



No. 416] CHENNAI, FRIDAY, DECEMBER 22, 2023  
Margazhi 6, Sobakiruthu, Thiruvalluvar Aandu-2054

## Part V—Section 4

### Notifications by the Election Commission of India

#### NOTIFICATIONS BY THE ELECTION COMMISSION OF INDIA

JUDGEMENT OF THE HIGH COURT OF MADRAS IN ELECTION  
PETITION No. 05 OF 2021

#### No. SRO G-40/2023.

The following Notification of the Election Commission of India, Nirvachan Sadan, Ashoka Road, New Delhi-110 001, dated 05th December, 2023 [ 14 Agrahayana, 1945 (Saka)] is published:-

**No.82/TN-LA/ (EP 05 of 2021)/2023:-** In pursuance of section 106 (b) of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the Order of the Hon'ble High Court of Madras dated 31.08.2023 in Election Petition No. 05 of 2021.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 31ST DAY OF AUGUST, 2023

THE HON'BLE MR. JUSTICE M.SUNDAR

**Election Petition No. 5 of 2021**

KKC.Balu,  
S/o. Chenniappan,  
685, Chennimalai Road,  
Perundurai Taluk,  
Erode District.

...Petitioner

-Vs-

1. Jayakumar,  
S/o.P.C.Subramani,  
2/14, Shanmugapurarn,  
Ponmudi Post, Perundurai Taluk,  
Erode District.
2. Thoppu Venkatachalam@ N.D.Venkatachalam,  
S/o. Deivasigamani Gounder,  
14/186, Thoppupalayam,  
Perundurai Post,  
Erode District.
3. C. Loganathan,  
S/o. P.Chinnasamy,  
2/100, Nalligoundanpalayam Pirivu,  
Ingur, Perundurai Taluk,  
Erode District - 638 052.
4. Nandhakumar.C.K.  
S/o.Lt.A.Chinnasamy,  
Old No. 23, New No. 49,  
Tashkent Street,  
Perundurai,  
Erode District - 638 052.
5. Shankarsamy,  
S/o. Periyamarannaicker,  
114, Arugampalayam, Pappanppalayam Post,  
Uthukuli Taluk,  
Tiruppur District - 638 752.
6. Thambi  
S/o. Mahali,  
19, Thalakaraiyapur,  
Perundurai Taluk,  
Erode District.
7. The Returning Officer,  
No.103, Perundurai Assembly Constituency  
\*and District Supply and Consumer Protection Officer,  
Erode District Tamil Nadu.\*

(\*Amended as per order of this Hon'ble Court dated 27/09/2022 made in OA.No.589/2022 in ELP.No.5 of 2021\*)

8. Chief Electoral Officer of Tamil Nadu,  
Public (Elections) Department,  
Fort St.George Secretariat,  
Chennai - 600 009

...Respondents

Election Petition praying that this Hon,ble Court be pleased to (i)Declare the election of the returned candidate namely Jeyakumar, the 1st respondent herein from No.103, Perundurai Assembly Constituency, Erode Tamil Nadu in the election held on 06.04.2021 (in which results have been declared on 03.05.2021 (12.35 am) as void (ii)direct the 1st respondent to pay the costs of this petition.

The above Election Petition coming on this day before this Court for hearing in the presence of Mr.S.Mukunth, Senior Counsel for Mr.K.Sasindran, assisted by Mr.N.Krishna Kumar, Mr.M.Akash, Advocates for the Election Petitioner, Mr.T.V.Ramanujun, Senior Counsel, assisted by Mr.B.Arvind Srevatsa, Mr.A.Irfan Sherif and Ms.Nithyasree Rajagopal, Advocates for the 1st Respondent; Mr.R.Prabakar, Advocate assisted by Mr.P.Marudhupandiyar, Ms.S.Selvi, Advocates for the 4th Respondent herein; and Mr.Niranjan Rajagopalan, Advocate for M/s.G.R.Associates along with Ms.S.Sowjanya, Advocates for the 7th and 8th Respondents; and the Respondents 2, 3, 5 and 6 not appearing in person or by advocate; and upon reading the Election Petition and Affidavit of KKC.Balu and Counter statement of S.Jayakumar filed herein; and the Evidence adduced herein and the Exhibits marked thereon and this Court having observed that the records before this Court and deposition / exhibits bring to light that the Election Petitioner has not proved the pleadings much less proved to the hilt and

**it is ordered as follows:-**

That the Election Petition No.5 of 2021 be and is hereby dismissed.

2. That there shall be no order as to costs.

WITNESS, THE HON'BLE MR.JUSTICE SANJAY VIJAYKUMAR  
GANGAPURWALA, CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID,  
THIS THE 31ST DAY OF AUGUST 2023.

Sd./-  
ASSISTANT REGISTRAR  
*Original Side - II*

//Certified to be true copy//

Dated at Madras this the 8th day of November 2023.

COURT OFFICER (O.S.)

'Madras High Court is issuing certified copies in this format from 17/07/2023'.

PK

17/10/2023

ELP.NO.5 OF 2021

DECREE

DATED: 31/08/2023

THE HON'BLE MR JUSTICE

M.SUNDAR

FOR APPROVAL: 06/11/2023

APPROVED ON: 06/11/2023

Copy to:-

1. The Chief Election  
Commissioner,  
Election Commission of India,  
Nirvachan Sadan,  
Ashoka Road, New Delhi.
2. Chief Electoral Officer of  
Tamil Nadu,  
Public (Elections) Department,  
Fort St.George Secretariat,  
Chennai - 600 009.
2. The Returning Officer,  
No.103, Perundurai Assembly  
Constituency and District  
Supply and Consumer  
Protection Officer,  
Erode District, Tamil Nadu.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

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S/o. P. Chinnasamy,  
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Ingur, Perundurai Taluk,  
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4. Nandhakumar.C.K.  
S/o. Lt.A.Chinnasamy,  
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Erode District - 638 052.
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114, Arugampalayam, Pappampalayam Post,  
Uthukuli Taluk,  
Tiruppur District - 638 752.
6. Thambi  
S/o. Mahali,  
19, Thalakraipudur,  
Perundurai Taluk, Erode District.
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(\*Amended as per order of this Hon'ble Court dated 27/09/2022 made in OA.No.589/2022 in ELP.No.5 of 2021\*)

