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TAMIL NADU GOVERNMENT GAZETTE

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Part V—Section 4

Notifications by the Election Commission of India

BEFORE THE ELECTION COMMISSION OF INDIA

F. No. 76/TN-LA/26/2021/CEMS-II

No. SRO G-19/2026.

In Re: Accounts of election expenses of Thiru. Aassan Maulaana. JMH, Returned Candidate from 26-Velachery Assembly Constituency in General Election to the Legislative Assembly of Tamil Nadu, 2021.

ORDER

1. This case arises out of the scrutiny of the account of election expenses lodged by Thiru. Aassan Maulaana. JMH (hereinafter referred to as "the respondent") under Sections 77 and 78 of the Representation of the People Act, 1951 (hereinafter referred to as the "the RP Act, 1951"), and the report of the District Election Officer (DEO), Chennai, dated 19.06.2021, regarding substantial understatement of expenditure on advertisements published in ten newspapers on 27.03.2021 and 28.03.2021, as well as one advertisement published on 03.04.2021.

2. The respondent was declared elected from 26-Velachery Assembly Constituency in the General Elections to the Legislative Assembly of Tamil Nadu, 2021, on 02.05.2021. In compliance with Section 78 of the RP Act, 1951, he lodged his account of election expenses declaring a total expenditure of Rs.17,03,548/- with the DEO, Chennai, on 24.05.2021, within the prescribed time.

3. On 30.03.2021, the Returning Officer (RO) issued a notice to the respondent raising the issue whether the advertisements published by the Tamil Nadu Congress Committee (TNCC) in ten newspapers were for promoting the election of the respondent. The respondent, *vide* letter dated 31.03.2021, denied any authorization and stated that the TNCC had borne the expenses independently.

4. The DEO, Chennai, in his scrutiny/summary report dated 19.06.2021, did not accept the account and determined an understatement of Rs.32,05,915/- in respect of the aforesaid advertisements. The Media Certification and Monitoring Committee (MCMC) had earlier estimated the total cost of the advertisements published in ten newspapers on 27.03.2021 and 28.03.2021 at Rs.31,53,975/- (based on Directorate of Information and Public Relations rates and approved by the office of the Chief Electoral Officer, Tamil Nadu). The District Election Monitoring Committee (DEMC) in its meeting held on 02.04.2021 opined that the said amount of Rs.31,53,975/- be included in the respondent's account, taking into account the observations of the Hon'ble Supreme Court in *Kanwar Lal Gupta vs. Amar Nath Chawla & Ors* 1975 AIR 308 and the ECI guidelines dated 28.01.2009 citing ECI instructions dated 28.01.2009. In its second meeting held on 02.06.2021, DEMC finalized the total understated amount at Rs.32,05,915/- (including an additional Rs.51,940/- for the advertisement published on 03.04.2021). An order was issued by the DEO, Chennai on the same day calling upon the respondent to submit his reply.

5. When the understated amount of Rs.32,05,915/- is added to the declared expenditure of Rs.17,03,548/-, the total comes to Rs.49,09,463/-, which exceeds the then permissible ceiling of Rs.30.80 lakh as mentioned under Rule 90 of the Conduct of Election Rules, 1961 (hereinafter referred to as the "CE Rules, 1961).

6. The respondent submitted a detailed reply dated 15.06.2021 to the DEO's order dated 02.06.2021, inter alia contending that:

i. the meeting and advertisements were for canvassing votes for all 234 DMK-Congress alliance candidates;

ii. total expenses of Rs.33,05,094/- (including GST) were paid by TNCC through cheques;

iii. he had neither authorised nor approved the insertion of his photograph or the appeal for votes in his constituency;

iv. the expenses cannot be thrust upon him merely because his photograph appeared along with four other candidates;

v. the DEMC decision was based on an overruled judgment and the ECI instructions dated 28.01.2009 relate to hoardings and not newspaper advertisements;

vi. the RO notice was issued without furnishing e*vide*nce as required by ECI Instructions dated. 29.05.2015; and

vii. the violation of Section 77 can only be adjudicated in an election petition under Section 123(6) of the RP Act, 1951.

