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GOVERNMENT OF TAMIL NADU
2026

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TAMIL NADU GOVERNMENT GAZETTE

EXTRAORDINARY PUBLISHED BY AUTHORITY

No.424] CHENNAI, WEDNESDAY, SEPTEMBER 30, 2026
Purattasi 13, Parabhava, Thiruvalluvar Aandu–2057

Part V—Section 4

Notification by the Election Commission of India

NOTIFICATION BY THE ELECTION COMMISSION OF INDIA

JUDGMENT OF THE HIGH COURT OF MADRAS IN ELECTION PETITION No.02 OF 2016

No. SRO G-28/2026.

The following Notification of the Election Commission of India, Nirvachan Sadan, Ashoka Road, New Delhi-110 001, dated 07th August, 2026 [16 Sharvan, 1948 (Saka)] is published:-

No. 82/TN-LA/(EP 02 of 2016)/2026:- 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 **03.06.2026** in Election Petition No.2 of 2016.

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(ORDINARY ORIGINAL CIVIL JURISDICTION)
WEDNESDAY, THE 03rd DAY OF JUNE 2026
THE HON'BLE MR. JUSTICE G.JAYACHANDRAN
Election Petition No. 2 of 2016

ELP No.2 of 2016:-

M.Appavu,
S/o.Muthuvelayudha Perumal Nadar,
90-A, Main Road, Block No.14,
Lebbaikudiyiruppu,
Mahendragiri Post,
Radhapuram,
Tirunelveli District 627 133. ... Petitioner

-Vs-

1. I.S.Inbadurai,
   S/o.Inbanayagam,
   No.7-28, South Street,
   Navvaladi, Radhapuram Taluk 627 657.

2. N.Kannan,
   No.40-A, Sivaraj Street,
   Thisayanvilai, Radhapuram Taluk 627 657.

3. S.Kani Amudha,
   No.272, Sri Sudalai Andavar Koil Street,
   Maadan Pillai Dharmam,
   Rajakrishnapuram,
   Karungulam South Via,
   Radhapuram Taluk 627 114.

4. S.Sivananaindaperumal,
   No.9/1, 1G1, SPS Cottage,
   Soundarapandia puram,
   Radhapuram Taluk 627 113.

5. S.Gurunadhan,
   No.3, Kannabiran Sannadi Street,
   Selvamarudur,
   Thisayanvilai 627 657.

6. S.Subash,
   No.1/86D, Devar Periya Street,
   Valliyur,
   Radhapuram Taluk 627 117.

7. S.Lopin,
   No.29/2, Middle Street,
   Uvari,
   Radhapuram Taluk 627 651.

8. S.P.Udhayakumar,
   No.42/27, Esanganvilai Mani Street,
   Nagarkoil-629 002.

9. S.Ganesamoorthy,
No.34, South Street,
Kottaikarungulam,
Radhapuram Taluk 627 112.

10. R.P.S.Kartheesan,
No.153, Mannaraja Kovil Street,
Thisayanvilai 627 657.

11. Durai Selvan,
No.14/376, Main Road,
Lebaikudiyiruppu, Mahendragiri Post,
Radhapuram Taluk 627 133.

12. T.Muthu Selvi,
No.9-10, North Street, Pulikulam,
Anaikkarai, Radhapuram Taluk 627 654.

13. V.Mary Gracy,
No.7/77A/1, Paruthivilai,
Mulagumoodu Post,
Kanyakumari 629 167.

14. V.Rajiv,
No.4/S, T.K.Compound,
Ittamozhi Road, Thisayanvilai,
Radhapuram Taluk 627 657.

15. The Returning Officer,
No.228, Radhapuram Assembly Constituency,
District Backward Class and Minorities Welfare Office,
Kokkirakulam,
Tirunelveli

...Respondents

(15th Respondent struck off from the array of respondents in ELP.No.2 of 2016 as per orders of this Court dated.30.07.2019 made in OA.No.1185/2018)

