



ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರ

ಅಧಿಕೃತವಾಗಿ ಪ್ರಕಟಿಸಲಾದುದು
ವಿಶೇಷ ರಾಜ್ಯ ಪತ್ರಿಕೆ

ಭಾಗ - ೪ Part - IV	ಬೆಂಗಳೂರು, ಬುಧವಾರ, ೨೨, ಜುಲೈ, ೨೦೨೬ (ಆಷಾಢ, ೩೧, ಶಕವರ್ಷ, ೧೯೪೮) BENGALURU, WEDNESDAY, 22, JULY, 2026 (ASHADHA, 31, SHAKAVARSHA, 1948)	ಸಂ. ೫೪೪ No. 544
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**PERSONNEL AND ADMINISTRATIVE REFORMS SECRETARIAT (ELECTIONS)
NOTIFICATION**

No.DPAR 14 CHUTHAA 2026, Bengaluru, Dated: 22nd July 2026.

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

Dated: 11th May, 2026
21 Vaisakha 1948 (Saka)

NOTIFICATION

No. 82/KT-LA/20/2023 :- 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: 06.04.2026 passed in the Election petition No. 20/2023.

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 6TH DAY OF APRIL, 2026**

**BEFORE
THE HON'BLE MR. JUSTICE R. NATARAJ
ELECTION PETITION NO. 20 OF 2023**

BETWEEN:

MR. D.N. JEEVARAJA
AGED ABOUT 59 YEARS,
SON OF G.T. NARAYANA GOWDA,
RESIDING AT: NO.23,
DWARAMAKKI,
BADAGABAYLU VILLAGE,
B.H. KAIMARA POST,
NARASAIMHARAJAPURA TALUK,
CHIKKAMAGALURU-577 134.

...PETITIONER

(BY SRI. M.S.SHYAM SUNDAR, SENIOR COUNSEL ALONG WITH
MS.Dr.VANDANA P.L., SRI RISHI N. UMESH AND MS. YUKTHA N.,
ADVOCATES)

AND:

1. MR. T.D. RAJEGOWDA SON OF DEVEGOWDA,
AGED ABOUT 63 YEARS,
RESIDING AT: BASAPURA-KADAVANTE POST,
CHIKKAMAGALURU (T), CHIKKAMAGALURU-577 136.
2. MR. SUDHAKAR. S. SHETTY SON OF T.K. SANJEEVA SHETTY,
AGED ABOUT 65 YEARS,
RESIDING AT TUMAKHANE KODURU POST, SHANUVALLI KOPPA
TALUK,
CHIKKAMAGALURU -577 126.
3. MR. RAJAN GOWDA H.S.
SON OF SRINIVAS GOWDA,
AGED ABOUT 40 YEARS,
RESIDING AT: HORABAILU,
DHAREKOPPA POST,
BELANDUR VILLAGE, SRINGERI
TALUK,
CHIKKAMAGALURU-577 139.
4. MR. K.M. GOPALA
SON OF MANJAIAH,
RESIDING AT: KARUVANE,
HONNAVALLI POST, SRINGERI TALUK,
CHIKKAMAGALURU-577 139.

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5. MR. M.K. DAYANDA MAVINKERE
SON OF A.T. KRISHNAIAH GOWDA,
AGED ABOUT 74 YEARS,
RESIDING AT NO. 726,
NERALEKOPPA MAVINKERE,
SHETTYKOPPA POST, NARASIMHARAJAPURA TALUK,
CHIKKAMAGALURU-577 134.
 6. MR. UMESH. B.A. @ COMRADE UMESH B.A.
SON OF AJAGAIAH,
AGED ABOUT 40 YEARS,
RESIDING AT BOGASE (V),
BOGASE POST, KHANDYA HOBLI, CHIKKAMAGALURU TALUK,
CHIKKAMAGALURU-577 130.
 7. MS. K.R. KUSUMA
DAUGHTER OF K.R. RAMAIAH,
AGED ABOUT 62 YEARS,
RESIDING AT: SUBASH ROAD,
KOPPA TOWN, KOPPA POST, KOPPA TALUK,
CHIKKAMAGALURU-577 126.
 8. MR. ABRAHAM
SON OF KUKRA NUHA,
AGED ABOUT 62 YEARS,
RESIDING AT: CHIKKANAGUNDI,
HARANDURU VILLAGE, KOPPA POST, CHIKKAMAGALURU-577 126.
 9. MRS. G. BHARATHI WIFE OF SUBDAR RAJ,
AGED ABOUT 43 YEARS,
RESIDING AT: NO. 86,
DR. RAJKUMAR ROAD,
NEAR FAMILY FOOD CENTRE, BTS
LAYOUT AREKERE, BANGALORE SOUTH-
560 076.
 10. MR. NARAYANA SON OF LATE ANGU,
AGED ABOUT 58 YEARS,
RESIDING AT: DHAREKOPPA, KULURU,
KOPPA TALUK,
CHIKKAMAGALURU-577 126.
 11. MR. ELIYAZ AHAMMAD SON OF RIYAZ AHAMMED S. Y.,
AGED ABOUT 31 YEARS,
RESIDING AT: GORIGANDI,
DEVADANA VILLAGE, SANGAMESHWARAPETE (P),
CHIKKAMAGALURU-577 136.
 12. ELECTION COMMISSION OF INDIA NIRVACHAN SADAN,
ASHOKA ROAD, NEW DELHI-110001.
REPRESENTED BY CHIEF ELECTION OFFICER.

DELETED VIDE COURT ORDER
DATED 04.09.2023

...RESPONDENTS

(BY SRI. K.N.PHANINDRA, SENIOR COUNSEL ALONG WITH SRI ASHWIN C, SRI PARITOSH S.M., SRI ROHAN HOSMATH, SRI ABHISHEK GOWDA A.H, MS KEERTHI REDDY AND SRI ABHISHEK KUMAR, ADVOCATES FOR RESPONDENT NO.1 ;

SRI GANAPATI BHAT VAJRALLI, ADVOCATE FOR RESPONDENT NO.2;

SRI. G.R. PRAVEEN KUMAR, AND SRI. G. SHIVAKUMAR, ADVOCATES FOR RESPONDENT NO.4;

SRI G. DEVARAJEGOWDA, ADVOCATES FOR RESPONDENT NO.11;

NOTICE SERVED FOR RESPONDENT NOS. 3,5,7,8;

VIDE ORDER DATED 06.12.2023, NOTICE/S TO RESPONDENT NOS.6 AND 10 IS/ARE SERVED;

VIDE ORDER DATED 12.02.2024, SERVICE OF NOTICE TO RESPONDENT NO.9 IS HELD SUFFICIENT)

THIS ELECTION PETITION IS PRESENTED UNDER SECTION 81 OF THE REPRESENTATION OF PEOPLE ACT, 1951, BY SRI D.N. JEEVARAJA - PETITIONER ALONG WITH HIS COUNSELS DR. VANDANA P.L. AND SRI RISHI N. UMESH (ADVOCATE FOR PETITIONER) BEFORE THE I/C REGISTRAR (JUDICIAL) ON 27.06.2023 THROUGH VIDEO CONFERENCE CHALLENGING THE ELECTION OF RESPONDENT NO.1 - MR. T.D. RAJEGOWDA AS RETURNING CANDIDATE FROM 123-SRINGERI ASSEMBLY CONSTITUENCY, 2023 TO THE KARNATAKA LEGISLATIVE ASSEMBLY 2023, AND THE PETITIONER PRAYS TO A) DECLARE THAT THE DECLARATION OF THE ELECTION OF THE RESPONDENT NO.1 AS RETURNING CANDIDATE FROM 123, SRINGERI ASSEMBLY CONSTITUENCY, AS VOID AS PER THE PROVISIONS OF THE REPRESENTATION OF THE PEOPLE ACT, 1951 AND THE HANDBOOK FOR RETURNING OFFICER ISSUED BY THE ELECTION COMMISSION OF INDIA; FOR THE REASONS OF MALPRACTICES, ELECTION OFFENCES, UNETHICAL ACTS AND INDULGENCES AND SUCH OTHER REASONS AS MAY BE NOTED BY THE HON'BLE COURT AND B). ALTERNATIVELY ORDER FOR RECOUNTING OF THE VOTES POLLED IN 123 SRINGERI ASSEMBLY CONSTITUENCY IN ACCORDANCE WITH LAW AND DECLARE THE RESULTS AFRESH; OR ORDER FOR REELECTION OF 123 SRINGERI ASSEMBLY CONSTITUENCY THROUGH BALLOT PAPERS FORTHWITH AND DECLARE THE RESULTS; C) AWARD COSTS OF THIS PETITION; AND D). GRANT SUCH OTHER RELIEF OR RELIEFS AS THIS HON'BLE COURT MAY DEEM FIT TO GRANT IN THE FACTS AND CIRCUMSTANCES OF THE CASE IN THE INTEREST OF JUSTICE AND EQUITY.

THIS ELECTION PETITION HAVING BEEN HEARD AND RESERVED FOR ORDER ON 07.01.2026 AND COMING ON FOR PRONOUNCEMENT OF ORDER THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: HON'BLE MR. JUSTICE R. NATARAJ

CAV ORDER

This Election Petition is filed under Section 81 of the Representation of the People Act, 1951 (henceforth referred to as "Act, 1951" in short) for a declaration that the election of the respondent No.1 as returned candidate from Constituency No.123 - Sringeri Assembly Constituency as void in view of the violation of the provisions of the Act, 1951 and the Handbook for Returning Officer issued by the Election Commission of India and also in view of election malpractices, election offences, unethical acts and indulgences. The petitioner has sought for an alternative relief to order re-count of the votes polled in Sringeri Assembly Constituency - 123 in accordance with law and declare the results afresh or order for re-election for Sringeri Assembly Constituency - 123 through ballot papers and declare the results.

2(i). The petitioner contends that general elections to the 16th Legislative Assembly of Karnataka was announced by the Election Commission of India in exercise of the powers under Article 324 read with Article 172(1) of the Constitution of India and Section 15 of the Act, 1951 vide notification dated 29.03.2023. The calendar of events notified were as follows:

Events	Karnataka (All 224 Assembly Constituencies)
Date of Issue of Gazette Notification	13.04.2023
Last Date of making nominations	20.04.2023
Date for Scrutiny of Nominations	21.04.2023
Last date for the withdrawal of candidatures	24.04.2023
Date of Poll	10.05.2023
Date of Counting	13.05.2023
Date before which election shall be completed	15.05.2023

(ii). The Election Commission appointed a District Election Officer and a Returning Officer for the Sringeri Assembly Constituency - 123 and elections were conducted under the direct supervision of the Returning Officer and the observers of the Election Commission.

