhi*** reported in ***1986 (Supp) Supreme Court Cases 315*** and referred to paragraphs 5, 7, 9, 10, 12 & 14. The relevant portions are extracted hereunder:

> *"**5.** Learned counsel for the appellant has urged four submissions in support of this appeal viz:*
>
> > *"A. Since the Act does not provide for dismissal of an election petition on the ground that material particulars necessary to be supplied in the election petition as enjoined by Section 83 of the Act are not incorporated in the election petition inasmuch as Section 86 of the Act which provides for summary dismissal of the petition does not advert to Section 83 of the Act there is no power in the court trying election petitions to dismiss the petition even in exercise of powers under the Code of Civil Procedure.*
> >
> > *B. Even if the court has the power to dismiss an election petition summarily otherwise than under Section 86 of the Representation of People Act, the power cannot be exercised at the threshold.*
> >
> > *C. In regard to seven grounds of challenge embodied in para 4 of the election petition viz. I, II (i, ii & iii), XIII, XIV and XV the High Court was not justified in dismissing the petition.*
> >
> > *D. Even if the powers under the Code of Civil Procedure can be exercised by the court hearing election petitions worse comes to worst, an election petition may be rejected*

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under Order 7, Rule 11 of the Code of Civil Procedure, but in no case it be dismissed."

...

"7. The argument is that where the legislature wanted to provide for summary dismissal of the election petition, the legislature has spoken on the matter. The intention was to provide for summary dismissal only in case of failure to comply with the requirement of Sections 81, 82 and 117 and not Section 83."

...

"9. The fact that Section 83 does not find a place in Section 86 of the Act does not mean that powers under the CPC cannot be exercised."

"10. There is thus no substance in this point which is already concluded against the appellant in Hardwari Lal v. Kanwal Singh [(1972) 1 SCC 214 : AIR 1972 SC 515 : (1972) 2 SCR 742] wherein this Court has in terms negatived this very plea in the context of the situation that material facts and particulars relating to the corrupt practice alleged by the Election Petitioner/1st Respondent were not incorporated in the election petition as will be evident from the following passage extracted from the judgment of A.N. Ray, J. who spoke for the three-judge Bench: (SCC p. 221, paras 22 and 23)

> *"The allegations in para 16 of the election petition do not amount to any statement of material fact of corrupt practice. It is not stated as to what kind or form of assistance was obtained or procured or attempted to obtain or procure. It is not stated from whom the particular type of assistance was obtained or procured or attempted to obtain or procure. It is not stated in what manner the assistance was for the*

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furtherance of the prospects of the election. The gravamen of the charge of corrupt practice within the meaning of Section 123(7) of the Act is obtaining or procuring or abetting or attempting to obtain or procure any assistance other than the giving of vote. In the absence of any suggestion as to what that assistance was the election petition is lacking in the most vital and essential material fact to furnish a cause of action.

Counsel on behalf of the respondent submitted that an election petition could not be dismissed by reason of want of material facts because Section 86 of the Act conferred power on the High Court to dismiss the election petition which did not comply with the provisions of Section 81, or Section 82 or Section 117 of the Act. It was emphasized that Section 83 did not find place in Section 86. Under Section 87 of the Act every election petition shall be tried by the High Court as nearly as may be in accordance with the procedure applicable under the Code of Civil Procedure, 1908 to the trial of the suits. A suit which does not furnish cause of action can be dismissed."

*"**12.** Learned counsel for the petitioner has next argued that in any event the powers to reject an election petition summarily under the provisions of the Code of Civil Procedure should not be exercised at the threshold. In substance, the argument is that the court must proceed with the trial, record the evidence, and only after the trial of the election petition is concluded that the powers under the Code of Civil Procedure for dealing appropriately with the defective petition which does not disclose cause of action should be exercised.*

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...

The courts in exercise of the powers under the Code of Civil Procedure can also treat any point going to the root of the matter such as one pertaining to jurisdiction or maintainability as a preliminary point and can dismiss a suit without proceeding to record evidence and hear elaborate arguments in the context of such evidence, if the court is satisfied that the action would terminate in view of the merits of the preliminary point of objection.

...

Since the court has the power to act at the threshold the power must be exercised at the threshold itself in case the court is satisfied that it is a fit case for the exercise of such power and that exercise of such powers is warranted under the relevant provisions of law. To wind up the dialogue, to contend that the powers to dismiss or reject an election petition or pass appropriate orders should not be exercised except at the stage of final judgment after recording the evidence even if the facts of the case warrant exercise of such powers, at the threshold, is to contend that the legislature conferred these powers without point or purpose, and we must close our mental eye to the presence of the powers which should be treated as non-existent. The court cannot accede to such a proposition. The submission urged by the learned counsel for the petitioner in this behalf must therefore be firmly repelled."

*"**14.** Before we deal with these grounds seriatim, we consider it appropriate to restate the settled position of law as it emerges from the numerous decisions of this Court which have been cited before us in regard to the question as to what exactly is the content of the expression "material facts and particulars", which the Election*

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Petitioner/1st Respondent shall incorporate in his petition by virtue of Section 83(1) of the Act.

"(1) What are material facts and particulars? Material facts are facts which if established would give the petitioner the relief asked for. The test required to be answered is whether the court could have given a direct verdict in favour of the Election Petitioner/1st Respondent in case the returned candidate had not appeared to oppose the election petition on the basis of the facts pleaded in the petition [Manubhai Nandlal Amorsey v. Popatlal Manilal Joshi(1969) 1 SCC 372 : AIR 1969 SC 734 : (1969) 3 SCR 217] .

(2) In regard to the alleged corrupt practice pertaining to the assistance obtained from a government servant, the following facts are essential to clothe the petition with a cause of action which will call for an answer from the returned candidate and must therefore be pleaded [(1972) 1 SCC 214 : AIR 1972 SC 515 : (1972) 2 SCR 742] : (a) mode of assistance;

(b) measure of assistance; and

(c) all various forms of facts pertaining to the assistance.

...

(5) There must also be a statement in the election petition describing the manner in which the prospects of the election was furthered and the way in which the assistance was rendered [(1972) 1 SCC 214 : AIR 1972 SC 515 : (1972) 2 SCR 742] .

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(6) The Election Petitioner/1st Respondent must state with exactness the time of assistance, the manner of assistance, the persons from whom assistance was obtained or procured, the time and date of the same, all these will have to be set out in the particulars [(1972) 1 SCC 214 : AIR 1972 SC 515 : (1972) 2 SCR 742] ."

By relying upon the aforesaid judgment, the learned senior counsel submitted that the Court has the power to examine the Election Petition at the threshold and to exercise its powers under the Code of Civil Procedure, where the pleadings do not disclose the material facts necessary to constitute a cause of action.

23.The learned senior counsel also pointed out the principles stated in paragraph 14 of the aforesaid judgment with regard to material facts and particulars. He submitted that the Election Petitioner/1st Respondent had failed to plead the material facts necessary to establish the alleged violations and had not furnished sufficient particulars with regard to the manner in which the alleged acts had affected the election.

24.Further, he relied upon the judgment of the Hon'ble Supreme Court in ***Ram Sukh Vs. Dinesh Aggarwal*** reported in ***2009 (10) Supreme Court Cases 541***particularly paragraphs 10 to 15 & 17 to 20, which are extracted hereunder:

"10. Section 83, the pivotal provision for the present case, requires

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that: (a) the election petition must contain a concise statement of "material facts" on which the petitioner relies and (b) he should also set forth "full particulars" of any corrupt practices which the petitioner alleges. Proviso to clause (c) of sub-section (1) of Section 83 also provides that where the petitioner alleges any corrupt practice, the election petition shall also be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice and the particulars thereof. It is plain that the requirement of disclosure of "material facts" and "full particulars" as stipulated in the section is mandatory.

11. Section 86 mandates that where the election petition does not comply with the provisions of Section 81 or Section 82 or Section 117 of the Act, the High Court should dismiss the election petition. Section 87 which lays down the procedure required to be followed by the High Court while trying an election petition, requires that every election petition shall be tried, as nearly as may be, in accordance with the procedure applicable under the Code to the trial of the suits, subject of course to the provisions of the Act and of any requirement made thereunder.

12. It is evident that the controversy in this appeal lies in a narrow compass. It revolves around the ambit of Section 83 of the Act. The point for consideration is whether the election petition lacked "material facts" required to be stated in the election petition in terms of Section 83(1) of the Act and if so, could it be dismissed summarily without trial? As already noted, it is mandatory that all "material facts" are set out in an election petition and it is also trite that if material facts are not stated in the petition, the same is liable to be dismissed on that ground alone. Therefore, the question is as to whether the Election Petitioner/1st Respondent

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had set out "material facts" in his petition?

13. The phrase "material facts" has neither been defined in the Act nor in the Code and, therefore, it has been understood by the courts in general terms to mean the entire bundle of facts which would constitute a complete cause of action. In other words, "material facts" are facts upon which the plaintiff's cause of action or the defendant's defence depends. (See Mahadeorao Sukaji Shivankar v. Ramaratan Bapu [(2004) 7 SCC 181] .) Broadly speaking, all primary or basic facts which are necessary either to prove the cause of action by the plaintiff or defence by the defendant are "material facts". Material facts are facts which, if established, would give the petitioner the relief asked for. But again, what could be said to be material facts would depend upon the facts of each case and no rule of universal application can be laid down.

14. The requirement in an election petition as to the statement of material facts and the consequences of lack of such disclosure with reference to Sections 81, 83 and 86 of the Act came up for consideration before a three-Judge Bench of this Court in Samant N. Balkrishna v. George Fernandez [(1969) 3 SCC 238] . Speaking for the three-Judge Bench, M. Hidayatullah, C.J., inter alia, laid down that:

(i) Section 83 of the Act is mandatory and requires first a concise statement of material facts and then the fullest possible particulars;

(ii) omission of even a single material fact leads to an incomplete cause of action and statement of claim becomes bad;

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(iii) the function of particulars is to present in full a picture of the cause of action and to make the opposite party understand the case he will have to meet;

(iv) material facts and particulars are distinct matters— material facts will mention statements of fact and particulars will set out the names of persons with date, time and place; and

(v) in stating the material facts it will not do merely to quote the words of the section because then the efficacy of the material facts will be lost.

15. At this juncture, in order to appreciate the real object and purport of the phrase "material facts", particularly with reference to election law, it would be appropriate to notice the distinction between the phrases "material facts" as appearing in clause (a) and "particulars" as appearing in clause (b) of sub-section (1) of Section 83. As stated above, "material facts" are primary or basic facts which have to be pleaded by the petitioner to prove his cause of action and by the defendant to prove his defence. "Particulars", on the other hand, are details in support of the material facts, pleaded by the parties. They amplify, refine and embellish material facts by giving distinctive touch to the basic contours of a picture already drawn so as to make it full, more clear and more informative. Unlike "material facts" which provide the basic foundation on which the entire edifice of the election petition is built, "particulars" are to be stated to ensure that the opposite party is not taken by surprise."

...

17. Now, before examining the rival submissions in the light of the afore stated legal position, it would be expedient to deal with another submission of the learned counsel for the appellant that

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the High Court should not have exercised its power either under Order 6 Rule 16 or Order 7 Rule 11 of the Code to reject the election petition at the threshold. The argument is twofold viz.:

(i) that even if the election petition was liable to be dismissed ultimately, it should have been dismissed only after affording an opportunity to the Election Petitioner/1st Respondent to adduce evidence in support of his allegation in the petition, and

(ii) since Section 83 does not find a place in Section 86 of the Act, rejection of the petition at the threshold would amount to reading into sub-section (1) of Section 86 an additional ground.

In our opinion, both the contentions are misconceived and untenable.

18. Undoubtedly, by virtue of Section 87 of the Act, the provisions of the Code apply to the trial of an election petition and, therefore, in the absence of anything to the contrary in the Act, the court trying an election petition can act in exercise of its power under the Code, including Order 6 Rule 16 and Order 7 Rule 11 of the Code. The object of both the provisions is to ensure that meaningless litigation, which is otherwise bound to prove abortive, should not be permitted to occupy the judicial time of the courts. If that is so in matters pertaining to ordinary civil litigation, it must apply with greater vigour in election matters where the pendency of an election petition is likely to inhibit the elected representative of the people in the discharge of his public duties for

19. Coming to the second limb of the argument viz. absence of Section 83 in Section 86 of the Act, which specifically provides for

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dismissal of an election petition which does not comply with certain provisions of the Act, in our view, the issue is no longer res integra. A similar plea was negatived by a three-Judge Bench of this Court in Hardwari Lal v. Kanwal Singh [(1972) 1 SCC 214] , wherein speaking for the Bench, A.N. Ray, J. (as His Lordship then was) said: (SCC p. 221, para 23)

> *"23. Counsel on behalf of the respondent submitted that an election petition could not be dismissed by reason of want of material facts because Section 86 of the Act conferred power on the High Court to dismiss the election petition which did not comply with the provisions of Section 81, or Section 82 or Section 117 of the Act. It was emphasised that Section 83 did not find place in Section 86. Under Section 87 of the Act every election petition shall be tried by the High Court as nearly as may be in accordance with the procedure applicable under the Code of Civil Procedure, 1908, to the trial of suits. A suit which does not furnish cause of action can be dismissed."*

which the electorate have reposed confidence in him. The submission, therefore, must fail.