The Election petition praying that this Hon'ble Court be pleased to (a) declare the election of the Returned Candidate namely Mr.I.S.Inbadurai, the 1st respondent herein from No.228, Radhapuram Assembly Constituency, Tamil Nadu, in the Election held on 16.05.2016, as void (b) recounting of all postal ballots after re-verification, including the postal votes rejected as invalid (c) recounting of the regular votes recorded in Electronic Voting Machines, covered under 19th, 20th and 21st rounds of counting (d) declare that the Petitioner herein has been duly elected as a Member of the Tamil Nadu Legislative Assembly in the Election held on 16.05.2016, from No.228, Radhapuram Assembly Constituency and (e) Award the costs of this petition.

The Election Petition coming on this day before this Court for hearing in the presence of Mr. A.E.Ravichandran, advocate for the Petitioner, N.C.Ashok Kumar, advocates for the 1st Respondent herein and not appeared in person for Respondent 9 to Respondent 12 and upon reading the Petition and affidavit of M.Appavu, herein; and this court having observed that the report filed in respect of the recounting has made a damning disclosure that out of 203 postal votes rejected as invalid, the Election Petitioner- Mr.M.Appavu, had received 153 valid votes in his favour, whereas the 1st respondent/ Mr.I.S.Inbadurai, who was declared as elected, by margin of 49 votes had received only one (1) valid vote out of Fourty-Four (44) votes were rejected as invalid and gives a conclusive end that the Election Petitioner-Mr.M.Appavu had 'Won' the election of 228.Radhapuram Constituency Assembly, Tirunelveli District, by a margin of 103 votes and this Court, in its order dated.01.10.2019, had discussed in detail and concluded, that Headmasters are Gazetted Officers and their attestation is valid attestation to take the Postal Ballots as valid votes.

It is ordered as follows:-

i. That the Mr.M.Appavu Election Petitioner be and is hereby declared elected representative of No.228.Radhapuram Constituency Assembly, Tirunelveli District, for the terms 2016-2021.

ii. That the 1st Respondent Mr.I.S.Inbadurai, who was wrongly declared as the elected candidate, has to forego all the consequential benefits.

iii. That the improper declaration is not attributable to the conduct of the 1st Respondent/ Mr.I.S.Inbadurai. Therefore, the order of this court will not disqualify the 1st Respondent- Mr.I.S.Inbaduraiin any manner whatsoever, except from claiming any pensionary benefits of being a Member of Legislative Assembly for the term 2016-2021.

iv. The Secretary, Legislative Assembly Government of Tamil Nadu be and is hereby directed to substitute the name of the Election petitioner Mr.M.Appavu, as the representative of No.228.Radhapuram Assembly Constituency, Tirunelveli District, for the term 2016-2021 in all the official records.

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

WITNESS, THE HON'BLE MR.JUSTICE SUSHRUT ARVIND DHARMADHIKARI,
CHIEF JUSTICE HIGH COURT AT MADRAS AFORESAID,
THIS THE 03rd DAY OF JUNE 2026.

Sd./-
ASSISTANT REGISTRAR
(OS-II)

//Certified to be true copy//

Dated at Madras this the 8th day of June, 2026

COURT OFFICER (O.S)

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

MK
05/06/2026

ELP.No.2 OF 2016

THE HON'BLE MR. JUSTICE
G.JAYACHANDRAN

DECREE DATED: 03/06/2026

FOR APPROVAL: 08/06/2026

APPROVED ON: 08/06/2026

Copy to:

1. Election Commission of India
   New Delhi - 110 001.

2. The Chief Electoral Officer,
   Public (Elections) Department,
   Secretariat, Fort St.George,
   Chennai - 600 009.

3. The Returning Officer,
   No.228, Radhapuram Assembly
   Constituency, District Backward Class
   and Minorities Welfare Office,
   Kokkirakulam, Tirunelveli

IN THE HIGH COURT OF JUDICATURE AT MADRAS
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Mahendragiri Post,
Radhapuram,
Tirunelveli District 627 133.