(iii). The petitioner contends that 12 nominations were received which were found valid for the elections. The petitioner too had filed his nomination to contest in the said election as a candidate representing Bharatiya Janata Party ('BJP' for short) while respondent Nos.1 to 11 were the other contesting candidates. The petitioner contends that the Presiding Officer is bound to strictly comply several formalities such as maintaining records, collect information regarding polling every two hours during the hours of poll in his diary and at the close of the poll, prepare an account of votes recorded in Form No.17C and enclose it in a separate cover and seal along with the Electronic Voting Machine ('EVM' for short) until they are handed over to the Returning Officer. He contends that these are the requirements as stipulated under the Rules, guidelines and Handbook issued by the Election Commission of India.

(iv). He contends that on the date of counting i.e. 13.05.2023, he noticed several non-compliances in the process of counting the votes of absentee voters in the category(ies) of Senior Citizens and Persons with Disabilities, who had sent in their postal ballots. He contends that the contest in the election was between him and the respondent No.1, who was sponsored by the Indian National Congress. The number of votes polled to the petitioner and the respondent No.1 were as follows:

Candidate	Votes			
	ETPBS	Postal	EVM	Total
Petitioner (Mr. D N Jeevaraja)	03	689	58278	58970
Respondent No.1 (Mr. T.D. Rajegowda)	07	562	58602	59171

(v). He claims that the victory margin between him and respondent No.1 was only 201 while the total number of postal ballots was 1811 and the number of postal ballot votes rejected was 279. He, therefore, contends that as per the Handbook issued by the Election Commission of India, the Returning Officer was bound to re-verify the postal ballots without expecting any candidate to file an application. He contends that even though his agent raised objections regarding the counting of the postal ballots at the time of counting of votes and filed an application for re-counting, the Returning Officer failed to re-verify the votes and issued an endorsement refusing to recount the postal ballots. The Returning Officer proceeded to declare the results in Form 20, Form 21C and Form 21E of Sringeri Assembly Constituency - 123. The petitioner claims that being aggrieved by the inaction on the part of the Returning Officer in counting the ballots, other corrupt practices and offensive acts committed by the respondent No.1 and persons on his behalf which resulted in the unlawful victory of the respondent No.1, he has filed this petition.

(vi). The petitioner contends that the endorsement dated 13.05.2023 issued by the Returning Officer blatantly violates Rule 15 of the Handbook for the Returning Officers issued by the Election Commission of India which reads as follows:

"15. In case the victory margin is less than total number of postal ballots received then there should be a mandatory re-verification of all postal ballots. In the presence of Observer and the RO all the postal ballots rejected as invalid as well as the postal votes counted in favour of each and every candidate shall once again be verified and tallied. The Observer and the RO shall record the findings of re-verification and satisfy themselves before finalizing the result. The entire proceeding should be video-graphed without compromising the secrecy of ballot and the videocassette/CD should be sealed in a separate envelope for future reference."

(vii). He, therefore, contends that when the victory margin is less than the number of votes rejected, the Returning Officer is bound to re-verify all the postal ballots and since the same is not done, it violates the concept of free and fair elections.

(viii). He contends that in a similar case in another Constituency in the same election, around 160 postal ballots were initially rejected and were later counted as valid before the results were declared and therefore, re-verifying the postal ballots in the instant case was absolutely necessary. He contends that if this was allowed by the Returning Officer, it would have brought material changes in the election results. Thus, he contends that perusal of the endorsement dated 13.05.2023 shows that the Returning Officer had failed to provide reasons for rejection of 279 postal ballots. Thus, he contends that the rejection of these postal ballots was without any basis. He also contends that the respondent No.1 had committed various malpractices such as, (a) Use of black money for rallies advertisements

and votes: The petitioner alleges that a sum of Rs.20,00,00,000/- was spent by the respondent No.1 to bribe the voters. For this, the respondent No.1 and his family members had reduced the market value of huge properties and estates and have purchased the same using illegally stacked black money. He claims that the possibility of respondent No.1 possessing huge black money is clear and he has used it to bribe the voters. (b) The respondent No.1 had incurred more expenditure in election than what is legally allowed and thereby, has violated the norms. He claimed that there are both speaking and circumstantial evidence in that regard. (c) The Respondent No.1 and his men engaged in false propaganda against the petitioner to give a negative impression in the minds of voters by foisting false and fabricated stories and materials on the Social media and via hate handbills etc. that resulted in character assassination and demeaning of the petitioner's personality. (d) Both the respondent No.1 and his supporters and party men made several promises to voters with no intention or possibility of fulfilling them and thereby, lured the voters unethically and unlawfully. (e) The respondent No.1 resorted to a spree of paid news, paid campaign and paid opinion to influence the minds of the voters. It was also alleged that the respondent No.1 bribed several Sections of media persons. The petitioner claimed that these henchmen of the respondent No.1 were engaged in promoting him falsely and directly / indirectly demeaning the petitioner and thereby, secured more than 8000 to 9000 undeserved votes which otherwise would have been polled in his favour. (f) The respondent No.1 resorted to truce making with the candidates of other parties who overtly and covertly supported to divide the votes of the petitioner and to reduce the margins. (g) The returned candidate i.e. respondent No.1 directly through his men ensured that more than 2000 to 3000 of duplicate voters were registered in multiple Constituencies and dummy voters were enabled to cast their votes in his favour. The petitioner, therefore, alleged that the respondent No.1 had secured more votes than him unlawfully. (h) Besides the above, the respondent No.1 had indulged in several acts that rendered his victory bad. The petitioner, therefore, prayed that the Election Petition be allowed and election of the respondent No.1 as returned candidate from Sringeri Assembly Constituency - 123 be held as null and void and in the alternative, for a re-count of the votes polled in Sringeri Assembly Constituency - 123 in accordance with law and declare the results afresh or order for re-election in respect of the said Constituency.

3(i). The respondent No.1 filed a statement of objections *inter alia* contending that the grievance of the petitioner is that the Returning Officer refused to recount the votes and therefore, this violated Clause 15 of the Handbook for Returning Officer. He contends that this contention is bad in the eye of law. He contends that the petitioner did not plead the specific clause of Section 100 of the Act which is violated and which possibly could result in the election being declared as void. He also contended that the petitioner has relied on the wrong Handbook issued for the Returning Officers. He has claimed that the petitioner has relied on Clause 15 of the Handbook for Returning Officer issued in the year 2014 while the Election Commission of India had issued a new Handbook for Returning Officer before the 2023 election. Hence, the ground urged by the petitioner is on an untenable premise and is, therefore, liable to be rejected. He also contends that the directions issued in the Handbook for Returning Officer 2023 are only directory in nature and not mandatory. In this regard, he has referred to paragraph 1.2.1 of the Handbook for Returning Officer 2023 which reads as follows:

"1.2.1. This Handbook for Returning Officer is designed to give information and guidance needed for optimal functioning of a Returning Officer. However, this is not an exhaustive compendium in all aspects or as a substitute reference for the various provisions of election law for the conduct of elections. Returning Officer should therefore, wherever necessary, refer to those legal provisions, contained in the latest edition of the Manual of Election Law, which contains, among other things, relevant extracts from

- (2) the Constitution of India,*
- (3) the Representation of the People Act, 1950,*
- (4) the Representation of the People Act, 1951,*
- (5) the Conduct of Elections Rules, 1961 and the Registration of Electors Rules, 1960 and the relevant enactments with which Returning Officer should primarily be concerned. In addition to this, Returning Officer must also have a copy of the Compendium of Instructions, Compendium of Instructions on Election Expenditure Monitoring and the Handbook for Presiding Officer, The Election Symbols Order, 1968 and the latest list of political parties and election symbols issued by the Election Commission and refer to them as often as needed and instructions issued by ECI from time to time."*

(ii). The respondent No.1 contends that the above would emphasize that the Handbook for Returning Officer 2023 provides information and guidance to the Returning Officer and is not a substitute to the various provisions of the Act, 1951 and the Conduct of Elections Rules, 1961 ("the Rules, 1961" in short). He contends that this Handbook is only a guide and what prevails is the Act, 1951 as well as the Rules, 1961. Therefore, the contention of the petitioner that the Rules mentioned in the Handbook for Returning Officer are mandatory is liable to be rejected.

(iii). The respondent No.1 further contends that the Handbook for Returning Officer is a guide to ensure the process of re-counting of postal ballots. However, the Act, 1951 and the Rules, 1961 clearly provide the method for issuing, counting and re-counting of postal ballots and other ballots. He contends that the procedure for issuing postal ballots is provided in Rule 23(1) of the Rules, 1961 counting of votes received by post is provided under Rule 54A and re-counting of votes is provided in Rule 63 of the Rules, 1961. The Returning Officer in the facts of the present case had received all the postal ballots and opened the same for counting in front of the authorized agents of both the petitioner and the respondent No.1 who have affixed their respective signature on the appropriate forms which chronicled the number of valid and rejected votes. It is only after the authorized agents of the petitioner and the respondent No.1 signified that they did not have any objection to the counting procedure for determining the valid and invalid postal votes, the results were announced in Form

No.20. He contends that the written request of the petitioner's agent for re-count of the postal ballots was rejected in terms of an endorsement dated 13.05.2023 and the same is neither baseless nor prejudicial. He contends that the agent of the petitioner filed an application, which reads as follows:

"Subject: Request for Re-counting of Votes for 123. Sringeri

Assembly. 80+ voters and handicapped(Physical)

With regard to the above subject, we request you to re-count the votes for 123 Sringeri Assembly. We are having doubt with regard to postal ballots.

Hence, request you to kindly re-count the postal ballots."

(iv). The respondent No.1 contends that from a bare reading of this application, it is clear that the agent of the petitioner requested for re-count of the votes of the entire Assembly Constituency by making a fishing and roving enquiry. The agent had further indicated that the request was made as he had some doubts in respect of the postal ballots and contends that this shows that the petitioner proposed to take a chance for a re-count and see if the results alter.

(v). The respondent No.1 further contends that the Rules, 1961 prescribes the procedure for re-count of votes received through post as per Rule 54A. He contends that the Returning Officer on receipt of the postal ballots has meticulously followed each and every procedure prescribed in the Rules, 1961. He claims that the Returning Officer had obtained signature of the authorized agent of the petitioner in respect of each of the postal ballots and thereafter, proceeded to count the number of votes. The election agent of the petitioner had verified the authenticity of each of the votes which were counted and also those votes which were rejected as invalid. It was in that background that the Returning Officer considered the application filed by the agent of the petitioner as provided under Rule 63 of the Rules, 1961 and announced the results in Form No.20. Therefore, he contends that no useful purpose would be served by withholding the announcement of results.

