



ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರ

ಅಧಿಕೃತವಾಗಿ ಪ್ರಕಟಿಸಲಾದುದು
ವಿಶೇಷ ರಾಜ್ಯ ಪತ್ರಿಕೆ

ಭಾಗ - ೪ Part - IV	ಬೆಂಗಳೂರು, ಸೋಮವಾರ ೦೧, ಡಿಸೆಂಬರ್, ೨೦೨೫ (ಮಾರ್ಗಶಿರ, ೧೦, ಶಕವರ್ಷ, ೧೯೪೭) BENGALURU, MONDAY 01, DECEMBER, 2025 (MARGASHIRA, 10, SHAKAVARSHA, 1947)	ನಂ. ೭೭೦ No. 770
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PERSONNEL AND ADMINISTRATIVE REFORMS SECRETARIAT (ELECTIONS)
NOTIFICATION

No. DPAR 37 CHUTHAA 2025, Bengaluru, Dated: 01st December 2025.

ELECTION COMMISSION OF INDIA
Nirvachan Sadan, Ashoka Road, New Delhi.

Dated: 28th October, 2025
Kartika 06, 1947 (Saka)

NOTIFICATION

No. 82/KT-LC/05/2022/2025-BE :- In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the Order dated : 16.07.2025 of the High Court of Karnataka in 'Election Petition No.05 of 2022, Shri Raghu R @ Raghu Kautilya vs Shri Manje Gowda C.N., Shri D.Thimmaiah and Others', calling in question the election of Shri Manje Gowda C.N, and Shri D. Thimmaiah as Members of the Karnataka Legislative Council from Mysore Local Authorities' Constituency.

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF JULY, 2025

BEFORE

THE HON'BLE MR.JUSTICE S.R.KRISHNA KUMAR

ELECTION PETITION NO. 5 OF 2022

BETWEEN:

SHRI RAGHU R @ RAGHUKAUTILYA
S/O LATE RANGANNA
AGED ABOUT 54 YEARS
R/A NO.71, SRIRANGA,
CHAMUNDI VIHAR LAYOUT
NAZARBAD, MYSURU-570010

...PETITIONER

(BY SRI. SHARATH GOWDA G.B, AND
SRI.VIDYAR.GOWDA,ADVOCATES)

AND:

1. SHRI MANJE GOWDA C N
S/OLATE NANJUNDEGOWDA
AGED ABOUT 57 YEARS
R/ANO.1, 9THBLOCK, BEML LAYOUT
MYSURU-570023
2. SHRI D THIMMAIAH
S/O LATE DASAPPA
AGED ABOUT 76 YEARS
R/A NO.1448, SANJERAVI ROAD
BEHIND JAGADAMBA PETROL BUNK
KUVEMPUNAGAR
MYSURU-570023.
3. THE RETURNING
OFFICER MYSURU LOCAL
BODIES COUNCIL
CONSTITUTENCY
AND THEDEPUTY COMMISSIONER
MYSURU - 570 005.
4. SHRI VATAL NAGARAJ
S/O LATE MADAPPA
AGED ABOUT 72 YEARS

R/A NO.329, RMV IISTAGE
BENGALURU-560 094.

5. SRI.GURULINGAIAH
S/O DODDAIAH
AGED ABOUT 40 YEARS
R/ANO.340, MULLURU VILLAGE
SARGOORU, HD KOTE TALUK
MYSURU DISTRICT – 571 121.
6. SRI.KC BASAVARAJASWAMY
S/O LATE CHANNABASAVADEVARU
AGED ABOUT 67 YEARS
R/ANO.53, BASAVA SHRI NILAYA
BHAVANINAGAR
NEAR JP NAGAR RING ROAD
MYSURU – 570 031.
7. SRI.MANJUNATH R
S/O LATE RANGASWAMY
AGED ABOUT 41 YEARS
R/A NO.69, 4TH STAGE
GOKULAM, MANJUNATHAPURA
MYSURU-570 020.