...Petitioner

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District Backward Class and Minorities Welfare Office,
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...Respondents

(15th Respondent struck off from the array of respondents in ELP.No.2 of 2016 as per orders of this Court dated.30.07.2019 made in OA.No.1185/2018)

The Election petition praying that this Hon'ble Court be pleased to (a) declare the election of the Returned Candidate namely Mr.I.S.Inbadurai, the 1st respondent herein from No.228, Radhapuram Assembly Constituency, Tamil Nadu, in the Election held on 16.05.2016, as void (b) recounting of all

postal ballots after re-verification, including the postal votes rejected as invalid (c) recounting of the regular votes recorded in Electronic Voting Machines, covered under 19th, 20th and 21st rounds of counting (d) declare that the Petitioner herein has been duly elected as a Member of the Tamil Nadu Legislative Assembly in the Election held on 16.05.2016, from No.228, Radhapuram Assembly Constituency; and (e) Award the costs of this petition.

The Election Petition coming on this day before this Court for hearing in the presence of Mr. A.E.Ravichandran, advocate for the Petitioner, N.C.Ashok Kumar, advocates for the 1st Respondent herein and not appeared in person for Respondent 9 to Respondent 12 and upon reading the Petition and affidavit of M.Appavu, herein; and

The Court made the following order:-

Heard Mr. A.E.Ravichandran, Learned Counsel for the Election Petitioner and Mr.N.C.Ashok Kumar, Learned Counsel for the 1st respondent. For the respondents 9 to 12, there was no representation.

2. In continuation of the earlier order passed by this Court in E.P.No. 2 of 2016, dated 01.10.2019, this Court passes the following order to give logical end to the litigation that has been pending for almost a decade.

3. The term '*unfortunate*' may not be an adequate expression to describe the present case since in view of this Court, a grave mockery of justice, under the guise of dispensing justice been committed to the people of India, particularly the voters of No.228 Radhapuram Assembly Constituency, Tirunelveli District, who were forced to bear a person as their Assembly representative though he is not duly elected.

4. In short to recap, the Election Petitioner-Mr.M.Appavu lost to the 1st respondent-Mr.I.S.Inbadurai, as per the declaration made by the Returning Officer, by a margin of 49 votes. The Election Petitioner contended that valid votes cast in his favour been wrongly rejected and, therefore, there must be recount.

5. The said petition was opposed on the ground that 203 Postal Ballots were found to be invalid, since they were attested by Headmasters of Middle Schools, who are not Gazetted Officers, whereas the election rules mandate that Postal Ballots must be attested by Gazetted Officers.

6. The 1st respondent, who was declared as elected candidate, initially filed an application to reject the petition, which was dismissed by this Court. Against the dismissal of the said petition, he preferred an appeal before the Hon'ble Supreme Court and got it dismissal as withdrew after 14 months. Subsequently, the case was assigned to this Court by the then Hon'ble Chief Justice of Madras High Court. This Court commenced the trial. Completed the recording of evidence by examining the witnesses and passed the following order on 24.09.2019, which reflects the facts in nutshell:-

> *"This Election Petition is filed by the candidate, who has lost the election by 49 votes.*
>
> *2. The specific allegations in the election petition is that after completion of 18th round of counting, the petitioner was leading by 1300 votes. The*

1st respondent who belongs to the party which was leading in the general election with connivance of the Returning Officer manipulated the election process boosted up the votes secured by the 1st respondent and also invalidated the postal ballots duly attested by the Headmaster of the Middle School on the flimsy reason that they are not Gazetted Officer.