7. The DEO and the Expenditure Observer have reported that the advertisements prominently featured the respondent's name, photograph, and the INC hand symbol with specific appeals to vote for "Velachery Congress candidate Aassan Maulaana JMH''. The election symbols of other alliance parties were missing from such advertisements.

8. After a deliberate consideration of the DEO report and the documents, the Election Commission of India issued a Show Cause Notice dated 16.03.2023 under Sections 77 and 78 of the RP Act, 1951 read with Rule 89(5) of the CE Rules, 1961 calling upon the respondent to show cause why his account should not be treated as not having been lodged in the manner required by law and why he should not be disqualified for a period of three years. The notice specifically noted that the respondent had not disowned the expenditure as having been incurred, had not claimed it as third-party expenditure, and had knowingly taken advantage of the advertisements containing his photograph and appeal for votes.

9. In response, the respondent submitted an interim reply dated 21.04.2023 and a detailed reply dated 12.07.2023 reiterating his earlier stand, and also raised the plea of limitation (referring to ECI's one- year timeline for disposal of accounts cases in O.M No 76/2004/JS-II, dated. 5th July, 2004, which was issued in line with the observations of the Hon'ble Karnataka High Court in *Guinness Hotte Paksha Rangaswamay vs Chief Election Commissioners and others* ILR 1999 KAR 3792). The respondent also requested a personal hearing through his legal counsel.

10. Pursuant to the said request, after completion of all internal formalities and authorisation under Section 19A of the Representation of the People Act, 1951, the Commission granted the first opportunity of personal hearing on 02.09.2025. Thereafter, owing to repeated adjournment requests made by the respondent (on grounds of ill health and pending writ petition before the Hon'ble Madras High Court), the Commission accommodated him on several occasions and fixed multiple dates for hearing. The respondent has appeared and participated in a total of three personal hearings, the details of which are as under:

- On 13.11.2025, the respondent appeared in person and sought permission to present his case through counsel. The matter was adjourned, and the next date was fixed (subsequently postponed to 10.12.2025).
- On 10.12.2025, the respondent appeared and was permitted to inspect all documents on record received from the DEO concerned. The next date of hearing was fixed for 23.12.2025.
- On 23.12.2025, the respondent again appeared but failed to produce any documentary e*vide*nce in support of his submissions despite the opportunity granted to him. The matter was adjourned and the next date was fixed (later postponed due to official engagement).

Subsequent scheduled dates (13.01.2026, 11.02.2026, 27.02.2026, and 09.03.2026) were either postponed due to official reasons or the respondent remained absent. On 12.03.2026, the respondent appeared before the Election Commission of India at Ashoka Road and contended that he doesn't wish to furnish any further documents.

11. The respondent had also submitted a final written reply dated 08.01.2026. In brief, he challenged the proceedings as barred by limitation and vitiated by inordinate delay, relying on the 2020 Compendium of Instructions and ECI O.M. dated 05.07.2004 (which prescribe a one-year timeline) and the Karnataka High Court judgment in W.P. No. 4357/1999. He contended that he cannot be penalised for administrative delay, especially when it may affect his right to contest the 2026 Tamil Nadu Assembly Election. He has reiterated that the public meeting dated 28.03.2021 was organised by TNCC for the Secular Progressive Alliance to canvass votes for all 234 constituencies; the entire expenditure (including advertisements) was incurred and paid by the party through cheques; he neither authorised nor consented to the advertisements and had no prior knowledge; and even if apportionment were required, it ought to have been distributed proportionately among the candidates/leaders featured rather than solely attributed to him.

12. The respondent has also strongly, contested the reliance on *Kanwar Lal Gupta vs. Amar Nath Chawla* (1974), stating that the said judgment was immediately nullified by the Presidential Ordinance dated19.10.1974 amending Section 77 by inserting Explanations clarifying that party expenditure shall not be deemed candidate expenditure. He relied on the Constitution Bench decision in Indira Nehru Gandhi vs. Raj Narain (1975) to argue that the ratio of Kanwar Lal Gupta no longer holds good. He contended that only expenditure incurred or authorised by the candidate can be included in his account; in the absence of e*vide*nce of authorisation, the inclusion is untenable; and any alleged violation of Section 77 must be adjudicated only through an election petition under Sections 100 and 123(6), where allegations have to be proved beyond reasonable doubt. He prayed that the proceedings be dropped as they are barred by limitation, based on an overruled legal position and unsupported by *evidence*, and that continuation would cause irreparable prejudice to his political rights.