(vi). He contends that there are no irregularities or illegalities in the process of counting of votes that were pointed in the application filed by the agent of the petitioner for recount. He claims that no details were given as to why a recount of votes was necessary and not an instance was quoted as to how there was irregularity or illegality in the counting of votes. He contends that the contentions urged in the Election Petition are only with an object of a roving enquiry and do not inspire confidence and therefore, there is no justification for ordering re-count and allowing inspection of the ballot papers.

(vii). He also contends that the petitioner's agent having acknowledged the correctness of the process, cannot turn around and raise vague objections in the petition. He further contends that the petitioner has deliberately failed to furnish the proceedings sheet that was attached to the endorsement dated 13.05.2023 issued by the Returning Officer and therefore, this amounts to suppression of material fact.

(viii). The respondent No.1 while referring to the petition averments, contended that the Handbook relied upon by the petitioner at Annexure-D is the Handbook for candidates issued during the year 2009. He contends that in para No.7 of the petition, the petitioner alleged that on the date of counting, he noticed several non-compliances with respect to consideration of postal ballots of absentee voters in the category/ies of Senior citizens and Persons with Physical Disabilities, which he has denied as false. He contends that there are no pleadings to show the material non-compliances and that the allegation is vague which cannot be a substitute for material pleadings in an Election Petition.

(ix). The respondent No.1 further contends that in para No.9 of the petition, a general statement is made that the Returning Officer was under a mandatory obligation to conduct re-verification of votes without any application and therefore, the respondent No.1 contends that this statement is made by quoting a wrong Handbook and therefore, no significance can be attached to this statement.

(x). As regards paragraph No.10 of the petition, the respondent No.1 contends that the petitioner had allegedly raised objection regarding the counting of postal ballots at the time of counting of votes, which is incorrect. He also claims that the contention of the petitioner that even after filing of an application for re-counting, the Returning Officer failed to verify the votes and issued an endorsement refusing recounting is a misleading and distorted statement. He claims that the procedure adopted by the Returning Officer is in consonance with the Act, 1951 and the Rules, 1961. He also denied the assertions made by the petitioner in paragraph Nos.11, 13, 14, 15 and 17 and specifically contended that Clause No.15 of the Handbook for Returning Officer relied upon by the petitioner relates to instructions issued during elections held in 2009 and not during elections held in 2023. He also contends that Annexure-D produced along with the Election Petition is a Handbook for Candidates issued by the Election Commission of India in 2009 and therefore, contends that the petitioner has mindlessly quoted wrong Handbook and claimed that the Returning Officer had followed the procedure prescribed under the Rules, 1961. Without prejudice to the aforesaid contentions, the respondent No.1 claims that the Handbook issued by the Election Commission of India to the Returning Officers is only a "guide" and cannot overarch the procedure prescribed in the Act, 1951 or the Rules, 1961. He contends that the application of the agent of the petitioner was considered and disposed off in accordance with the Rules, 1961. He also contends that the petitioner had claimed that the Returning Officer while issuing an endorsement dated 13.05.2013 had failed to provide any reason for rejecting 279 postal ballots, which is false as the rejection of every postal ballot was acknowledged by the agent of the petitioner and no objection was raised at the time of such rejection.

(xi). The respondent No.1 then referred to the corrupt practices alleged by the petitioner and contended that no specific instances or allegations or irregularities or illegalities, was mentioned by the petitioner so as to attract any provisions of Section 100 of the Act, 1951. He contends that in the affidavit filed in support of corrupt practice indulged by the respondent No.1, he has only referred to paragraph Nos.23(1) and 23(2) of the petition and therefore, the allegations need not be considered by the Court as it is not in compliance with section 83(1) of the Act, 1951 read with Rule 94A of the Rules, 1961.

(xii). The respondent No.1 contends that the petitioner has made wild and vague allegations of corrupt practice without giving specific details. He contends that in case of corrupt practice, the Election Petition must set forth full particulars including a full statement containing: (i) the names of the persons who allegedly committed such corrupt practices; (ii) the date; and (iii) place of the commission of each such practice. In addition, whenever corrupt practice is alleged, then the Election Petition should be accompanied by an affidavit in Form 25 as prescribed under Rule 94A of the Rules, 1961. He contends that in the facts of the present case, the pleadings do not conform to the requirement under the Act, 1951 and the Rules, 1961.

(xiii). As regards ground No.23(1) urged by the petitioner in the Election Petition, the respondent No.1 contends that the petitioner has alleged that a sum of Rs.20,00,00,000/- is spent by respondent No.1 to bribe the voters, which is false and baseless. He has also denied the allegation that he and his family members had downscaled the market value of properties and estates and have used illegally stacked black money. He has contended that the claim of the petitioner that the list of assets mentioned in the affidavits filed by the respondent No.1 during the previous elections would give a graphic view of the expenses made by the respondent No.1, is a misleading statement. He denied specifically all the allegations made by the petitioner that the respondent No.1 had used black money to bribe the voters.

(xiv). In so far as ground No.23(2) urged by the petitioner in the Election Petition is concerned, the respondent No.1 denied the allegation that he had spent more than what is legally allowed and contended that the same was false and baseless. The respondent No.1 denied the allegation made by the petitioner in the petition that he had indulged in hate speeches and demeaned the petitioner by circulating defamatory messages and generated a negative impression in the minds of the voters against the petitioner and he also denied that he and his men were engaged in baseless and false propaganda to create negative impression in the minds of the voters through Social media and hate handbills and thereby, assassinated the character of the petitioner. He also denied the allegation that he and his supporters and party and partymen made false promises to voters with no intention or possibility of fulfilling them once they were elected and thereby, lured the voters unethically. He also denied the allegation that he resorted to paid news, paid campaign and paid opinion making to influence the minds of the voters through unlawful means such as bribing various Sections of media, who promoted him and also directly and indirectly demeaned the petitioner. He also denied the allegation made by the petitioner that because of such false propaganda, the respondent No.1 secured more than 8000 to 9000 votes which otherwise would have been polled in favour of the petitioner. He also denied the allegation that he has made truce with candidates of other parties who overtly and covertly supported to divide the votes of the petitioner with an intention to reduce the margin. He further denied the allegation that he and his supporters ensured that more than 2000 to 3000 duplicate and dummy votes were cast in favour of the respondent No.1. He, therefore, contended that unless there is clear pleading and proof regarding violation of Section 100 of the Act, 1951, there can be no cause of action to file an Election Petition.

(xv). The respondent No.1 also claimed that he did not indulge in any corrupt practice and the grounds urged by the petitioner do not constitute valid and sufficient grounds under Section 100 of the Act, 1951.

4. Based on these contentions, my predecessor framed the following Issues:

"1. Whether the petitioner proves that the Election Officer/Returning Officer has failed to comply with the mandatory requirements in respect of counting of votes, particularly counting and consideration of postal ballots?"

Now re-casted as:

Whether the petitioner proves that the Election officer / Returning Officer has failed to comply with the mandatory requirements in respect of re-verification of postal ballots?"

"2. Whether the petitioner proves that the Returning Officer is not justified in issuing endorsement for rejecting the application of the petitioner for recounting of the postal ballots on 13.05.2023?"

3. Whether the petitioner proves that the election results of the subject election was declared wrongly without considering the objections raised by the petitioner and his agents?"

4. *Whether the provisions of RP Act and CE Rules are mandatory, and provisions of the Returning officers and the handbook is only directory being subordinate legislation, when there is a conflict?*
5. *Whether the petitioner proves that respondent No.1/returned candidate used black money for election purposes and thereby committed election malpractice?*
6. *Whether the petitioner proves that respondent No.1/returning spent over expenditure in the election and thereby committed election malpractice?*
7. *Whether the petitioner proves that respondent No.1/returning candidate resorted to hate speeches and demeaning of the petitioner by committing an offence of defamation of false basis and stories, and thereby, prompted the voters wrongly by creating negative impression on the petitioner and thereby committed the election malpractice?*
8. *Whether the petitioner proves that respondent No.1/returning candidate, his party-men and party resorted to issue score of false promises with no intention or possibility of fulfilling them once in power and thereby, lured the voters unethically and unlawfully, and thereby committed election malpractice?*
9. *Whether the petitioner proves that respondent No.1 / returning candidate, his party-men and party resorted to spree of paid news, paid campaign and paid opinion making and planting process to tilt the minds of the voters, through unlawful modes and methods by bribing various sections of media due to which more than 8000 to 9000 undeserved turnout of votes which otherwise would have been polled in favour of the petitioner?*
10. *Whether the petitioner proves that respondent No.1 resorted making of truce with a candidate of other parties who overtly and covertly supported to divide votes of the*

petitioner with an intention to reduce the margin and thereby committed election malpractice?

- 11. Whether the petitioner proves that respondent No.1 resorted directly and through his men to ensure that more than 2000 to 3000 duplicate voters (registered in multiple constituencies) and dummy voters casted their votes in his favour and thereby committed an election malpractice?*
- 12. Whether the respondent proves that the allegation of the petitioner regarding malpractice/corrupt practice are without pleading and material facts?*
- 13. Whether respondent No.1 proves that the evidence sought to be placed and relied upon by the petitioner in support of his election petition are not receivable and they are inadmissible?*
- 14. Whether respondent No.1 proves that the election petition is wrongly instituted, unsustainable and the same is liable to be dismissed?*
- 15. Whether the petitioner proves that the election of respondent No.1 and declaration of the result is bad due to improper counting and non-accounting of postal ballots?*
- 16. Whether the petitioner proves the election of respondent No.1/Returning candidate is liable to be set aside on account of the corrupt practice/malpractices?*
- 17. Whether the petitioner is entitled for the relief of declaration that the election of the respondent No.1 as returning candidate from Shringeri Assembly Constituency 123 as void?*
- 18. Whether the petitioner is entitled for alternative relief of recounting of votes polled in the Shringeri Assembly Constituency in accordance with law and to declare the result afresh?*
- 19. What order?"*

5. The petitioner was examined as PW.1. He marked Exs.P1 to P29. In his cross-examination, a memo dated 27.06.2023 filed by his Advocate was confronted to him by the learned Senior counsel for respondent No.1 and for the sake of identification, it was marked as Ex.D1 and the signature of PW.1 was marked as Ex.D1(a). Likewise, Form 25 filed by PW.1 was confronted and for the sake of identification, it was marked as Ex.D2 and signature of PW.1 was marked as Ex.D2(a). PW.2 was the Returning Officer to the Sringeri Assembly Constituency - 123. He identified his signature on Ex.P1, which was marked as Ex.P1(a) and the relevant portions of the Handbook for Candidates 2009 as Exs.P4(a) to 4(e) and the register of proceedings in respect of the Counting Centre as Ex.P30 and the relevant entries as Ex.P30(a) to 30(g). He also marked Exs.P31 to P43(a). PW.3 was the polling agent of the petitioner and he marked Exs.P34 to 51 and marked a pen drive containing videos, which were transferred from his mobile as M.O No.1.