3. After counter, this Court framed triable issues and witnesses were summoned. The petitioner examined himself as PW1 besides his agent Adhi Paramasivan as PW.2. Ex.P1 to Ex.P7 marked. The present Returning Officer (i/c) and Returning Officer who conducted the election were summoned and examined as CW1 and CW2. The Form 17C annexed for Conduct of Election Rules, 1961, were marked as Ex.C1 to Ex.C3 through CW1. The said form contains two parts. Part I carries details about the counting of votes recorded and Part II contains the result of counting. Ex.C1 to Ex.C3 relate to rounds 19, 20 and 21 of the said election. In this form the Returning Officer who was examined as CW2 admits that he has not filled Part II, in alternate he has prepared those details in replica of it separately and obtained the signature of the respective candidates/ election agent/ counting agent and they were kept in a separate sealed cover. It is also deposed by him that those forms are brought to the Court. Since the Returning Officer/ CW1 is present and the records are brought to the Court, this Court requested the Returning Officer/CW1 to produce the sealed cover which contains replica of the format of Part II of Form 17C. For appropriate appreciation of the case CW1 recalled and these three documents pertaining to rounds 19, 20 and 21 are marked as Ex.C4, Ex.C5 and Ex.C6. The other documents produced by the Election Commission sealed and returned back.

4. Evidence closed. Heard the arguments. Orders reserved."

7. On 01.10.2019, the order was passed with the following conclusion:-

"57. As a result of the above discussion, this Court arrives at following conclusion:-

a). The declaration of the Returned candidate has been materially affected due to refusal/rejection of 203 Postal Ballots and by non-compliance with the provisions of the Representation of People Act, Rules and Orders made thereunder.

b). The Election Petitioner is entitled to the relief of re-verification of all the Postal Ballots including the Postal Ballots rejected as invalid, in view of clause 15.15.5.1 under chapter XV of Hand Book for Returning Officers issued by Election Commission of India, 2014 (Reprint-2016).

c). The counting of votes recorded in EVM's of 19th, 20th and 21st rounds of counting was not in compliance with the provisions of the Act. Being in contravention of Rule 56 C(2) of the Conduct of Election Rules, same has to be recounted.

d). The attestation made by the Middle School Headmasters in Form-13 A are held valid. Those Postal Ballots are to be taken up for scrutiny and counted if it is otherwise in order.

e). No law prohibits en masse attestation of Postal Ballots if it is otherwise valid. The rejection of 203 Postal Ballots for being attested by Headmaster of Middle School is improper. Hence, it is imperative to recount and re-verify all the Postal Ballots received in the Election of No.228 Radhapuram Constituency Assembly.

f). In view of omission in filling Part-II of Form - 17 C pertaining to 19th, 20th and 21st rounds, recounting of those EVM's of these rounds has to be conducted.

58. In the light of the above, the Election Commission of India, is hereby directed to produce the Control Units of EVM's pertaining to the rounds 19th, 20th and 21st of No.228, Radhapuram Constituency Assembly Election which held on 16.05.2016 and produce all the Postal Ballots received in the said election before the Registrar General, High Court, Madras, on 04.10.2019 at 11.30 a.m."

59. The Registrar General of Madras High Court, is directed to depute any of his Registrars to supervise the counting of all the Postal Ballots and EVM's of 19th, 20th and 21st rounds and submit the report to this Court immediately after completion of the counting.

8. Pursuant to the direction of this Court as contained in Paragraph 59 of the order dated 01.10.2019, the commencement of recounting the Postal Ballots and the Electronic Voting Machines (EVM's) of the 19th, 20th and 21st rounds commenced in the campus of this Court on 04.10.2019.

9. On that day during the post-lunch session, it was brought to the notice of this Court that the Hon'ble Supreme Court had entertained the Petition for Special Leave to Appeal (C) Nos.24183 of 2019, filed by the 1st respondent and had passed the following order:

04.10.2019

"Counting process may go on. However, results will not be declared. List on 23.10.2019"

10. Thereafter, it appears the Special Leave Petition listed on various dates for hearing and some of the orders passed by the Hon'ble Supreme Court, by various Benches on different dates, are extracted below. The said orders are sufficient and self explanatory.

(i). 25.10.2019

Upon hearing the counsel the Court made the following

O R D E R

As prayed, list on 13.11.2019.

(ii). 13.10.2019

Upon hearing the counsel the Court made the following

O R D E R

List on 22.11.2019.