13. On 23.03.2026, a hearing on the 'final arguments' were held on the submissions in which the respondent has re-iterated the submissions he made in the final written reply he had submitted on 08.01.2026 which were rebutted by the Ld. counsel representing the Election Commission of India.

Analysis

14. The respondent has not disputed the fact of publication of the advertisements. The *evidence* on record, including the copies of the newspapers, the reports of the DEO, the MCMC and the DEMC, conclusively establish that the advertisements in question were published in ten newspapers on 27.03.2021 and 28.03.2021, and one additional advertisement on 03.04.2021. These advertisements prominently featured the respondent's name and his photograph, along with specific appeals to vote for "Velachery Congress candidate Aassan Maulaana JMH".

15. The content of these advertisements was an explicit appeal to the electorate to vote for the respondent. The fact that other leaders or candidates were also featured in the advertisements does not detract from the reality that the respondent was a direct and primary beneficiary. The presence of his photograph and the specific call to vote for him in the Velachery constituency, where he was a contesting candidate, leaves no room for doubt that these advertisements were meant to further his electoral prospects.

16. The Supreme Court, in *Ashok Shankarrao Chavan v. Madhavrao Kinhalkar* & Ors., (2014) 7 SCC 99, while discussing the scope of Section 10A of the RP Act, 1951, observed that the intention of the legislature in enacting the provisions relating to election expenses is to ensure that the process of election is not sullied by resorting to unethical means while incurring election expenses. The Court noted the prevalent use of money power in elections and held that the maintenance of account of election expenses is not an empty formality but is crucial for maintaining purity in elections. In the present case, the advertisements were clearly part of the election campaign and were designed to influence the electorate in favour of the respondent. It is accordingly held that the expenditure on these advertisements was incurred in connection with the election of the respondent.

17. Section 77(1) mandates that every candidate shall keep a separate and correct account of all expenditure in connection with the election incurred or authorised by him or by his election agent. The respondent has argued that the expenditure was incurred by the TNCC, his political party, and that he neither authorized nor had knowledge of it. This argument fails to consider the legal principles governing the attribution of

election expenditure to a candidate. The Supreme Court in Common Cause v. Union of India, (1996) 2 SCC 752, enunciated a crucial principle regarding expenditure incurred by political parties. The Court held that expenditure in connection with the election of a candidate, to the knowledge of the candidate or his election agent, shall be presumed to have been authorised by the candidate. The Court further clarified that it would be open to the candidate to rebut this presumption in accordance with law by showing that the expenditure was in fact incurred by the political party to which he belongs or by any other association or body of persons or by an individual (other than the candidate or his election agent). However, the onus to rebut the presumption rests on the candidate.

"6 That the expenditure, (including that for which the candidate is seeking protection under Explanation to Section 77 of the RP Act) in connection with the election of a candidate–to the knowledge of the candidate or his election agent–shall be presumed to have been authorized by the candidate or his election agent. It shall, however, be open to the candidate to rebut the presumption in accordance with law and to show that part of the expenditure or whole of it was in fact incurred by the political party to which he belongs or by any other association or body of persons or by an individual (other than the candidate or his election agent). Only when the candidate discharges the burden and rebuts the presumption he would be entitled to the benefit of Explanation 1 to Section 77 of the RP Act."

The respondent has failed to successfully rebut the presumption raised against him in lieu of this judgment by providing weak pieces of e*vide*nce.