20. The issue was again dealt with by this Court in Azhar Hussain v. Rajiv Gandhi [1986 Supp SCC 315] . Referring to earlier pronouncements of this Court in Samant N. Balkrishna [(1969) 3 SCC 238] and Udhav Singh v. Madhav Rao Scindia [(1977) 1 SCC 511] wherein it was observed that the omission of a single material fact would lead to incomplete cause of action and that an election petition without the material facts is not an election petition at all, the Bench in Azhar Hussain case [1986 Supp SCC 315] held that all the facts which are essential to clothe the petition with complete cause of action must be pleaded and omission of even a single material fact would amount to disobedience of the mandate of

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Section 83(1)(a) of the Act and an election petition can be and must be dismissed if it suffers from any such vice.

...

23. There is no quarrel with the proposition that the instructions contained in the Handbook for the Returning Officers are issued by the Election Commission in exercise of its statutory functions and are, therefore, binding on the Returning Officers. They are obliged to follow them in letter and spirit. But the question for consideration is whether the afore-extracted paragraphs of the election petition disclose material facts so as to constitute a complete cause of action. In other words, the question is whether the alleged omission on the part of the Returning Officer ipso facto "materially affected" the election result. It goes without saying that the averments in the said two paragraphs are to be read in conjunction with the preceding paragraphs in the election petition. What is stated in the preceding paragraphs, as can be noticed from Grounds (i) and (ii) reproduced above, is that by the time specimen signature of the polling agent was circulated 80% of the polling was over and because of the absence of the polling agent the voters got confused and voted in favour of the first respondent. In our opinion, to say the least, the pleading is vague and does not spell out as to how the election results were materially affected because of these two factors. These facts fall short of being "material facts" as contemplated in Section 83(1)(a) of the Act to constitute a complete cause of action in relation to the allegation under Section 100(1)(d)(iv) of the Act. It is not the case of the Election Petitioner/1st Respondent that in the absence of his election agent there was some malpractice at the polling stations during the polling."

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25.The learned senior counsel referred to the above judgment and pointed out that the Hon'ble Supreme Court has categorically held that all the facts which are essential to the election petition with the complete cause of action must be pleaded and the omission of even a single material fact would amount to violation of Section 83(1)(a) of the Act and the Election Petition can be and must be dismissed if it suffers from any such violation.

26.The learned senior counsel further submitted that the Election Petitioner/1st Respondent had not stated the material facts necessary to establish the alleged violations or demonstrated how the alleged acts affected the election result. He therefore prayed that the application be allowed and paragraphs 6 to 14 of the Election Petition be struck out.

27.Per contra, Mr.Richardson Wilson, learned counsel for the 1st respondent in O.A.No.859 of 2026, made the following submissions:

28.He submitted that the judgments relied upon by the applicant pertain to Order VII Rule 11 CPC for rejection of a plaint or election petition, whereas the present application had been filed under Order VI Rule 16 CPC for striking out particular pleadings. He contended that the two provisions operate in different contexts and that the applicability of the judgments relied upon by the learned senior counsel had to be examined in the light of the nature of present

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application. The learned counsel referred to Order VI Rule 16, which is extracted hereunder:

> *"**16. Striking out pleadings** – 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 Court."*

29.The learned counsel submitted that the Court must examine whether the challenged pleadings fall within any of the categories specified in Order VI Rule 16 CPC. By referring to *The Major Law Lexicon* by P.Ramanatha Aiyar, Volume VI, he described the meanings of "unnecessary", "vexatious" and "scandalous". The same are extracted hereunder:

> *"**Unnecessary**. Not required under certain circumstances.*
> *Not necessary. (S.56, Cr.P.C 1973 (2 of 1974)"*
>
> *"**Vexatious**. includes false (1904 AWN 116: 1 ALJ 450 : 25 All 512) An accusation cannot be said to be vaxatious unless the main intention of the complainant was to cause annoyance to the person accused, and not merely to further the ends of justice. (11 SLR 55 appr.:AIR 1926 Lah.365) Causing or likely to cause vaxation. [S.35A, CPC (5 of 1908)]"*
>
> *"**Vexatious suit**. Litigation for the purpose of harassing, annoying and vexing an opponent, rather than for the adjudication of rights, being invoked, not for the attainment of justice, but to further or satisfy a*

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malicious motive. (Ballentine's Law Dictionary, 3rd Edn.)"

*"**Scandalous**. Of the nature of a scandal, containing defamatory information. [S.151, Indian Evidence Act (1 of 18872)]*

Facts not material to the decision are impertinent, and if reproachful, are scandalous.

The term "Scandalous", as applied to the pleading of scandalous matter, cannot be applied to any matter which is not also impertinent and unnecessary.

Passages in plaint attributing a de facto position to defendant in the administration of State and alleging exploitation of that position by her are not only unnecessary for a proper adjudication but also amount to 'scandalous'. [Gomathi Ammal v. H.H.Srimodam Thirunai, AIR 1953 Tran Co.524]

In the context of this case the word 'scandalous' means the misuse of the privilege of legal process in order to vilify others and giving of gratuitous insult to the Court in the course of such process. It is inappropriate to give the word 'scandalous' a colloquial meaning such as 'shocking' [Bennett v. South Work LBC. (2002) EWCA Civ 223]

A pleading is said to be ''scandalous', if it alleges anything unbecoming the dignity of the Court to hear, or is contrary to good manners, or which charges a crime immaterial to the issue. But the statement of a scandalous fact that is material to the issue is not a scandalous pleading [Millington v. Loring, 50 LJ QB 214:6QBD 190]"

30.He contended that a plain reading of the Election Petition reveals that the allegations had been pleaded with sufficient particulars and did not fall within any of the categories specified in Order VI Rule 16 CPC. He therefore

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submitted that the challenged paragraphs should not be struck out.

31.The learned counsel further referred to Sections 83, 100(1)(b) and 100(1)(d)(ii) and (iv) of the RP Act, the same are extracted hereunder.

"83. Contents of petition.

(1) An election petition

(a) shall contain a concise statement of the material facts on which the petitioner relies;

(b) shall set forth full particulars of any corrupt practice that the petitioner alleges, including as full a statement 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; and

(c) shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (5 of 1908) for the verification of pleadings: 6 [Provided that where the petitioner alleges any corrupt practice, the petition shall also be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice and the particulars thereof.] (2) Any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition].

...

100. Grounds for declaring election to be void.

[(1) Subject to the provisions of sub-section (2) if 2 [the High court] is of opinion

(a) that on the date of his election a returned candidate was not qualified, or was disqualified, to be chosen to fill the seat under the Constitution or this Act [or the Government of Union Territories Act,

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1963 (20 of 1963)]; or

(b) that any corrupt practice has been committed by a returned candidate or his election agent or by any other person with the consent of a returned candidate or his election agent; or

(c) that any nomination has been improperly rejected; or

(d) that the result of the election, in so far as it concerns a returned candidate, has been materially affected

(i) by the improper acceptance or any nomination, or

(ii) by any corrupt practice committed in the interests of the returned candidate 6 [by an agent other than his election agent], or

(iii) by the improper reception, refusal or rejection of any vote or the reception of any vote which is void, or

(iv) by any non-compliance with the provisions of the Constitution or of this Act or of any rules or orders made under this Act, [the High Court] shall declare the election of the returned candidate to be void.] ”

32.He submitted that Section 83(1)(a) requires the Election Petition to contain a concise statement of the material facts and Section 83(1)(b) requires full particulars of any corrupt practice and the names of the persons alleged to have committed such practice and the date and place of its commission.

33.According to the learned counsel, the Election Petitioner/1st Respondent had furnished the material facts and particulars available with him and supporting documents are also filed along with the Election Petition vide

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Doc Nos.1 to 15. He therefore contended that the requirements of Section 83 had been satisfied and that the pleadings are not liable to be struck out merely because the applicant disputed the allegations.

34.With regard to Section 100(1)(d)(iv) of the RP Act, the learned counsel submitted that an election may be declared void when the result has been materially affected by non-compliance with the provisions of the Constitution, the RP Act, or any rules or Orders made thereunder. He contended that the allegations in the Election Petition with regard to the use of children in campaigning, campaigning at places of worship and the failure to label AI generated content had to be considered in the light of the relevant provisions and directions of the Election Commission of India.

35.The learned counsel further submitted that the allegations with regard to campaigning at religious places, including the appeal for votes inside a church, had been supported by photographs and videos, which were filed along with the Election Petition. According to him, these materials raised questions on the nature and purpose of the campaigning and the applicability of the relevant provisions of the RP Act and the Model Code of Conduct.

36.He pointed out that in Form 26, in column 6(a), in Note 7, the form says as follows:

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"(7) That I give herein below the details of the assets (movable and immovable etc.) of myself, my spouse and all dependents:

A. Details of movable assets:

Note: 1.Assets in joint name indicating the extent of joint ownership will also have to be given.

Note:2. In case of deposit/Investment, the details including Serial Number, Amount, date of deposit, the scheme, Name of Bank/Institution and Branch are to be given.

Note:3. Value of Bonds/Share Debentures as per current market value in Stock Exchange in respect of listed companies and as per books in case of non-listed companies should be given.

Note:4. Dependent' means parents, son(s), daughter(s) of the candidate or spouse and any other person related to the candidate whether by blood or marriage, who have no separate means of income and who are dependent on the candidate for their livelihood.

Note:5. Details including amount is to be given separately in respect of each investment Note:6. Details should include the interest in or ownership of offshore assets."

37.He further pointed out that in tabular column ii, Details of deposit in Bank accounts (FDRs. Term Deposits and all other types of deposits including saving accounts), Deposits with Financial Institutions, Non-Banking Financial Companies and Cooperative societies and the amount in each such deposit have

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to be stated. Similarly, in column iv, in the very same tabulation, the details of jewellery, bullion and valuable thing(s) (weight and value) have to be given.

38.He further referred to column 7(B)(iii), where details should include the interest in or ownership of offshore assets. He referred to 8(ii) and (iv) where dues to departments dealing with Government accommodation and income tax dues respectively have to be given.

39.The learned counsel submitted that the applicant has not disclosed the shareholdings in various companies as stated in the Election Petition, those companies are reflected in the very same paragraph and in the counter filed in O.A.No.859 of 2026 by the 1st respondent. In Form 26, the applicant has not furnished the details of the shares. As far as Annexure C of Form 26, is concerned which is in respect of the directorship, it is a specific claim of the applicant that all the details have been annexed in Annexure C in Form 26, however the 1st respondent contended that the applicant has not disclosed the shares in the said companies which is available in the master company data found on the website of the Ministry of Corporate Affairs, Government of India.

40.He further contended that the Election Petition should be construed as a claim which speaks only of the facts and not the evidence. The evidence has to be adduced at the stage of trial and therefore, non-disclosure or non-mentioning

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of any evidence in the petition will not affect the case of the Election Petitioner/1st Respondent, as he has narrated all the details with regard to the commission of the alleged offence in the Election Petition and the particulars were also disclosed in the Election Petition, and therefore, the said paragraphs in the Election Petition should not be struck out. He lamented that particulars of certain search and seizure actions conducted by the Income tax department in the applicant's office premises were suppressed by the applicant and therefore, all the required details are given in paragraphs 6, 7, 8, 9, and 12 of the election petition.

41.The learned counsel pointed out that there is no law requiring how a plaint or Election Petition could be presented. The basic requirements to make out the case in the plaint or Election Petition are sufficient to present a case. The petitioner has narrated all the facts and the evidence in the Election Petition from paragraphs 4 to 14. Therefore, the contention raised by the applicant with regard to non-disclosure of material particulars will not affect the case of the 1st respondent herein, as the entire facts coupled with the documents along with the evidence have been annexed as document Nos.1 to 15. These are the matters which are to be adjudicated at the time of trial and whatever objection which has been raised by the applicant herein has to be raised during the trial and after conclusion of the trial and not at the present stage.