(iii). 22.10.2019

Upon hearing the counsel the Court made the following

O R D E R

List on 29.11.2019.

(iv). 29.11.2019

Upon hearing the counsel the Court made the following

O R D E R

List on 11.12.2019.
Liberty is granted to file documents, in the meantime.

(v). 12.12.2019

Upon hearing the counsel the Court made the following

O R D E R

List the matter on the first non-miscellaneous day in the month of January, 2020.

(vi). 04.02.2020

Upon hearing the counsel the Court made the following

O R D E R

List on 25.02.2020.

(vii). 23.02.2021

Upon hearing the counsel the Court made the following

O R D E R

We direct the Registrar to submit the report to this Court in pursuance to the counting process which was permitted to go on vide the order dated 4th October, 2019. List on 16th March, 2021.

(viii). 16.03.2021

Upon hearing the counsel the Court
made the following

O R D E R

Applications for early hearing, exemption from filing O.T. and permission to file additional documents/ facts/ annexures are allowed.

We have opened the sealed cover and perused the report. The report shows that the 203 postal ballots have been counted, out of which 153 have been polled by respondent No. 1 while only one has been polled by the petitioner. 44 votes were rejected.

If these postal ballots are counted, there is no doubt that respondent No. 1 would stand elected while if they are rejected the petitioner succeeds.

The only question which has to be examined, as agreed to by learned counsel for the parties, is arising from the plea that the declaration in respect of these postal ballots are not attested by a gazetted officer. This in turn depends upon whether the Head Masters are gazetted officers for the purpose in question.

We endeavoured to take up the matter today but there is no time left. We call upon the respondents to file synopsis running into not more than two pages each on the aforesaid issue.

List at the end of the miscellaneous Board on 23.03.2021.

(ix). 23.03.2021

Upon hearing the counsel the Court
made the following

O R D E R

Application for bringing subsequent events on record is allowed.

Leave granted.

Heard Mr. Mukul Rohatgi,
learned senior counsel for the appellant for about half an hour.
Thereafter, Mr. P. Wilson, learned senior counsel proceeded to make submissions on behalf of respondent No.1 and we heard him for about one hour and fifteen minutes.

List as part heard tomorrow i.e. on 24th March, 2021 at the end of the miscellaneous Board.

We have made it clear that considering that we have already devoted a little under two hours to this matter, we will grant at best another twenty minutes to

Mr. P. Wilson, learned senior counsel to conclude his submissions and proceed to judgment thereafter.

Interim orders are made absolute during the pendency of the appeal. IA No.5816/2021 stands disposed of.

(x). 25.03.2021

Upon hearing the counsel the Court made the following

O R D E R

The request again made today is that there is some problem at the end of the senior Counsel for the respondents. It appears that the urgency is now completely lost!

List on 08.04.2021 as part-heard as a last opportunity to make further submissions.

Learned counsel for the petitioner makes a request that the spare copies required to be filed on account of leave having been granted be dispensed with in the given facts of the case. Ordered accordingly.

(xi). 28.07.2022

Upon hearing the counsel the Court made the following

O R D E R

Learned counsel for the respondent(s) to take instructions as to what survives in the present matter as the tenure for which the person was elected is over and the only question is of the manner of counting.

List as part heard on 02.08.2022.

(xii). 25.08.2022

Upon hearing the counsel the Court made the following

O R D E R

Application for bringing subsequent events on record is allowed. Learned counsel for the appellant is stated to be in part-heard matter before another Bench. The record shows that respondent No. 1 has now been elected and thus prima facie in view of the fact that the elections have been held again and there are no allegation of corrupt practices, the matter may not survive.

In this behalf, learned counsel for the appellant relied upon the judgment of this Court in Lokanth Padhan vs. Birendra Kumar Sahu, (1974) 1 SCC

526 to satisfy the plea of infructuousness of the matter.

Learned counsel for the respondent(s) to examine and make submissions on the next date.