...RESPONDENTS

(BY SRI.JAYAKUMAR.S.PATIL, SENIOR ADVOCATE FOR
SRI. MAHAMAD TAHIR A., AND
SRI.VARUNJ.PATIL, ADVOCATES FOR R-1
SRI. DHANUSH MENON AND
SMT.LEELA P.DEVADIGA,ADVOCATES FOR R-2
SRI. Y.H. VIJAY KUMAR, ADVOCATE FOR R-3
SRI.VISHWANATHKANAVI, ADVOCATE FOR R-6
VIDE ORDER DATED:18.07.2022, NOTICE TO R-4,R-5 & R-7 IS
HELD SUFFICIENT)

THIS ELECTION PETITION IS PRESENTED UNDER SECTION 81 OF
THE REPRESENTATION OF PEOPLE ACT, 1951, BY PRAYING TO CALL
FOR RECORDS AND SET ASIDE THE ELECTION OF RESPONDENTS 1
AND 2 TO THE KARNATAKA LEGISLATIVE COUNCIL FROM THE 20
MYSURU LOCAL BODIES COUNCIL CONSTITUENCY.

THIS PETITION IS BEING HEARD AND RESERVED ON 16.04.2025
COMING ON FOR PRONOUNCEMENT OF ORDERS THIS DAY, THE COURT
MADE THE FOLLOWING:-

CORAM: HON'BLE MR.JUSTICES.R.KRISHNAKUMAR

CAV ORDER

In this petition, the petitioner seeks setting aside of the Election of respondent Nos.1 and 2 to Karnataka Legislative Council from the 20 Mysuru Local Bodies Council Constituency and for declaration that the petitioner was duly elected to fill the seat of the Karnataka Legislative Council from the said Constituency and for other reliefs.

2. Respondent Nos.1 and 2 have filed their written statement and contested the petition. In addition thereto, respondent Nos.1 and 2 have filed two applications i.e., I.A.No.2/2022 and I.A.No.3/2022 seeking rejection of the Election Petition on the ground that there was no cause of action and that the petition was barred by limitation. The petitioner has filed his objections to the applications and contends that the same are liable to be dismissed.

3. A perusal of the material on record will indicate that the petitioner and respondent Nos.1 and 2 submitted their respective nominations on 23.11.2021 to contest the Biennial Elections to the Karnataka Legislative Council from 20 Mysuru Local Bodies

Constituency. While the petitioner was the candidate sponsored by Bharatiya Janata Party, respondent Nos.1 and 2 were sponsored by Janata Dal (Secular) and Indian National Congress, respectively. Respondent No.3 is the Returning Officer and respondent Nos.4 to 7 are the other candidates, who conducted the Election.

4. Pursuant to respondent Nos.1 and 2 submitting their nominations, petitioner opposed the said nomination papers filed by them and raised objections. Respondent No.3 – Returning Officer notified respondent Nos.1 and 2 about the objections filed by petitioner to their nomination and permitted them to file their objections and after hearing all parties, respondent No.3 – Returning Officer over-ruled/rejected the objections filed by the petitioner vide orders dated 24.11.2021 and 25.11.2021, respectively. Accordingly, after accepting the nomination of respondent Nos.1 and 2 by over-ruling/rejecting the objections raised by the petitioner, the Election results were declared in which respondent Nos.1 and 2 secured 1st and 2nd positions and were consequently declared elected and the petitioner lost the Elections.

Aggrieved by the impugned Election of respondent Nos.1 and 2, petitioner is before this Court by way of the present petition.

5. Heard learned Senior counsel for the petitioner and learned Senior counsel for respondent Nos.1 and 2 on I.A.Nos.2/2022 and 3/2022 and perused the material on record.

6. In addition to reiterating the various contentions urged in the applications, I.A.Nos.2/2022 and 3/2022 and referring to the material on record, the respective learned Senior counsel for both respondent Nos.1 and 2 jointly submit that there was no cause of action for the petition and the same was liable to be rejected. It was submitted that upon the petitioner filing his objections to the nominations submitted by respondent Nos.1 and 2, they submitted their respective replies and necessary documents in support of the nomination including affidavits etc., were filed by respondent Nos.1 and 2 in compliance of Form-26, which were accepted by the Returning Officer, who rejected/over ruled the objections of the petitioner and accepted the nominations of respondent Nos.1 and 2. It was submitted that apart from fact that the petition averments do not make out constitute or set out material facts for the purpose of seeking setting aside of the Elections of respondent Nos.1 and