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42.He further relied upon the order passed in W.P.No.15500 of 2024 & batch cases, where the applicant was the petitioner in W.P.No.15524 of 2024. The finding by the High Court in paragraph 1, 3, 6, 8, 10, 11, 14, 15 and 16 has become final, as there was no appeal filed against the order passed in the writ petition. The relevant portions are extracted hereunder:

> *"8. The issues that arise for consideration are as follows:~*
>
> *(1) whether the respondents have sufficient material for transfer of the case from Coimbatore to Central Circle, Kolkata? and (2) whether the respondents have provided an opportunity for filing a reply and for personal hearing? have to be decided.*
>
> *9. As far as the first issue is concerned, the petitioners-are having registered office at Coimbatore. According to the petitioners, they have not carried out any business of lottery in Tamil Nadu and of course, the Lottery business is prohibited in Tamil Nadu. But, upon the search and seizure conducted by the respondents, they found some incriminating materials which are all connected to the petitioners and would directly affect the assessment of the petitioners and under these circumstances, they have no objection to centralise the case of the petitioners, in Central Circle, Coimbatore, instead of Central Circle, Kolkata. In this regard, a detailed show cause notice was issued. The contents of the show cause notice read as follows:~*
>
> *"A search and Seizure action was carried out u/s 132 of the Income Tax Act, 1961, in your case on 12.10.2023 by Authorized Office under the control of the Principal Director of Income Tax (Investigation), Kolkata. In this regard, a proposal to centralize*

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your Income Tax file has been received in this office. Your proceedings under the Income Tax Act, 1961, is proposed to be centralized in any of Central Circle in Kolkata for the following reason:

(a) As a result of the said search action a number of incriminating documents were seized. The documents are inter~connected and affect your assessment. It is necessary to see their effect together on the assessments. It can only be done after analyzing and investigating the documents found at different places together. As documents have been seized at different places, it is necessary that all the cases should be considered together at one place so that harmonious and co~ordinated investigation be undertaken to arrive at just assessment.

Since this transfer of your case would involve change of station/City of the Assessment Office, you are hereby given an opportunity to file your objections to the proposed transfer, if any, with reasons and documentary evidences.

Your objections if any should reach this office either by Email (Coimbatore.pcit1@incometax.gov.in) or letter to the Principal Commissioner of Income Tax~1, 63, Race Course Road, Coimbatore on or before 02.01.2024. Alternatively, if required you can appeal in person or through any Authorized representative to file/ submit any objection to the proposed centralization by 02.01.2024.

In case of no objections/ response is filed by you till the given date viz. 02.01.2024, it will be construed that you don-t have any objection for the proposed transfer of your case to Central Circle, Kolkata and your case will be transferred to Central Circle, Kolkata.

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10. A perusal of the said show cause notice reflects that a search and seizure action was carried out under Section 132 of the Income Tax Act, on 12.10.2023 by Authorized Officer under the control of the Principal Director of Income Tax (Investigation), Kolkata. As a result of the said search and seizure in Kolkata Office, the respondents found many incriminating documents and they have come to a conclusion that the petitioners were involved in this act. Therefore, it will directly affect the assessment of the petitioners. Under these circumstances, they have issued the show cause notice and in the said show cause notice, the petitioners are requested to file a reply on or before 02.01.2024 and further, the petitioners are provided an opportunity of personal hearing on 02.01.2024. The petitioners have filed their replies on 27.12.2023 and 28.12.2023 respectively. Therefore, as contended by the learned Senior Standing Counsel, the respondents have provided the opportunity of personal hearing, but, the petitioners have failed to participate in the personal hearing.

11. The reply filed by the petitioner in W.P.No.15500 of 2024 reads as follows:~

Date : 28.12.2023

To
The Principal Commissioner of Income Tax,
Coimbatore ~ 1,
63, Race Course Road,
Coimbatore 1, Tamil Nadu ~ 641 018.

Respected Sir,

Ref: PAN: ACTFS4390L / Our Own case.
Sub: Your Notice u/s.127 with DIN & Notice No.ITBA/COM/F/17/2023~24/1059045634(1)

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dt.26.12.2023.

*****

With reference to your above notice, we wish to know the finding to our case in connection with the search in the case of Lottery Group. We are of the view that there is no finding in our case warranting centralisation of our file (PAN: ACTFS4390L).

Further, our registered office is located in Coimbatore, Tamil Nadu, it is not possible for us to travel to Kolkata to present our case before the authorities there. It will also be very expensive for us to travel or hire a local lawyer to defend our case. The authorities in Coimbatore are well competent enough to undertake the assessment proceedings in our case which they have already been doing over the years.

We, therefore, reiterate that centralization of our case at Kolkata shall devoid our right to fair and natural justice and therefore we request you not to transfer our file to Kolkata. If centralization of cases is required, we have no objection in having the case centralised with Central Circle, Coimbatore.

12. The reply filed by the petitioner in W.P.No.15524 of 2024 reads as follows:~

Date: 27.12.2023

To
The Principal Commissioner of Income Tax~1,
63, Race Course Road,
Coimbatore ~ 641 018.

Respected Sir,

Ref: PAN: ABAPL5087F / My Own case.
Sub: Your Notice u/s.127 with DIN & Notice

No.ITBA/COM/F/17/2023~24/1059046332(1) dt.26.12.2023 received on 26.12.2023 ~ Reply filed.

*****

With reference to your above notice, we wish to know the finding in my case in connection with the search in

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the case of Lottery Group. I am of the view that there is no finding in my case warranting centralisation of my file (PAN: ABAPL5087F).

Even, if there is any finding warranting centralization of my file, I object to the proposal of centralization to Central Circle, Kolkata. I am settled with my family in Coimbatore for over 40 years. Therefore, if there is a necessity to centralize my case, I request you to centralise it in Central Circle, Coimbatore.

13. The reply filed by the petitioner in W.P.No.15526 of 2024 reads as follows:~

28 December 2023

To
The Principal Commissioner of Income Tax,
Coimbatore ~ 1.

Respected Sir,

Sub: Objection to the centralization of my case and change of jurisdiction ~ PAN: ASPPD7342F
Ref: Your Notice DIN.ITBA/COM/F/17/2023~ 24/1059046383(1) dt.26.12.2023.

*****

At the outset, I strongly object to the proposal of centralization of my file and change of my income tax assessment jurisdiction from Range 61, Corporate Circle 1, Coimbatore to the jurisdiction of any Central Circle in Kolkata, for the following reasons

i. It is stated in the above referred letter that a number of incriminating documents were seized. However, it may please be noted the neither document listed and recorded after the search prima facie did not have any incriminating documents as claimed by you there was any specific averment or any sustainable reasons, as to what are those incriminating documents which needs to be corroborated with my assessment and connect with any other proceedings.

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Hence, the statement made by you was purely on the basis of speculation connecting the undersigned with any other proceedings, and not based on any factual finding. The said reason stated will not validate the change of centralization of my files.

ii. Ever since I obtained the PAN, my assessments were carried out in Coimbatore jurisdiction and there was no difficulty faced in my assessments. Rather I was assured of a fair assessment till date. Further, my assessments conducted in the present jurisdiction has nowhere caused any prejudicial interest to the revenue.

iii. Most of my personal business activities are in Tamil Nadu and my books of accounts are being maintained only in Tamil Nadu. I have made the said arrangement for operational and administrative convenience.

iv. My permanent establishment is in Chennai and Coimbatore. Hence, I will not be able to travel back and forth to Kolkata as it would affect both my personal and official commitments. Hence, it is needless to say that the centralization to Kolkata will cause under hardship and inconvenience to the undersigned.

v. Hence, for the reasons explained above, it would be only a righteous arrangement that my jurisdiction is retained/continued in Coimbatore and if at all for any valid reason if the centralization is essential, I might agree for centralization of my files in Central Circle, Chennai.

14. A perusal of the above replies filed by the petitioners, the petitioners expressed their personal difficulties citing the age factor, costs of litigation as well as they are having the registered office at Coimbatore and the availability of documents at Coimbatore, etc. Therefore, they made an objection for transferring the case to Central Circle, Kolkata.

15. The petitioners are having their registered office at Coimbatore, but, they have a place of business directly or indirectly

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at Kolkata. Therefore, these are all the facts that have been known upon search and seizure conducted on 12.10.2023 by the Kolkata Circle. Only the Kolkata Office Circle had seized some incriminating materials, which were directly linking the involvement of the petitioners into the business of Lotteries, which was carried out within the jurisdiction of Kolkata Office Circle. Therefore, they have requested the Coimbatore Office Circle to transfer the cases to Kolkata. Thereafter, the show cause notice was issued and a reply was also filed. Taking into consideration of all these aspects and non appearance of the petitioners for the personal hearing held on 02.01.2024, the Notification dated 25.04.2024 was issued, wherein it is stated that the case falls under the category of either 133A or 153A / 153C of the Income Tax Act having impounded materials or under FATCA / Benami or Black Money Act.

16. As all the materials have been collected in Kolkata Office, the respondents, taking into consideration of the replies filed by the petitioners, have decided to transfer the petitioners- case to Central Circle, Kolkata. Of course, in the present case, since the incriminating materials were found by the Kolkata Office against the petitioners, connected with the search conducted with regard to Lottery business, it was closely linked with the assessment of the petitioners.

17. I do not find any material to show that the respondents failed either to provide an opportunity of personal hearing or sufficient materials to transfer the case from Coimbatore to Central Circle, Kolkata. Even if it is so, it will not alter in anyway the final decisions to transfer the cases to Calcutta Circle and it would not affect in any manner. Accordingly, Issue Nos. 1 and 2 answered.

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18. Thus, this Court is of the opinion that if any search was conducted based on the place of business of an Assessee, though the Registered Office is situated at different place, it will be appropriate to make the assessment through the Circle, where the incriminating materials have been seized based on the place of business of the Assesee, irrespective of situation of registered office. This is what happened in the present case. Further, Section 127 also empowers under the circumstances of these nature, for transfer of cases from one place to other place. If the contention of the petitioner is accepted and allowed, the Coimbatore jurisdictional Officer will be directed to proceed with the assessment and it will be difficult for those officers to complete the assessment, since they neither have any material nor have any place of business within their jurisdiction. Hence, it would be appropriate to transfer the cases in the present matter, since the Kolkata Circle Officer have traced out and seized some incriminating material with regard to the involvement of the petitioner in the Lottery business for the evasion of taxes within their jurisdiction. Therefore, the respondent has rightly transferred the cases from Coimbatore jurisdiction to Kolkatta jurisdiction. Hence, I do not find any reasons to interfere with the notification dated 25.04.2024. In such case, the present writ petitions are liable to be dismissed.

19. I do not find any prejudice would be caused due to the present notification because no adverse order was passed except the transfer of the petitioners- case by the respondents from Coimbatore to Central Circle, Kolkata, and no show cause notice was issued for the purpose of making any assessment, whereby to affect the petitioners- interest.

20. The learned counsel had also raised an issue with regard

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to the delay in receipt of the notification by stating that the petitioner has only received the said notification around 20.05.2024, whereas the notification was originally issued on 25.04.2024. Consequent to the said Notification, no further actions have been taken till 20.05.2024, even as on today. Therefore, the interest of the petitioners is in no way get affected due to the delay in receipt of the information pertaining to the issue of Notification dated 25.04.2024.

21. Since the case laws referred by the petitioner will not be applicable for the facts and circumstances of the present case, the same were not considered by this Court.

22. Therefore, I do not find any merit in these Writ Petitions and they are dismissed. There shall be no order as to costs. Consequently, the connected Miscellaneous Petitions are closed."

43.The learned counsel submitted that the order copy of the writ petition mentioned above was annexed along with the Election Petition. However, the applicant raised an objection stating that though the 1st respondent relies upon the said order, the copy of the same was not annexed with the election petition. As per Article 215, the judgment is a court record and therefore, the materials that are available as a court record need not be produced as a document to establish the case of the Election Petitioner. As it is a court record, which can be sought or clarified by referring the public documents, the argument that the 1st respondent in the application has not produced the entire set will not defeat the case of the Election Petitioner/1st respondent.

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44.With regard to the allegation of campaigning at places of worship, the learned counsel submitted that Document No.15, which contains a photograph and File No. 4 and Document No.13, which contains a video, were relied upon to support the said allegation. He further contended that the materials had to be considered in a proper context and that the applicant's explanation with regard to the visits to the church, temple and mosque did not justify striking out the relevant pleading at this stage.

45.With regard to the usage of AI generated videos, the learned counsel for the Election Petitioner/1st Respondent had referred to the relevant press note of the Election Commission of India and submitted that the video had been published without the appropriate label or disclaimer. He further submitted that the Election Commission is empowered under Article 324 to pass appropriate orders. He further contended that the nature of the video and the effect of the non-compliance requires examination in the light of the pleadings and the relevant documents.

46.The learned counsel therefore submitted that the Election Petition contained the material facts and particulars necessary to raise the allegations pleaded therein. He further contended that the questions raised by the applicant involved disputed matters that should be examined in accordance with law and

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that the application under Order VI Rule 16 CPC was liable to be dismissed.