6. The respondent No.1 did not lead any evidence.

7.The following were the contentions advanced by the learned Senior counsel for the petitioner:

(i) That issue No.1 dealt with failure on the part of the Returning Officer to comply the mandatory requirements in respect of re-verification of the postal ballots. That the victory margin of the respondent No.1 over the petitioner was only 201 votes while the total postal ballots were 1822 out of which the rejected votes were 279. That Rule 15 of the Handbook for Returning Officer prescribed that when the victory margin is less than the total number of postal ballots received, then there should be a mandatory re-verification of all the postal ballots in the presence of Observer and Returning Officer before finalizing the result and the proceedings should be video-graphed. He submits that there is ample pleading in this regard at para No.13 of the election petition. However, this mandatory provision in the Handbook is not complied by the Returning Officer. In this regard, he invited the attention of the Court to Ex.P30, which is the register maintained by the Returning Officer to record the proceedings of counting of votes. He submitted that there is no mention about re-verification of the postal ballots. Therefore, he contends that there is a violation of Rule 15 prescribed in the Handbook for Returning Officer, which has statutory force and is binding on the Returning Officer. He further contends that it was the duty of the Returning Officer to re-verify the votes in the presence of the observer and video-graph the proceedings and thereafter, announce the final tally of votes. He contends this is only to ensure that there is no mistake in rejecting the postal ballots or in accepting the postal ballots as valid and that the valid votes are properly counted by the Returning Officer. In support of this contention, he has relied upon the judgment rendered by the High Court of Judicature at Madras in ***S. Selva Mohandas Pandian v. S.Palani Nadar and others [Election Petition No.2 of 2021 decided on 05.07.2023]***, where the victory margin was less than the number of postal votes declared as invalid. It was held that it was established by the petitioner therein that there were gross violation of the mandatory provisions by the Returning Officer during the counting of postal ballots and that the Returning Officer had not maintained the

records properly in respect of the total postal ballots received and the total ballots rejected and reason for rejection and therefore, warranted a re-verification and recount of the postal ballots.

(ii). The learned Senior counsel contends that the said lapse on the part of the Returning Officer has materially affected the outcome of the election and therefore, election of respondent No.1 as the returned candidate from Sringeri Assembly Constituency - 123 has to be declared as void and further directions need to be issued to the Returning Officer for a fresh verification and re-counting of postal ballots. He also contends that when an application was filed before the Returning Officer for re-count of the postal ballots, he could not have cursorily rejected it by the endorsement dated 13.05.2023 on the ground that the polling agent of the petitioner was present at the time of scrutiny of the postal ballots. He contends that declaration of results is a solemn duty of Returning Officer and he is bound to comply with each and every requirement of law which has a bearing on the elections. He contends that there was no justification for the Returning Officer not to re-verify the postal ballots as a duty is cast upon him to re-verify them when the victory margin is less than the rejected votes. Thus, he contends that the Returning Officer without any exception must have fallen in line with the requirement of law and must have ordered re-verification of the postal ballots. Thus, he contends that results of the election is declared wrongly.

(iii). Learned Senior Counsel further contends that out of 1822 postal ballots of senior citizens and persons with Disabilities, 279 votes were rejected. Rule 54A of the Rules, 1961 prescribes that the Returning Officer shall first deal with the postal ballots as per which, the Returning Officer is bound to first count the postal ballots. He shall open the covers in Form 13C one after another and as each cover is opened, he shall scrutinize the declaration in Form 13A contained therein. If the declaration is not found, or is not duly signed and attested, or is otherwise substantially defective, or if the serial number of the ballot paper as entered in it differs from the serial number endorsed on the cover in Form No.13B, that cover shall not be opened, and after making an appropriate endorsement thereon, the Returning Officer shall reject the ballot paper therein contained. He submits that this procedure was not complied by the Returning Officer (PW.2), which is evident from his cross examination where he deposed as follows:

"While rejecting a paper postal ballot votes we will mention the reason for rejection of each votes in the presence of counting agent and election agent and also will be intimated to the agents, counting agents and election agents, who were present in the counting centre on behalf of the candidate. Witness says the reason for rejection will not be recorded in writing".

Further, PW.2 stated as follows:

"I am not remembering as to whether the reasons for rejection of postal ballots were mentioned by me in any records or in the proceedings books given to me"

"I have not made my endorsement on the rejected the postal ballot votes numbering 279 and on the declaration form No.13(A). Witness volunteers all the rejected postal ballot votes

were kept in one sealed cover and made endorsement of rejection of the postal ballot votes."

(iv). Learned Senior Counsel submitted that Ex.P30 is the register maintained by the Returning Officer for recording the proceedings of counting of votes and pointed out that during cross-examination, PW.2 deposed as follows:

"It is true that I have not mentioned reasons for rejection of postal ballots due to defect of declaration form No.13(A) in the counting proceedings in Ex.P30(A)."

He then referred to the evidence of PW.2, where he deposed as follows:

"I have not personally counted the entire postal ballot votes of 1822. Witness says that those were counted by the Assistant Returning Officer and the counting staffs in the presence of the micro observer"

Further "Witness (PW2) volunteers that the recent handbook provides the ARO also shall count the votes"

(v). Learned Senior Counsel for the petitioner therefore contended that the Returning Officer has violated the procedure prescribed for counting of votes and there is no reason forthcoming for rejection of 279 votes. Therefore, on 13.05.2023, after the counting was over, an application addressed to the Election Commissioner through Returning Officer was made by the polling agent of the petitioner as per Ex.P6 expressing doubt about the manner of counting postal ballots and sought for re-count of the postal ballots. Thereafter, another request was made to the Returning Officer at 4.50 p.m as per Ex.P5 stating that the Polling Officers had made a mistake by entering a wrong serial number of the ballot paper which had resulted in rejection of 279 votes and hence, requested that the rejected 279 votes be included in the counting. He submitted that the Returning Officer rejected the request vide Ex.P7, on the ground that the postal ballots were scrutinized as per the guidelines of the Election Commission of India, in the presence of the election agent of the petitioner and that after every round of counting, the same was shown to the election agent and a proceeding was recorded and the signature of the election agent was taken and that none of the candidates/election agents had raised any objection. He submits that this endorsement mentioned that a copy of the proceedings book was attached but in fact the same was not. He submits that this fact is established beyond doubt from the evidence of the Returning Officer (PW.2), where he deposed as follows:

"The Assistant Revenue Officer must have sent the copy of the Ex.P33 to the election agent of the petitioner. I have instructed the Assistant Revenue Officer to send the endorsement along with proceedings to the election agent and later, I got it confirmed by telephone."

"...Witness volunteers the election agent himself said to be informed him through telephone for having received endorsement with proceedings."

"I have not made any entry in any of my files in order to say that the election agent of the petitioner called me through telephone informing, that he had received the endorsements along with the proceedings. The election agent Ramaswamy telephoned me on 18.05.2023"

(vi). He contends in order to cover up the mistake of the Returning Officer in not mentioning the rejection of the postal ballots in the proceedings book at Ex.P30, he tampered it and inserted the words “ಎಣಿಕೆ ಮಾಡುವ ಪೂರ್ವದಲ್ಲಿ ಚುನಾವಣೆ ಅಧಿಕಾರಿಗಳ ಸ್ಪಷ್ಟವಾಗಿ ಚುನಾವಣೆ ಮಾರ್ಗಸೂಚಿಯಂತೆ ಹಾಗೂ ಭಾರತ ಚುನಾವಣೆ ಆಯೋಗದ Hand Book of ಚುನಾವಣೆ ಅಧಿಕಾರಿಯ Book ನಲ್ಲಿ ಪುಟ ಸಂಖ್ಯೆ. 217ರ ಮಾಹಿತಿಯಲ್ಲಿ ಪುರಸ್ಕೃತ ಹಾಗೂ ತಿರಸ್ಕೃತದ ಅಂಚೆ ಮತ ಪತ್ರ ಬಗ್ಗೆ ಮಾಹಿತಿ ನೀಡಿದ್ದಾರೆ” which is marked as Ex.P30(b). He further submits that the rejection of the request for re-counting of postal ballots was recorded in Ex.P30 not by the Returning Officer but by his subordinates, which is established by the evidence of PW.2 who stated as follows:

"The proceedings written in page Nos.65 to 67 were recorded by my subordinate staff, but not written by me".

(vii). Learned Senior counsel, therefore, submits that the reason for rejection of the request of the petitioner's agent for re-count of the postal ballots was concocted to help the respondent No.1. He submits that the Returning Officer was bound to enter the entire proceedings of counting in the book at Ex.P30 and his failure to follow the instructions issued by the Election Commission of India has affected the outcome of the counting and hence, the postal ballots have to be recounted. In support of this contention, he relied upon the judgment of a coordinate bench of this Court in **Sri K.S.Manjunath Gowda v. Sri K.Y.Nanje Gowda and others** (Election Petition No.10 of 2023 decided on 16.09.2025). He also relied upon the judgment of the Hon'ble Apex Court in **N.E.Horo v. Leander Tiru and Others [(1989) 4 SCC 364]**, where it was held that during inspection of the ballot papers, if any illegality is noticed, it should be corrected and High Court has no choice or discretion but to grant relief.

(viii) That the Returning Officer has violated every procedure prescribed in the Handbook for Returning Officer at the time of counting the votes. He submits that the postal ballots had to be first counted and later, the EVM votes. However, Ex.P30 which is the register maintained by the Returning Officer shows that the counting of EVM votes were done first and later, the postal ballots were counted. He also submits that the Returning Officer, who was bound to count the postal ballots allowed the Assistant Returning Officer to count them. Likewise, he submits that the Returning Officer who was expected to maintain the proceedings book by attesting the minutes failed to do so. He, therefore, contends that the Returning Officer has violated every perceivable procedure prescribed in the Handbook for Returning Officer. He further contends that the postal ballots were in respect of persons with disability and senior citizens who are aged 80 plus years. He submits that the Election Officer, who was bound to assist these incapacitated voters in filling up Form 13A, had incorrectly made entries in Form 13A which resulted in rejection of 279 votes. He submits that a wrong declaration made in Form 13A cannot be held against the voter as these voters were either physically or mentally infirm and therefore, it was incumbent upon the Election Officer to ensure that he assisted them in making the declaration as provided in Rule 27G of the Rules, 1961.

