



ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರ

ಅಧಿಕೃತವಾಗಿ ಪ್ರಕಟಿಸಲಾದುದು
ವಿಶೇಷ ರಾಜ್ಯ ಪತ್ರಿಕೆ

ಭಾಗ - ೪ Part - IV	ಬೆಂಗಳೂರು, ಮಂಗಳವಾರ, ೨೪, ಫೆಬ್ರವರಿ, ೨೦೨೬ (ಫಾಲ್ಗುಣ, ೦೫, ಶಕವರ್ಷ, ೧೯೪೭) BENGALURU, TUESDAY, 24, FEBRUARY, 2026 (PHALGUNA , 05, SHAKAVARSHA, 1947)	ನಂ. ೧೭೪ No. 174
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PERSONNEL AND ADMINISTRATIVE REFORMS SECRETARIAT (ELECTIONS)

NOTIFICATION

No. DPAR 05 CHUTHAA 2026, Bengaluru, Dated: 24th February 2026.

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi.

Dated: 27th January, 2026
7 Magha, 1947 (Saka)

NOTIFICATION

No. 82/KT-LA/06/2023 :- In pursuance of Section 106 (b) of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the judgment/orders of the high Court of Karnataka, Bengaluru dated : 25.09.2025 in the Election Petition No. 06/2023

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 25TH DAY OF SEPTEMBER, 2025
BEFORE
THE HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD**

ELECTION PETITION NO. 06 OF 2023

BETWEEN:

MR. K M .THIMMARAYAPPA
S/O LATE KARIYAPPA
AGED ABOUT 65 YEARS
RESIDING AT KODETHIMMANAHALLI
NIDAGAL HOBLI, PAVAGADA TALUK
TUMAKURU-572 116

...PETITIONER

(BY SRI K M THIMMARAYAPPA, PETITIONER [ABSENT])

AND:

MR. H.V. VENKATESH
S/O MR.VENKATARAMANAPPA
AGED ABOUT 46 YEARS R/AT
HANUMANTHANAHALLI VILLAGE
MARIDASANAHALLI POST
Y.N.HOSAKOTEHOBLI
PAVAGADA TALUK, TUMAKURU -572 141

...RESPONDENT

(BY SMT. LEELA P DEVADIGA., ADVOCATE)

THIS ELECTION PETITION IS FILED UNDER SECTION 81 OF THE REPRESENTATION OF THE PEOPLE ACT 1951, PRAYING TO SET ASIDE THE ELECTION OF THE RESPONDENT TO THE 16TH KARNATAKA LEGISLATIVE ASSEMBLY FROM NO.137 PAVAGADA ASSEMBLY CONSTITUENCY (SC) KARNATAKA LEGISLATIVE ASSEMBLY AND ETC. THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

ORAL ORDER

The learned counsel for the petitioner has filed a memo dated 15.04.2025, seeking permission to retire from the case on the ground that the petitioner had taken back all the case papers pertaining to the subject election petition, along with a no-objection vakalathnama, in the month of February 2025, on the pretext of engaging the services of another counsel. Thereafter, the petitioner has neither engaged any other counsel nor issued any instructions to the learned counsel to proceed with the matter. Consequently, the learned counsel sent a notice to the petitioner on 05.04.2025, intimating him of his intention to retire from the case. Along with the memo, the learned counsel

has enclosed the notice dated 05.04.2025 and the postal acknowledgment evidencing service of the said notice.

2. Today, when the matter was called, neither the petitioner was present nor had he engaged any other counsel to prosecute the case. It appears that the petitioner is not interested in pursuing the present proceedings.
3. The question that now arises for consideration is whether the election petition can be dismissed for default.
4. This question is no longer *res integra* in light of the decision of the Hon'ble Apex Court in the case of **Dr. P. Nalla Thampy Thera vs. B.L. Shankar and Others**, reported in **1984 Supp. SCC 631**. The Apex Court has categorically held that an election petition is liable to be dismissed for default in a situation covered by **Order IX of the Code of Civil Procedure (CPC)**. The relevant paragraph is extracted below:

"16. There is no support in the statute for the contention of the appellant that an election petition cannot be dismissed for default. The appellant contended that default of appearance or nonprosecution of the election petition must be treated as on par with withdrawal or abatement and, therefore, though there is no clear provision in the Act, the same principle should govern and the obligation to notify as provided in Section 110 or 116 of the Act should be made applicable. We see no justification to accept such a contention. Nonprosecution or abandonment is certainly not withdrawal. Withdrawal is a positive and voluntary act while non-prosecution or abandonment may not necessarily be an act of volition. It may spring from negligence, indifference, inaction or even incapacity or inability to prosecute. In the case of withdrawal steps are envisaged to be taken before the Court in accordance with the prescribed procedure. In the case of non-prosecution or abandonment, the election petitioner does not appear before the Court and obtain any orders. We have already indicated that the Act is a self-contained statute strictly laying down its own procedure and

nothing can be read in it which is not there nor can its provisions be enlarged or extended by analogy. In fact, the terms of Section 87 of the Act clearly prescribe that if there be no provision in the Act to the contrary, the provisions of the Code would apply and that would include Order 9, Rule 8 of the Code, under which an election petitioner would be liable to be dismissed if the election petitioner does not appear to prosecute the election petition."

5. In the light of the fact that the provision of the Civil Procedure Code would apply and in the light of the absence of the petitioner, in terms of Order IX Rule 9 of CPC, the petition is liable to be dismissed for nonprosecution.

Accordingly, the petition stands dismissed.

Sd/-
(H.T. NARENDRA PRASAD)
JUDGE

By Order,
(PAWAN DIWAN)
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).