©
GOVERNMENT OF TAMIL NADU
2026

[Regd. No. TN/CCN/467/2012-14.
[R. Dis. No. 197/2009.
[Price: Rs. 4.80 Paise.

TAMIL NADU GOVERNMENT GAZETTE

EXTRAORDINARY PUBLISHED BY AUTHORITY

No.444] CHENNAI, SATURDAY, OCTOBER 10, 2026
Purattasi 23, 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.44 OF 2026

No. SRO G-31/2026.

The following Notification of the Election Commission of India, Nirvachan Sadan, Ashoka Road, New Delhi-110 001, dated 24th September, 2026 [02 Asvin, 1948 (Saka)] is published:-

No. 82/TN-LA/(EP 44 of 2026)/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 **11.08.2026** in Election Petition No. 44 of 2026.

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(ORDINARY ORIGINAL CIVIL JURISDICTION
TUESDAY, THE 11th DAY OF AUGUST 2026
THE HON'BLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

Election Petition No. 44 of 2026

ELP No.44 of 2026:-

S.M. ANTHONY MUTHU
S/o.Swamy Adian, 13-77B,
Patharai, Reethapuram P.O. Colachel,
Kanyakumari District,
231, Colachel Assembly Constituency. ... *Petitioner*

-Vs-

1. THARAHAI CUTHBERT
W/o. J.G.Cuthbert,
Ganeshapuram,
Nagercoil-629 002.

2. PREM ALEX LAWRENCE
S/o. Adv.Lawrence,
9/3, Matha Nagar, Alanchy,
Kanyakumari District – 629 159.

3. T.SHIVAKUMAR
S/o.Thangaswamy,
1/111, Unnankulam,
Saral Post, Kanyakumari District - 629 203.

4. LANCY SHOBA RANI
W/o.John Benny,
7/41, B.Idayanvilai,
Kappiyarai Post,
Kanyakumari District-629 156.

5. C.RAJA SINGH
S/o.Chellankan,
Kariyavilai, Mandaikadu Post,
Kanyakumari District-629 252.

6. N.GANESH
S/o.S.Nallakannu Achari,
55B, 3-1, Pallivilai Road,
Vettoornimadam, Nagercoil-629 003.

7. S.CHRIST MILLERS
S/o.D.Siluvai,
78, Assisi New Building,
East Court Road, Nagercoil - 629 001.

8. R.KOIL RAJ
S/o.Rajamani,
18/112-1, Balasubramaniyapuram,
Kanyakumari District - 629 702.

9. M.MURALI
S/o.Muthumalai Nadar,
Plot No.107, Thazhambu Street,
Poompozhil Nagar,
Koilpathahai, Chennai - 600 062.

10. M.SELVARAJ
S/o.Muthiah Nadar,
5/119, Kuthiraipanthivilai,
Villukuri Post, Kanyakumari - 629 180.

11. K.ANTHONY ALANKARAM
S/o.Kurusulamalai Pitchai,
10/45B, Maramadi Street,
No.5 Colachel, Kanyakumari- 629 251.

12. M.SARAVANAN
S/o.Manikandan,
Karuppucode, Parasery,
Chukkankadai Post - 629 003.

13. THE RETURNING OFFICER
231, Colachel Assembly Constituency,
Kurunthancode and Post,
Kanyakumari District- 629 802. *…Respondents*

This Election Petition praying that this Hon'ble Court be pleased to i) Declare the election of the returned candidate, namely Tmt.Tharahai Cuthbert, the 1st Respondent herein from No.231, Colachel Assembly Constituency in Kanyakumari District, Tamil Nadu in the election held on 23.04.2026, in which result have been declared 04.05.2026, as void. (ii) To recount the votes polled in Booth No. 58,59,60,61,62,63,64 & 66 of 231 Colachel with the aid of VVPAT (Voter Verifiable Paper audit Trial) manually. (iii) Direct the 1st Respondent to pay the costs of the petition.