List on 30.08.2022 at the top of the regular Board.

(xiii). 01.02.2023

Upon hearing the counsel the Court made the following

O R D E R

In the given scenario today where even the next elections are over in which the respondent has succeeded, we feel that there are better and more urgent matters to be heard other than the present one.

List when this Court has more time to hear such matters or when the matters of 2021 are taken.

(xiv). 05.12.2025

Upon hearing the counsel the Court made the following

O R D E R

1. The applicant prays for intervention for one of the respondents.

2. The learned counsel appearing for the appellant does not oppose the application for intervention.

3. The application for intervention is allowed.

4. Amended cause title be filed within four weeks.

11. Six years after the order of interim stay and passing of two more General Elections, the Hon'ble Supreme Court had thought it fit to take up the matter on 21.05.2026 and same was disposed as under:

ORDER

"We have heard learned counsel for the appellant. We have perused the interim order dated 16.03.2021. The said order reads as under:

"Applications for early hearing, exemption from filing O.T. and permission to file additional documents/facts/annexures are allowed.

We have opened the sealed cover and perused the report. The report shows that the 203 postal ballots have been counted, out of which 153 have

been polled by respondent No. 1 while only one has been polled by the petitioner. 44 votes were rejected.

If these postal ballots are counted, there is no doubt that respondent No. 1 would stand elected while if they are rejected the petitioner succeeds.

The only question which has to be examined, as agreed to by learned counsel for the parties, is arising from the plea that the declaration in respect of these postal ballots are not attested by a gazetted officer. This in turn depends upon whether the Head Masters are gazetted officers for the purpose in question.

We endeavoured to take up the matter today but there is no time left. We call upon the respondents to file synopsis running into not more than two pages each on the aforesaid issue.

List at the end of the miscellaneous Board on 23.03.2021."

2. The election in question was in respect of the Radhapuram Assembly Constituency, Tamil Nadu held in the year 2016. Thereafter, successive elections have been held in the year 2021 and presently in the year 2026 also.

3. We dispose of this Civil Appeal by keeping open the question referred to above to be considered in any other appropriate case.

4. The reason for keeping open the aforesaid question is the lapse of time and the term of office having expired and no useful purpose being served in adjudicating upon the said question in this Civil Appeal. The High Court may now pass appropriate consequential orders.

5. Ordered accordingly.

6. Pending application(s), if any, shall stand disposed of."

12. The above order affirms two crucial and fundamental facts.

Firstly, the report filed in respect of the recounting had made a damning disclosure that out of 203 postal votes rejected as invalid, the Election Petitioner-Mr.M.Appavu, had received 153 valid votes in his favour. Whereas, the 1st respondent/ Mr.I.S.Inbadurai, who was declared as elected, by a margin of 49 votes had received only one (1) valid vote out Forty-Four (44) votes were rejected as invalid. This gives a conclusive end that the Election Petitioner-Mr.M.Appavu had 'Won' the election of No.228 Radhapuram Constituency Assembly, Tirunelveli District, by a margin of 103 votes.

Secondly, the issue regarding whether the Headmasters are Gazetted Officer or not to make their attestation valid, this Court, in its order dated 01.10.2019, had discussed in detail and concluded in Paragraphs 46 & 47 that Headmasters are Gazetted Officers and their attestation is valid attestation to take the Post Ballots as valid votes. For sake of easy reference, the relevant portion of the finding is recapsulated below:

"46. The intention of getting attestation in the declaration is to ensure the identity of the elector. Unlike, direct voting in the booth, where the personal identity is seen and verified by the polling Officers and Presiding Officers, in case of postal ballots to prevent possibility of impersonations, Officers mentioned in the Rule are empowered to attest the identity of the elector. If the State Government has thought fit to classify their Officers with different terminology and confer power of attestation to Officers of certain rank and above, they must be considered as Gazetted Officers for the purpose of attesting Declaration in Form – 13 A.