18. In the instant case, the advertisements were published in major newspapers with wide circulation in the Velachery constituency. They were published during the election campaign period, which is a time of heightened public awareness and scrutiny. The advertisements carried the respondent's photograph and a direct appeal to vote for him. The respondent, being a candidate and a public figure, cannot plausibly claim ignorance of such prominent advertisements. The Supreme Court of India *in Ashok Chavan* held that the enquiry under Section 10A is of a civil nature and the principles of preponderance of probabilities apply. In the present case, the overwhelming probability is that the respondent had knowledge of these advertisements, which were clearly beneficial to his candidature. Further, the Supreme Court of India while interpreting the provision of Section 77 (1) of RP Act in the judgment of *Kanwar Lal Gupta v. Amar Nath Chawla,* (1975) 3 SCC 646 has clearly stated that:

"11. Now, if a candidate were to be subject to the limitation of the ceiling, but the political party sponsoring him or his friends and supporters were to be free to spend as much as they like in connection with his election, the object of imposing the ceiling would be completely frustrated and the beneficent provision enacted in the interest of purity and genuineness of the democratic process would be wholly emasculated. The mischief sought to be remedied and the evil sought to be suppressed would enter the political arena with redoubled force and vitiate the political life of the country. The great democratic ideal of social, economic and political justice and equality of status and opportunity enshrined in the Preamble of our Constitution would remain merely a distant dream eluding our grasp. The legislators could never have intended that what the individual candidate cannot do, the political party sponsoring him or his friends and supporters should be free to do. That is why the legislators wisely interdicted not only the incurring but also the authorizing of excessive expenditure by a candidate. When the political party sponsoring a candidate incurs expenditure in connection with his election, as distinguished from expenditure on general party propaganda, and the candidate knowingly takes advantage of it or participates in the programme or activity or fails to disavow the expenditure or consents to it or acquiesces in it, it would be reasonable to infer, save in special circumstances, that he ***impliedly authorized*** *the political party to incur such expenditure and he cannot escape the rigour of the ceiling by saying that he has not incurred the expenditure, but his political party has done so. A party candidate does not stand apart from his political party and if the political party does not want the candidate to incur the disqualification, it must exercise control over the expenditure which may be incurred by it directly to promote the poll prospects of the candidate. The same proposition must also hold good in case of expenditure incurred by friends and supporters directly in connection with the election of the candidate. This is the only reasonable interpretation of the provision which would carry out its object and intendment and suppress the mischief and advance the remedy by purifying our election process and ridding it of the pernicious and baneful influence of big money. This is in fact what the law in England has achieved. There, every person, on pain of criminal penalty, is required to obtain authority from the candidate before incurring any political expenditure on his behalf. The candidate is given complete discretion in authorising expenditure upto his limit. If expenditure made with the knowledge and approval of the candidate exceeds the limit of the candidate makes a false report of the expenditure after the election, he is subject not only to*

criminal penalties, but also to having his election voided. It may be contended that this would considerably inhibit the electoral campaign of political parties. But we do not think so. In the first place, a political party is free to incur any expenditure it likes on its general party propaganda though, of course, in this area also some limitative ceiling is eminently desirable coupled with filing of return of expenses and an independent machinery to investigate and take action. It is only where expenditure is incurred which can be identified with the election of a given candidate that it would be liable to be added to the expenditure of that candidate as being impliedly authorised by him. Secondly, if there is continuous community involvement in political administration punctuated by activated phases of well-discussed choice of candidates by popular participation in the process of nomination, much of unnecessary expenditure which is incurred today could be avoided. Considerable distances may not have to be travelled by candidates and supporters nor hidden skeletons in political cupboards tactically uncovered, propagandist marijuana skilfully administered, temptations of office strategically held out nor violent demonstrations disruptively attempted. The dawn-to-dawn multiple speeches and monster rallies, the flood of posters and leaflets and the organising of transport and other arrangements for large numbers would become otiose. Large campaign funds would not be able to influence the decision of the electors if the selection and election of candidates become people's decision by discussion and not a Hobson's choice offered by political parties. Limiting election expenses must be part of the political process."

19. The respondent's attempt to distinguish the judgment in Kanwar Lal Gupta on the basis of subsequent amendments to Section 77 is misplaced. The law on the subject has been settled by subsequent decisions, including *Common Cause and Ashok Chavan.* The insertion of Explanation 1 to Section 77, which exempts expenditure incurred by leaders of a political party on travel for propagating the party's programme, does not create a general exemption for all party expenditure. The advertisements in question were specific appeals for a particular candidate in a particular constituency. The respondent has failed to rebut the presumption of authorisation. The claim that he raised the matter with the TNCC President is self-serving and lacks credible corroboration. No public disavowal was made after such publication, nor was any action taken to prevent the publication of such advertisements.