2, the alleged deficiency/defects pointed out by the petitioner did not materially or substantially affect the Election results and as such, there was no cause of action for the petitioner to file the present petition, which is liable to be rejected. It was submitted that the declaration of results of the Election were on 14.12.2021 and the present petition filed on 14.03.2022 beyond the prescribed period of 45 days from the date of Election was barred by limitation under Section 81 of the Representation of the People Act, 1950 (for short "the R.P. Act ") and the Election Petition is liable to be rejected on this ground also. In support of their submissions, learned Senior counsel for respondent Nos.1 and 2 placed reliance upon the following decisions:

- i) Kanimoji Karunanidhi Vs. A.Santhana Kumar – 2023 SCC OnLine SC 573*
- ii) Anil Vasudev Salgaonkar Vs. Naresh Kushali Shigaonkar– (2009) 9 SCC 310*
- iii) Frost International Limited Vs. Milan Developers & Builders Pvt. Ltd. & Anr. – (2022) 8 SCC 633.*
- iv) Dahiben Vs.Arvinbhai Kalyanji Bhanusali & Ors.–(2020) 7 SCC 366.*

7. Per contra, learned Senior counsel for the petitioner would reiterate the various contentions urged in the Statement of Objections to I.A.Nos.2/2022 and 3/2022 and submits that there is no merit in the applications and that the same are liable to be rejected. In support of his submissions, learned Senior counsel for the petitioner places reliance upon the following decisions:

- i) Kisan Shankar Kathore Vs. Arun Dattatray Sawant and others – (2014) 14 SCC 162*
- ii) Krishna moorthy Vs. Sivakumar and others – (2015) 3 SCC 467*
- iii) Lok Prahari Through its General Secretary S.N.Shukla Vs. Union of India and others–(2018)4SCC699*
- iv) Resurgence IndiaV s. Election Commission of India and another – (2014) 14 SCC 189*
- v) Ashraf Kokkur V. K.V.Abdul Khader and Others–(2015) 1 SCC 129*
- vi) Ponnala Lakshmaiah Vs. Kommuri Pratap Reddy and others – (2012) 7 SCC 788*
- vii) Suo Motu Writ Petition (C) No.3/2020, dated 21.10.2022 (Apex Court)*

8. I have given my anxious consideration to the rival submissions and perused the material on record.

9. Before advertng to the rival contentions, it would be necessary to reiterate that for the purpose of considering an application under Order VII Rule 11 CPC for rejection of a plaint/Election Petition, it is only the plaint/petition averments along with documents that would be relevant and germane and not the defence put forth by the defendants/respondents in their written statements. In this context, a perusal of the petition averments will indicate that it is the specific contention of the petitioner that the affidavits in Form No.26 filed by respondent Nos.1 and 2 were defective and incomplete and many columns were left blank, which amounted to non-disclosure of information by them. It is alleged by the petitioner that the details of immovable properties belonging to respondent Nos.1 and 2 and their family members, details of criminal cases, details of criminal antecedents, details of facebook accounts and educational qualifications and source of income had not been mentioned and elaborated by respondent Nos.1 and 2, whose nomination was wrongly accepted by respondent No.3-Returning Officer.

10. Per contra, respondent Nos.1 and 2 contend that the petitioner had deliberately suppressed material facts by not making averments in relation to rectified affidavits filed by them pursuant to objections to their nominations being raised by the petitioner. It was contended that after correctly and properly perusing the affidavits, rectified affidavits and other documents submitted by respondent Nos.1 and 2, both before and after the objections raised by the petitioner, respondent No.3 – Returning Officer had rejected the objections of the petitioner and accepted the nomination of the petitioner by passing detailed orders in this regard dated 24.11.2021 and 25.11.2021 pursuant to which respondent Nos.1 and 2 secured the highest votes and were accordingly declared as elected, in accordance with law.