47. While so, the rejection of 203 votes for the reason that the declarations are attested by Middle School Headmaster is not in consonance to the Conduct of Election Rules as well as the Tamil Nadu Government Servants Conduct Rules, 1973, as amended by G.O.Ms.No.158 dated 06.11.2009."

13. The Hon'ble Supreme Court, after keeping the matter pending for about six years, thought fit that the question has to be kept open in view of the lapse of time and the term of office having expired and no useful purpose would be served in adjudicating upon the said question in the Civil Appeal. With great respect, the Hon'ble Apex Court should have answered this question since this Court has already as Court of first instance/trial Court given a finding in respect of the above question.

14. This Court has a Constitutional duty and has taken a solemn oath to protect and preserve the Constitution. Therefore, not inclined to abdicate its responsibility for whatever reason.

15. To put it in nutshell, this Court has rendered a categorical finding that the Headmasters of Middle Schools are Gazetted Officers and the ballots papers which has been attested by them are valid. This finding, though challenged by the Petitioner-Mr.I.S.Inbadurai, before the Hon'ble Supreme Court in Civil Appeal, the Hon'ble Supreme Court has not reversed the said finding. As a consequence, the Election Petition is allowed with the following observations:

(i) Mr.M.Appavu/Election Petitioner, is declared as elected representative of No.228 Radhapuram Constituency Assembly, Tirunelveli District, for the term 2016~2021. The 1st respondent-Mr.I.S.Inbadurai, who was wrongly declared as the elected candidate, has to forego all the consequential benefits.

(ii) The improper declaration is not attributable to the conduct of the 1st respondent/Mr.I.S.Inbadurai. Therefore, the order of this Court will not disqualify the 1st respondent-Mr.I.S.Inbadurai in any manner whatsoever, except from claiming any pensionary benefits of being a Member of Legislative Assembly for the term 2016~2021.

(iii) The Secretary, Legislative Assembly, Government of Tamil Nadu, is directed to substitute the name of the Election petitioner/Mr.M.Appavu, M.L.A., as the representative of No.228, Radhapuram Assembly Constituency, Tirunelveli District, for the term 2016–2021, in all the official records.

16. This Court is of the view that it is appropriate to recollect Sub~Section (7) of Section 86 of the Representation of People Act, 1951, which reads as below:~

86. Trial of election petitions.—

(1)….

(2)….

.

.

(7) Every election petition shall be tried as expeditiously as possible and endeavour shall be made to conclude the trial within six months from the date on which the election petition is presented to the High Court for trial.

17. In ***Mohd. Akbar vs. Ashok Sahu and others reported in (2015) 14 SCC 519,*** the Hon'ble Supreme Court had occasion to read Section 86, Sub-Section (7) of the Representation of People Act, 1951 and made the following observations:

"11. It was the pious hope of Parliament that election disputes under the Representation of the People Act, 1951 should be resolved expeditiously. The purpose is obvious. The tenure of the Members of Parliament as well as the Legislature of the State is relatively short. It is five years in the case of Lok Sabha and Legislative Assembly, and six years in the case of Rajya Sabha and Legislative Council. Therefore, if there is a dispute regarding the election of any member of any one of the said bodies, it is desirable that the dispute is resolved as early as possible for various reasons:

(i) Membership of the legislative bodies under the scheme of our Constitution is a sacred responsibility. The continuance of any member in such bodies who secured his election to such a body by legally impermissible means even for a day is most undesirable. Such continuance affords an opportunity to such a member to take part in the law-making process affecting the destinies of the people.

(ii) Even from the point of view of the contesting candidates, unless the rights and the obligations are decided within a reasonable time, the adjudication and the consequences of the adjudication may eventually remain on paper without any tangible effect insofar as the participation of such parties in the legislative process.

12. However, we are sad to state that invariably the resolution of election disputes in this country takes unacceptably long periods in most of the cases. Very rarely an election dispute gets resolved during the tenure of the declared candidate reducing the adjudicatory process into a mockery of justice. Such delay coupled with a right of appeal to this Court makes the whole process of adjudication a task in a good number of cases. The reasons are many, we will only mention few;

(i) The stakes are very high for the parties. Nothing short of the membership of a constitutional body for a limited period. The power and glory that go with such membership is too high and valuable and the returned candidates naturally leave no stone unturned for protracting the litigation as long as possible.