20. Additionally, the respondent attempted to rely on a speech delivered by Shri Rahul Gandhi at the public meeting held on 28.03.2021, asserting that the speech did not mention him and that Mr. Rahul Gandhi canvased for all the 234 candidates who stood under the Secular Progressive Alliance. However, the respondent himself furnished a transcript of that speech, which clearly mentions his name marking his presence at the said public meeting. This material, far from supporting his claim of ignorance, demonstrates his direct association with the event and his knowledge of the publicity surrounding it. Moreover, the present proceedings are not concerned with the content of the speech but with the advertisements that were published bearing his photograph and a specific appeal to vote for him. The advertisement itself constitutes independent e*vide*nce of expenditure incurred in connection with his election, irrespective of the content of the speech. It is accordingly held that the expenditure on the advertisements was incurred with the knowledge and implied authorisation of the respondent within the meaning of Section 77 of the RP Act, 1951.

21. The respondent contends that the proceedings are barred by inordinate delay, citing the Commission's O.M. dated 05.07.2004, which prescribes a one-year timeline for disposal of election expenditure cases, and the Hon'ble Kamataka High Court judgment in *Guinness Hotte Paksha Rangaswamy vs. Chief Election Commissioner of India & Others* ILR 1999 KAR 3792.

22. It is a settled principle of law that Section 10A of the RP Act, 1951, does not prescribe any statutory time limit within which the Election Commission must pass an order of disqualification. The absence of a statutory time limit has been explicitly acknowledged by courts. The Hon 'ble Karnataka High Court in Guinness Hite Paksha Rangaswamy observed that the power must be exercised within a reasonable time, and what is reasonable depends upon the facts and circumstances of each case.

23. The respondent places reliance on the Commission's O.M. dated. 05.07.2004 and the Compendium of Instructions on Election Expenditure, which prescribe a one-year timeline. Such administrative instructions are intended to streamline the process and ensure promptness, but they do not create a statutory bar. The Madras High Court, in Tamilnadu Co-operative Marketing Federation Limited v. D. Lakshmikantham, W.P.No.3323 of 2010, decided on 23.01.2012, while considering a provision that prescribed a time limit for completion of surcharge proceedings, held that such time limits are directory and not mandatory. The Court observed that the mere use of the word "shall" does not render provision mandatory; the legislative intent, nature and design of the statute must be considered. It was further held that non-compliance with the prescribed time limit does not render the proceedings unenforceable, especially when the delay does

not cause prejudice or injustice. The principles enunciated therein are squarely applicable to the present case. The one-year timeline in the administrative instructions is directory and does not vitiate proceedings initiated beyond that period, particularly when the delay is attributable to the complexity of the matter, the procedural steps taken, and the respondent's own requests for adjournments.

24. In the present matter, the respondent submitted his account of election expenses on 24.05.2021. The DEO submitted his report on 19.06.2021. The DEMC held its meetings on 02.04.2021 and 02.06.2021. The Show Cause Notice was issued by the Commission on 16.03.2023. While there was a gap, the proceedings were not dormant. The matter involved complex legal issues, and the respondent himself sought and was granted multiple opportunities for personal hearing. The chronology of events reveals that the delay was not solely attributable to the Commission; it also arose from the procedural steps taken in accordance with law, including the respondent's requests for adjournments and the pendency of a writ petition before the Hon'ble Madras High Court. The respondent has also filed a writ petition challenging the Show Cause Notice. The Commission has consistently taken steps to move the matter forward. In the case of *Umlesh Yadav v. Election Commission of India,* (2014) 7 SCC 99, the Supreme Court upheld an order of disqualification passed by the Commission in a case where the election was held in 2007 and the order was passed in 2011, noting that the delay was not fatal. The Court observed that what constitutes reasonable time depends on the facts of each case. It is accordingly held that the present proceedings are not barred by limitation and that they were initiated and conducted within a reasonable period given the complexity of the matter and the procedural requirements.

25. Now the question under consideration is whether the respondent failed to lodge a true and correct account as required by law. The respondent's declared expenditure was Rs.17,03,548/-. The DEO, after scrutiny, determined that an understatement of Rs.32,05,915/- had occurred in respect of the newspaper advertisements. The total expenditure, if correctly reported, would have been Rs.49,09,463/-, far exceeding the prescribed limit of Rs.30.80 lakh for the assembly constituency.