The above Election Petition coming on this day before this Court for hearing in the presence of M/s. P.T.Perumal, Advocate for the Petitioner herein and Ms.Narmadha Sampath Advocate for Respondent No.1, Ms.M.B.Ramya Advocate for Respondent No.2, Mr.Niranjan Rajagopalan Advocate for Respondent No.13, herein and upon reading the Election Petition filed herein and this court having observed that the petition lacks material particulars and facts, firstly for justifying the counting of VVPAT, and secondly, it is an admitted position that no request was raised at the appropriate time and the above are held against the petitioner, nothing remains in the Election Petition for decision and there is no cause of action to continue the Election Petition, and as such, it has to be rejected, and furthermore even as per the petitioner's own averment, his success may propel him from seventh place to fifth place, as such, even as per the averments made in the petition, the petitioner does not disclose any cause of action showing how the election of the returned candidate, as per the will of the majority franchise, is affected and the petitioner only pleads to the Tribunal to take into account any such fact that may be discovered

and to declare the election of the first respondent/returned candidate as void and thus the cause of action, even as pleaded, is not complete and it is settled law that if the Election Petition fails to disclose the foundational and material particulars and a complete cause of action, it is liable to be rejected at the threshold as per Section 83 of the Representation of the People Act, 1951, read with order VII Rule 11 of the Code of Civil Procedure and

It is ordered as follows:-

(i) That the Election Petition No.44 of 2026 be and is hereby Rejected.

(ii) That there shall be no order as to costs.

(iii) That the deposit should be refunded to the petitioner.

WITNESS, THE HON'BLE MR.JUSTICE SUSHRUT ARVIND DHARMADHIKARI, CHIEF JUSTICE HIGH COURT AT MADRAS AFORESAID, THIS THE 11th DAY OF AUGUST 2026.

Sd./-
ASSISTANT REGISTRAR
(Original Side-II)

//Certified to be true copy//

Dated at Madras this the 15th day September of 2026.

COURT OFFICER (O.S)

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

MK
17/08/2026

ELP.No.44 OF 2026

THE HON'BLE MR. JUSTICE
D.BHARATHA CHAKRAVARTHY

DECREE DATED: 11/08/2026

FOR APPROVAL: 15/09/2026

APPROVED ON: 15/09/2026

Copy to:

1. The Returning Officer
   231, Colachel Assembly
   Constituency,
   Kurunthancode and Post,
   Kanyakumari Distrtict-629 802

2. Election Commission of India
   Nirvachan Sadan, No.1,
   Ashoka Road,
   New Delhi -110 001

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

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(ORDINARY ORIGINAL CIVIL JURISDICTION)
TUESDAY, THE 11th DAY OF AUGUST 2026

THE HON'BLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

Election Petition No. 44 of 2026

ELP No.44 of 2026 :-

S.M. ANTHONY MUTHU
S/o.Swamy Adian, 13-77B,
Patharai, Reethapuram P.O. Colachel,
Kanyakumari District,
231, Colachel Assembly Constituency. *...Petitioner*

-Vs-

1. THARAHAI CUTHBERT
W/o.J.G.Cuthbert,
Ganeshapuram,
Nagercoil-629 002.

2. PREM ALEX LAWRENCE
S/o.Adv.Lawrence,
9/3, Matha Nagar, Alanchy,
Kanyakumari District- 629 159.

3. T.SHIVAKUMAR
S/o.Thangaswamy,
1/111, Unnankulam,
Saral Post, Kanyakumari District - 629 203.

4. L.ANCY SHOBA RANI
W/o.John Benny,
7/41, B.Idayanvilai, Kappiyarai Post,
Kanyakumari District – 629 156.

5. C.RAJA SINGH
S/o.Chellankan,
Kariyavilai, Mandaikadu Post,
Kanyakumari District - 629 252.

6. N.GANESH
S/o.S.Nallakannu Achari,
55B, 3-1, Pallivilai Road,
Vettoornimadam, Nagercoil-629 003

7. S.CHRIST MILLERS
S/o.D.Siluvai,
78, Assisi New Building,
East Court Road, Nagercoil - 629 001.

8. R.KOIL RAJ
S/o.Rajamani,
18/112-1, Balasubramaniyapuram,
Kanyakumari District - 629 702.

9. M.MURALI
S/o.Muthumalai Nadar,
Plot No.107, Thazhambu Street,
Poompozhil Nagar,
Koilpathahai, Chennai - 600 062.

10. M.SELVARAJ
S/o.Muthiah Nadar,
5/119, Kuthiraipanthivilai,
Villukuri Post, Kanyakumari - 629 180.

11. K.ANTHONY ALANKARAM
S/o.Kurusulamalai Pitchai,
10/45B, Maramadi Street,
No.5 Colachel, Kanyakumari-629 251.

12. M.SARAVANAN
S/o.Manikandan,
Karuppucode, Parasery,
Chukkankadai Post-629 003.

13. THE RETURNING OFFICER
231, Colachel Assembly Constituency,
Kurunthancode and Post,
Kanyakumari District- 629 802. *….Respondents*