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The above Election Petition coming on this day before this Court for hearing in the presence of Mr.S.Mukunth, Senior Counsel for Mr.K.Sasindran, assisted by Mr.N.Krishna Kumar, Mr.M.Akash, Advocates for the Election Petitioner, Mr.T.V.Ramanujun, Senior Counsel, assisted by Mr.B.Arvind Srevatsa, Mr.A.Irfan Sherif and Ms.Nithyasree Rajagopal, Advocates for the 1st Respondent; Mr.R.Prabakar, Advocate assisted by Mr.P.Marudhupandian, Ms.S.Selvi, Advocates for the 4th Respondent herein; and Mr.Niranjan Rajagopalan, Advocate for M/s.G.R.Associates along with Ms.S.Sowjanya, Advocates for the 7th and 8th Respondents; and the Respondents 2, 3, 5 and 6 not appearing in person or by advocate; and upon reading the Election Petition and Affidavit of KKC.Balu and Counter statement of S.Jayakumar filed herein; and the Evidence adduced herein and the Exhibits marked thereon

**the Court made the following order:-**

State of Tamil Nadu which has a 234 member unicameral legislature went to polls i.e., General Elections pursuant to a gazette notification dated 12.03.2021 issued by the Election Commission. It may not be necessary to dilate on details of the schedule owing to the statutory perimeter within which the legal drill on hand should perambulate. It will suffice to say that polling was on 06.04.2021 and counting/declaration of results was on 02.05.2021.

2. Captioned Election Petition pertains to one of the 234 assembly constituencies, namely 'No.103, Perundurai Assembly Constituency' (hereinafter said constituency' for the sake of convenience). Election Petitioner in the captioned election petition filed his nomination papers having been set up as a candidate by 'Dravida Munnetra Kazhagam' ('DMK' for the sake of brevity) a recognised party in the State of Tamil Nadu and the election petitioner contested in the Rising Sun reserved symbol of DMK. There were 25 candidates in all in the fray, 4 from recognised political parties, 6 from registered political parties and 15 independents including the election petitioner. To be noted, of the 4 recognised political parties, 3 are recognised political parties in State of Tamil Nadu and one is the recognised political party in India, i.e., National Recognised party.

3. Post polling, when results were declared, first respondent in the captioned election petition was declared elected in the said constituency by a margin of 14,507 votes qua election petitioner. Thereafter, captioned Election Petition was presented in this court inter-alia under Sections 81, 77, various sub sections of Sections 100, 123 and Section 129(2)(c) of 'the Representation of the People Act, 1951 (Act 43 of 1951)' (hereinafter' said Act' for the sake of convenience) inter-alia with a prayer to declare the election of the returned candidate (first respondent) from said

constituency as void on the sole ground that there are discrepancies/ differences in serial numbers as between VVPATs (Voter-verified Paper Audit Trail), EVMs (Electronic Voting Machine) i.e., balloting units used on polling day (06.04.2021) and control units used for counting on counting day (02.05.2021) qua Form 17C *vide* Rules 49S and 56(C)2 of The Conduct of Elections Rules, 1961.

4. In the captioned Election Petition, there are 8 respondents. Respondents 7 and 8 are Returning Officers of said constituency and Chief Electoral Officer of Tamil Nadu respectively. Respondent No.1 (as already alluded to supra) is the returned candidate and respondents 2 to 6 are some of the other (not all) unsuccessful candidates. To be noted, other unsuccessful candidates have not been arrayed as co-respondents. In this regard, it is necessary to say that election petitioner had not chosen to ask for sequitur prayer of declaring him as returned candidate and therefore arraying of all unsuccessful candidates in the fray as co-respondents is really not necessary i.e., not legally imperative. Post service on the respondents, first respondent took out an application inter-alia tender Order VI Rule 16 of 'The Code of Civil Procedure, 1908' (hereinafter 'CPC for the sake of brevity, convenience and clarity) with a prayer to strike out the pleadings, to set out with specificity, striking out paragraph Nos.6 to 17 was sought and this is vide an application being O.A.No.711 of 2021. This is application, after full contest came to be dismissed by Hon'ble Predecessor Judge in and by order dated 04.03.2022. This order was assailed in Hon'ble Supreme Court by first respondent i.e., Returned candidate *vide* SLP (Civil) Diary No.24176 of 2022 and the same was dismissed by Hon,ble Supreme Court at pre leave stage, i.e., at SLP stage in and by order dated 04.01.2023. This meant that captioned Election Petition had to go for trial.

5. Thereafter, respondents 7 and 8 (hereinafter 'Election Commission' solely for the sake of convenience, without really referring to Election Commission in the legal sense of the matter) took out an application in O.A.No.668 of 2021 with a prayer to strike off / delete respondents 7 and 8 in the main Election petition. To be noted, respondents 7 and 8 were referred to as 'election officers' in previous proceedings and they are now being referred to as 'Election Commission' solely for the sake of convenience. After full contest, this application was disposed of by me by order dated 29.08.2022 saying that respondents 7 and 8 will continue to be co-respondents albeit as Eo-nomine / formal parties and it was made clear that there shall be no prayer against Election Commission and likewise, Election Commission will make no prayer. It was made clear that Election Commission shall come before this Court to depose / produce records as and when called for (if the need arises) when the trial progresses depending on the trajectory the matter takes. It is to be noted that this Election Petition court was informed that this order dated 29.08.2022 made in O.A.No.668 of 2021 has been given a legal quietus, i.e., attained finality as it was not carried further to Hon'ble Supreme Court by any of the parties.

6. This Court having set out factual matrix in a nutshell and the trajectory the matter has taken thus far i.e., essentials that are imperative to appreciate this order, deems it appropriate to extract and reproduce the order/ proceedings made in the listing on 03.01.2023 which reads as follows:

## E.L.P.No.5 of 2021

## M.SUNDAR.J

Captioned matter is listed under the cause list caption 'FOR FRAMING ISSUES'.