47.The learned counsel for the 1st respondent relied upon the following judgments in support of his contention:

1. ***Abdul Razak V.Mangesh Rajaram Wagle*** reported in ***(2010) 2 SCC 432***

2.***Sathi Vijay Kumar Vs. Tota Singh & Ors*** reported in ***(2006) 13 SCC 353***

3.***Virendra Nath Gautham Vs. Satpal Singh*** reported in ***(2007) 3 SCC 617***

4.***Roop Lal Sathi Vs. Nacchattar Singh Gill*** reported in ***(1982) 3 SCC 487***

5.***R.Sundarraj Vs. Dr.K.Krishnasamy*** reported in ***(2017) SCC OnLine Mad 1977***

6.***Arikala Narasa Reddy V.Venkataram Reddy*** reported in ***(2014) 5 SCC 315(1)***

7.***Subramaniam Balaji V. State of Tamil Nadu*** reported in ***(2013) 9 SCC 659***

8.***Mairembam Prithviraj Alias Prithviraj Singh Vs. PukhremSharatchandra Singh*** reported in ***(2017) 2 SCC 487***

9.***Resurgence India Vs. Election Commission of India Vs. 2013*** reported in ***SCC OnLine SC 841***

10.***Kisan Shankar Kathore Vs. Arun Dattatray Sawant*** reported in ***2014 SCC OnLine SC 447***

11.***People's Union of Civil Liberties Vs. Union of India*** reported in ***2003 SCC OnLine SC 394***

12.***P.Milany Vs. S.Arumugam and Ors*** in ***ELP No.4 of 2019***

13.***Union of India Vs. Association for Democratic Reforms and another*** reported in ***(2002) 5 SCC 294***

14.***Madiraju Venkata Ramana Raju Vs. Peddireddigadi Ramachandra Reddy*** reported in ***2018 SCC OnLine SC 258***.

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48.The learned counsel for the 1st respondent, heavily relied upon the above judgments of the Hon'ble Supreme Court, more specifically, the following observations:

> *"If the right to information is to be meaningful and if it is to serve its avowed purpose, I am of the considered view that the candidate entering the electoral contest should be required to disclose the assets and liabilities (barring articles of household use). A Member of Parliament or State Legislature is an elected representative occupying high public office and at the same time, he is a "public servant" within the meaning of the Prevention of Corruption Act as ruled by this Court in the case of P.V. Narasimha Rao v. State reported in (1992) 3 SCC 637".*

The Supreme Court has lamented the judgment in the case of *Assn. for Democratic Reforms case* as a benchmark judgment, wherein the Supreme Court has time and again repeated that the voter/electorate has to be informed with regard to all the details about the person, who is contesting the election.

49.Now, let us examine the contentions raised by the applicant with regard to striking out of paragraphs 6 to 14 of the Election Petition. For the sake of convenience, let us examine the same by way of a tabular column:

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Para No.	Pleadings in the Election Petition	Applicant's grounds for striking out	1st Respondent/Election Petitioner/1st Respondent's counter
6	It is submitted that the 1strespondent has wilfully suppressed her shares and directorship in seven (7) companies in her Form 26 affidavit filed along with her nomination form. In her Form 26 affidavit, in the table in para 7, column (iii) deals with details of shares. The 1st Respondent has filled up "Annexure C attached" in this column. A perusal of the said Annexure C filed along with the Form 26 affidavit shows that she has declared shares and directorship in 181 companies. However, as per information publicly available in the Company Master Data operated by the Ministry of Corporate Affairs, Government of India, the 1st Respondent is a Director and shareholder in the following companies: i. Martin Farms Private Limited; ii. Modern & Creative Constructor and Distributor Private Limited;	Paragraph 6: "I respectfully submit that the allegations raised in paragraphs 6 and 7 are vague and cannot by any stretch of imagination be considered a violation under the provisions of the Representation of People Act, 1951 and its allied rules." Paragraph 7: "A bare perusal of the aforesaid text in Form 26 would necessarily indicate the fact that there is no mandate/requirement for a candidate to mention the directorship she holds in any company. The only requirement in Form 26 is for the candidate to mention the details of investment that they have made in any bond, debenture/ shares and units in companies, mutual funds and other akin institutions, which has been done." Paragraph 8: "It is not the case of the 1st Respondent herein that I have not placed	Paragraph 5: "I submit that with reference to Paras 3 to 10 of the Applicant's Affidavit, I deny the same as false. I have made a specific allegation that in the Applicant's Form 26 affidavit dated 4.04.2026, in the table at Para 7 thereof, column (iii) dealing with "details of shares," the Applicant furnished details as "Annexure C attached" in which she has disclosed shares and directorship in 181 companies. I state that the requirement in the Form-26 is that the candidate should disclose all movable assets and the "value of bonds/ shares, debentures as per current market value" should be given. The specific complaint of this Respondent is that the Applicant wilfully suppressed her shares and directorship in the following seven companies, namely"

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Para No.	Pleadings in the Election Petition		Applicant's grounds for striking out		1st Respondent/Election Petitioner/1st Respondent's counter
	iii. LMS Builders and Engineers Private Limited; iv. Martin Housing Private Limited v. Martin Landscape Private Limited vi. Hall Marc Hospitality Private Limited vii. Dominant Villas and Agencies Private Limited		on record details of the particulars that are required in table 7 column 3 of my Form 26 Affidavit, since I have attached annexures containing details of the particulars that are required in Table 7 column 3. The allegation that I have veiled the particulars pertaining to the directorships in the companies is without any substance and is obviously frivolous. It is obvious to state that when the law does not require a particular thing to be done, the same cannot be held against an individual. If there was any bone in the contention of the 1st Respondent herein, he ought to have been in a position to give particulars of the shares that I hold in each of the 7 (seven) companies that he has mentioned herein. I state that no such material particulars have been given and no documents have been		The counter then enumerates the same seven companies listed in paragraph 6 of the Election Petition. "as verified from the Company Master Data maintained by the Ministry of Corporate Affairs, Government of India, true screenshots whereof are filed as Doc. Nos. 6 to 12 along with the Election Petition. If the stand of the Applicant is that she holds no shares in these companies or is not a director in these companies, the same is a matter for trial. The pleadings cannot be struck off at this stage." Paragraph 4: "I humbly state that suppression of shares or directorship in a company is a material suppression and constitutes a violation of Sections 33 and 33A of the Representation of the People Act, 1951 and

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Para No.	Pleadings in the Election Petition		Applicant's grounds for striking out		1st Respondent/Election Petitioner/1st Respondent's counter
			filed in support of the said vague allegation" *Paragraph 9:* *"The absence of the aforesaid particulars is in direct violation of Section 83 of the Representation of People Act, 1951 which requires the pleadings to contain a concise statement of the material facts and not just mere speculative allegations that could be used as a weapon to harm the reputation of the successful candidate. A mere statement with stray sentences cannot be said to fall within the contours of Section 83 of the Representation of People Act, 1951."*		*Rule 4-A of the Conduct of Election Rules, 1961 and is a ground to set aside the election of the Applicant."*
7	*It is submitted that the screenshots of the Master Company Data found on the website of the Ministry of Corporate Affairs, Government of India is filed along with this election petition and may be treated as part and parcel of this election petition. The 1st Respondent has wilfully*		*Paragraph 7:* *"A bare perusal of the aforesaid text in Form 26 would necessarily indicate the fact that there is no mandate/requirement for a candidate to mention the directorship she holds in any company."* *Paragraph 8:* *"The allegation that I*		*Paragraph 5 sets out the Petitioner's denial and reliance on the Company Master Data and documents 6 to 12, concluding:* *"If the stand of the Applicant is that she holds no shares in these companies or is not a director in these companies, the same is a matter for trial.*

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Para No.	Pleadings in the Election Petition	Applicant's grounds for striking out	1st Respondent/Election Petitioner/1st Respondent's counter
	suppressed the fact that she holds shares and is a Director in the above companies in Annexure – C of her Form 26 affidavit and the same is a violation of section 33 & 33-A of the RP Act, 1951 and Rule 4-A of the Conduct of Election Rules, 1961. This violation has materially affected the election of the 1st Respondent as the voters have not had the opportunity to learn that the 1st Respondent is associated with these companies and have lost the opportunity to question the activities of these companies and whether it is in their best interests. The contracts entered by these companies and also the income earned by the 1st Respondent through these companies have been suppressed. Hence, the election of the 1st Respondent is liable to be set aside under section 100(1)(d)(iv) of the RP Act, 1951. The screenshot of the directorship of the aforesaid seven	have veiled the particulars pertaining to the directorships in the companies is without any substance and is obviously frivolous." "If there was any bone in the contention of the 1st Respondent herein, he ought to have been in a position to give particulars of the shares that I hold in each of the 7 (seven) companies that he has mentioned herein. I state that no such material particulars have been given and no documents have been filed in support of the said vague allegation" Paragraph 10: "It is thus necessary that the contents of paragraph 6 and 7 are struck off for it being vexatious, frivolous and lacking material facts which is mandatory under the provisions of the Representation of People Act, 1951."	The pleadings cannot be struck off at this stage." Paragraph 4 states: "I humbly state that suppression of shares or directorship in a company is a material suppression and constitutes a violation of Sections 33 and 33A of the Representation of the People Act, 1951 and Rule 4-A of the Conduct of Election Rules, 1961 and is a ground to set aside the election of the Applicant." Paragraph 5: "I submit that with reference to Para 9 of the Applicant's Affidavit alleging violation of Section 83 of the Representation of the People Act, 1951 for want of material particulars, I deny the same and state that paras 6 to 8 of the Election Petition contains complete material facts which give rise to a cause of action as contemplated under

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Para No.	Pleadings in the Election Petition	Applicant's grounds for striking out	1st Respondent/Election Petitioner/1st Respondent's counter
	companies are filed along with this election petition as Doc Nos. 6 to 12.		Section 83 of the said Act."
8	It is further submitted that the 1st Respondent has not correctly disclosed details of pending Income Tax dues. In her Form 26 affidavit, in the tabular column in para 8, sl. No. (ix), the 1st Respondent has stated that there is an IT demand under dispute pertaining to AY 2022-23 for a sum of Rs. 86,76,780/-. However, the 1st Respondent has suppressed the pendency of an income tax demand and dispute pertaining to a search and seizure action conducted by the Income Tax Department in her house and office premises on 12.10.2023 by Authorized Officer under the control of the Principal Director of Income Tax (Investigation), Kolkata. Pursuant to this search and seizure action, the 1st Respondent has also received a notice dated 26.12.2023 proposing to transfer the investigation	Paragraphs 11: "In paragraph 8 of the present Election Petition, the 1st Respondent herein has alleged that I had suppressed a proceeding by the Income Tax Department that was pending on the basis of a Search & Seizure operation that was conducted on 12.10.2023 in my Form 26 Affidavit. The 1st Respondent herein has once again made vague allegations and has consistently failed to give material facts to any of the allegations that have been raised against me." Paragraphs 12: "The allegations raised by the 1st Respondent herein is on the misconception that a proceeding under Section 127 of the Income Tax Act amounts to a demand that is in dispute." Paragraphs 13:	Paragraph 6 states: "I submit that with reference to Paras 11 to 16 of the Applicant's Affidavit, I deny the same as false and incorrect. The Applicant seeks to strike off Para 8 of the Election Petition in its entirety. . I state that all the averments in paras 11 and 16 are in the nature of a defence and cannot be considered in a strike-off application. The Applicant admits to the search and seizure action that was conducted by the Income Tax Department at the Applicant's house and office premises on 12.10.2023 by the Authorized Officer under the control of the Principal Director of Income Tax (Investigation), Kolkata; and that pursuant thereto, the Applicant received a notice dated 26.12.2023 proposing to transfer the investigation to

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Para No.	Pleadings in the Election Petition	Applicant's grounds for striking out	1st Respondent/Election Petitioner/1st Respondent's counter
	to Kolkata. The 1st Respondent has filed a reply dated 27.12.2023 to this show cause notice and subsequently, the IT Department has transferred the investigation into this case to the Kolkata circle vide notification dated 25.04.2024. The 1st Respondent has filed W.P. Nos. 15524of 2024 before the Hon'ble Madras High Court challenging the transfer of these income tax proceedings from Coimbatore to Kolkata and the same was dismissed vide order of this Hon'ble Court dated 19.08.2024. From the said order, it can be seen that there is an income tax proceedings pending out of the search and seizure action conducted on 12.10.2023 which would fall in FY 2023-2024 and AY 2024-2025 which has been suppressed by the 1stRepsondent in her Form 26 affidavit. This has materially affected the election of the 1st	"A bare reading of the aforesaid column would indicate that a candidate is only required to mention particulars of any liability that is in dispute and if any such liability is in dispute to mention the amount involved and the authority before whom the said action is pending. In the present case, I have mentioned the existence of an existing dispute with the Income Tax Department for a demand of Rs. 86,76,780/- for AY 2022-23, the same is not in dispute as it even admitted in the present Election Petition by the 1st Respondent herein." Paragraph 14: "Section 127 of the Income Tax Act deals specifically deals with the provision of transfer of cases by the authorities under the said Act. A bare reading of the provision would clearly indicate that it only deals with a situation where the Income Tax Department	Kolkata; that the Applicant filed a reply dated 27.12.2023 to the said show cause notice; that the Income Tax Department thereafter transferred the investigation to the Kolkata circle vide notification dated 25.04.2024; and that the Applicant's challenge to the said transfer in W.P. No.15524 of 2024 before this Hon'ble Court was dismissed vide order dated 19.08.2024, all of which facts were wilfully suppressed by the Applicant in her Form 26 affidavit filed on 04.04.2026. Paragraph 7: "I submit that with reference to Paras 12 to 16 of the Applicant's Affidavit contending that a proceeding under Section 127 of the Income Tax Act, 1961 for transfer of investigation does not amount to a "liability in dispute" required to be disclosed under Sl. No.(ix) of Para 8 of Form 26, I deny the