(ix). Learned Senior counsel submits that the petitioner or his agent was entitled to seek for a re-count before the results of the election is declared in Form 21C. In this regard, he invited the attention of the Court to Rule 63(2) of the Rules, 1961 and submitted that the agents of the petitioner had rightly filed requests with the Returning Officer to re-count the postal ballots. He also invited the attention of the Court to Ex.P4(e) which related procedure for counting of postal ballot papers first. He contended that when there was no endorsement of rejection of the postal ballots on the cover in Form 13B by the Returning Officer, he could not have rejected the requests of the polling agent of the petitioner for re-count of postal ballots on the ground that the rejection of the postal ballots was in the presence of the election agents of the petitioner. Thus, he contends that the petitioner is entitled to get the postal ballots re-counted. In support of this contention, he relied upon the judgment of the Hon'ble Supreme Court of India in **P.H. Pujar v. Dr. Kanthi Rajashekhar Kidiyappa and Others [(2001) 6 SCC 558]**, where Mr.P.H. Pujar, was elected as a Member of the Karnataka Legislative Assembly from the Bagalkot constituency, defeating his rival by a margin of 138 votes. The defeated candidate challenged the election under Section 81 of the Act, 1951, alleging irregularities in the counting process. During counting, 3872 ballot papers were rejected as invalid, and 59 ballot papers were allegedly missing. The defeated candidate contended that ballot papers were wrongly rejected as invalid by the Returning Officer, counting agents were denied proper inspection of rejected ballots, and mandatory election procedures were not followed by the Returning Officer. The Hon'ble Apex Court noticed that the High Court held that Returning Officer had improperly rejected doubtful ballot papers without correctly determining voter intention and therefore, set aside the election of the returned candidate and directed the Returning Officer to recount the ballot papers properly after scrutinizing the same and then declare the result of the election by following the mandatory provisions of law and the directions/instructions issued by the Election Commission. The Hon'ble Apex Court affirmed the finding of the High Court that infirmities were committed by the Returning Officer and directed the Registrar of the Karnataka High Court to re-count the 3872 ballot papers in the presence of the counsel for the appellant and respondent No.1, and/or presence of parties or their representative. It was ordered that the re-counting shall be conducted

as per the provisions of the relevant rules, regulations, instructions and guidelines and report shall be sent to the Hon'ble Apex Court within the time stipulated therein. The Hon'ble Apex Court did not express any opinion on the aspect of 59 missing ballot papers and on the legality of direction in the judgment impugned therein regarding re-count of all ballot papers after proper scrutiny and also about the legality of direction declaring as void the declaration of the election in question.

(x). Learned Senior counsel further submits that the respondent No.1 had deliberately filed a false declaration which is not in compliance with Rule 4A of the Rules, 1961. He submitted that the respondent No.1 was in possession of huge black money which he pumped into the election. He submits that this is evident from Ex.P9 which is the certified copy of the election affidavit of the respondent No.1 filed in the year 2013 which shows that the cash available with the respondent No.1 was Rs.2,55,000/- and while his wife had Rs.2,00,000/- and his three dependents had Rs.50,000/- Rs.50,000/- and Rs.1,50,000/- respectively and the value of all deposits, amount lying in savings bank account and fixed deposits was a sum of Rs.14,50,000/-. He claimed that he had investment of Rs.4,45,00,000/- in M/s.Pragathi developers while his second dependent possessed 90% stake in Banuvalli plantation, Chikkamagaluru valued at Rs.40,00,000/-. There was small investments made in L.I.C bonds while gold and other valuables were approximately valued at Rs.4,00,00,000/-. The net cash value of the respondent No.1 was Rs.6,44,80,145/- while his wife owned cash and movables of Rs.7,06,16,000/-, his first dependent possessed cash and movables worth Rs.51,00,000/-, his second dependent had cash and movables worth Rs.1,90,80,000/- and 4th dependent owned cash and movables of Rs.81,00,000/-. He invited the attention of the Court to the affidavit of respondent No.1 filed in connection with the elections held in the year 2018 which is marked as Ex.P10 as well as the affidavit submitted to Lokayukta which is marked as Ex.P11 and the list of properties submitted to the respondent No.1 to the Lokayukta as Ex.P12 for the financial year ending 31.03.2020. He also invited the attention of the Court to the declaration(s) filed before Lokayukta in respect of assets and liabilities for the financial year(s) ending 31.03.2021 and 31.03.2022 respectively, which were marked as Exs.P13 and P14. He invited the attention of the Court to the affidavit filed by the respondent No.1 which is marked as Ex.P15 and submitted that this affidavit was filed as per Rule 4A of the Rules, 1961 and submitted that the respondent No.1 had deliberately not disclosed the acquisition of a huge estate called M/s.Shaban Ramzan. In this regard, he invited the attention of the Court to Ex.P18, which is a declaration filed by authorized representative of M/s.Shaban Ramzan, a Partnership Firm depositing the title deeds of the estate of Shaban Ramzan in favour of Standard Chartered bank on 17.06.2015 for raising a loan of Rs.30,75,00,000/-. He then invited the attention of the court to the Ex.P19, which is the supplemental memorandum of entry for deposit of title deeds executed by the mortgagor / Mr. Manjunatha Poojary on 20.06.2018 for additional working capital and term loan exposure of Rs.55,75,00,000/-. He then invited the attention of the Court to Ex.P20, which is a deed of admission/retirement and re-constitution of M/s.Shaban Ramzan dated 06.01.2020 (signed on 09.01.2020), was filed by the wife of respondent No.1 reporting the induction of her son as a partner of M/s.Shaban Ramzan and the particulars of the outgoing partners. Ex.P20 shows that the partnership M/s.Shaban Ramzan was constituted under a deed dated 04.01.1984 with Mr. V.G. Siddhartha inducted as a Partner to the said Firm as per a re-constitution deed dated 01.09.1993. He submits that this discloses that the Firm was again reconstituted on 26.07.2019 by which, Mrs.Vasanthi Hedge, Mr.

Amarthya Siddhartha and Mr.Ishaan Hedge were new incoming partners. It also discloses that Mr.V.G.Siddhartha died on 29.07.2019 leaving behind his mother, wife and two sons. As per Ex.P27, which is a deed of admission, retirement and reconstitution of the partnership Firm - M/s. Shaban Ramzan dated 27.12.2019, the wife of respondent No.1 was inducted as a partner while Mrs.Vasanthi Hegde and Mrs.Malavika Hegde retired from the Firm. Learned Senior counsel for the petitioner submitted that in terms of the Ex.P20, deed of admission, retirement and re-constitution of the partnership Firm dated 06.01.2020, Mr.Amarthya Siddhartha and Mr.Ishaan hedge also retired from the Partnership Firm - M/s. Shaban Ramzan while Mr. Rajdev T.R., the son of the respondent No.1 was inducted as a partner.He, therefore, submits that the full dominion and control of the Firm and its assets are held by the wife and son of respondent No.1, which however was not disclosed by the respondent No.1 in his affidavit of assets and liabilities filed as per Ex.P15. He further submits that Standard Chartered Bank has executed Deed of Discharge dated 13.02.2020 (Ex.P21) registered on 27.02.2020 under which M/s.Shaban Ramzan represented by the wife of the respondent No.1 has paid a sum of Rs.55,75,00,000/- to the said Bank towards outstanding loan. He also brought to the notice of the Court Ex.P22, which is another Release Deed dated 13.02.2020 (registered on 27.02.2020) executed by Bank of Baroda in favour of M/s.Shaban Ramzan represented by the wife of respondent No.1, by which the entire loan amount of Rs.66,00,00,000/- and accrued interest was cleared. He also invited the attention of the Court to a Deed of Release (Ex.P23) dated 11.05.2020 executed by the Karnataka Bank Limited, Chikkamagalur Branch, in favour of M/s.Shaban Ramzan represented by the wife of the respondent No.1 in terms of which a sum of Rs.81,95,000/- was paid up. It appears that the title deeds of M/s.Shaban Ramzan were then mortgaged with Canara Bank, Chikamagalur Main Branch, on 26.06.2020 under the memorandum of deposit of title deeds (Ex.P24) for credit facilities up to a limit of Rs.2,00,00,000/- . He also invited the attention of the Court to Ex.P25, which is a General Power of Attorney executed by Mr. Rajdev T.R., the son of the respondent No.1 in favour of Mrs. D.K Pushpa, the wife of the respondent No.1 to deal with the properties of M/s.Shaban Ramzan. He also invited the attention of the Court to Ex.P26 which is memorandum of deposit of title deeds dated 21.10.2021 executed by the wife and son of respondent No.1 and another in favour of Canara Bank, Chikkamagalur Main Branch, for a Farm Development loan up to a limit of Rs.3,00,00,000/-. He, therefore, submits that a huge sum of more than Rs.100 crores was paid to Bank of Baroda and Standard Chartered Bank after the wife of the respondent No.1 was inducted into M/s. Shaban Ramzan Firm. This he submits shows that the respondent No.1 was in possession of huge black money which is utilized to pay off the loan and the same is not disclosed anywhere in the returns filed or in the affidavit filed by the respondent No.1 during the elections held in 2023. He, therefore, submits that the respondent No.1 has not disclosed his financial dealings and thereby, had substantially suppressed his financial position. He submits that if only the electorate knew about his financial dealings, they would not have exercised their franchise in favour of the respondent No.1. He submits that such filing of a false affidavit, amounts to a corrupt practice and hence, his election as a returned candidate **from Sringeri Assembly Constituency - 123 is liable to be declared as void.**

(xi). Learned senior counsel further contends that the respondent No.1, his election agents, as well as his political party have deliberately indulged in tarnishing the image of the petitioner in the eyes of the electorate. He submits that a false case was filed against the petitioner accusing him of an offence punishable under section