2. To appreciate the issues, it is necessary to extract and reproduce the proceedings made by this Court on 28.10.2022, which reads as follows:

*'Read this in conjunction with and in continuation of earlier proceedings made in the previous listing on 26.10.2022.*

2. *Today, Mr.S.Mukunth, learned counsel representing Mr. K. Sasindran, counsel on record for Election Petitioner, Mr.B. Arvind Srevatsa, learned counsel for returned candidate (along with Mr.A.Irfan Sherif, Mr. Vikram Raj and Ms.L.Madhu) and Mr. Niranjan Rajagopalan of M/s.G.R.Associates (Law Firm) along with Mr. Atul Srivats for Election Officers (respondents 7 and 8) are before this Court.*
3. *Learned counsel for Election Officers adverting to aforementioned earlier proceedings on 26.10.2022 submitted that he has since obtained instructions. Adverting to paragraph 4 of the proceedings dated 19.10.2022, learned counsel submitted that as regards 103 Perundurai Assembly Constituency is concerned, there were 325 polling stations (including 62 auxiliary polling stations) and these 325 polling stations were located in 151 polling station locations.*
4. *Learned counsel has placed before this court a tabulation, a scanned reproduction of which is as follows:*

## GE-TNLA 2021- Erode District

No and Name of the AC	No. of Parts	No. of Auxiliary polling stations	No. of polling stations	Polling station Locations	Total NO. of EVMs in poll			Poll Day Defect			Total Units in EP		
					No. of BU	No. of CU	No. of VVPATs	No. of BU	No. of CU	No. of VVPATs	No. of BU	No. of CU	No. of VVPATs
103 Perundurai	263	62	325	151	650	325	325	2	1	6	652	326	331

5. *Adverting to paragraph 15 of election petition, learned counsel for election petitioner submits that there were mismatch in 81 Polling Stations. On instructions, learned counsel for election Officers submits that these 81 polling stations were located in 66 locations.*
6. *Be that as it may, as regards these 81 polling stations, it is the specific case of election petitioner that discrepancy is with regard to 59 VVPAT units and 40 control units.*



7. Before framing issues, as clarity and specificity is imperative, this court deems it appropriate to call upon learned counsel for election officers to produce the following particulars, records and/ or copies of material papers:

(a) Serial number of VVPATs, EVMs (balloting unit) and control units (3 separate sets of serial numbers) that were deployed for polling in 81 polling stations on 06.04.2021 being the polling date;

(b) 81 polling stations are as follows:

POLLING STATION
1
1A (W)
5
6 A (W)
7
9
11
12 M
15
18
26
27 (M)
35 m
35 A (W)
36 A (W)
42
45
48 A (W)
53 A (W)
54M
60
61
70

71
75
77
79 A (W)
80
84
90
94
95
100
111
133 A (W)
137 A (W)
138
140 M
140 A (W)
141
145
147
148
154 A (W)
155
157
158 M
160 M
160 A (W)
161
162
164
171
173

177 A (W)
183 M
186 A (W)
187 A (W)
188 M
189
196 M
196 A (W)
199
199 A (W)
202
207
208 A (W)
209
216 A (W)
217
220
225
227 M
230
234 A (W)
247
252
253
254
258 A (W)
260 A (W)

8. *Learned counsel for election officers requests for time to produce the aforementioned details.*
9. *To be noted, the above exercise will not in any manner prejudice the rights and contentions of the returned candidate qua documents outside the one which are already on Board being pressed into*

*service. To add clarity, it will not affect the rights and contentions of the election petitioner also.*

10. List on 03.11.2022

3. Pursuant to aforementioned proceedings, Mr.Niranjan Rajagopalan of M/s.G.R.Associates (Law Firm) for the Election Officers has produced data and a scanned reproduction of the same is as follows:

From	To
Thiru H.Krishnanunni, I.A.S., District Election Officer & District Collector, Erode District – 638 011.	The Chief Electoral Officer and Principal Secretary to Government Public (Elections-IV) Department, Secretariat, Chennai-9.

Ref.No.11725/2021/K1

Dated: .11.2022

Sir,

Sub: Elections – Erode District – 103 Perundurai – Madras Hon'ble High Court in EP No.5/2021 – details of EVM / VVPAT Unit numbers for 81 Polling stations list send – Regarding.

Ref: 1. The Chief Electoral Officer and Principal Secretary to the Government, Public (Elections-4) Department, Chennai, Lr.No.18086/Ele.IV/2021-1, Dated:13.08.2021.

2. The Chief Electoral Officer and Principal Secretary to the Government, Public (elections-4) Department, Chennai, Ele-IV/Mail Date: 01.11.2022.

\*\*\*\*\*

I invite kind the reference 2nd cited. In Erode District, 103.Perundurai Assembly Constituency TNLA 2021. 81 Polling stations EVM / VVPAT allotted unit numbers details report attached for concerning of Madras Hon'ble High Court in EP No.5/2021 for your kind perusal.

Attached: EVM / VVPAT Details.

Sd/-  
District Election Officer &  
District Collector, Erode.

**TAMIL NADU GOVERNMENT GAZETTE EXTRAORDINARY 13**

**103 Perundurai Election Petition No.5 of 2021 - EVM Alloted for  
81 Polling Stations**

S. No.	Polling Station No.	Location and Name of Polling Stations	BU1	BU2	CU	VVPAT
1	1(M)	P.U.E.S Suriyappampalayam-638110 , South Facing New Terraced Building	BBUEL 12304	BBUEL 99624	BCUAE 59834	BVTEG 05376
2	1A(W)	P.U.E.S Suriyappampalayam-638110 , North Facing Tiled Building	BBUEL 93527	BBUEG 87192	BCUE 187735	BVTEA 37169
3	5	P.U.E.S Nettichipalayam-638103, South Facing Tiled Building West Portion	BBUEL 11357	BBUEL 14845	BCUAE 85939	BVTEF 20438
4	6A(W)	P.U.E.S Polayampalayam - 638103 , South Facing Terraced Building East Portion	BBUEL 12362	BBUEG 02204	BCUE 165495	BVTEG 22588
5	7	P.U.E.S. Kuruchi-638110, North Facing Tiled Building	BBUEL 15213	BBUEL 10957	BCUEF 56901	BVTEA 58729
6	9	P.U.E.S Valayapalayam - 638103, East Facing Tiled Building	BBUEF 11535	BBUEL 12819	BCUAE 83538	BVTEG 04552
7	11	P.U.E.School Thoranavavi 638110, North Facing Terraced Building	BBUEL 10425	BBUAC 61298	BCUAE 59699	BVTEF 99049
8	12(M)	P.U.E.School. Thandagoundampalayam -638055, North Facing Tiled Building	BBUAC 68812	BBUEJ 16363	BCUE 178590	BVTEC 30357
9	15	P.U.E.School Mandripalayam-638055, South Facing Tiled Building	BBUEG 28242	BBUEG 83583	BCUAE 59750	BVTED 18429
10	18	Govt.H.S.School.Thingalore 638055, East Facing New Terraced Building Ground Floor	BBUEL 14710	BBUEL 64117	BCUEF 55650	BVTEF 98512
11	26	C.S.I.School Broughnagar-638055, North Facing Tiled Building East Portion	BBUEL 13817	BBUEG 51426	BCUE 151470	BVTEF 95670