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Para No.	Pleadings in the Election Petition		Applicant's grounds for striking out		1st Respondent/Election Petitioner/1st Respondent's counter
	Respondent as the voters have not had an opportunity to know about the income suppressed by the 1st Respondent which has come out only due to a raid by the Income Tax Department. Suppressing facts in the Form 26 affidavit filed along with the election petition is a violation of sections 33 & 33-A of the RP Act, 1951 and Rule 4-A of the Conduct of Election Rules, 1961. Thus, the election of the 1st Respondent is liable to be set aside under section 100(1)(d)(iv) of the RP Act, 1951.		may for reasons recorded intends to transfer a case or investigation from one circle to another. It is obvious to state that this is at a stage where no demand is quantified by the Income Tax Department." Paragraph 16: "It is very clear that there exists no demand which is in dispute thus the allegations raised by the 1st Respondent herein in para 8 of the Election Petition are vexatious, frivolous, requiring the same to be struck off by this Hon'ble Court for the aforesaid reasons."		same and state that Para 8 of the Election Petition does not merely rely upon the transfer proceedings under Section 127, but pleads suppression of the entire pending income tax proceeding arising out of the Search and Seizure action dated 12.10.2023, which proceeding falls within Financial Year 2023-2024 and Assessment Year 2024-2025, and which the Applicant admittedly did not disclose in her Form 26 affidavit, having disclosed only the dispute pertaining to Assessment Year 2022-23 for Rs.86,76,780/-. Whether or not there is a liability arising out of the search and seizure action is a matter for trial and evidence and the pleadings cannot be struck off at this stage." Paragraph 8: "I submit that with

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Para No.	Pleadings in the Election Petition		Applicant's grounds for striking out		1st Respondent/Election Petitioner/1st Respondent's counter
					reference to Para 15 of the Applicant's Affidavit relying upon the order dated 19.08.2024 in W.P. No.15524 of 2024, I state that the said order, annexed along with the Election Petition, itself establishes the pendency of income tax proceedings arising from the Search and Seizure conducted on 12.10.2023, which the Applicant was bound to disclose in her Form 26 affidavit and failed to do so, in violation of Sections 33 and 33-A of the Representation of the People Act, 1951 and Rule 4-A of the Conduct of Election Rules, 1961, as pleaded in Para 8 of the Election Petition, rendering her election liable to be set aside under Section 100(1)(d)(iv) of Representation of Peoples Act, 1951."
9	It is submitted that the 1st Respondent has used		Paragraph 17: "In paragraphs 9, 10		Paragraph 9: "I submit that with

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Para No.	Pleadings in the Election Petition	Applicant's grounds for striking out	1st Respondent/Election Petitioner/1st Respondent's counter
	minor children in her campaign throughout the constituency. The 1st Respondent has uploaded a campaign video on her official Instagram page - @leema.martin.77 which shows children being used by the 1st Respondent, her agents and party workers in campaign activity. In a video uploaded on the URL: https://www.instagram.com/reel/DXQ_KuSkr9c/?utm_source=ig_web_copy_link&igsh=MzRlODBiNWFlZA , the 1st Respondent on 18.04.2026 has used children for campaigning. The children are made to wear AIADMK colouredshawls and hold posters and banners with the photo of the AIADMK General Secretary Eddapadi K Palanisamy, two leaves symbol of the AIADMK party and seek votes for the 1st Respondent.	and 11 of the present Election Petition, the 1st Respondent herein has alleged that I had used children in campaigning and other election related activities. The 1st respondent places reliance on a video that was posted on my official Instagram page on 18.04.2026. It is further averred that it can be seen through the aforesaid video that children were made to wear AIADMK colored shawls, hold posters and banners with a photo of the General Secretary of AIADMK party and Two Leaves symbol of the party." Paragraph 19: "A bare perusal of the said video by no stretch of imagination would suggest that children were employed for the purposes of campaigning. The 1st Respondent herein has failed to give particulars of instances where the children were forced to wear AIADMK shawls or	reference to Paras 17 to 20 of the Applicant's Affidavit, I deny the same as false and incorrect and reiterate Paras 9, 10 and 11 of the Election Petition. I state that the Applicant uploaded a campaign video on her official Instagram page @leema.martin.77 on 18.04.2026, which shows children being used in campaign activity, wearing AIADMK-coloured shawls, holding posters and banners bearing the photograph of the AIADMK General Secretary Eddapadi K. Palanisamy and the Two Leaves symbol, and seeking votes for the Applicant, true copies whereof are filed as File Nos. 1 and 2 in the DVD, Doc. No.13, and as Doc. No.14 (screenshot from the Instagram page)."

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Para No.	Pleadings in the Election Petition		Applicant's grounds for striking out		1st Respondent/Election Petitioner/1st Respondent's counter
			hold posters depicting the photo of the General Secretary and symbol of the party." *Paragraph 20:* *"It is obvious to state that any allegation in an Election Petition which does not spell out the particulars of the corrupt practice without the names of the persons, date and place of the commission of such an act, cannot be said to be a valid pleading. In the present case, the allegations in paragraphs 9,10 and 11 are yet another set of vague pleadings by the 1st Respondent herein thus necessitating this Hon'ble Court to strike out the pleadings in paragraphs 9, 10 and 11."*		
10	*It is submitted that the ECI vide letter dated 05.02.2024 has directed as follows:* *"...* *(iii) Political parties are directed not to use children in election campaign/rallies in any form whatsoever including distribution of*		*Paragraph 18:* *"The aforesaid allegations are allegedly in violation of a Letter of the 3rd Respondent Election Commission of India dated 05.02.2024 and Section 100 (1)(d)(iv) of the Representation of People Act, 1951."*		*Paragraph 11:* *"I submit that with reference to Para 19 of the Applicant's Affidavit contending that the ECI letter dated 05.02.2024 has no binding force as it is not an "order" under the Representation of the*

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Para No.	Pleadings in the Election Petition		Applicant's grounds for striking out		1st Respondent/Election Petitioner/1st Respondent's counter
	posters/pamphlets or to participate in slogan shouting, campaign rallies, election meeting etc. ... Note 2: It is clarified to obviate any doubt that all political leaders/ candidates should not use children for campaign/canvassing/rallies/ yatras etc. in any manner, including holding a child in their arms. carrying a child in their vehicles or making child a part or election campaign/rallies etc. Further, use or child to create semblance or political campaign either by spoken words/poem/songs, display of insignia of political party/candidate, exhibiting ideology of political party promoting achievements of a political party or criticising the opponent political parties/candidates shall not be resorted to."		"It is my contention that the letter of the 3rd Respondent Election Commission of India dated 05.02.2024 would necessarily not fall within the ambit of Section 100 (1)(d)(iv) of the Representation of People Act, 1951 since a letter cannot be considered to be an order made under this Act. The failure of which renders the letter dated 05.02.2024 to have no binding force making a candidate liable under Section 100 (1)(d)(iv) of the Representation of People Act, 1951 for non-adherence to the same." Paragraph 19: "The said letter was published by the 3rd Respondent Election Commission of India to refrain not just the political parties but the election machinery as a whole from employing children during the entire electoral process, since the employment of children would involve severe repercussions		People Act, 1951, I deny the same and reiterate Para 10 of the Election Petition, wherein the said letter directs that "political parties are directed not to use children in election campaign/rallies in any form whatsoever" and that "all political leaders/candidates should not use children for campaign/canvassing/ rallies/yatras etc. in any manner," which direction the Applicant violated as pleaded, rendering her election liable to be set aside under Section 100(1)(d)(iv) of the Representation of the People Act, 1951. All such orders and directions of the Election Commission of India are made under Article 324 of the Constitution of India and are binding on all candidates and parties." Paragraph 12: "I humbly submit that the allegations in

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Para No.	Pleadings in the Election Petition		Applicant's grounds for striking out		1st Respondent/Election Petitioner/1st Respondent's counter
			under the prevailing child labour laws." "To make a bald allegation without any particulars that children allegedly emotionally appealed to their parents, grandparents and family members which resulted in me garnering votes during the election process is a faint attempt by the 1st Respondent herein to malign my reputation." Paragraph 20: "In the present case, the allegations in paragraphs 9,10 and 11 are yet another set of vague pleadings by the 1st Respondent herein thus necessitating this Hon'ble Court to strike out the pleadings in paragraphs 9, 10 and 11."		paras 9 to 11 about the use of children is a matter for trial. The foundational pleadings have been made by this Respondent. If the Applicant denies using children for campaigning, the same must be decided by this Hon'ble Court after receiving evidence and not at this stage."
11	It is submitted that the involvement of children has given a huge advantage to the 1st Respondent. The children have emotionally appealed to their parents, grandparents and family members and have		Paragraph 18: "In paragraph 11, the 1st Respondent herein specifically avers that the involvement of children had allegedly given me a huge advantage, since these children had emotionally appealed to		Paragraph 10: "I submit that with reference to Para 18 of the Applicant's Affidavit disputing that the involvement of children gave her any electoral advantage, I deny the same and reiterate

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Para No.	Pleadings in the Election Petition		Applicant's grounds for striking out		1st Respondent/Election Petitioner/1st Respondent's counter
	garnered votes for the 1st Respondent. Thus, the 1st Respondent has violated the binding directions of the ECI which has materially affected her election and which renders her election liable to be set aside under section 100(1)(d)(iv) of the RP Act, 1951.		their parents, grandparents and other family members and by virtue of this, votes were garnered by me during the Election process." Paragraph 19: "To make a bald allegation without any particulars that children allegedly emotionally appealed to their parents, grandparents and family members which resulted in me garnering votes during the election process is a faint attempt by the 1st Respondent herein to malign my reputation." Paragraph 20: "It is obvious to state that any allegation in an Election Petition which does not spell out the particulars of the corrupt practice without the names of the persons, date and place of the commission of such an act, cannot be said to be a valid pleading. In the present case, the allegations in paragraphs 9,10 and 11 are yet another set of		Para 11 of the Election Petition that the said children emotionally appealed to their parents, grandparents and family members and thereby garnered votes for the Applicant, in direct violation of the binding directions of the Election Commission of India dated 05.02.2024, which materially affected the Applicant's election."

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Para No.	Pleadings in the Election Petition		Applicant's grounds for striking out		1st Respondent/Election Petitioner/1st Respondent's counter
			vague pleadings by the 1st Respondent herein thus necessitating this Hon'ble Court to strike out the pleadings in paragraphs 9, 10 and 11."		
12	It is submitted that the 1st Respondent, being a Christian has visited several churches and sought for votes in the name of religion. One such instance is on 10.04.2026 at 10.40 a.m., when the 1st Respondent visited the St. Antony's church at Edaiatrumangalam, Melatheru,Lalgudi Taluk and campaigned inside the church in the presence of a priest. A photo of the 1st Respondent inside the Church is filed along with this election petition as Doc No.15. The said photo was also uploaded by the 1stRespondent on her Facebook account. Another instance is on 09.04.2026 when the 1st Respondent visited the St. Xavier's church at Varakuppai, at about 11 a.m. and campaigned		Paragraph 21: "The contents of paragraph 12 in the Election Petition filed by the 1st Respondent herein alleges that I being a Christian had visited several churches and sought for votes in the name of religion. The allegations state that I had visited St. Antony's Church in Edaiatrumangalam, Melatheru, Lalgudi Taluk on 10.04.2026 at 10:40 AM and I had allegedly campaigned inside the aforesaid Church in the presence of a priest. This allegation is not supported by any particulars briefly setting out the manner in which I had used religion to garner votes. A mere statement that I had visited a Church on a particular date cannot be the basis for a		Paragraph 13: "I submit that with reference to Para 21 of the Applicant's Affidavit, I deny the same as false and reiterate Para 12 of the Election Petition that the Applicant, being a Christian, visited St. Antony's Church at Edaiatrumangalam, Melatheru, Lalgudi Taluk on 10.04.2026 at 10.40 a.m. and campaigned inside the said Church in the presence of a priest, a photograph whereof was also uploaded by the Applicant on her Facebook account, true copy whereof is filed as Doc. No.15 along with the Election Petition; and that the Applicant further visited St. Xavier's Church at Varakuppai at about