376 of the Indian Penal Code, 1860. The petitioner had filed O.S No.6098/2013 (Ex.P29) against individuals as well as various Television networks to restrain them from transmitting, publishing, distributing, sharing any material in any permanent / transient / audio format in any print media / television channels, local cable operated channel/internet/website/radio channel/social media etc. anything concerning the plaintiff with defendant Nos.1 and 2 therein articles or news item which was *sub judice* in Crime No.36/2013 and the Trial Court after considering the case of the petitioner, had decreed the suit and restrained the defendants from disclosing or publishing any news or articles in media with respect to the petitioner's alleged relationship with defendant No.2 therein till disposal of criminal case in Crime No.36/2013. He submitted that a 'B' report was filed as regards the petitioner which was accepted and the case is given a quietus. He submits that the fact that the petitioner was given a clean chit by the Police was known to everyone in the Constituency but yet, the Ex-Chief Minister of the State of Karnataka while campaigning had brought up the involvement of the petitioner in the "rape case" and influenced the women electorate against voting in favour of the petitioner. In this regard, he invited the attention of the Court to Ex.P47, which contains videos of the defamatory statements made by the Ex-Chief Minister as well as the Whatsapp forwards. Likewise, he invited the attention of the Court to Exs.P47(a), 47(b) and 47(c) and submitted that these messages were forwarded by the Block Congress President on various WhatsApp groups with an intent to tarnish the image of the petitioner and show him in bad taste. He submits that PW.3 was the one who had received these messages and there was no cross-examination of PW.3 on these messages. He invited the attention of the Court to Section 123(4) of the Act, 1951 and submitted that the above statements were made by none other than the Ex-Chief Minister, the Block President of Congress and therefore, it cannot be gainsaid that it was without the consent of the respondent No.1. He submits that wherever such adverse campaigning was made, the petitioner had secured lesser votes than the respondent No.1 and this shows that this false messaging had impacted the electorate in voting against the petitioner. He also invited the attention of the Court to Ex.P34, which was a complaint lodged by the President of Koppa, BJP to the Election Officer bringing to his notice a pamphlet released by the respondent No.1 which did not have details of the permission granted by the Election Commission and the EPIC particulars of voters were mentioned therein. On the rear side of this pamphlet several assurances were made to influence the voters. He also submitted that the President of Narasimharajapura Taluk, BJP had submitted information to the Election Officer, Koppa as per Ex.P36 bringing to his notice a WhatsApp communication forwarded by one Mr. Vasu H.A. forwarding a publication made in Tunga Varte accusing the petitioner of badmouthing Brahmins. Likewise, a complaint was lodged by Mr. T.S. Umesh President of Sringeri Taluk BJP, to the Election Officer, Koppa bringing to his notice a similar WhatsApp forward by one Mr. Vasu H.A. on 'Megur Str' group. He submits that this propaganda has affected the prospects of the petitioner. He, therefore, submits that the respondent No.1 has indulged in corrupt practice to tarnish the image of the petitioner and also in sowing seeds of distrust and promoting hatred amongst the electorate belonging to the Brahmin caste. This he submits should result in the election of respondent No.1 to be declared as void.

(xii). He further submits that despite these complaints, no action was initiated against the respondent No.1 by the Authority. Thus, he contends that the respondent No.1 is guilty of indulging in corrupt practices and therefore, the election of the respondent No.1 is liable to be declared as void.

8. The Submissions of the learned Senior Counsel

for respondent No.1 are as follows:

(i)The petitioner has not pleaded any material facts or material particulars as to how he is entitled for a re-count of the votes polled and as to how the respondent No.1 has indulged in corrupt practices or as to how he has maligned the image of the petitioner. He submits that the pleadings assume immense significance in an Election Petition as proof thereof would result in declaring the elections of a returned candidate void. Therefore, he contends that the petitioner is bound to plead each and every allegation precisely with particulars so as to afford an opportunity to the returned candidate to contest the allegations. He submits that a perusal of the entire election petition shows that there is no pleading as to why and how the petitioner is entitled for re-count of votes and as to when and how the respondent No.1 had indulged in corrupt practice. On the contrary, he contends that the allegations are vague and evasive and therefore, the petition is liable to be dismissed. He drew support from the judgments of the Hon'ble Apex Court in: **Kanimozhi Karunanidhi v. A. Santhana Kumar and Others [2023 SCC OnLine SC 573]**; **Samant N.Balkrishna and another v. George Fernandez and Others [(1969) 3 SCC 238]**; **Dhartipakar Madan Lal Agarwal v. Rajiv Gandhi [1987 (Supp) SCC 93]** and **Azhar Hussain v. Rajiv Gandhi [1986 (Supp) SCC 315]**. He submits that petitioner has not even mentioned precisely that the rejection of 279 postal ballots has materially affected his prospects of being elected or has materially affected the election of the respondent No.1. He submits that the petitioner has at times claimed that he is entitled for re-count of votes and at times has claimed that he is entitled for getting the postal ballots re-verified. He submits that there is a world of difference between the two and he cannot ask for a re-count of postal ballots unless he pleaded particulars of the votes wrongly cast or rejected or counted. Petitioner is not sure whether he wants a re-count of the postal ballots or re-verification. He argued, that the petitioner did not even contend that the 279 postal ballots were rejected wrongly. He, therefore, submits that the election petition is liable to be rejected on this short ground alone. In support of this contention, he relied upon the following judgments:

(a) **M.Chinnasamy v. K.C.Palanisamy and Others [(2004) 6**

SCC 341], where it was held “*It is trite that an order of re-counting of votes can be passed when the following ingredients are satisfied: (1) if there is a prima facie case; (2) material facts therefore are pleaded; (3) the court shall not direct re-counting by way of roving or fishing inquiry; and (iv) such an objection had been taken recourse to. ...A direction for re-counting shall not be issued only because the margin of votes*

between the returned candidate and the election petitioner is narrow." It reiterated that "*The degree of proof for issuing a direction of re-counting of votes must be of a very high standard and is required to be discharged.*"

- (b) ***P.H.Pujar v. Dr. Kanthi Rajashekhar Kidiyappa and Others*** [(2001) 6 SCC 558], where it was held "the recount of the votes cannot be ordered in a casual manner. It cannot be ordered because the margin of defeat is meager. For seeking re-count, proper foundation is to be laid in the pleadings by setting out material facts and later proving it by adducing requisite evidence. The re-count cannot be ordered on the *ipse dixit* of the election petitioner. It can be ordered in rare cases where specific allegations are made and proved so as to do complete justice between the parties.
- (c) ***Beliram Bhalaik v. Jai Beharilal Khachi and Another*** [(1975)4 SCC 417], where it was held "*From all that has been said above it is clear that the allegations of irregularities and illegalities in the counting of votes have been subsequently invented as an after-thought. That apart, these allegations in the petition are more or less vague and general. They are lacking in material facts. The evidence adduced in regard to this issue also does not make out a prima facie case for a recount.*

(d) **Suresh Prasad Yadav v. Jai Prakash Mishra and**

others [(1975) 4 SCC 822], where it was held "*The Court would be justified in ordering a recount of the ballot papers only where: (1) the election-petition contains an adequate statement of all the material facts on which the allegations of irregularity or illegality in counting are founded; (2) on the basis of evidence adduced such allegations are prima facie established, affording a good ground for believing that there has been a mistake in counting; and (iii) the court trying the petition is prima facie satisfied that the making of such an order is imperatively necessary to decide the dispute and to do complete and effectual justice between the parties.*

(e) **Satyanarain Dudhani v. Uday Kumar Singh and**

Others [1993 Supp (2) SCC 82], where it was held "*It is thus obvious that neither during the counting nor on the completion of the counting there was any valid ground available for the recount of the ballot papers. A cryptic application claiming recount was made by the petitionerrespondent before the Returning Officer. No details of any kind were given in the said application. Not even a single instance showing any irregularity or illegality in the counting was brought to the notice of the Returning Officer. We are of the view when there was no*

contemporaneous evidence to show any irregularity or illegality in the counting ordinarily, it would not be proper to order recount on the basis of bare allegations in the election petition."

- (f) ***K.P Mohammed Musthafa v. Najeeb Kanthapuram and Others*** [2024 SCC OnLine Ker 4597], where it was held "*the intention of the legislature is quite clear as no option has been given to the RO to accept a ballot paper which is defective as provided under Rule 54-A(4) be it the mistake(s) of the polling officer(s) or the voter. Further, clause (a) of Rule 64 says that the candidate who has obtained the largest number of valid votes shall be declared as elected. Hence, a vote which is not valid as per the Act/or Rules cannot be treated as valid and counted.*"

(ii) That in paragraph No.13 of the Election Petition, the petitioner referred to the endorsement dated 13.05.2023 issued by the Returning Officer rejecting the request of the agent of the petitioner for re-count of postal ballots but he does not state how the endorsement is wrong. He also does not mention how the non-verification of the postal ballots has materially affected the results of the election. He contends that the petitioner and his agent who were privy to the counting were bound to mention how the refusal to re-count the postal ballots has materially affected the results of the election. In this regard, he relied upon the judgment of the Hon'ble Apex Court in ***L.R. Shivaramagowda and others v.***

***T.M.Chandrashekar (Dead) by Lrs. and Others [(1999)
1 SCC 666].***

(iii) He submits that Rule 15 of the Handbook for Returning Officer quoted in the petition is actually not found in the Handbook for Candidates issued in 2009 marked as Ex.P4. He fairly submitted that the respondent No.1 has not raised this contention in his objection statement though it was mentioned that the petitioner had wrongly relied on Handbook for Returning Officers 2014. Even otherwise, he contends that petitioner did not suggest to PW.2 that he did not re-verify the postal ballots but on the contrary, PW.2 categorically mentioned that he had complied with all the guidelines issued by the Election Commission of India, while rejecting the postal ballots and also in the matter relating to recount.

(iv) As regards the allegations of corrupt practice, the learned senior counsel for respondent No.1 submits that the petitioner has vaguely stated these allegations in paragraph No.23 of the petition but bereft of basic facts and particulars. He argued that the petitioner has not mentioned how, when and where the respondent No.1 has used black money to win over the voters. He submits that the petition completely lacks particulars and the allegations are very vague and uncertain. He contends that as regards the allegation of tarnishing the image of the petitioner, he has not mentioned specific instances with date and how his image was tarnished in the eyes of the electorate. This again he submits is bald, evasive and does not contain material facts and particulars. He also submits that the petitioner has alleged that the respondent No.1 had made false promises to lure the voters but did not give the material facts with particulars and hence the pleadings are vague

and uncertain. He relied upon the judgment in **M.Chinnasamy (supra)**, where it was held as follows:

"44. The requirement of laying foundation in the pleadings must also be considered having regard to the fact that the onus to prove the allegations was on the election petitioner. The degree of proof for issuing a direction of re-counting of votes must be of a very high standard and is required to be discharged. (See Mahender Pratap v. Krishan Pal [(2003) 1 SCC 390] .)

45. In T.H. Musthaffa [(1999) 8 SCC 692] this Court held that when the pleadings do not contain the material facts and necessary particulars, any amount of evidence would be insufficient.

46. [Ed.: Para 46 corrected vide Corrigendum No. F.3/Ed.B.J./72/2004.] .Even if on re-count it was found that the returned candidate had not secured majority of the votes, the result could not have been disturbed unless prima facie case of high degree of probability existed for re-count of votes. (See P.K.K. Shamsudeen v. K.A.M. Mappillai Mohindeen [(1989) 1

SCC 526] , SCC at pp. 530, 531.)" and the judgments in the same vein in

P.H.Pujar vs Dr.Kanthi Rajashekhar Kidiyappa and Others

[2002 (3) SCC 742], **Beliram Bhalaik vs Jai Beharilal Khachi and**

another [1975 (4) SCC 417], **Kanimozhi Karunanidhi vs**

A.Santhana Kumar and others [2023 SCC Online 573].