(ii) The law of elections and election disputes is highly technical. Therefore, there is always scope for lot of objections and cross-objections regarding every step in the conduct of the election petition.

(iii) The absence of dedicated Benches in the High Court for resolution of the election disputes is another factor which contributes enormously to the delay in the adjudicatory process.

13. We therefore deem it desirable that in each High Court dedicated Benches are created by the Chief Justice to deal with the election petitions exclusively. In other words, those Judges assigned with the adjudication of election petitions preferably may not be burdened with any other work until the adjudication of the election petitions is completed. An exercise which may not be difficult especially the class of litigation occurs only once in 5 or 6 years and the number of cases would be very limited. We are conscious of the fact that it is not possible for laying down any absolute rules in this regard. Essentially it is for a Chief Justice of the High Court to run the administration and devise ways and means for expeditiously disposing of the cases brought before the High Court. We only gently remind that the kind of delay in the adjudication of election disputes exposes the High Court-s unpleasant criticism damaging the credibility of the institution. A situation which is certainly required to be avoided at any cost."

18. Unfortunately, in this case, the mandate contained in Section 86(7) of the Representation of People Act, 1951, been conveniently ignored.

19. Judiciary in this Country, being the custodian of the Constitution, should act in tandem with the other organs of the Constitution, to retain the pride of this Nation as one of the largest democratic Countries in the world, among the Nations which resorted to democratic form of Government on gaining Independence, post World War-II. Non-adherence to the mandate contained in Section 86(7) of the Representation of the People Act, 1951, will undermine democracy and the true spirit of adult franchise. If Courts continue to ignore their own observations made in ***Mohd.Akbar*** case (cited supra), I fear that this Country may also go in the way of other autocratic Countries which gained Independence around 75 years ago, along with us.

20. In the result;

(i) The election of the candidate, namely Mr.I.S.Inbadurai/1st respondent from No.228, Radhapuram Assembly Constituency, Tamil Nadu, in the Election held on 16.05.2016, is declared as void.

(ii). The Election Petitioner/Mr.M.Appavu, is declared as duly elected Member of the Tamil Nadu Legislative Assembly in the election held on 16.05.2016, from No.228, Radhapuram Assembly Constituency, Tirunelveli District.

21. In fine, Election Petition No.2 of 2016 is allowed in terms of paragraph Nos.15 (i) to (iii) above. No order as to costs.

WITNESS, THE HON'BLE MR.JUSTICE SUSHRUT ARVIND DHARMADHIKARI, CHIEF JUSTICE HIGH COURT AT MADRAS AFORESAID, THIS THE 03rd DAY OF JUNE 2026.

Sd./-
ASSISTANT REGISTRAR
(OS-II)

//Certified to be true copy//

Dated at Madras this the 8th day of June,2026

COURT OFFICER (O.S)

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

MK
05/06/2026

ELP.No.2 OF 2016

THE HON'BLE MR. JUSTICE
G.JAYACHANDRAN

DECREE DATED: 03/06/2026

FOR APPROVAL: 08/06/2026

APPROVED ON: 08/06/2026

Copy to:

1. Election Commission of India
   New Delhi - 110 001.

2. The Chief Electoral Officer,
   Public (Elections) Department,
   Secretariat, Fort St.George,
   Chennai - 600 009.

3. The Returning Officer,
   No.228, Radhapuram Assembly
   Constituency, District Backward Class
   and Minorities Welfare Office,
   Kokkirakulam, Tirunelveli

(By Order)

LATA TRIPATHI,
Secretary,
Election Commission of India.

Secretariat,
Chennai-600 009,
30th September, 2026.

ARCHANA PATNAIK,
Chief Electoral Officer and
Principal Secretary to Government.

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