26. The respondent did not include the expenditure on the advertisements in his account. His contention that the expenditure was not incurred by him but by his party is insufficient. As held in Ashok Shankarrao Chavan (supra), the requirement of Section 77 is to maintain a correct account of all expenditure in connection with the election. The Supreme Court in that case categorically held that an order to be passed under Section 10A could be no less important than an opinion to be rendered by the Election Commission under Section 146 when sought for by the President or Governor. The Court emphasized that the exercise to be made under Section 10A would certainly include the requirement of a true and complete enquiry to determine whether the return of election expenses by an elected candidate is true/correct or false/bogus.

27. The Hon'ble Supreme Court, in the case of Ashok Shankarrao Chavan, upheld the judgment of the Division Bench of the Allahabad High Court in Smt. Umlesh Yadav vs. The Election Commission of India & Others. The Hon'ble Supreme Court reproduced and affirmed the findings of the Division Bench, which are extracted herein below:

> *"115.... Section 77 of the Representation of People Act, 1951, as amended by Act No.46 of 2003, Explanation-I, clearly provides that expenditure incurred by the leaders of political party on account of travel by air or by any other means of transport for propagating programme of the political party shall not be deemed to be expenditure in connection with the election incurred or authorised by a candidate of that political party. Thus now expenses of only limited category incurred by political party is not treated as expenses incurred or authorised by the candidate. The present is not a case which can be said to be covered by Explanation 1 (a) of Section 77 of the Representation of People Act, 1951. Thus the expenses incurred for publishing the advertisement in the newspapers on 17th April, 2007 are expenses which have to be treated to be incurred or authorised by the candidate by virtue of Section 77 of the Representation of People Act, 1951 and the expenses are not covered by exception as engrafted in Explanation- I…"*

A bare perusal of the aforesaid authoritative pronouncement makes it unequivocally clear that expenses incurred by a political party for advertisements in favour of a particular candidate do not fall within the limited exception carved out under Explanation-I to Section 77, and are liable to be treated as expenditure incurred or authorised by the candidate.

28. The respondent knowingly took advantage of the advertisements. He benefited from their publication. The omission to account for this expenditure, which was incurred with his implied authorisation, constitutes a failure to lodge a true and correct account. The fact that the expenditure was not paid directly by the

respondent does not absolve him of the duty to report it. The law mandates that the account must reflect all expenditure incurred in connection with the election, irrespective of the source of payment, if it is incurred with the candidate's knowledge or consent. It is accordingly held that the respondent has failed to lodge a true and correct account of his election expenses as required by and under the law.

29. The next point of consideration would be whether the respondent has any good reason or justification for his failure to lodge a correct account. The respondent's primary justification is that the expenditure was incurred by his party and that he had no knowledge or authorisation. As discussed earlier, this justification is not tenable. The authority has found that the respondent had knowledge of the advertisements and impliedly authorised them.

30. The respondent has also argued that the DEMC relied on an overruled *judgment, Kanwar Lal Gupta,* and that the principles of apportionment should have been applied. These arguments do not constitute a good reason or justification for the failure to lodge a correct account. The decision is based on the settled legal position as laid down in Ashok Chavan and Common Cause. Moreover, the plea of apportionment, even if accepted, would at best require the respondent to disclose a proportionate share of the expenditure. The respondent, however, disclosed nothing. His failure to include even a fraction of the expenditure demonstrates a deliberate attempt to unlawful concealment of the expenditure to circumvent the law.

31. The respondent further contended that the expenditure must be proved beyond reasonable doubt as the proceedings are penal in nature. This argument is misplaced. The Supreme Court in *Ashok Shankarrao Chavan* (supra) clarified that an enquiry under Section 10A is of a civil nature, and the principles of preponderance of probabilities apply. The standard of proof beyond reasonable doubt is not required. The respondent also contended that only an election petition under Section 123(6) can question the violation of Section 77. This argument was expressly rejected in *Ashok Shankarrao Chavan,* where the Court held that the jurisdiction of the Election Commission under Section 10A and that of the High Court in an election petition are distinct and can coexist. No valid justification has been offered. It is accordingly held that the respondent has no good reason or justification for his failure to lodge his account of election expenses in the manner required under the law.