11. In this context, it is pertinent to note that the various allegations and claim made by the petitioner in the present Election Petition had already been urged/raised by him before the Returning Officer, who had expressly over ruled the same vide orders dated 24.11.2021 and 25.11.2021, which are as hereunder:

"Order dated 24.11.2021"

B.J.P. Candidate filed objections to the Affidavit filed by JDS Candidate yesterday. However, at 10am on 24.11.2021, the J.D.(S) candidate filed afresh affidavit. In view of this, the B.J.P. Candidate withdraws the earlier objection as not pressed and requested for fresh affidavit filed by JDS Candidate at 10 a.m. on 24.11.2021 to be uploaded to District Election Officers' website, so that he can file fresh objections. He takes shelter under natural justice and that an opportunity should be accorded to him. JDS candidate however insists that scrutiny should be completed immediately.

Heard, in the interest of natural justice, opportunity accorded for filing objection by B.J.P. Candidate at 5 p.m. on 24.11.2021.

24.11.2021

B.J.P. Candidates agent and proposer submitted written objection at 5-05 pm with respect to fresh affidavit filed by JDS Candidate at 10 am on 24.11.2021. The JDS candidate filed a fresh rebuttal in writing.

At 5-26 pm, B.J.P. candidate's agent and proposer submitted a fresh objection letter including an additional part, same is place in file. The JDS candidate at 5-37 pm has filed a rebuttal in writing.

REPRESENTATIVE OF B.J.P. ORAL SUBMISSION

(1) Candidate in Para-B had mentioned in (3) Chamundeshwari Legislative Assembly Constituency and in

(4) Janathadal Jathyatitha and it gives the impression that election is from Vidhana Soudha Constitutency and not from Mysuru Local Constituency election.

(2) In Part-A, b(i) at extent (total measurement – in Acres) it is blank in columns of wife and dependent-1.

(3) In Para-A, b(ii) at investment in the form of development, construction etc., dependent-1 column has been left blank.

(4) With respect to educational qualification only First P.U.C. has been mentioned, course, college and year has not been mentioned.

(5) Moreover, he has not disclosed facebook account.

Therefore, nomination of said candidate may be rejected.

Representative of JDS Candidate

- 1. With Chamundeshwari Vidhana Sabha constituency, my candidate has furnished personal details as of today. Even address mentioned was of that in Epic Card.*
- 2. With respect to Part-A, b(i) at extent (total measurement in Acres), I submit that wife and dependent 1 of candidate don't have any agricultural land and it has clearly been furnished at Para-A, b(i) under Agricularual land, Place/s, Survey Number/s.*
- 3. With respect to Para-A, b(ii), there is no non-agricultural property in the name of dependent and same has been*

furnished at Para-A, b(ii) under the head Non-Agricultural Land, Place/s, Sy.No/s.

Hand book for elections to the Council of States and State Legislative Councils in Chapter VI, 10(xii) states that, if the prescribed affidavit has been filed, but are found or considered to be defective or containing false information, the nomination should NOT be rejected on the ground. Moreover it's a purely technical objection and not substantive and hence cannot be sustained.

Point 2:In Para-A, b(i) at extent (total extent – Acres) blank columns of wife & dependent-1 was the objection. The representative of JDS Candidate has convincingly submitted that wife and dependent 1 of Candidate don't have any agricultural land and it has been clearly furnished at Para-A b(i) under agricultural land, place/s, Sy.No.(s).His argument that since there was no agricultural land in favour of his wife and his dependent 1 and hence there was blank space in extent seems logically sustainable Text cannot be seen out of context. The whole objective of the Affidavit is to give effect to fundamental rights of Citizens of India under Article 19(1)(a) of Constitution of India to ensure citizens have the necessary information at the time of filing information so that they can use the information to be held to be valid. It is always safer, therefore, to be comparatively more liberal overlooking minor technical or clerical errors rather than rejecting on technical grounds. On the writ of the above material, objection 2 is not sustainable in the eye and spirit of the law in this regard.

Point 3: Objection was that in Para-A, b(ii) at "Any Investment on land in the form of development, construction, etc. – 1 column has been left blank. The JDS candidate affirms that there is no non-agricultural property in the name of dependent and same has been furnished. At Part-A, b(ii) under the head Non-agricultural Land : Place/s, Sy.Nos., since there was non non agricultural land, there was no suppression of any information on developing it. His defence is sustainable. The same explanation given by the (R.O.) at Point 2 applies to Point 3 as well.

