



ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರ

ಅಧಿಕೃತವಾಗಿ ಪ್ರಕಟಿಸಲಾದುದು
ವಿಶೇಷ ರಾಜ್ಯ ಪತ್ರಿಕೆ

ಭಾಗ - ೪ಎ Part - IVA	ಬೆಂಗಳೂರು, ಗುರುವಾರ, ೨೫ ಸೆಪ್ಟೆಂಬರ್, ೨೦೨೫ (ಆಶ್ವಯುಜ ೦೩, ಶಕವರ್ಷ ೧೯೪೭) BENGALURU, THURSDAY, 25 SEPTEMBER, 2025 (AASHWAYUJA 03, SHAKAVARSHA 1947)	ಸಂ. ೬೩೧ No. 631
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PERSONNEL AND ADMINISTRATIVE REFORMS SECRETARIAT (ELECTIONS)
NOTIFICATION

No. DPAR 23 CHUTHAA 2025, Bengaluru, Dated: 25th September 2025.

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi.

Dated: 2nd September, 2025

11 Bhadra, 1947 (Saka)

NOTIFICATION

No. 82/KT-LA/3/2018:-In pursuance of Section 106 (b) of the Representation of the People Act, 1951 (43 of 1951), the Election Commission of India hereby publishes the judgment/order of the High Court of Karnataka dated: 27th March, 2025 in Election Petition No.3/2018.

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF MARCH, 2025

BEFORE

THE HON'BLE MR JUSTICE S SUNIL DUTT YADAV

ELECTION PETITION NO. 3 OF 2018

BETWEEN:

1. SRI D A GOPALA
S/O LATE ANNAYAPPA
AGED ABOUT 63 YEARS
R/O NO.43, GANGOTRI
NEAR SHENIMAHATMA TEMPLE
DEVASANDRA, K R PURAM
BANGALORE-36

... PETITIONER

(BY SRI. PRUTHVI WODEYAR., ADVOCATE)

AND:

1. SRI B A BASAVARAJ
S/O ANJANEPPA
AGED ABOUT 54 YEARS
R/O NO.93/43, CHANDRAIAH LAYOUT
REEPCO SHANTINIKETHAN ROAD
MEDAHALLI
BANGALORE-560 049

... RESPONDENT

(BY SRI. B.V. ACHARYA, SENIOR COUNSEL FOR
SRI PRAKASH T HEBBAR., ADVOCATE FOR R1)

THIS ELECTION PETITION IS FILED UNDER SECTION 80
AND 91 OF THE REPRESENTATION OF PEOPLE ACT, 1951,
PRAYING TO CALL FOR RECORDS AND SET ASIDE THE
ELECTION OF THE FIRST RESPONDENT TO THE 15TH

KARNATAKA LEGISLATIVE ASSEMBLY FROM 151 - K.R. PURA
ASSEMBLY CONSTITUENCY AND ETC.

THIS PETITION COMING ON FOR ORDERS THIS DAY,
ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE S SUNIL DUTT YADAV

ORAL ORDER

Learned Counsel for petitioner files a memo and submits that he has no instructions to proceed in the matter. Memo is filed enclosing the communication issued to the respondent. The communication is to the effect that he requires further instructions in the matter and the petitioner was to meet the counsel for providing information. The said communication is served as is evidenced from the postal tracking report.

2. The Petitioner was called out and he remains absent.

3. On 07.03.2025, this court had passed an order as follows:

Learned counsel for respondent No.1 files a memo along with the order of the Apex Court in SLP (C) No.4342-44/2019 and submits that the said Special Leave Petition has been withdrawn.

In light of the same, present proceedings are resumed.

Learned counsel for the petitioner submits that the proceedings may not survive for consideration.

For the say of the petitioner, list this matter on 17.03.2025.

4. It is noticed that the petitioner does not appear to be interested in continuing to prosecute the present proceedings.

5. As noticed above, learned counsel for petitioner has intimated the petitioner regarding lack of instructions. Petitioner is not present, nor has made out any instructions to the counsel to continue proceeding with the matter. Learned counsel for petitioner submits that he has no instructions to continue prosecuting the proceedings. Clearly, the petitioner is not diligent in prosecuting the proceedings.

6. The question is as to whether election petition could be dismissed for default.

7. The question is no more *res integra* in light of the order of the Apex Court in the case of ***Dr.P.Nalla Thampy Thera v. B.L.Shanker and Others reported in AIR 1984 SC 135.*** The Apex Court has categorically held that election petition is liable to be dismissed for default in situation covered by Order 9. The observation of the Apex Court in Para 16 reads as follows:

"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 non-prosecution 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 Ss.110 or 116 of the Act should be made applicable. We see no justification to accept such contention. Non-prosecution or abandonment is certainly not withdrawal.

Withdrawal is a positive and voluntary act while non-prosecution or abandonment may not necessarily be act of volition it may spring from negligence, indifference, inaction or even incapacity 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 petition would be liable to be dismissed if the election petitioner does not appear to prosecute the election petition.

8. Accordingly, in light of the fact that provisions of Civil Procedure Code would apply and in light of absence of the petitioner in terms of Order 9 Rule 8 CPC, the petition is liable to be dismissed for non-prosecution.

9. Accordingly, the petition stands dismissed.

10. It is noticed from the order sheet that some of the documents are kept in the safe custody of Registrar (Judicial). The said documents may be kept in the safe custody of Registrar (Judicial) for a period of 90 days from today, after which applicable procedure may be followed.

Sd/-
(S SUNIL DUTT YADAV)
JUDGE

By Order,

(PAWAN DIWAN)
SECRETARY
ELECTION COMMISSION OF INDIA

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