(v)He then referred to the prayer in the petition and contended that the petition has not disclosed the provision of law in Act, 1951 under which he is seeking relief. He submits that the case of the petitioner must lie within the contours of Section 100 or 101 of Act, 1951. As regards the alternative relief of re-counting, he contends that there is no averment of malpractice in counting the votes or in rejecting the votes or in accepting votes that are invalid. There is also no averment that rejection of 279 ballots has materially affected the results of the election. Further he contends that the petitioner ought to have sought for an additional relief to declare him as the returned candidate as prescribed under Section 84 of the Act, 1951. He submits that the petitioner cannot seek recount without seeking a declaration that he be declared as the returned candidate. He submits that if the petitioner had sought for

such a relief, then the respondent No.1 was entitled to file a recrimination petition. In this regard, he relied upon the judgment in ***Dharmin Bai Kashyap v. Babli Sahu and others [2023 (10) SCC 461]***, which related to Panchayath elections and provisions of Chattisgarh Panchayath Nirvacham Niyam, 1995 was *para materia* with the Act, 1951. The dispute in that case related to recount of votes and it was held Rule 6 of the Rules, 1961 provides that the petitioner may claim a declaration that the election of all or any of the returned candidates is void and in addition thereto, a further declaration that he himself or any other candidate has been duly elected. It was held that in view of the said Rule 6, there was no shadow of doubt that in the election petition filed under Section 122 of the Act, the reliefs claimed have to be in consonance with the said Rule 6 of the Rules, 1995.

(vi). He referred to issue Nos.1 to 4 and submitted that issue No.1 relates to counting of postal ballots and issue No.2 relates to justification in rejecting the request of the petitioner for recounting while issue No.3 is whether the results of the election were declared without considering the objections raised by the petitioner and issue No.4 deals with the question whether the provisions contained in the Act, 1951 and Rules, 1961 are mandatory and the handbook for Returning Officers being subordinate legislation are directory when there is a conflict. (vii). While addressing arguments on the above issues, he submitted that on 13.05.2023 at 4.38 p.m, the agent of the petitioner submitted a letter (Ex.P6) to the Election Commission through the Returning Officer for “*recount the votes for 123 Sringeri Assembly*” as he had “*doubts with regard to postal ballots*” and hence requested for “*recount of postal ballots*”. He referred to Ex.P5, which was a letter submitted by the election agent of the petitioner at 4.50 pm on 13.05.2023 to the Returning Officer, stating that the polling officers had wrongly mentioned the ballot serial number on Form 13, as a result of which 279 postal ballots were rejected which was the cause for defeat of the petitioner. He therefore requested that the 279 rejected postal votes be taken into account and recount the postal ballots of persons aged 80+ and handicapped persons. He submits that the case of the petitioner was initially recount of postal ballots but later was for recount of all votes. He contends that votes cast on EVM cannot be invalid and at the most the recount can be only in respect of the postal ballots. He contends that the election agent of the petitioner was present throughout the process of counting the postal ballots and every vote that was invalid was rejected in the presence of the election agents and none of them raised any

objection at the time of rejecting the postal ballots or while counting the valid votes. Therefore, the Returning Officer rightly issued the endorsement at Ex.P7 rejecting the request of the election agent of the petitioner at Ex.P5 and Ex.P6. He then invited the attention of the Court to the evidence of the Returning Officer who was examined as PW.2 who deposed as follows:

"While rejecting a paper postal ballot votes, we will mention the reason for rejection of each votes in the presence of counting agent and election agent and also will be intimated to the agents, counting agents and election agents who were present in the counting centre on behalf of the candidate"

Further, he deposed *"It is true while rejecting the ballot papers, we used to declare the reasons loudly to the agents and it will also be recorded by videography."*

Further, PW.2 deposed *"At the time of counting the postal ballots, the candidates and their agents were present"* *"It is true to suggest that the rejection of Form No.13A was done in the presence of the candidates and their agents. I Have exhibited the declaration in Form No.13A to the candidates and their agents, who were present"*.

Further, PW.2 deposed:

"I have also orally informed all the candidates and their agents about the reasons for rejection of Form No.13A. None of the candidates or their agents raised any objections against rejection of Form No.13A."

(viii). He then invited the attention of the Court to the evidence of PW.1 where he deposed *"I also appointed the counting agents. There were 16 counting agents*

were appointed including Ramaswamy. All those 16 agents were physically present at the time of counting of votes."

Further he deposed "*I was present in the counting centre from morning 7-30 am till 1-00 pm. I also was present while starting of counting of the postal ballot votes.*" Further he deposed "*at the time of declaring the said postal ballot votes, my election agents were present*".

(ix). He submits that the above evidence would substantially establish that the invalid votes were rejected in the presence of the agents of the petitioner. Therefore, he contends that the Returning Officer was justified in rejecting the request of the election agents of the petitioner for a recount of the postal votes. He contends that Rule 63 of the Rules, 1961 deals with the procedure for a recount and submits that a request for recount must be justified by reasons and the discretion to allow recount or not is with the Returning Officer. He contends that just because the winning margin is thin, there can be no recount on that ground. He relied upon the judgment

in ***R.Narayanan v. S.Semmalai and others [1980 (2) SCC 537]*** to contend that recount cannot be ordered on mere possibility of error and mere fact of a small margin of victory is

not sufficient to order for recount. He submits that the discretion to consider the request for recount is with the Returning Officer and in the present case since the request for recount was not based on any reason, the Returning Officer after being satisfied that the process of counting the votes was done transparently and the election agents of the petitioner were all present at the time of counting, rightly rejected the request for recount. He contends that the request for recounting must be based on solid grounds and cannot be granted for the mere asking. He therefore submits that the reliefs sought for in the petition cannot be granted and the petition is liable to be dismissed.

(x). He contends that the petitioner has claimed that 279 postal ballots were rejected due to the mistake of the polling officers and the voters cannot be held responsible for this and therefore, these 279 votes must be taken into account. He submits that the Returning Officer has complied with the Rule 54A of the Rules, 1961 in rejecting the postal ballots which were invalid and such rejection was in the presence of the election agent of the petitioner. He therefore submits that these votes cannot be taken into account. In support of this contention, he has relied upon the judgment of the Kerala High Court in the case of ***K.P.Mohammed Musthafa v. Najeeb Kanthapuram and Others [2024 SCC Online Ker 4597]*** where it was held as follows:

"27. Therefore it is clear that, it is Rule 54-A that is applicable in the case on hand and not Rule 56. The dictum in

Jibontara Ghatowar case relied on by the election petitioner cannot be applied as it deals with the first proviso to Rule 56 which deals with counting of votes other than postal ballots. There is no proviso similar to the first proviso to Rule 56 in Rule 54-A(4). Sub-rule (4) says that if Form 13-A declaration is not found, or if the serial number of ballot paper entered in it differs from the serial number endorsed in Form 13-B cover, then the Form 13-B cover shall not be opened, and after making an appropriate endorsement thereon, the RO shall reject the ballot paper therein contained. Compliance of sub-rule (4) is mandatory and the RO has not been given any discretion/option as has been given to the RO in the first proviso to Rule 56. Further, the language in sub-rule (4) to Rule 54-A does not differentiate between a mistake committed by the Poll Officer(s) and that committed by a voter. Likewise sub-rule (4) to Rule 54-A does not differentiate between a voter under Rule 24 and an absentee voter to whom Ext. A-1 is applicable.

28. *Moreover, as held in Hari Vishnu Kamath case, a vote which is void cannot be accepted as valid by this Court . In the said case the argument that the election Rules is to discover the intention of the majority of the voters in the choice of a representative and that if an elector has shown a clear intention to vote for a particular candidate, that must be taken into account under Section 100(2)(c), even though the vote might be bad for non-compliance with the formalities, was rejected. It was held that when the law prescribes the intention to be expressed in a particular manner, it can be taken into account only if it is so expressed. An intention not duly expressed is, in a court of law, in the same position as an intention not expressed at all.*

29. *Therefore, a vote liable to be rejected as per the Rules cannot be taken into consideration and treated as valid. The intention of the legislature is quite clear as no option has been given to the RO to accept a ballot paper which is defective as provided under Rule 54-A(4) be it the mistake(s) of the polling officer(s) or the voter. Further, clause (a) of Rule 64 says that*

the candidate who has obtained the largest number of valid votes shall be declared as elected. Hence, a vote which is not valid as per the Act/or Rules cannot be treated as valid and counted."

(xi). He contends that issue Nos.5 to 11 relate to corrupt practices. He submits that the petitioner without pleading the allegations of corrupt practice cannot challenge the election of the respondent No.1 on those grounds. He submits that Section 83 of the Act, 1951 mandates that the petition shall contain a concise statement of material facts and set forth full particulars of any corrupt practice including the names of the parties involved and the place where such corrupt practice was done. He contends that the petitioner without pleading the particulars of the alleged corrupt practice has tried to furnish proof of such corrupt practice in the course of evidence and therefore, the same cannot be looked into. He submits that the petitioner was bound to plead and prove the nature of corrupt practice but the same is lacking in the petition and hence cannot be looked into. Therefore he contends that these issues have to be answered against the petitioner and in favour of the respondent No.1.

(xii). While referring to each of the issues, the learned Senior counsel for respondent No.1 contends that the petitioner has alleged that the respondent No.1 has not disclosed the interest that his wife had in M/s.Shaban Ramzan but in Ex.P15, which is the affidavit filed along with the nomination, the respondent No.1 had disclosed about his wife having interest in M/s.Shaban Ramzan. He contends that the petitioner was in possession of documents marked as Exs.P9, P10, P11, P12, P13, P14, P19, P20 and P27 at the time of filing the petition and therefore, was bound to plead these contentions, so that respondent No.1 could respond to them. He contends that the petitioner has not disclosed how exactly, the respondent No.1 had used black money for election purposes and committed election malpractice. Further, he contends that there is nothing to show how the petitioner came to the conclusion that the respondent No.1 had overspent in the election. As regards hate speeches, he contends that the petition is clearly silent as to

when and who made those speeches and how was it objectionable and how it impacted the voters. Thus he contends that these are allegations that are baseless. As regards the alleged false promises, he submits that PW.1 specifically admitted that these false promises according to him were the election manifesto of the Congress Party. Therefore, he contends that there is nothing to show that the respondent No.1 had made any false promises. Further there are no details of paid news, paid campaigns and paid opinion to tilt the minds of the voters by bribing various section of the media due to which 5000 to 6000 voters turned up and voted in favour of respondent No.1. He contends that this is a hollow statement made without any pleading or proof. He submits that there are no pleadings or proof as to with whom the respondent No.1 had made truce and who overtly or covertly supported to divide the votes of the petitioner. Further, there are no particulars as to in which booth, 2000 to 3000 bogus votes and dummy voters cast votes. He submits that none of the allegations made against the respondent No.1 accusing him of corrupt practices or election malpractices are either pleaded or proved and therefore prays that the election petition be dismissed.