S. No.	Polling Station No.	Location and Name of Polling Stations	BU1	BU2	CU	VVPAT
12	27(M)	Govt.High.School Pandiampalayam 638455, North Facing New Terraced Building East Side	BBUEL 10289	BBUEJ 03717	BCUE 180927	BVTEF 99908
13	35(M)	P.U.E.School Kovilpalayam -638116 , North Facing Terraced Building East Portion	BBUEL 11632	BBUEL 13959	BCUEF 40110	BVTEG 06193
14	35A(W)	P.U.E.School Kovilpalayam -638116 , West Facing Asbestos Sheet Room (Anganwadi)	BBUEL 11200	BBUEL 14586	BCUEI 88806	BVTEC 46330
15	36A(W)	P.U.M.School Thanneerpandalpalayam 638116 , North Facing Terraced Building West Side	BBUEF 49430	BBUEL 10404	BCUEI 51870	BVTED 18018
16	42	P.U.M.School Goundampalayam - 638116, South Facing New Terraced Building East Portion	BBUEL 10070	BBUEL 95917	BCUEF 59194	BVTED 09340
17	45	P.U.E.School Kanjikovil-638116, North Facing Terraced Building	BBUEL 11024	BBUEL 10047	BCUEI 52169	BVTEG 07059
18	48A(W)	Govt.H.S.School Kanjikovil-638116, North Facing Terraced Building West Portion Room No 4	BBUEL 14925	BBUEL 14323	BCUAC 82180	BVTEG 06389
19	53A(W)	P.U.E.School Karunkaradu-638116 , East Facing Tiled Building South Side	BBUEL 13464	BBUEL 14556	BCUAE 58311	BVTEA 55073
20	54	P.U.E.School M.Pudhupalayam 638107, North Facing Tiled Building	BBUEH 10745	BBUEL 04821	BCUEF 40103	BVTEF 99170
21	60	Govt.High.School Thiruvachi-638502, East Facing Terraced Building North Portion	BBUAD 76339	BBUEL 14890	BCUEF 63344	BVTEF 27020
22	61	P.U.E.School Thiruvachi 638502, South Facing New Terraced Building	BBUEL 14863	BBUEL 13763	BCUEF 63753	BVTEF 98996

**TAMIL NADU GOVERNMENT GAZETTE EXTRAORDINARY 15**

S. No.	Polling Station No.	Location and Name of Polling Stations	BU1	BU2	CU	VVPAT
23	70	P.U.E.School Nallampatty-638057, East Facing Tiled Building South Side	BBUEL 14398	BBUEL 11970	BCUEF 63045	BVTEG 06261
24	71	P.U.E.School Pallakarai-638057, North Facing Terraced Building West Portion	BBUEL 12319	BBUEG 27732	BCUEI 81742	BVTEF 98761
25	75	G.H.S.School Thudupathi 638057, South Facing 3rd Terraced Building West Portion	BBUEL 14188	BBUEL 14332	BCUEI 90879	BVTEG 07657
26	77	G.H.S.S Thudupathi 638057, South Facing 2nd Terraced Building East Side	BBUEL 10459	BBUEL 11892	BCUEF 42478	BVTEF 15956
27	79A(W)	P.U.E.School Kelaripalayam-638055, North Facing New Terraced Building	BBUEL 11273	BBUEG 03500	BCUEI 77517	BVTEG 06940
28	80	P.U.E.School Chellappampalayam 638055, South Facing Terraced Building West Portion	BBUEL 14280	BBUEL 11097	BCUEF 57165	BVTEC 22408
29	84	P U M School Pappampalayam 638055, East Facing Terraced Building West Side North Portion	BBUEL 15748	BBUEG 28007	BCUEG 19337	BVTEG 48673
30	90	N.R.Karupananadar Kalvinilaiyam High.School Kunnathur-638103, South Facing Terraced Building East Side	BBUEL 13804	BBUEL 12278	BCUEI 90336	BVTEA 91485
31	94	P.U.M.School Kunnathur 638103, West Facing terraced Building South Portion	BBUEL 12321	BBUEL 14032	BCUEI 58290	BVTEC 42485
32	95	P.U.M.School Kunnathur 638103, West Facing Terraced Building North Portion	BBUEL 14840	BBUEL 16873	BCUAE 86433	BVTEG 37884
33	100	P.U.M.S Thiruvaimudaliyur 638103, North Facing Terraced Building	BBUEL 12037	BBUEL 68949	BCUEG 19248	BVTEG 00584

S. No.	Polling Station No.	Location and Name of Polling Stations	BU1	BU2	CU	VVPAT
34	111	P.U.E.School Virumandampalayam-638812, East Facing Tiled Building North Portion	BBUEL 63405	BBUEL 13805	BCUEI 41162	BVTEA 54543
35	133A(W)	G.H.S.School. Vijayapuri-638056 , North Facing Terraced Building West Side	BBUEL 12302	BBUEL 14748	BCUEG 19800	BVTEC 30993
36	137A(W)	Selffinance.E.School. Kinipalayam-638056, East Facing Terraced Building Middle Room	BBUEL 68818	BBUEL 13312	BCUEI 89046	BVTEC 94595
37	138	P.U.E.School. Karandipalayam-638056, East Facing New Terraced Building	BBUEL 14557	BBUEH 10832	BCUEF 44204	BVTEI 97497
38	140(M)	P.U.M.School Aaigoundampalayam-638057, North Facing Terraced Building West Portion	BBUEL 12263	BBUEL 12884	BCUEI 79435	BVTEA 58423
39	140A(W)	P.U.M.School Aaigoundampalayam-638057 , North Facing Terraced Building Middle Portion	BBUEL 13581	BBUEL 10702	BCUEF 42164	BVTEF 30318
40	141	P.U.M.School Aaigoundampalayam-638057, South Facing Terraced Building	BBUEL 88822	BBUEL 15315	BCUAE 37344	BVTEC 31039
41	145	C.S.I Aided Elementary School Pattakampalayam 638057, East Facing Tiled Building East Portion	BBUEL 13880	BBUEL 13235	BCUEI 82547	BVTEF 99533
42	147	P.U.E.School Kanakkampalayam 638057, West Facing Terraced Building	BBUEL 10525	BBUEF 63246	BCUEI 79299	BVTEG 07859
43	148	P.U.E.School Seenapuram-638055, West Facing Terraced Building South Side	BBUEL 14708	BBUEG 02151	BCUEF 56788	BVTEG 36476
44	154(AW)	P.U.E.S.Thiruvenkadam- palayam 638052 , North Facing Tiled Building West Side	BBUEL 12688	BBUEG 24306	BCUEI 51914	BVTEA 53440