32. Section 10A pro*vide*s that if the Election Commission is satisfied that a person has failed to lodge an account of election expenses within the time and in the manner required by or under the Act, and has no good reason or justification for the failure, the Commission shall declare him to be disqualified for a period of three years from the date of the order.

33. The Supreme Court in L.R. Shivaramagowda v. T.M. Chandrashekar, (1999) 1 SCC 666, interpreted the scope of Section 10A and held that if an account is found to be incorrect or untrue by the Election Commission after enquiry under Rule 89, it could be held that the candidate had failed to lodge his account within the meaning of Section 10A and the Election Commission may disqualify the said person. This principle was reaffirmed in *Ashok Shankarrao Chavan* (supra).

> *"22 In our opinion, sub-section (a) of Section 10-A takes care of the situation inasmuch as it provides for lodging an account of election expenses in the manner required by or under the Act. Section 77(2) provides that the accounts shall contain such particulars as may be prescribed. Rule 86 of the Conduct of Elections Rules provides for the particulars to be set out in the account. The said Rule prescribes that a voucher shall be obtained for every item of expenditure and for lodging all vouchers along with the account of election expenses. Rule 89 provides that the District Election Officer shall report to the Election Commission, the name of each contesting candidate, whether such candidate has lodged his account of election expenses, and if so, the date on which such account has been lodged and whether in his opinion, such account has been lodged within the time and in the manner required by the Act and the Rules. That Rule enables the Election Commission to decide whether a contesting candidate has failed to lodge his account of election expenses within the time and in the manner required by the Act after adopting the procedure mentioned therein. If an account is found to be incorrect or untrue by the Election Commission after enquiry under Rule 89, it could be held that the candidate had failed to lodge his account within the meaning of Section 10-A and the Election Commission may disqualify the said person. Hence, we do not find any substance in the argument of learned counsel for the first respondent."*

34. In the present case, it has been found that the respondent failed to lodge a true and correct account of his election expenses and has no good reason or justification for this failure. The Election Commission of India is satisfied that the respondent's account of election expenses was not lodged in the manner required

by law. The respondent has unjustly concealed a substantial amount of expenditure that was incurred in connection with his election, thereby violating the mandate of Sections 77 and 78 of the RP Act, 1951. This conduct undermines the purity of the electoral process and the integrity of the statutory scheme for election expenditure monitoring.

35. The statutory mandate underlying the prescription of a pecuniary limit on election expenditure, coupled with the incorporation of Section 10A of the Representation of the People Act, 1951, is to ensure an equitable electoral process by providing a level playing field to all contesting candidates. It is equally intended to vest the Election Commission with stringent powers to deal with violations in a firm and deterrent manner. A Non-compliance with the requirement of lodging election expenditure in the manner prescribed under the R.P. Act strikes at the very root of this statutory scheme. Such failure is not a mere procedural lapse, but a substantive violation that defeats the object of transparency, accountability, and fairness in the electoral process.

36. For the reasons stated above, the Election Commission of India is of the considered opinion and holds that, Thiru. Aassan Maulaana. JMH, the returned candidate from 26-Velachery Assembly Constituency in the General Election to the Legislative Assembly of Tamil Nadu, 2021, has failed to lodge a true and correct account of his election expenses within the time and in the manner required by law.

37. Accordingly, in exercise of the powers conferred under Section 10A read with Sections 77 and 78 of the Representation of the People Act, 1951, and in terms of the delegation made under Section 19A thereof, the authority hereby declares Thiru. Aassan Maulaana. JMH disqualified for a period of three years from the date of this order for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State or Union Territory. Given under the seal of the Election Commission of India on this the 19th day of August, 2026.

(By Order)

DR. PAWN KUMAR SHARMA,
Senior Deputy Election Commissioner,
Election Commission of India.

Secretariat,
Chennai-600 009,
28th August, 2026.

ARCHANA PATNAIK,
Chief Electoral Officer and
Principal Secretary to Government,
Public (Elections) Department.

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