Point 4: With respect to educational qualification, the explanation of JDS candidate is self-explanatory and hence sustainable and objection is over ruled.

Point 5: With respect to Facebook account also, the explanation of JDS Candidate is self-explanatory and hence sustainable and objection is overruled."

Order dated 25.11.2021

Oral Submission of BJP representative

Point No.1: They have mentioned PAN number "re" for Smt. Meera Bai. She is a retired Government Official and could have filed income tax, there will be a PAN Card and its now Mandatory for citizens who transact with banks to have PAN Card, not furnishing PAN Card amounts to withholding of information from citizens.

Point No.2: They have in part B in Sy.No.9 column 1 & 2 liabilities to the bank and other financial institutions to the sum

of Rs.5,66,66,726/- and Rs.7,35,73, 000/- respectively reference drawn to relevant paras in resurgence India V/s ECI case and Allahabad HC judgement in Mahendra Nath Rai Vs. Returning Officer.

Point No.3: Once scrutiny has started, Returning Officer cannot enable them to file a fresh affidavit and blanks cannot be filled.

Representative of INC:

Point 1: At Part A (4) its clearly mentioned as “re”so its clearly filled whereas objection is that we should have filled as “PANCard not issued”it means same in common parlance Details about Smt. Meera Bai’s PANCard and bank account are beyond the scope of this enquiry as it requires evidence and counter evidence.

Point No.2: In Part A, 8(1) deals with only banks and financial institutions Part BSI.No.9, deals with banks, financial institutions and others.

Point 3: With respect to blanks, Part A, (b)(1) sub question 2, its already answered as ‘No’ in the main question and since its already mentioned as not having agricultural property, whether that property is by inheritance or not, it not a substantial defect and material defect. Also for blanks, opportunity has not been accorded to me to fill up the blanks and therefore, I may be given opportunity to file a rectified affidavit or to fill in the blanks in the current affidavit. Attention is drawn to chapter VI of RO’s hand book of ECI.9.1,6,9.3

Power of R.O. to reject an application which has blanks is absolute, but I should be afforded an opportunity.

Attention has been drawn to Para22 in page212, Para (iv) Page 216, Para(v) in page 217, Para 5 in Page 248, Para 43 in page 192 to the booklet of case citations appended to his defence statement. Even if its admitted that objections raised one true, they are not guidelines and judgments of Hon'ble S.C.

Representative of BJP:

- 1. PartA(9A) states that Sm.t Meera Bai is gettinge v'wlv'9e' Which means she is a retired Govt. Employee.*
- 2. Contradictory information has been furnished in the affidavit with respect to loans from banks, financial institutions and individuals. Attention is drawn to page 248 point (2) of citations booklet provided by representative of INC, so it's not a curable defect.*
- 3. With respect to Blanks, R.O. can get it filled in the affidavit & its left to the discretion of the R.O. But in so far as affidavit already filled, it cannot be amended as it's a material defect and right of citizen to know all information. Attention has been drawn to page 8 in last 4 lines of citation book provided by representative of INC. Page 217, Para (vi)(vii) attention drawn to citation book provided by representative of INC.*

So, non disclose of information is a material fact, there is suspicion of material facts and it amounts to false affidavit.

I do agree that on technical grounds, affidavit should not be rejected.

Representative of INC:

1. R.O. handbook of Ecl Chapter VI 9.3 with respect to loans and liabilities, further my case, Page 83 last 4 lines of my citation book, that judgment is about assets and liabilities of elected representatives and gazetted officers and not connected with Nomination process. Page 217, Para (v)(vi) are subject to para iv) of my citation book.

Representative of BJP:

Page 217, Para iv to be read with clarity.

No. further submissions by both parties.

I have gone through the written objections filed by the BJP Candidate on 24.11.2021 and 25.11.2021. I have gone through the defence statement submitted by the representative of INC Candidate. I have heard the oral submissions of both the parties at length about 4 points raised in the objections. I hereby proceed to deal with them.