**TAMIL NADU GOVERNMENT GAZETTE EXTRAORDINARY 17**

<i>S. No.</i>	<i>Polling Station No.</i>	<i>Location and Name of Polling Stations</i>	<i>BU1</i>	<i>BU2</i>	<i>CU</i>	<i>VVPAT</i>
45	155	Govt.Girls.H.S.School Perundurai-638052, North Facing Terraced Building Room No 8	BBUEG 51580	BBUEG 88091	BCUEI 82709	BVTEC 92982
46	157	Govt.Girls.H.S.School Perundurai-638052, North Facing New Terraced Building Room No 3	BBUEL 13469	BBUEL 10091	BCUEI 51445	BVTEC 20344
47	158(M)	Govt.Girls.H.S.School Perundurai-638052, North Facing Terraced Building East Portion Room No 16	BBUEL 10370	BBUEL 15249	BCUAE 83290	BVTEG 03299
48	160(M)	CSI School, Selatterpuram 638052 , East Facing Tiled Building North Side	BBUEL 10682	BBUEL 65032	BCUAE 59006	BVTEG 05963
49	160A(W)	CSI School, Selatterpuram 638052, East Facing Tiled Building South Side	BBUEL 81839	BBUEL 14147	BCUAC 73339	BVTEC 59504
50	161	P.U.E.School Seelampatty-638052, North Facing Tiled Building	BBUEG 85224	BBUEL 12471	BCUEI 89193	BVTEA 82008
51	162	P.U.E.School Ellalalayam 638052, South Facing Terraced Building	BBUEL 12021	BBUEL 10774	BCUAC 82509	BVTEG 05579
52	164	P.U.M.School Karumandiselli-palayam-638052, South Facing Tiled Building West Portion	BBUEL 96916	BBUEL 14025	BCUEI 51786	BVTEC 81912
53	171	P.U.E.School Kandampalayam-638052, East Facing Tiled Building South Portion	BBUEL 13675	BBUEL 15533	BCUEF 53954	BVTEA 57138
54	173	P.U.M.School. Perundurai West -638052, South Facing Terraced Building West Block West Room	BBUEL 12751	BBUEL 82234	BCUEH 85527	BVTEC 10037
55	177A(W)	P.U.M.School. Perundurai West -638052 , West Facing Terraced Building North Side	BBUEF 10296	BBUEL 11030	BCUEF 67182	BVTEG 06614

S. No.	Polling Station No.	Location and Name of Polling Stations	BU1	BU2	CU	VVPAT
56	183(M)	P.U.M.School. Perundurai East-638052 , East Facing Terraced Building South Side	BBUEL 13502	BBUEL 12500	BCUEI 89564	BVTEC 92065
57	186A(W)	P.U.E.School. Thoppupalayam-638052, East Facing New Terraced Building South Portion	BBUEL 11147	BBUEL 13224	BCUEI 88935	BVTEC 45470
58	187A(W)	P.U.E.School Thoppupalayam 638052 , South Facing Terraced Building East Portion	BBUEL 81395	BBUEG 51566	BCUAD 75020	BVTEG 38582
59	188(M)	P.U.E.School. Paniikkampalayam-638052, North Facing Terraced Building West Side	BBUEL 14049	BBUEL 14522	BCUEF 42104	BVTEC 16479
60	189	P.U.E.School.Chinnavettupalayam-638052, North Facing Tiled Building	BBUEG 00031	BBUEL 11700	BCUEI 88695	BVTEA 81337
61	196(M)	P.U.E.S Senkulam Ingur 638058 , South Facing Terraced Building West Side	BBUEL 13177	BBUEG 72327	BCUEF 63914	BVTEC 03836
62	196A(W)	P.U.E.S Senkulam Ingur 638058 , South Facing Terraced Building East Side	BBUEL 15113	BBUEL 68409	BCUEF 59814	BVTEF 98707
63	199(M)	P.U.E.School. Servakaranpalayam-638056, East Facing Terraced Building North Side	BBUEL 81304	BBUEL 10629	BCUEI 81508	BVTEF 97934
64	199A(W)	P.U.E.School. Servakaranpalayam-638056, East Facing Terraced Building South Side	BBUEL 11067	BBUEL 14777	BCUEI 79715	BVTEF 99720
65	202	P.U.M.School Nadupatti-638056, East Facing New Terraced Building	BBUEL 14224	BBUEL 12560	BCUEI 80470	BVTEG 06271
66	207	P.U.E.School Saravanapuram-638056, North Facing Old Tiled Building South West Portion Terraced Building	BBUEH 11327	BBUEL 15866	BCUEF 56767	BVTEF 99849