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Para No.	Pleadings in the Election Petition		Applicant's grounds for striking out		1st Respondent/Election Petitioner/1st Respondent's counter
	inside the church in the name of religion. The video of her campaign inside church is filed along with this election petition as File No.4 in the DVD filed as Doc No. 13.		*candidate to allege that a corrupt practice was committed in the name of religion."* *"This clearly shows the faint attempt by the 1st Respondent herein to create a ruse and portray me as someone who would use religion as a tool in the election process."* *"It is obvious that the photograph that has been annexed in support of the allegation is not worthy enough to suggest that I was present at St. Antony's Church at that particular date and time nor does it suggest my mere presence in that Church was for the purpose of seeking votes in the name of religion."* *The Applicant further states that the video depicts visits to a temple, church and mosque, interactions with persons of those communities, and a song promoting peace and unity.* *"The allegation of the 1st Respondent herein*		*11.00 a.m. on 09.04.2026 and campaigned inside the said Church in the name of religion, video whereof is filed as File No.4 in the DVD, Doc. No.13, thereby seeking votes in the name of religion. The correctness of this allegation cannot be tested at this stage and the same can be adjudicated only after letting in evidence and trial."*

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Para No.	Pleadings in the Election Petition		Applicant's grounds for striking out		1st Respondent/Election Petitioner/1st Respondent's counter
			is devoid of any material particulars to show that I had used religion as a tool to garner votes." *"Thus the pleadings in paragraph 12 of the Election Petition filed by the 1st Respondent herein must be struck off for being vexatious, frivolous, bereft of any material facts explaining the corrupt practice alleged to have been committed by me."*		
13	*It is submitted that the 1st Respondent has not properly tagged AI videos posted on her Instagram account @leema.martin.77. On 13.04.2026, the 1st Respondent has uploaded a video post made through Artificial Intelligence (AI) projecting as if two farmers are talking about the price of food crops. As per the instructions of the ECI vide its press note No. ECI/PN/029/2026 dated 15.03.2026, the ECI has directed as follows:* *"30(iii)…* *All political parties shall*		*Paragraphs 22 and 23:* *"I respectfully submit that the allegations put forth by the 1st Respondent herein in paragraphs 13 and 14 of the present Election Petition that I had posted a video on 13.04.2026 on my official Instagram page projecting 2 farmers talking about the price of food crops. It is the contention of the 1st Respondent herein that this video was created through Artificial Intelligence (AI) and the said video was not labelled as an AI generated video. This*		*Paragraph 14:* *"I submit that with reference to Paras 22 and 23 of the Applicant's Affidavit, I deny the same and reiterate Paras 13 and 14 of the Election Petition that the Applicant, on 13.04.2026, uploaded a video on her official Instagram page @leema.martin.77 generated through Artificial Intelligence, projecting two farmers discussing the price of food crops, without labelling the same as "AI-Generated,"*

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Para No.	Pleadings in the Election Petition	Applicant's grounds for striking out	1st Respondent/Election Petitioner/1st Respondent's counter
	ensure responsible communication during elections. The Commission has advised the parties against misuse of AI based tools to create deep fakes that distort information or propagate misinformation, emphasizing the need to uphold the integrity of the electoral process. Further, all Political Parties and their leaders, candidates and star campaigners shall take necessary measures for prominent labelling of AI-generated/synthetic content, if any, being shared for campaigning through their social media platforms using clear notations such as "AI- Generated", "Digitally Enhanced", or "Synthetic Content". Additionally, all such campaign materials whether in the form of advertisements or promotional content must carry appropriate disclaimers wherever synthetic content is used."	according to the 1st Respondent herein is in violation of the Press Note (ECI/PN/029/2026) issued by the 3rd Respondent Election Commission of India dated 15.03.2026, and thus violating the provisions of Section 100 (1)(d)(iv) of Representation of People Act, 1951." Paragraph 23: "I state that the 1st Respondent herein has equated a Press Note published by the 3rd Respondent Election Commission of India to fall within the umbrella of violations spelt out under Section 100 (1)(d)(iv) of Representation of People Act, 1951." "It is obvious to state that an alleged violation of a Press Note cannot be considered to be a violation of the provisions of the Constitution of India, of the Representation of People Act, 1951, or the rules and orders made	"Digitally Enhanced," or "Synthetic Content" as required under Para 30(iii) of the Press Note No. ECI/PN/029/2026 dated 15.03.2026 issued by the Election Commission of India, true copy whereof is filed as File No.3 in the DVD, Doc. No.13, thereby misleading the electorate of the constituency into believing the same to be a genuine conversation, which has prejudiced my electoral prospects and materially affected the Applicant's election, rendering it liable to be set aside under Section 100(1)(d)(iv) of the Representation of the People Act, 1951. The directions of the Election Commission of India are issued under Article 324 of the Constitution of India and are binding. Failure to adhere to the directions attracts

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Para No.	Pleadings in the Election Petition		Applicant's grounds for striking out		1st Respondent/Election Petitioner/1st Respondent's counter
			under the Representation of People Act, 1951. The Press Note of the 3rd Respondent Election Commission of India does not have sufficient binding force for it to be the basis to declare the Election of a candidate to be void."		*section 100(1)(d)(iv) of the Representation of the People Act, 1951"*
14	*It is submitted that the 1st Respondent has not used the "AI-Generated" tag on her AI videos. The people of the constituency have therefore been misled into believing such a video is a conversation between two farmers, which has prejudiced the Petitioner's electoral prospects and hampered his election. Thus, the failure of the 1st Respondent to adhere to the ECI's binding guidelines materially affects her election and the same is liable to be set aside under section 100(1)(d)(iv) of the RP Act, 1951.*		*Paragraph 23:* *"The Press Note of the 3rd Respondent Election Commission of India does not have sufficient binding force for it to be the basis to declare the Election of a candidate to be void. The sum and substance is that the Press Note falls outside the scope and ambit of Section 100 (1)(d)(iv) and when that is the case, to declare my election to be void for allegedly violating the said provision would be misplaced and unsound."* *Paragraph 24:* *"I humbly submit that vide the aforesaid paragraphs I was able to demonstrate a clear pattern at the behest of*		*Paragraph 14 reiterates the allegation that the AI-generated video was not labelled and that it misled the electorate, as reproduced in the preceding row.* *Paragraph 15:* *"I submit that with reference to Para 24 of the Applicant's Affidavit and the prayer sought therein, I deny that Paragraphs 6 to 14 of the Election Petition are vexatious, frivolous or bereft of material facts, and reiterate that the same set out specific dates, instances and documentary evidence in support of the corrupt practices and*

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Para No.	Pleadings in the Election Petition		Applicant's grounds for striking out		1st Respondent/Election Petitioner/1st Respondent's counter
			the 1st Respondent herein to make vague allegations devoid of any substance. The allegations set out in the present Election Petition are suffering from a lack of material facts describing and explaining the alleged corrupt practices said to have been committed by me during the Electoral process."		*violations pleaded therein, as detailed in Paras 6 to 14 of the Election Petition. I state that paras 6 to 14 contain material facts and have the necessary foundational pleadings to let in evidence and adjudicate the contentions of the Election Petitioner."*

50. A close reading of the Election Petition and the counter affidavit filed by the Election Petitioner/1st Respondent in the application reveals that they are one and the same. The question for consideration is whether paragraphs 6 to 14 of the Election Petition are liable to be struck out under Order VI Rule 16 CPC. For this purpose, it is necessary to examine the nature of the allegations in each paragraph, the material facts pleaded in support of it, the statutory provisions relied upon and whether the challenged pleadings fall within the categories specified in the said provision.

51.With regard to paragraph 6, the applicant contended that the particulars required under Form 26, relating to investments in shares and

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directorships have been furnished in Annexure C. The 1st respondent, on the other hand, contends that the applicant has not disclosed the relevant shareholdings in seven companies identified in the Election Petition and relied upon the Company Master Data obtained from the website of the Ministry of Corporate Affairs.

52.The allegation in paragraph 6 specifically identified the companies in question and sets out the basis on which the Election Petitioner/1st Respondent alleged non-disclosure. The applicant disputed the allegation and relied upon the disclosures made in Form 26 and Annexure C. However, this contention needs a thorough examination at the stage of trial, wherein the parties on both sides can take part by marking necessary documents and therefore paragraph 6 need not be struck out.

53.With regard to paragraph 7, the Election Petitioner/1st Respondent relied upon screenshots of the Master Company Data obtained from the website of the Ministry of Corporate Affairs and alleged that the applicant failed to disclose the relevant shareholdings and directorships in seven companies. The applicant contended that the required particulars had already been furnished in Annexure C to Form 26 and that no violation of Sections 33 or 33A of the RP Act or Rule 4A of the Conduct of Elections Rules, 1961, has been established.

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54.The issue with regard to the contents of Form 26, the nature of the alleged omissions and the related documents relied upon by the Election Petitioner/1st Respondent should be considered in detail. Since the issues raised by the applicant as well as the 1st respondent are disputed questions, the same cannot be answered in an application under Order 6 Rule 16 of the CPC. In view of the same, the said issue has to be adjudicated only at the time of trial by considering sufficient documents and evidence. Therefore, the claim made by the applicant to strike out paragraph 7 is hereby rejected.

55.With regard to paragraph 8, the claim of the applicant is that the IT demand has been disclosed in Form 26 and more specifically in paragraph 8, S.No.IX for the assessment year 2022-2023 for a sum of Rs.86,76,780/-. But it was alleged by the 1st respondent that the Applicant has suppressed the dispute pertaining to a search and seizure action conducted by the Income Tax Department in her house and office premises on 12.10.2023 by Authorized Officer under the control of the Principal Director of Income Tax (Investigation), Kolkata. Based on which, the applicant has also received a notice dated 26.12.2023 proposing to transfer the investigation to Kolkata and the applicant has also filed a reply dated 27.12.2023 to this show cause notice. Subsequently, the IT Department has transferred the investigation to the Kolkata circle vide notification dated 25.04.2024.

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56.Further, the 1st respondent has stated in his counter that a writ petition has been filed in W.P.No.15524 of 2024 challenging the transfer of these income tax proceedings from Coimbatore to Kolkata. As the order in the said writ petition was an order of the Court and a public document, the said order need not be annexed. However, the 1st respondent has stated in his counter that the said order is annexed along with the election petition. The allegation referred to in paragraph 8 with regard to pendency of income tax dues, for the financial year 2023-2024 and assessment year 2024-2025 has to be ascertained only during the trial. As claimed by the 1st respondent, the necessary documents could be produced only at the time of trial and all the evidence need not be disclosed in the petition. Therefore, the allegation made by the applicant to strike out paragraph 8 is hereby rejected.

57.With regard to paragraph 9, the allegation against the applicant is that minor children were used for her election campaign. The claim of the 1st respondent is that the campaign videos uploaded in the official Instagram page of the Applicant depicts the children wearing AIADMK coloured shawls and holding the posters and banners with the photo of AIADMK general secretary and the two leaves symbol. The said video is uploaded on the URL given below:*https://www.instagram.com/reel/DXQ_KuSkr9c/utm_source=ig_web_copy_link&igsh=MzRlODBiNWFlZA* . Whether or not the children were used to seek vote is a disputed question which has to be dealt with only during the trial.

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Therefore, paragraph 9 need not be struck out at this stage.

58.In paragraph 10 of the election petition, the 1st respondent had relied upon a letter issued by the Election Commission of India dated 05.02.2024 with a direction not to involve children in election campaign and contended that the letter which has been issued by the Election Commission dated 05.02.2024, or any such directions or guidelines are backed by Article 324 of the Constitution of India. However, the applicant contended that the said letter does not have binding force and as such the pleadings in Paragraph Nos. 9 and 10 are vague and sought to strike it out.

59.The binding nature of the said direction needs a thorough and detailed examination as to whether the powers is conferred under Article 324 of the Constitution, which has to be ascertained only at the time of trial. Therefore, this Court need not go in detail to examine the scope and power of the Election Commission of India's letter dated 05.02.2024 at this stage. In view of the same, paragraph No.10 need not be struck out from the the Election Petition and this claim is also rejected.

60.In paragraph 11 of the election petition, the claim of the election petitioner/1st respondent in this application is that the children have emotionally appealed to their parents and family members and garnered votes for the

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applicant and the same is contrary to the guidelines issued by the Election Commission. This Court is of the view that the said allegation with regard to the usage of minor children has to be examined only during trial. Hence paragraph 11 need not be struck out, as it is a matter of disputed fact and it has to be adjudicated only at the time of trial.

61.With regard to paragraph No.12 describing the Applicant's act of campaigning inside the church on 10.04.2026 at 10.40 am and on 09.04.2026 at 11 am, in the presence of the priest, the election petitioner has filed a photograph and a video as Doc. No.15 and Doc. No.13 respectively and contended that campaigning in the name of religion has materially affected the election of the applicant. The said photograph and the video have to be marked and examined during the trial. Only then the veracity of the content of the photograph and video and its authenticity can be examined. Therefore, there is no sufficient ground, to strike out paragraph No.12.