This Election Petition praying that this Hon'ble Court be pleased to i) Declare the election of the returned candidate, namely Tmt.Tharahai Cuthbert, the 1st Respondent herein from No.231, Colachel Assembly Constituency in Kanyakumari District, Tamil Nadu in the election held on 23.04.2026, in which result have been declared 04.05.2026, as void. (ii) To recount the votes polled in Booth No. 58,59,60,61,62,63,64 & 66 of 231 Colachel with the aid of VVPAT (Voter Verifiable Paper audit Trial) manually. (iii) Direct the 1st Respondent to pay the costs of the petition.

The above Election Petition coming on this day before this Court for hearing in the presence of M/s.P.T.Perumal, Advocate for the Petitioner herein and Ms.Narmadha Sampath Advocate for Respondent No.1, Ms.M.B.Ramya Advocate for Respondent No.2, Mr.Niranjan Rajagopalan Advocate for Respondent No.13, herein and upon reading the Election Petition filed herein and

The Court made the following order:-

This Election Petition is filed by the petitioner, *A.M.Anthony Muthu,* praying to:

(i) declare the election of the returned candidate, Tmt. Tharabai Cuthbert, from No.231, Colachel Assembly constituency in Kanyakumari District, in the election held on 23.04.2026, for which, the results were declared on 04.05.2026, as void; and

(ii) to recount the votes polled in Booth Nos.58 to 64, 66 with the aid of VVPAT, manually.

2. The gist of the averments made in the Election Petition is that the petitioner contested the election as a CPIML Liberation candidate. The petitioner had already served as the President of Reethapuram Town Panchayat and enjoys the goodwill of the people of the area, more specifically, the aforementioned 8 booths. A large number of votes in the above 8 booths were cast for his symbol. If those votes were taken into account, the petitioner could have come in the fifth place, but, instead he came seventh. Therefore, the petitioner has genuine doubts about the counting, and if only VVPAT slips are manually counted in the above 8 booths, it will clear the cloud of suspicion. The petitioner sent a request in this regard as per Rule 56D of the Conduct of Election Rules, 1961, on 23.05.2026. There was also a communication dated 08.06.2026 from the Additional Chief Electoral Officer directing the District Collector to take appropriate action. For the above facts and such other facts as may be discovered, the Tribunal shall declare the election of the first respondent as void.

3. In the teeth of the above allegations, preliminary objections are raised on behalf of the first respondent/returned candidate.

4. *Ms.Narmadha Sampath,* learned Counsel for the first respondent, would submit that there is no material to support the petitioner's own suspicion. Even the apprehension expressed cannot form the basis for the prayer to declare the election void. Thus, even without controverting the allegations, the Election Petition does not disclose a cause of action and is liable to be rejected. She would submit that the entire law relating to the counting of slips by VVPAT is laid down by the Hon'ble Supreme Court of India in ***Association for Democratic Reforms Vs. Election Commission of India*** and Anr.', and the case of the petitioner cannot be countenanced.

5. In reply thereto, *Mr.P.T.Perumal,* the learned counsel for the petitioner, would submit that counting VVPAT slips is a valuable right conferred on candidates under Rule 56D of the Rules. If this right is violated, the petitioner has a right to seek a remedy by way of the present petition. If there is an error in the vote count, the declaration that the first respondent has won, has to be set aside. Further, it may be seen that, on account of the petitioner's long-standing good work, especially in the area covered under the 8 booths, people have represented to the petitioner that they voted only for him, and, as such, the petitioner's apprehension is genuine. The learned Counsel would submit that the petitioner has obtained a substantially larger number of votes in the above 8 booths in the previous elections he has contested. Thus, the petition has to be considered in detail after adducing evidence.

6. The arguments of the other learned Counsel appearing for the parties were also heard.

7. At the outset, with reference to suspicion about the correctness of the count, no material or circumstance is pleaded except the perception of the petitioner. The petitioner believes that, because of the good work he has done, more people from the 8 booths have voted for him and have so represented to him. This is nothing but his own version and cannot form a reasonable basis for suspicion. It may be true that he has done good work. But on the polling day, it is the electorate that

decides whom to vote for. In a democracy, every person who does good public service can expect people to vote for him. But to impugn the count, this belief alone is not enough. The accuracy of the Electronic Voting Machine has been reiterated by the Hon'ble Supreme Court of India in ***Association of Democratic Reforms's*** case (cited supra).