Point 1 & 2: *Point 1 & 2 are inter related and hence I will deal with them together. The basic premise of objector is that non disclosure of information is a material fact and it amounts to false affidavit whereas the basic premise of defence is that this issue is behind the scope of this authority and that necessary information has already been filled in the affidavit.*

I am relying on chapter V of returning officers handbook of ECI and quoting from the book.

"Filing of false affidavit in form 26. Now the affidavit is in form 26 under Section 33A of the representation of the people act, 1951, making false declaration, concealing of information in the affidavit would be converted under Section 125A of the Act. Under Section 125A, there is no stipulation that complaints under that section have to be made by the public servant concerned (in this case the R.O.) Therefore, it would be open to any aggrieved person to move petition before the appropriate court of competent jurisdiction with petition for action under section 125A in the case of any false declaration or concealing of information in the affidavit in Form 26.

Therefore, it will be no longer necessary under the Cr.P.C. for the returning officer to move the competent court in relation to any complaint about a false affidavit. The complainant himself can be the complainant before the court as well in the event of complaints about false statement in the affidavit in form 26, the complainant can be informed that it would be open for him to move the appropriate court of law for action under section 125A of the R.P. Act 1951"

It is thus clear that the claim of the defence is sustainable with respect to the fact that the issues are beyond the scope of this authority. Moreover the complainant has an alternative remedy available in law to approach a court of competent jurisdiction for redressal of his grievances, if any,

therefore objections with respect to point 1 and point 2 are overruled.

Point 3: *With respect to point 3, the basic premise of the objector is that there are blanks in the Affidavit and that the defence cannot file a fresh affidavit, now since scrutiny has already started. The objector also concedes that with respect to existing blanks, the R.O. can get it filled in the affidavit and that its left to the discretion of the R.O. but that is sofar as Affidavit already filled, it cannot be amended as its a material defect and hence incurable at this point of time.*

*The basic premises of the defence is that, information with respect to main question at Part A, B (i) regarding ownership of agricultural land has already been answered as 'No' for his wife and defendants and hence, it is naturally flows from the above that the answer to the subquestion"ಸ.ತು
e೦೨,x.ತೆ೦,೦EzÄ9¾4vÁr®is also 'No'. Moreover the point that R.O. had not accord them a reminder which would have given them sufficient opportunity to fill in the blanks and hence seek an opportunity to either fill a fresh affidavit or to fill in the blanks in the existing affidavit. they also point out that the objectors themselves have conceded that they can fill in the blanks in the existing affidavit.*

Having heard both the parties on point No. 3, it is my contention that the fundamental purpose of filing the affidavit is to ensure that the electors have access to necessary information about the candidates so as to make an informed choice on whom to elect with respect to Point 3,the

information filled by INC candidate about lack of agricultural land in the name of his wife and defendants means that the answer to the sub question is also 'no'. This can be depicted by pure common sense. So there is no non disclosure or suppression of information in this case. So the benefit of doubt has to be given to the INC candidate as the defect is merely technical and no substantive. Moreover, the R.O. by oversight could not give there a reminder to fill in the blanks in the affidavit, so its true that to serve the ends of natural justice, an opportunity can be accorded to them as through incomplete affidavits are liable to be rejected leading to rejection of nomination paper on the ground of not filing up all column in the affidavit, however in the instant case, since reminder was not given it does not became a cause for outright rejection of the nomination. Moreover, the objector has also conceded that the R.O. in his discretion can decide on it. I have in the scrutiny proceedings asked the INC candidate about his answer for all fill in the blanks in the affidavit and they have answered that their answer is 'No'. It is taken on record. However, the contention of the INC Candidate to file a fresh affidavit at this stage is categorically rejected representation of People Act 1950 & 1951 section 36(4) states that " The returning officer shall not reject any nomination paper on the ground of any defect which is not of a substantial character. I am hereby satisfied that, the above mentioned defect is merely a technical defect and not a substantial defect. Hence considering the special facts and circumstances of this case, objection is over ruled.

Point 4: *The objection that in part B column II, constituency number, name and state has been mentioned as local body constituency, Karnataka Bank instead of his residential constituency can be considered flimsy as per chapter VI, 9.3 of R.O. handbook and hence this objection is over ruled.*

In view of the aforementioned paras, the objections raised by the B.J.P. candidate are hereby overruled.”