**TAMIL NADU GOVERNMENT GAZETTE EXTRAORDINARY 19**

<i>S. No.</i>	<i>Polling Station No.</i>	<i>Location and Name of Polling Stations</i>	<i>BU1</i>	<i>BU2</i>	<i>CU</i>	<i>VVPAT</i>
67	208A(W)	P.U.E.School Sellipalayam -638751, East Facing Tiled Building	BBUEL 12722	BBUEL 12674	BCUEI 81176	BVTEC 84187
68	209	P.U.M.School Kasthuripalayam-638751, West Facing New Terraced Building	BBUEL 13075	BBUEL 11341	BCUEI 84992	BVTEA 89707
69	216A(W)	P.U.E.School Muthampalayam 638812 , North Facing Terraced Building West Portion	BBUEL 90165	BBUEL 11877	BCUEG 34677	BVTEC 42135
70	217	P.U.M.School Kadapalayam 638812, North Facing New Terraced Building West Portion	BBUEL 16860	BBUEL 10333	BCUEI 80973	BVTEG 06474
71	220	P.U.E.School.Morattupalayam -638752, North Facing Tiled Building North East Portion	BBUEL 11831	BBUEL 10448	BCUEF 66682	BVTEF 98743
72	225	P.U.M.School.Uthukuli Rs 638751, North Facing Tiled Building West Side	BBUEL 13908	BBUEG 88534	BCUEI 59514	BVTEG 07389
73	227(M)	P.U.M.School.Uthukuli Rs 638751, North Facing Tiled Building	BBUEL 61209	BBUEL 12852	BCUEF 63618	BVTEF 98019
74	230	P.U.E.School Karaipalayam Pudhu Colony 638751, South Facing Terraced Building West Side	BBUEL 11937	BBUEL 12854	BCUEI 55335	BVTEC 92861
75	234A(W)	Govt.Boys.High.School Uthukuli-638751, East Facing New Terraced Building Center Portion	BBUEL 11646	BBUEL 11051	BCUEI 79171	BVTEC 92689
76	247(M)	P.U.E.S, Kolathupalayam, 638051 , North Facing Tiled Building West Portion	BBUEH 87883	BBUEL 65206	BCUAC 87926	BVTEC 31457
77	252	P.U.E.School.Rettaikinnar -638751, South Facing Tiled Building	BBUEG 00649	BBUEG 84598	BCUEF 63052	BVTEC 58080
78	253	P.U.M.School. Thimmanaickenpalayam -638752, North Facing Terraced Building East Side	BBUEL 96008	BBUEL 93910	BCUEI 65934	BVTEA 54162

S. No.	Polling Station No.	Location and Name of Polling Stations	BU1	BU2	CU	VVPAT
79	254	P.U.M.School. Thimmanaickenpalayam -638752, North Facing Terraced Building West Side	BBUEG 11876	BBUEL 14363	BCUEF 56597	BVTEF 98601
80	258A(W)	P U M School Parappalayam 641607, East Facing New Terraced Building North Side	BBUEL 10585	BBUEL 12136	BCUEF 57159	BVTEF 12943
81	260A(W)	P.U.E.School. Sarkarperiyapalayam 641607, East Facing Terraced Building North Portion	BBUEL 10031	BBUEL 65034	BCUAE 58196	BVTEF 12314

4. The Tabulation in paragraph 15 of Election Petition is as follows:

Roll No.	POLLING STATION	VVPAT NUMBER WRONG NUMBER	CONTROL UNIT
1	1	EG05376	
2	1A(W)	BUTEA37169	
3	5	20438	85939
4	6A(W)	PVTEG22588	
5	7	EA58729	
6	9	VVTEG04552	
7	11		BCUAE59699
8	12(M)	BVTE0357	
9	15	19AA888019	19AA888020
10	18	BUTEF98512	
11	26	BUTEF95670	
12	27(M)	PVTEF99908	
13	35m		40110
14	35A(W)	BUTE35163	
15	36A(W)		BCVEI51870

**TAMIL NADU GOVERNMENT GAZETTE EXTRAORDINARY 21**

Roll No.	POLLING STATION	VVPAT NUMBER WRONG NUMBER	CONTROL UNIT
16	42	ED09340	BCVEF59194
17	45	E607059	
18	48A(W)	EG06389	
19	53A(W)	BVTEG38085	
20	54 M	BUTEF99170	BLUEF40103
21	60		BOUEF63344
22	61		BCVEF63753
23	70	BUTEG06261	
24	71	98761	
25	75	07657	90879
26	77		BCuEF42478
27	79A(W)		BCuE177517
28	80		BLUEF57165
29	84	BUTED48673	
30	90	BUTEA91485	BUE190336
31	94		BCVE158290
32	95	BUTED37884	
33	100		BCuEG19248
34	111	54543	41162
35	133A(W)	BUTEC30993	
36	137A(W)		BCVE189046
37	138	BUTE197497	
38	140(M)	BVPEATEA58423	
39	140A(W)	E407339	
40	141		BCuAE37344
41	145		BCVE182547
42	147		BCuE179299

Roll No.	POLLING STATION	VVPAT NUMBER WRONG NUMBER	CONTROL UNIT
43	148		BCuEF56788
44	154(AW)	BUTEA53440	
45	155	EC92982	BU82709
46	157	20344	51445
47	158(M)		BCUAG83290
48	160(M)	BUTEG05963	
49	160A(W)	BUTEC59504	
50	161	EA82008	CU89193
51	162	BUTEG05579	
52	164	BVVTEC81912	BCCE151786
53	171		BLUEF53954
54	173	BUTEC10037	
55	177A(W)	1273	
56	183(M)		BCuE189564
57	186A(W)	BUTED45470	
58	187A(W)	BUTEG38582	
59	188(M)	BUTED16479	BUCUE42104
60	189	BUTEA81337	
61	196(M)	BBTEC03836	
62	196A(W)	BVTER98707	
63	199(M)	BVTEP97934	
64	199A(W)	BuTEF99720	BcuE179715
65	202	BUTEG06271	
66	207	56767	
67	208A(W)		BCV181176
68	209		BCVE184992
69	216A(W)	42135	

**TAMIL NADU GOVERNMENT GAZETTE EXTRAORDINARY 23**

Roll No.	POLLING STATION	VVPAT NUMBER WRONG NUMBER	CONTROL UNIT
70	217	ECI06474	
71	220	98743	66682
72	225	758	DCUE159514
73	227(M)	98019	
74	230		BCUEL55335
75	234A(W)	BUTEC92689	BCUE1179171
76	247(M)	BUTEC31457	
77	252	BUTE58080	BCVEF63052
78	253	BVTER54162	
79	254	BUTEF98601	
80	258A(W)		BCUEE57159
81	260A(W)	BUTED12314	AE58196

5. The following issues are framed:

- a) whether there are discrepancies between serial numbers of VVPATS, EVMs (balloting units) and control units in 81 polling stations as between VVPATS, EVMs (balloting units) and control units used on 06.04.2021 (polling day) and VVPATS, EVMs (balloting units) and control units used for counting qua FORM 17C [referable to Rules 49S and 56C(2)] of The Conduct of Elections Rules, 1961 for counting on 02.05.2021?
- b) if the answer to the above is in the affirmative either in part or in whole, whether the same has materially affected the outcome of election in 103 Perundurai Assembly Constituency?
- c) what other reliefs/orders are necessary in ELP on hand?