8. The second argument is that the petitioner has a right to request as per Rule 56D. The same is extracted hereunder:

"56D. Scrutiny of paper trail. – (1)

Where printer for paper trail is used, after the entries made in the result sheet are announced, any candidate, or his absence, his election agent or any of his counting agents may apply in writing to the returning officer to count the printed paper slips in the drop box of the printer in respect of any polling station or polling stations.

(2) On such application being made, the returning officer shall, subject to such general or special guidelines, as may be issued by the Election Commission, decide the matter and may allow the application in whole or in part or may reject in whole, if it appears to him to be frivolous or unreasonable.

(3) Every decision of the returning officer under sub-rule (2) shall be in writing and shall contain the reasons therefore.

(4) If the returning officer decides under sub-rule (2) to allow counting of the paper slips either wholly or in part or parts., he shall-

(a) do the counting in the manner as may be directed by the Election Commission;

(b) if there is discrepancy between the votes displayed on the control unit and the counting of the paper slips, amend the result sheet in Form 20 as per the paper slips count;

(c) announce the amendments so made by him; and (d) complete and sign the result sheet".

(d) complete and sign the result sheet"

(Emphasis supplied)

9. Thus, it can be seen that the candidate or his agent has to apply to the Returning Officer after the entries are made in the result sheet and the result sheet is announced. No such application is made at the process of counting or anytime soon thereafter. If only such application is made on reasonable grounds, the Returning Officer can permit the same. The results are declared on 04.05.2026. The representation is belatedly sent only on 23.05.2026, and as such, the argument that there is a right as per the Rules stands rejected.

10. Thus, it can be seen at the outset that the petition lacks material particulars and facts, firstly for justifying the counting of VVPAT, and secondly, it is an admitted position that no request was raised at the appropriate time. If the above are held against the petitioner, nothing remains in the Election Petition for decision. There is no cause of action to continue the Election Petition, and as such, it has to be rejected.

11. Furthermore, even as per the petitioner's own averment, his success may propel him from seventh place to fifth place. As such, even as per the averments made in the petition, the petitioner does not disclose any cause of action showing how the election of the returned candidate, as per the will of the majority franchise, is affected. He only pleads to the Tribunal to take into account any such fact that may be discovered and to declare the election of the first respondent/returned candidate as void. Thus, the cause of action, even as pleaded, is not complete.

12. It is settled law that if the Election Petition fails to disclose the foundational and material particulars and a complete cause of action, it is liable to be rejected at the threshold as per Section 83 of the Representation of the People Act, 1951, read with Order VII Rule 11 of the Code of Civil Procedure. A useful reference in this regard is made on paragraph No.11 of the judgment of the Hon'ble Supreme Court of India in ***Azhar Hussain Vs. Rajiv Gandhi.***

13. For all the above reasons, the Election Petition No.44 of 2026 shall stand rejected. There shall be no order as to costs. The deposit shall be refunded to the petitioner.

WITNESS, THE HON'BLE MR.JUSTICE SUSHRUT ARVIND DHARMADHIKARI, CHIEF JUSTICE HIGH COURT AT MADRAS AFORESAID, THIS THE 11th DAY OF AUGUST 2026.

Sd./-
ASSISTANT REGISTRAR
(Original Side-II)

//Certified to be true copy//

Dated at Madras this the 15th day of September 2026.

COURT OFFICER (O.S)

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

17/08/2026

ELP.No.44 OF 2026

THE HON'BLE MR. JUSTICE
D.BHARATHA CHAKRAVARTHY

JUDGMENT DATED: 11/08/2026

FOR APPROVAL: 15/09/2026

APPROVED ON: 15/09/2026

Copy to:

1. The Returning Officer
   231, Colachel Assembly
   Constituency,
   Kurunthancode and Post,
   Kanyakumari Distrtict-629 802

2. Election Commission of India
   Nirvachan Sadan, No.1,
   Ashoka Road,
   New Delhi-110 001

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

(By Order)

LATA TRIPATHI,
Secretary,
Election Commission of India.

Secretariat,
Chennai-600 009,
10th October, 2026.

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

PRINTED AND PUBLISHED BY THE COMMISSIONER OF STATIONERY AND PRINTING,
CHENNAI ON BEHALF OF THE GOVERNMENT OF TAMIL NADU