12. The aforesaid orders passed by respondent No.3 had attained finality and had not been challenged by the petitioner. In addition thereto, respondent Nos.1 and 2 had filed rectified affidavits as well as replies to the objections raised by the petitioner, which were taken into account by respondent No.3-Returning Officer, who scrutinized and accepted the nominations of respondent Nos.1 and 2 by over-ruling the objections of the petitioner by following the procedure prescribed in Section 36 of the R.P. Act. Under these circumstances, the various allegations and claim made by the petitioner regarding defects and lacunae in the nomination papers had already stood rectified by respondent Nos.1 and 2, whose nominations were accepted by respondent No.3-Returning Officer, pursuant to which they were declared elected upon securing/obtaining highest number of votes, thereby leading

to the sole conclusion that there is no cause of action for the present petition, which is liable to be rejected.

13. A perusal of the averments made in the petition in which the petitioner has pointed out various defects/deficiencies and lacunae in Form No.26 filed by respondent Nos.1 and 2 will clearly indicate that the same cannot be said to be material/substantial in nature so as to affect the results of the elections; as stated supra, in the light of the Returning Officer following the procedure prescribed under Section 36 of the R.P. Act and notifying respondent Nos.1 and 2 about the objections raised by the petitioner, respondent Nos.1 and 2 filed their replies as well as rectified affidavits, which were scrutinized and perused by the Returning Officer, who correctly and properly over-ruled and rejected the objections raised by the petitioner and accordingly, accepted the nominations submitted by respondent Nos.1 and 2. Despite the said orders of the Returning Officer, the petitioner seeks to re-agitate the very same objections by alleging lacunae and defects /deficiency in the nomination papers, a perusal of which clearly establishes that the same cannot be said to be material or substantial so as to substantially vary or alter the results of the

Elections and consequently, the present petition does not disclose a cause of action and is liable to be rejected on this ground also.

14. It is contended by the learned Senior counsel for respondent Nos.1 and 2, since the subject Election results were declared on 14.12.2021, it was incumbent upon the petitioner to file the present petition within a period of 45 days from that day as contemplated under Section 81 of the R.P. Act and the present petition undisputedly filed on 14.03.2022 is clearly beyond the prescribed period of 45 days; in this context, petitioner contends that he is entitled to benefit of exclusion of time on account of the 2nd wave of Covid-19 pandemic exigency since the Apex Court excluded the period of limitation for institution of all judicial and quasi-judicial proceedings including filing of the present petition in M.A.Nos.665/0021, 21/2022 and 29/2022 in *Suo Moto* W.P.(C) No.3/2020 dated 10.01.2022. In view of the said order passed by the Apex Court extending the period of limitation before judicial and quasi judicial fora up to 28.02.2022, it cannot be said that the present petition is barred by limitation as contended by the respondents 1 and 2 whose contention in this regard cannot be accepted. However, having regard to the findings recorded by me

Herein before that there is no cause of action for the present petition, I am of the view that the petition is liable to be rejected and consequently, dismissed, since the same does not disclose / make out a cause of action.

15. Insofar as the judgments relied upon by both sides are concerned, the same were rendered in the facts and circumstances of the said cases and in view of the factual matrix obtaining in the instant case, which clearly demonstrates that there is no cause of action for the petition and that the same is barred by limitation, the said judgments are not elaborately dealt with for the purpose of the present order.

16. In view of the aforesaid facts and circumstances, I am of the view that the application, I.A.Nos.2/2022 and 3/2022 filed by respondent Nos.1 and 2, respectively deserve to be allowed and the present Election Petition deserves to be rejected and consequently, dismissed.

17. In the result, I pass the following:

ORDER

(i) I.A.Nos.2/2022 and 3/2022 are hereby allowed.

(ii) The Election Petition in E.P.No.5/2022 is hereby rejected
and consequently dismissed.

Sd/-
(S.R.KRISHNAKUMAR)
JUDGE

By Order,

(SUMAN KUMAR DAS)
SECRETARY
ELECTION COMMISSION OF INDIA

By order and in the name of the
Governor of Karnataka

(MADHU A.C)
Under Secretary to Government
D.P.A.R (Elections)