6. Learned counsel for Election Petitioner requests for listing post Pongal holidays so that deposition can commence Learned counsel subunits that a proof affidavit will be filed well in advance before the nest listing with advance copies to all concerned

List on 20.01.2023 (Friday)

**03.01.2023**

kmi

7. To be noted, 03.01.2023 proceedings captures proceedings made on 28.10.2022. This 28.10.2022 proceedings in turn opens with a paragraph saying that it has to be read in conjunction with and in continuation of earlier proceedings

made in the previous listing on 26.10.2022 and therefore, it is deemed appropriate to extract and reproduce 26.10.2022 proceedings also (though not a productive hearing, for the sake of completion of the narrative) and the same reads as follows:

Matter mentioned at half past one.

2.Mr.K.Sasindran, learned counsel for Election Petitioner, Mr.B.Arvind Srevatsa, learned counsel for returned candidate and Mr.Niranjan Rajagopalan of M/s.G.R.Associates (Law Firm) for the Election Officers (Respondents 7 and 8) are before this Court. Learned counsel for Election Officers adverting to earlier proceedings made on 19.10.2022, requests for a short accommodation to get instructions and revert to this Court. Request acceded to.

List day-after-tomorrow i.e., 28.10.2022.'

8. Parties went to trial on the aforementioned issues. On the side of election petitioner, two witnesses were examined. Election petitioner examined himself as P.W.1 and Chief Election Agent of the election petitioner one Thiru.P.Srinivasa Moorthy was examined as P.W.2. 12 exhibits, namely Exs.P.1 to P.12 were marked and an adumbration of the same is as follows:

<i>Sl.No.</i>	<i>Date</i>	<i>Description</i>	<i>Marked as Exhibit</i>
1.	12.03.2021	Copy of the election schedule downloaded from MCI website	EX.P1
2.	15.03.2021	Nomination of the petitioner	EX.P2
3.	28.04.2021	Petition submitted by the petitioner agent	EX.P3
4.	02.05.2021	Complaint regarding change Control Units	EX.P4
5.	02.05.2021	Repoll request petition	EX.P5
6.	02.05.2021	Order passed by the 7th respondent	EX.P6
7.	02.05.2021	Order passed by the 7th respondent	EX.P7
8.	02.05.2021	Order passed by the 7th respondent	EX.P8
9.	02.05.2021	Order passed by the 7th respondent	EX.P9
10.	02.05.2021	Form 20 and Declaration	EX.P10
11.	15.05.2021	List of petitions sent to 7th respondent for purpose filing election petition	EX.P11
12.	11.06.2021	Order passed by the 7th respondent received on 14.06.2021	EX.P12

9. On the side of the Returned candidate or other co- respondents, no oral evidence or documentary evidence was let in.



10. After recording evidence, captioned Election Petition was listed for arguments. Thiru.S.Mukunth, learned Senior Advocate instructed by Mr.K.Sasindran / assisted by Mr.N.Krishna Kumar, Mr.M.Akash for Election Petitioner and Thiru.T.V.Ramanujan, learned Senior Advocate instructed by Mr.B.Arvind Srevatsa, Mr.A.Irfan Sherif, Ms.Nithyasree Rajagopal for first respondent (returned candidate) and Mr.Niranjan Rajagopalan of M/s.G.R.Associates (Law Firm) along with Ms.S.Sowjanya for Election Commission (to be noted for respondents 7 and 8) were heard. Respondent No.4, who is one of the unsuccessful candidates had entered appearance through a counsel pursuant to earlier proceedings made in the previous listing on 17.08.2023. Mr.R.Prabakar, learned counsel assisted by Mr.P.Marudhupandiyam and Ms.S.Selvi for fourth respondent is also before this Court today.

11. As regards arguments made by both sides, while Senior Advocates for Election Petitioner and the Returned Candidate made submissions, learned counsel for respondent No.4 submitted that he really does not have a say and he is only a formal party. Mr.Niranjan Rajagopalan appearing for Election Officers submitted that being Election Officers and being counsel for Election Commission, he would remain completely neutral as regards the legal tussle qua election petitioner and returned candidate parties.

12. This takes us to rival submissions made by two contesting parties, namely Election Petitioner and Returned candidate.

13. Mr.S.Mukunth, learned Senior Advocate, adverting to 03.01.2023 proceedings submitted that the same forms the bedrock of trial. In the light of the issues set out in 03.01.2023 proceedings, more particularly paragraph No.5 thereat, captioned matter turns heavily on records and therefore, learned senior advocate for Election Petitioner submitted that it may not be necessary to advert to the depositions or exhibits in detail and be detained by those aspects of the matter. Learned Senior advocate submitted that a careful perusal of the records placed before this Court by Election Commission (respondents 7 and 8) pursuant to aforementioned earlier order of this court brings to light that as regards 81 polling stations (in 66 locations) with regard to which disputation / contestation regarding disparity between EVMS and VVPATs used on polling day (06.04.2021), control units (Form 17C) used on counting day (02.05.2021), only 4 polling stations bring out disparity which if deemed appropriate can be gone into. These four are, Serial Nos.9,19,39 and 55 in the tabulation in paragraph 15 of the Election Petition and the respective polling stations have been mentioned in the tabulation in paragraph 4 of aforementioned 03.01.2023 proceedings. This means that disputation / contestation if at all and if that be so pertains to polling stations Nos.15, 53A(W), 140A(W) and 177A(W).

14. Before proceeding further, this Court deems it appropriate to record one fact which has made the entire legal drill on hand very simple and also further reduced the perimeter within which the legal drill on hand has to perambulate and that is, as regards four polling stations, votes polled in aforementioned four polling stations are 511, 592, 471 and 413 respectively and this adds upto 1987. As already alluded to supra, Returned candidate was declared elected by a margin of 14,507 votes. Therefore, on a demurer even if the contestation as regards aforementioned four polling stations are considered to be true, correct, proved and established, it would not materially affect the result. When it would not materially affect the result,

that by itself makes the matter fairly simple and that is the reason why this Court considers it appropriate to not to dilate further on the peripherals.