62.With regard to paragraph No.13, the allegation raised against the applicant is that, AI video was posted on the Instagram page @leema.martin.77 on 13.04.2026 and the same is not properly tagged. The 1st respondent contended that the Election Commission had issued a press note stating that AI content has to carry appropriate disclaimers, wherever synthetic content is used. It has to be seen as to whether it is synthetic content and whether appropriate

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disclaimers were used in the context of the press note No.ECI/TN/029/2026 dated 15.03.2026 issued by the Election Commission of India as contended by the 1st respondent. Though the applicant contended that the press note of the Election Commission does not fall within the ambit of Sec.100(1) (d) (iv) of the RP Act, *prima facie*, this Court cannot go into the claim and counterclaim as to whether that is a synthetic content or whether a disclaimer was given by the applicant herein, which could be adjudicated only at the time of trial by considering ample evidence by both the parties.

63.With regard to paragraph 14, the main contention of the applicant is that the allegation in Para 14 lacks material facts supporting the allegation of corrupt practice. However, the question as to whether the failure of applicant to use the tag "AI Generated" in her video has misled the public is a question that warrants examination during trial. Therefore, the claim that paragraph 14 needs to be struck out is hereby rejected.

64.Before concluding, it is necessary to refer to the judgments relied on by the 1strespondent, where the Hon'ble Supreme Court has stated that the petition should only contain the details of allegations and factual aspects. It is not necessary for the Election Petitioner/1st respondent to furnish all the evidence to substantiate his case, as the evidence could be produced during the trial and not at the time of filing the petition. It is important to consider whether

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there are necessary pleadings explaining the material facts and particulars to *prima facie* establish the case of the election petitioner.

65.In the case of ***Resurgence India Vs. Election Commission of India Vs. 2013*** reported in ***SCC OnLine SC 841***,the Hon'ble Supreme Court has emphasised that a voter has the elementary right to know full particulars of a candidate who is to represent him in Parliament and such right to get information is universally recognised natural right flowing from the concept of democracy and is an integral part of Article 19(1)(*a*) of the Constitution. In the said case it was also held as follows:

> *"21. With this background, Section 33-A of the RP Act was enacted by Act 72 of 2002 with effect from 24-8-2002. Thus, the purpose of Act 72 of 2002 was to effectuate the right contemplated in Assn. for Democratic Reforms [Union of India v. Assn. for Democratic Reforms, (2002) 5 SCC 294] . However, the legislators did not incorporate all the suggestions as directed by this Court in the above case but for mandating all the candidates to disclose the criminal antecedents under Section 33-A by filing an affidavit as prescribed along with the nomination paper filed under Section 33(1) of the RP Act so that the citizens must be aware of the criminal antecedents of the candidate before they can exercise their freedom of choice by casting of votes as guaranteed under the Constitution of India. As a result, at present, every candidate is obligated to file an affidavit with relevant information*

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with regard to their criminal antecedents, assets and liabilities and educational qualifications."

66.In the case of ***Kisan Shankar Kathore Vs. Arun Dattatray Sawant*** reported in ***2014 SCC OnLine SC 447,*** the Hon'ble Apex Court held as follows:

> *"40. We have already reproduced above the relevant portions of judgments in Assn. for Democratic Reforms [Union of India v. Assn. for Democratic Reforms, (2002) 5 SCC 294] and People's Union for Civil Liberties [People's Union for Civil Liberties v. Union of India, (2003) 4 SCC 399] and the guidelines issued by the Election Commission pursuant thereto. A conjoint and combined reading thereof clearly establishes that the main reason for issuing directions by this Court and guidelines by the Election Commission pursuant thereto is that the citizens have fundamental right under Article 19(1)(a) of the Constitution of India to know about the candidates contesting the elections and this is the primary reason that casts a solemn obligation on these candidates to furnish information regarding the criminal antecedents, educational qualifications and assets held by the candidate, his spouse and dependent children. It is on that basis that not only the Election Commission has issued guidelines, but also prepared formats in which the affidavits are to be filed. As a fortiori, it follows that if the required information as per the said format in respect of the assets of the candidate, his wife and dependent children is not given, it would amount to suppression/non-disclosure."*

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In the said case, the Hon'ble Supreme Court observed that a voter should be well informed about all the particulars of the candidates, who is contesting the election.

67.In the case of ***People's Union of Civil Liberties Vs. Union of India*** reported in ***2003 SCC OnLine SC 394,*** the Hon'ble Apex Court held as follows:

> *"**72.** Before parting with the case, there is one aspect which is to be dealt with. After the judgment in Assn. for Democratic Reforms case the Election Commission gave certain directions in implementation of the judgment by its Order No. 3/ER/2002/JS-II/Vol-III, dated 28-6-2002. In the course of arguments, learned Solicitor-General as well as learned Senior Counsel appearing for the intervener (BJP) pointed out that Direction 4 is beyond the competence of the Election Commission and moreover, it is not necessary to give effect to the judgment of this Court. The said direction reads as follows:*
>
> > *"Furnishing of any wrong or incomplete information or suppression of any material information by any candidate in or from the said affidavit may also result in the rejection of his nomination paper where such wrong or incomplete information or suppression of material information is considered by the Returning Officer to be a defect of substantial character, apart from inviting penal consequences under the Penal Code, 1860 for furnishing wrong information to a public servant or suppression of material facts before him:*
> >
> > *Provided that only such information shall be considered to be wrong or incomplete or amounting to suppression of*

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material information as is capable of easy verification by the Returning Officer by reference to documentary proof adduced before him in the summary inquiry conducted by him at the time of scrutiny of nominations under Section 36(2) of the Representation of the People Act, 1951, and only the information so verified shall be taken into account by him for further consideration of the question whether the same is a defect of substantial character."

68.In the case of ***Union of India Vs. Association for Democratic Reforms and another*** reported in ***(2002) 5 SCC 294,*** the three judges bench of the Hon'ble Apex Court held as follows:

"23. The Constitution Bench of this Court in Mohinder Singh Gill v. Chief Election Commr. [(1978) 1 SCC 405] while dealing with a contention that the Election Commission has no power to cancel the election and direct re-poll, referred to the pervasive philosophy of democratic elections which Sir Winston Churchill vivified in matchless words: (SCC p. 413, paras 2-3)

"'At the bottom of all tributes paid to democracy is the little man, walking into a little booth, with a little pencil, making a little cross on a little bit of paper — no amount of rhetoric or voluminous discussion can possibly diminish the overwhelming importance of the point.'

If we may add, the little, large Indian shall not be hijacked from the course of free and fair elections by mob muscle methods, or subtle perversion of discretion by men 'dressed in little, brief authority'. For 'be you ever so high, the law is above you'.

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The moral may be stated with telling terseness in the words of William Pitt: 'Where laws end, tyranny begins.' Embracing both these mandates and emphasizing their combined effect is the elemental law and politics of power best expressed by Benjamin Disraeli (Vivian Grey, Bk VI Ch 7):

> *'I repeat ... that all power is a trust — that we are accountable for its exercise — that, from the people and for the people, all springs, and all must exist.' "* *(emphasis supplied)*

Further, the Court (in para 23) observed thus: (SCC p. 424)

> *"23. Democracy is government by the people. It is a continual participative operation, not a cataclysmic, periodic exercise. The little man, in his multitude, marking his vote at the poll does a social audit of his Parliament plus political choice of this proxy. Although the full flower of participative government rarely blossoms, the minimum credential of popular government is appeal to the people after every term for a renewal of confidence. So we have adult franchise and general elections as constitutional compulsions. 'The right of election is the very essence of the Constitution' (Junius). It needs little argument to hold that the heart of the parliamentary system is free and fair elections periodically held, based on adult franchise, although social and economic democracy may demand much more."* *(emphasis supplied)*

Thereafter, the Court dealt with the scope of Article 324 and observed (in para 39) thus: (SCC p. 431)

> *"Article 324, in our view, operates in areas left unoccupied by legislation and the words 'superintendence, direction and control', as well as 'conduct of all elections', are the broadest terms."*

The Court further held: (SCC p. 432, para 41)

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"41. Our conclusion on this limb of the contention is that Article 324 is wide enough to supplement the powers under the Act, as here, but subject to the several conditions on its exercise we have set out."

The Court also held (in para 77) thus: (SCC pp. 446-47)

"77. We have been told that wherever Parliament has intended a hearing it has said so in the Act and the rules and inferentially where it has not specificated it is otiose. There is no such sequitur. The silence of a statute has no exclusionary effect except where it flows from necessary implication. Article 324 vests a wide power and where some direct consequence on candidates emanates from its exercise we must read this functional obligation."

(emphasis supplied)

24. *In the concluding portion of paragraph 92, the Court inter alia observed thus: (SCC p. 452)*

*"(1)(a) ****

(b) Election, in this context, has a very wide connotation commencing from the Presidential notification calling upon the electorate to elect and culminating in the final declaration of the returned candidate.

(2)(a) The Constitution contemplates a free and fair election and vests comprehensive responsibilities of superintendence, direction and control of the conduct of elections in the Election Commission. This responsibility may cover powers, duties and functions of many sorts, administrative or other, depending on the circumstances.

(b) Two limitations at least are laid on its plenary character in the exercise thereof. Firstly, when Parliament or any State Legislature has made valid law relating to or in connection with elections, the Commission, shall act in conformity with, not in violation of, such provisions but where such law is silent Article 324 is a reservoir of power to act for the avowed

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purpose of, not divorced from, pushing forward a free and fair election with expedition."

(emphasis supplied)

25. *In concurring judgment, Goswami, J. with regard to Article 324 observed (in para 113) thus: (SCC pp. 459-60)*

> *"Since the conduct of all elections to the various legislative bodies and to the offices of the President and the Vice-President is vested under Article 324(1) in the Election Commission, the framers of the Constitution took care to leaving scope for exercise of residuary power by the Commission, in its own right, as a creature of the Constitution, in the infinite variety of situations that may emerge from time to time in such a large democracy as ours. Every contingency could not be foreseen, or anticipated with precision. That is why there is no hedging in Article 324. The Commission may be required to cope with some situation which may not be provided for in the enacted laws and the rules."*

(emphasis supplied)

26. The aforesaid decision of the Constitution Bench unreservedly lays down that in democracy the little man — voter — has overwhelming importance on the point and the little-large Indian (voter) should not be hijacked from the course of free and fair elections by subtle perversion of discretion of casting votes. In a continual participative operation of periodical election, the voter does a social audit of his candidate and for such audit he must be well informed about the past of his candidate. Further, Article 324 operates in areas left unoccupied by legislation and the words "superintendence, direction and control" as well as "conduct of all elections" are the broadest terms. The silence of statute has no exclusionary effect except where it flows from necessary implication. Therefore, in our view, it would be difficult to accept the contention raised by Mr Salve, learned Solicitor-General and Mr Ashwani

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Kumar, learned Senior Counsel appearing on behalf of the intervenor that if there is no provision in the Act or the Rules, the High Court ought not to have issued such directions to the Election Commission. It is settled that the power of the Commission is plenary in character in exercise thereof. In statutory provisions or rules, it is known that every contingency could not be foreseen or anticipated with precision, therefore, the Commission can cope with a situation where the field is unoccupied by issuing necessary orders.

27. *Further, this Court in Kanhiya Lal Omar v. R.K. Trivedi [(1985) 4 SCC 628] dealt with the constitutional validity of the Election Symbols (Reservation and Allotment) Order, 1968 which was issued by the Election Commission in its plenary exercise of power under Article 324 of the Constitution read with Rules 5 and 10 of the Conduct of Elections Rules, 1961. The challenge was on the ground that the Symbols Order which is legislative in character could not be issued by the Commission because the Commission is not entrusted by law the power to issue such an Order regarding the specification, reservation and allotment of symbols that may be chosen by the candidates at elections in parliamentary and assembly constituencies. It was urged that Article 324 of the Constitution which vests the power of superintendence, direction and control of all elections to Parliament and to the legislature of a State in the Commission cannot be construed as conferring the power on the Commission to issue the symbols. The Court negatived the said contention and pertinently observed that: (SCC p. 635, para 9)*

> *"The word 'elections' in Article 324 is used in a wide sense so as to include the entire process of election which consists of several stages and it embraces many steps, some of which may have an important bearing on the result of the process. India is a country which consists of millions of voters. Although they are quite conscious of their duties politically, unfortunately, a large percentage of them are still illiterate."*

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(emphasis supplied)

The Court in paragraph 16 held: (SCC pp. 639-40)

"16. Even if for any reason, it is held that any of the provisions contained in the Symbols Order are not traceable to the Act or the Rules, the power of the Commission under Article 324(1) of the Constitution which is plenary in character can encompass all such provisions. Article 324 of the Constitution operates in areas left unoccupied by legislation and the words 'superintendence', 'direction' and 'control' as well as 'conduct of all elections' are the broadest terms which would include the power to make all such provisions. (See Mohinder Singh Gill v. Chief Election Commr. [(1978) 1 SCC 405] and A.C. Jose v. Sivan Pillai [(1984) 2 SCC 656] .)"