15. In response to aforesaid submission, appearing on of counsel for Returned candidate, Thiru T.V.Ramanujun, learned Senior Advocate made one sheet anchor submission and that one sheet anchor submission is, Election Petition is not a common law remedy, it is a statutory remedy and therefore, the burden of proof has to be discharged to the hilt i.e., pleadings, more particularly pleadings contained in paragraphs 7, 13 and 15 of the Election Petition. It was submitted that the documents produced by Election Commission also have not been proved or subjected to disputation and therefore election petitioner has really not proved the case to the hilt as required nay imperative in a statutory remedy. Learned Senior Advocate pressed into service two case laws which have stood the test of time. One is, **Jyoti Basu** case [**Jyoti Basu and others Vs. Debi Ghosal and others reported in (1982) 1 SCC 691**] which is an authority for the proposition as regards proper party being arrayed as respondent and paragraph 8 of **Jyoti Basu** case was pressed into service to say that an election petition is not a common law remedy and the other is, **Rajiv Gandhi** case [**Dhartipakar Madan Lal Agarwal Vs. Rajiv Gandhi reported in 1987 (Supp) SCC 93**] where again in paragraph 14 thereat in election petition, it was held that pleadings should have utmost specificity as election petition remedy is not a common law remedy and this principle is traceable to Section 83 of said Act.

16. Thereafter, **G.S.Iqbal** case [**G.S.Iqbal Vs. K.M.Khader and others reported in (2009) 11 SCC 398**] was also a case law to which attention of this court was drawn (paragraphs 28 and 29 thereat) which deals / brought to the fore burden of proof and **G.S.Iqbal** was pressed into service only to buttress aforementioned 'not a common law remedy' argument.

17. That election petition is not a common law remedy and that it is a statutory remedy which warrants proof to the hilt is a proposition which is indisputable. In this view of the matter, records before this Court and deposition / exhibits (to be noted, it has already been delineated supra that depositions and exhibits do not really impact the case on hand) bring to light that the election petitioner has not proved the pleadings much less proved to the hilt, more particularly pleadings contained in paragraph 15 of Election Petition.

18. On a demurer, even if the aforementioned four polling stations which were referred to by learned Senior Advocate for election petitioner are construed to have been proved, even proved to the hilt, it really does not make a difference to the outcome of the Election Petition as it would not materially affect the result. In this regard, it is to be noted that it has also been set out supra that the Returned candidate was declared elected by a margin of 14,507 votes, whereas votes polled in four polling stations add up to 1987 votes. Further, though 81 polling stations (66 locations) have been set out in paragraph 15 of the Election Petition, besides aforementioned four polling stations, there are at best only certain errors in the alpha part of alpha numeric descriptions. This really does not materially affect the outcome of election. In any event, as already alluded to supra, the election petitioner has not chosen to seek sequitur prayer of being declared elected as Returned candidate. Therefore, viewed from any perspective, captioned Election Petition cannot but to fail.

TAMIL NADU GOVERNMENT GAZETTE EXTRAORDINARY 27

19. The sum sequitur of the narrative, discussion and dispositive reasoning thus far leads us to the inevitable conclusion that the captioned Election Petition fails and the same deserves to be dismissed. Accordingly, Election Petition is dismissed. Considering the facts and circumstances of the case and the manner in which Election Petition proceeded, this Court deems it appropriate to say that there shall be no order as to costs.

WITNESS, THE HON'BLE MR.JUSTICE SANJAY VIJAYKUMAR GANGAPURWALA, CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE 31ST DAY OF AUGUST 2023.

Sd./-  
ASSISTANT REGISTRAR  
*Original Side – II*

//Certified to be true copy//  
Dated at Madras this the 8th day of November 2023.

COURT OFFICER (O.S.)

'Madras High Court is issuing certified copies in this format from 17/07/2023'.

**Witnesses examined on the side of Election Petitioner:**

- 1.Mr.KKC.Balu – P.W.1
2. Mr.P.Srinivasa Moorthy – P.W.2

**List of documents marked on the side of Election Petitioner:**

- Ex.P.1 - Copy of the election schedule downloaded from MCI website, dated 12.03.2021.
- Ex.P.2 -Nomination of the petitioner, dated 15.03.2021
- Ex.P.3 -Petition submitted by the petitioner agent, dated 28.04.2021
- Ex.P.4 -Complaint regarding change of Control Units, dated 02.05.2021
- Ex.P.5 -Repoll request petition, dated 02.05.2021
- Ex.P.6-Order passed by the 7th respondent, dated 02.05.2021
- Ex.P.7-Order passed by the 7th respondent, dated 02.05.2021
- Ex.P.8-Order passed by the 7th respondent, dated 02.05.2021
- Ex.P.9-Order passed by the 7th respondent, dated 02.05.2021
- Ex.P.10 - Form 20 and Declaration, dated 02.05.2021
- Ex.P.11 - List of petitions sent to 7th respondent for purpose of filing election petition.
- Ex.P.12 - Order passed by the 7th respondent received on 14.06.2021, dated 11.06.2021.

Sd./-  
ASSISTANT REGISTRAR  
*Original Side – II*

PK  
17/10/2023

ELP.NO.5 OF 2021

ORDER

DATED: 31/08/2023

THE HON'BLE MR JUSTICE

M.SUNDAR

FOR APPROVAL: 06/11/2023

APPROVED ON: 06/11/2023

Copy to:-

1. The Chief Election Commissioner,  
Election Commission of India,  
Nirvachan Sadan,  
Ashoka Road, New Delhi.
2. Chief Electoral Officer of Tamil Nadu,  
Public (Elections) Department,  
Fort St.George Secretariat,  
Chennai - 600 009.
3. The Returning Officer,  
No.103, Perundurai Assembly  
Constituency and District  
Supply and Consumer  
Protection Officer,  
Erode District, Tamil Nadu.

(By Order)

MALAY MALLICK,  
*Principal Secretary,*  
*Election Commission of India.*

Secretariat,  
Chennai-600 009,  
22nd December, 2023.

SATYABRATA SAHOO,  
*Chief Electoral Officer and*  
*Principal Secretary to Government,*  
*Public (Elections) Department.*