(emphasis supplied)

The Court further observed: (SCC p. 640, para 17)

"While construing the expression 'superintendence, direction and control' in Article 324(1), one has to remember that every norm which lays down a rule of conduct cannot possibly be elevated to the position of legislation or delegated legislation. There are some authorities or persons in certain grey areas who may be sources of rules of conduct and who at the same time cannot be equated to authorities or persons who can make law, in the strict sense in which it is understood in jurisprudence. A direction may mean an order issued to a particular individual or a precept which many may have to follow. It may be a specific or a general order. One has also to remember that the source of power in this case is the Constitution, the highest law of the land, which is the repository and source of all legal powers and any power granted by the Constitution for a specific purpose should be construed liberally so that the object for which the power is granted is effectively achieved. Viewed from this angle it cannot be said that

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any of the provisions of the Symbols Order suffers from want of authority on the part of the Commission, which has issued it."

(emphasis supplied)

28. *Thereafter, this Court in Common Cause (A Registered Society) v. Union of India [(1996) 2 SCC 752] dealt with election expenses incurred by political parties and submission of return and the scope of Article 324 of the Constitution, where it was contended that cumulative effect of the three statutory provisions, namely, Section 293-A of the Companies Act, 1956, Section 13-A of the Income Tax Act, 1961 and Section 77 of the Representation of the People Act, 1951, is to bring transparency in the election funding and the people of India must know the source of expenditure incurred by the political parties and by the candidates in the process of election. It was contended that elections in the country are fought with the help of money power which is gathered from black sources and once elected to power, it becomes easy to collect tons of black money, which is used for retaining power and for re-election and that this vicious circle has totally polluted the basic democracy in the country. The Court held that purity of election is fundamental to democracy and the Commission can ask the candidates about the expenditure incurred by the candidates and by a political party for this purpose. The Court also held: (SCC p. 761, para 18)*

> *"The political parties in their quest for power spend more than one thousand crore of rupees on the General Election (Parliament alone), yet nobody accounts for the bulk of the money so spent and there is no accountability anywhere. Nobody discloses the source of the money. There are no proper accounts and no audit. From where does the money come nobody knows. In a democracy where rule of law prevails this type of naked display of black money, by violating the mandatory provisions of law, cannot be permitted."*

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Thereafter, the Court observed that under Article 324, the Commission can issue suitable directions to maintain the purity of election and in particular to bring transparency in the process of election. The Court also held (paragraph 26) thus: (SCC p. 767)

"26. Superintendence and control over the conduct of elections by the Election Commission include the scrutiny of all expenses incurred by a political party, a candidate or any other association or body of persons or by any individual in the course of the election. The expression 'Conduct of election' is wide enough to include in its sweep, the power to issue directions — in the process of the conduct of an election — to the effect that the political parties shall submit to the Election Commission, for its scrutiny, the details of the expenditure incurred or authorised by the parties in connection with the election of their respective candidates.""

"34. From the afore quoted paragraph, it can be deduced that the members of a democratic society should be sufficiently informed so that they may influence intelligently the decisions which may affect themselves and this would include their decision of casting votes in favour of a particular candidate. If there is a disclosure by a candidate as sought for then it would strengthen the voters in taking appropriate decision of casting their votes."

"38. If right to telecast and right to view sport games and the right to impart such information is considered to be part and parcel of Article 19(1)(a), we fail to understand why the right of a citizen/voter — a little man — to know about the antecedents of his candidate cannot be held to be a fundamental right under Article 19(1)(a). In our view, democracy cannot survive without free and fair election, without free and fairly informed voters. Votes cast by uninformed voters in favour of X or Y candidate would be meaningless. As stated in the aforesaid passage, one-sided information, disinformation, misinformation and non-information, all equally create an uninformed

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citizenry which makes democracy a farce. Therefore, casting of a vote by a misinformed and non-informed voter or a voter having one-sided information only is bound to affect the democracy seriously. Freedom of speech and expression includes right to impart and receive information which includes freedom to hold opinions. Entertainment is implied in freedom of "speech and expression" and there is no reason to hold that freedom of speech and expression would not cover right to get material information with regard to a candidate who is contesting election for a post which is of utmost importance in the democracy."

*"**44.** It is also submitted that even the gazetted officers in all government services are required to disclose their assets and thereafter to furnish details of any acquisition of property annually. In our view, it is rightly submitted that in a democratic form of government, MP or MLA is having higher status and duty to the public. In P.V. Narasimha Rao v. State (CBI/SPE) [(1998) 4 SCC 626 : 1998 SCC (Cri) 1108] the Court inter alia considered whether Member of Parliament is a public servant. The Court (in para 162) held thus: (SCC p. 747)*

"162. A public servant is 'any person who holds an office by virtue of which he is authorised or required to perform any public duty'. Not only, therefore, must the person hold an office but he must be authorised or required by virtue of that office to perform a public duty. Public duty is defined by Section 2(b) of the said Act to mean 'a duty in the discharge of which the State, the public or that community at large has an interest'. In a democratic form of government it is the Member of Parliament or a State Legislature who represents the people of his constituency in the highest law-making bodies at the Centre and the State respectively. Not only is he the representative of the people in the process of making the laws that will regulate their society, he is their representative in deciding how the funds of the Centre and the States shall be spent and in exercising control over the

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executive. It is difficult to conceive of a duty more public than this or of a duty in which the State, the public and the community at large would have greater interest." *(emphasis supplied)*

The aforesaid underlined portion highlights the important status of an MP or an MLA."

"45. Finally, in our view this Court would have ample power to direct the Commission to fill the void, in the absence of suitable legislation covering the field and the voters are required to be well informed and educated about contesting candidates so that they can elect a proper candidate by their own assessment. It is the duty of the executive to fill the vacuum by executive orders because its field is coterminous with that of the legislature, and where there is inaction by the executive, for whatever reason, the judiciary must step in, in exercise of its constitutional obligations to provide a solution till such time the legislature acts to perform its role by enacting proper legislation to cover the field. The adverse impact of lack of probity in public life leading to a high degree of corruption is manifold. Therefore, if the candidate is directed to declare his/her spouse's and dependants' assets —immovable, movable and valuable articles — it would have its own effect. This Court in Vishaka v. State of Rajasthan [(1997) 6 SCC 241 : 1997 SCC (Cri) 932] dealt with the incident of sexual harassment of a woman at work place which resulted in violation of fundamental right of gender equality and the right to life and liberty and laid down that in the absence of legislation, it must be viewed along with the role of the judiciary envisaged in the Beijing Statement of Principles of Independence of Judiciary in the LAWASIA region. The decision has laid down the guidelines and prescribed the norms to be strictly observed in all work places until suitable legislation is enacted to occupy the field. In the present case also, there is no legislation or rules providing for giving necessary information to the voters. As stated earlier, this case was relied upon in Vineet Narain case [(1998) 1 SCC 226 : 1998 SCC (Cri) 307] where the Court has issued

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necessary guidelines to CBI and the Central Vigilance Commission (CVC) as there was no legislation covering the said field to ensure proper implementation of the rule of law."

46.To sum up the legal and constitutional position which emerges from the aforesaid discussion, it can be stated that:

1. The jurisdiction of the Election Commission is wide enough to include all powers necessary for smooth conduct of elections and the word 'elections' is used in a wide sense to include the entire process of election which consists of several stages and embraces many steps.

2. The limitation on plenary character of power is when the Parliament or State Legislature has made a valid law relating to or in connection with elections, the Commission is required to act in conformity with the said provisions. In case where law is silent, Article 324 is a reservoir of power to act for the avowed purpose of having free and fair election. Constitution has taken care of leaving scope for exercise of residuary power by the Commission in its own right as a creature of the Constitution in the infinite variety of situations that may emerge from time to time in a large democracy, as every contingency could not be foreseen or anticipated by the enacted laws or the rules. By issuing necessary directions, Commission can fill the vacuum till there is legislation on the subject. In Kanhiya Lal Omar's case, the Court construed the expressions "superintendence, direction and control" in Article 324(1) and held that a direction may mean an order issued to a particular individual or a precept which may have to follow and it may be a specific or a general order and such phrase should be construed liberally empowering the election commission to issue such orders.

3. The word "elections" includes the entire process of election which consists of several stages and it embraces many steps, some of which may have an important bearing on the process of choosing a candidate. Fair election

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contemplates disclosure by the candidate of his past including the assets held by him so as to give a proper choice to the candidate according to his thinking and opinion. As stated earlier, in Common Cause case (supra), the Court dealt with a contention that elections in the country are fought with the help of money power which is gathered from black sources and once elected to power, it becomes easy to collect tons of black money, which is used for retaining power and for re-election. If on affidavit a candidate is required to disclose the assets held by him at the time of election, voter can decide whether he could be re-elected even in case where he has collected tons of money. Presuming, as contended by the learned senior counsel Mr.Ashwini Kumar, that this condition may not be much effective for breaking a vicious circle which has polluted the basic democracy in the country as the amount would be unaccounted. May be true, still this would have its own effect as a step-in-aid and voters may not elect law-breakers as law-makers and some flowers of democracy may blossom.

4. To maintain the purity of elections and in particular to bring transparency in the process of election, the Commission can ask the candidates about the expenditure incurred by the political parties and this transparency in the process of election would include transparency of a candidate who seeks election or re-election. In a democracy, the electoral process has a strategic role. The little man of this country would have basic elementary right to know full particulars of a candidate who is to represent him in Parliament where laws to bind his liberty and property may be enacted.

5. The right to get information in democracy is recognised all throughout and it is natural right flowing from the concept of democracy. At this stage, we would refer to Article 19(1) and (2) of the International Covenant of Civil and Political Rights which is as under: -

"(1) Everyone shall have the right to hold opinions without interference.

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(2) Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

6. Cumulative reading of plethora of decisions of this Court as referred to, it is clear that if the field meant for legislature and executive is left unoccupied detrimental to the public interest, this Court would have ample jurisdiction under Article 32 read with Articles 141 and 142 of the Constitution to issue necessary directions to the Executive to subserve public interest.

7. Under our Constitution, Article 19(1)(a) provides for freedom of speech and expression. Voters' speech or expression in case of election would include casting of votes, that is to say, voter speaks out or expresses by casting vote. For this purpose, information about the candidate to be selected is must. Voter's (little mancitizen's) right to know antecedents including criminal past of his candidate contesting election for MP or MLA is much more fundamental and basic for survival of democracy. The little man may think over before making his choice of electing law breakers as law makers.

69.The dictum of the Hon'ble Supreme Court in the above said case, particularly in paragraph 46 lamented that the jurisdiction of the Election Commission is wide enough to include all powers necessary for smooth conduct of elections and the word 'elections' is used in a wide sense to include the entire process of election which consists of several stages and embraces many steps. In the said case, the Hon'ble Supreme Court has referred to the case of *Kanhiya Lal Omar v. R.K. Trivedi and others* reported in (1985) 4 SCC 628, wherein it has been observed that the Court construed the expressions "superintendence,

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direction and control" in Article 324(1) and held that a direction may mean an order issued to a particular individual or a precept which may have to follow and it may be a specific or a general order and such phrase should be construed liberally empowering the election commission to issue such orders.

70.In the said judgment, the Hon'ble Supreme Court has made it clear that the voter is expected to know about the criminal backgrounds, movable and immovable assets, bank balance, etc., of a candidate and his or her spouse and that of dependants. It only emphasis that the Hon'ble Supreme Court directs the Election Commission to get the particulars of the candidates, who take part in the elections to give all the particulars not only about the criminal antecedents but also about the details of the assets and liabilities of the contestants, their relatives and their dependants.

71.This Court has examined the law on the point with regard to striking out pleadings under Order VI Rule 16 of CPC. The pleading can be struck out only on three grounds under the said provision if any pleading is **(a)**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 Court. Only on these three grounds, an order to strike out pleadings can be made, apart from rejection of plaint.

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72.On a plain reading of the election petition coupled with the documents filed along with the election petition, it is clear that the 1st respondent/election petitioner had furnished sufficient material with regard to the allegations to establish the case of the petitioner.

73.In the considered view of this Court, the claim made by the applicant cannot be taken into consideration, as all these facts have to be concluded only during the trial, by examining all the evidence, where the applicant will have a fair opportunity to cross examine and put forth her case. As discussed in paragraph Nos.51 to 71, the applicant has not made out a case to strike out pleadings.

74.In fine, the application is dismissed.

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Index: Yes
Speaking order
Neutral Citation: Yes

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N.SENTHILKUMAR J.
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To

1.T.Parivallal, No.1/35, North Street,
North Makilambadi, Lalgudi Taluk,
Tiruchirappalli 621 111

2.The Returning Officer
143-Lalgudi Assembly Constituency,
Paramasivam, Trichy District,
Tamil Nadu 621 601

3.The Election Commission of India
Represented by its Chief Election Commissioner, Nirvachan Sadan,
Ashoka Road, New Delhi 110 001.

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E.L.P.No.9 of 2026

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