(xiii). As regards Issue Nos.12 to 18, he submitted that the above submissions would answer Issue Nos.12 to 18. He thus prays that the Election Petition be dismissed.

9. The learned Senior counsel for the petitioner

replied to the above submissions as follows:

(i). That an application was filed by the respondent No.1 for rejection of the Election Petition on the ground that it did not contain material facts and particulars, which was rejected by this Court and later confirmed by the Hon'ble Apex Court in C.A. No.11013/2024 in terms of the order dated 27.09.2024. The Hon'ble Apex Court held that as regards the first set of allegations, namely wrongful rejection / acceptance of the postal ballot papers, there is no serious contest and therefore, the High Court will proceed with the Election Petition on that ground in accordance with law. As regards allegations of corrupt practice, it held that the documents are yet to be formally brought on record by the petitioner. It also reserved liberty to the respondent No.1 to raise objections regarding admissibility or relevance of the documents at an appropriate stage.

(ii). He, therefore, contends that the material facts pleaded and material particulars furnished by way of evidence, sufficiently establish the case of the petitioner for reverification, re-count of postal ballots and also the corrupt practices indulged in by the respondent No.1. Hence, he argued that it cannot be contended that the petition lacks material facts and particulars. He, therefore, contends that material facts pleaded and the material particulars furnished by way of evidence, sufficiently establish the case of the petitioner.

(iii) He relied on the decision in **Munirathna's** case to contend that in a case of corrupt practice, there can be no assumption that if it was known to the electorate that the returned candidate had indulged in corrupt practice, they would have voted in favour of the immediately defeated candidate and therefore, even if an additional relief is not sought for as provided under Section 84 of the Act, 1951, the petition cannot be dismissed.

(iv). In a case of re-counting of votes, he submits that the process involves re-counting the votes and if after such a re-count, there is any difference, then the Returning Officer may amend the declaration of the result. Therefore, he contends that there is no need for seeking additional relief that the petitioner should be declared as a returned candidate. He submitted that this was the declaration of law in **Soumya Reddy's case**.

(v). He submitted that even if no such additional relief is sought for, the High Court while trying an Election Petition continues to be a High Court for all purposes and possess discretion to grant the reliefs that the petitioner is entitled to by moulding the relief. In this regard, he referred to the judgment of the Hon'ble Apex Court in **SriMairembam Prithviraj @ Prithviraj Singh v. Shri Pukhrem Sharatchandra Singh [CA 2649 of 2016]**.

(vi). He submitted that the Returning Officer specifically admitted that he had not made endorsement on the cover in Form 13B about the reason for rejection of the postal ballot and thereafter replace the declaration in Form 13A and the cover

in Form 13B in the cover in Form No.13C and bundle all such rejected ballots in a separate packet on which the name of the Constituency, the date of counting and a brief description of the contents should be mentioned. He submits that the Returning Officer has admitted that no endorsements were made on the cover in Form 13B. Therefore he contends that there is no reason mentioned as to why 279 postal ballots were rejected. He contends that PW.2 in his deposition stated "*Witness says the reason for rejection will not be recorded in writing*". Consequently, he contends that these postal votes have to be re-counted and in that process, the reason for rejection of the postal ballots will once again be verified. He contends that under Sub-rule (4) of Rule 54A of the Rules, 1961, only those votes that are substantially defective that can be rejected. He therefore submits whether all the 279 votes were substantially defective or not has to be re-verified. He submits that the Returning Officer was bound to count the postal ballots, but he allowed the Assistant Returning Officer to count them and he tried to substantiate it by claiming that the present Handbook permits it, though there is no such permission. He submitted that an application is filed to inspect all the 279 rejected votes and prays that the same be allowed. In support of this contention, he relied upon the judgment of the Hon'ble Apex Court in **Dr.Jagjit Singh v. Giani Kartar Singh and others [AIR 1966 SC 773]**.

(vii). As per Ex.P7, the Returning Officer stated that the election agents were there at the time of scrutiny of the votes and therefore, the request of the petitioner for re-count of postal ballots cannot be considered. As per Rule 63 of the Rules, 1961, right to seek re-count of votes is only after declaration in Form 20 is issued by the Returning Officer. He submitted that contrarily, the Returning Officer in his evidence stated "*Before rejecting the prayer of the petitioners agent for recounting, I have already declared the result of the winning candidate. Witness further says that the requisition was made by the petitioners agent only after orally declaring the result that respondent No.1 won the election by margin of 201 votes.*"

(viii). That Petitioner has sought for re-count of postal ballots and declare the result of election afresh. He submits that if the postal ballots are re-counted and if there is any difference in the votes, then a fresh declaration has to be issued, in which event if the petitioner is victorious, he may be declared a returned candidate. Therefore, he contends that there is no need to seek for an alternate relief.

10. I have considered the submissions of the learned senior counsel for the petitioner and the learned senior counsel for the respondent No.1. I have also perused the material exhibits and the oral evidence adduced by the parties.

11. The issues framed are answered as follows:

- i) Re-casted Issue No.1: In the affirmative;
- ii) Issue No.2: In the affirmative;
- iii) Issue No.3: In the affirmative;

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- iv) Issue No.4: In the affirmative;
 - v) Issue No.5: In the negative;
 - vi) Issue No.6: In the negative;
 - vii) Issue No.7: In the negative;
 - viii) Issue No.8: In the negative;
 - ix) Issue No.9: In the negative;
 - x) Issue No.10: In the negative;
 - xi) Issue No.11: In the negative;
 - xii) Issue No.12: In the negative;
 - xiii) Issue No.13: In the negative;
 - xiv) Issue No.14: In the negative;
 - xv) Issue No.15: Partly in the affirmative;
 - xvi) Issue No.16: in the negative;
 - xvii) Issue No.17: Partly in the affirmative;
 - xviii) Issue No.18: in the affirmative;
 - xix) Issue No.19: As per the final Order.

12. Before answering the issues framed by this Court, it is first appropriate to extract relevant provisions of the Constitution of India, the Act, 1951, the Rules, 1961 which have a bearing on this case.

(i). Article 324 of the Constitution of India

(1) The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to Parliament and to the Legislature of every State and of elections to the offices of President and Vice-President held under this Constitution shall be vested in a Commission (referred to in this Constitution as the Election Commission).

(2) The Election Commission shall consist of the Chief Election Commissioner and such number of other Election Commissioners, if any, as the President may from time to time fix and the appointment of the Chief Election Commissioner and other Election Commissioners shall, subject to the provisions of any law made in that behalf by Parliament, be made by the President.

(3) *When any other Election Commissioner is so appointed the Chief Election Commissioner shall act as the Chairman of the Election Commission.*

(4) *Before each general election to the House of the People and to the Legislative Assembly of each State, and before the first general election and thereafter before each biennial election to the Legislative Council of each State having such Council, the President may also appoint after consultation with the Election Commission such Regional Commissioners as he may consider necessary to assist the Election Commission in the performance of the functions conferred on the Commission by clause (1).*

(5) *Subject to the provisions of any law made by Parliament, the conditions of service and tenure of office of the Election Commissioners and the Regional Commissioners shall be such as the President may by rule determine:*

Provided that the Chief Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of the Supreme Court and the conditions of service of the Chief Election Commissioner shall not be varied to his disadvantage after his appointment:

Provided further that any other Election Commissioner or a Regional Commissioner shall not be removed from office except on the recommendation of the Chief Election Commissioner.

(6) *The President, or the Governor of a State, shall, when so requested by the Election Commission, make available to the Election Commission or to a Regional Commissioner such staff as may be necessary for the discharge of the functions conferred on the Election Commission by clause (1).*

(ii). Section 24 of the RP Act, 1951

General duty of the returning officer.—It shall be general duty of the returning officer at any election to do all such acts and things as may be necessary for effectually conducting the election in the manner provided by this Act and rules or orders made thereunder.

(iii). Section 64 of the Act, 1951

Counting of votes.—At every election where a poll is taken, votes shall be counted by or under the supervision and direction of, the returning officer, and each contesting candidate, his election agent and his counting agents, shall have a right to be present at the time of counting.

(iv) Section 83 of the Act, 1951

Contents of petition.—(1) An election petition—

(a) shall contain a concise statement of the material facts on which the petitioner relies;

(b) shall set forth full particulars of any corrupt practice that the petitioner alleges, including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice; and

(c) shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (5 of 1908) for the verification of pleadings:

Provided that where the petitioner alleges any corrupt practice, the petition shall also be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice and the particulars thereof.

(2) Any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition.

(v) Section 84 of Act, 1951

84. ဆန္ဒခံရသူ ရွေးကောက်ပွဲ ဝင်ရောက်သူ နှင့် ပြန်လည်ရွေးကောက်ပွဲ ဝင်ရောက်သူ

Petitioner.-The petitioner may, in addition to claiming a declaration that the election of all or any of the returned candidates is void may claim further declaration that he himself or any other candidate is duly elected.

(vi) Section 100 of Act, 1951

100. Grounds for declaring election to be void.— (1) Subject to the provisions of sub-section (2) if the High court is of opinion—

(a) that on the date of his election a returned candidate was not qualified, or was disqualified, to be chosen to fill the seat under the Constitution or this Act or the Government of Union Territories Act, 1963 (20 of 1963); or

(b) that any corrupt practice has been committed by a returned candidate or his election agent or by any other person with the consent of a returned candidate or his election agent; or

(c) that any nomination has been improperly rejected; or

(d) that the result of the election, in so far as it concerns a returned candidate, has been materially affected—

(i) by the improper acceptance or any nomination, or

(ii) *by any corrupt practice committed in the interests of the returned candidate by an agent other than his election agent, or*

(iii) *by the improper reception, refusal or rejection of any vote or the reception of any vote which is void, or*

(iv) *by any non-compliance with the provisions of the Constitution or of this Act or of any rules or orders made under this Act, the High Court shall declare the election of the returned candidate to be void.*

(2) *If in the opinion of the High Court, a returned candidate has been guilty by an agent, other than his election agent, of any corrupt practice but the High Court is satisfied—*

(a) *that no such corrupt practice was committed at the election by the candidate or his election agent, and every such corrupt practice was committed contrary to the orders, and without the consent, of the candidate or his election agent;*

* * * *

(c) *that the candidate and his election agent took all reasonable means for preventing the commission of corrupt practices at the election; and*

(d) *that in all other respects the election was free from any corrupt practice on the part of the candidate or any of his agents.*

(vii) Section 123 deals with corrupt practices and for the purposes of this petition, Section 123(4) is relevant and the same is extracted below:

(4) *The publication by a candidate or his agent or by any other person with the consent of a candidate or his election agent, of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate or in relation to the candidature, or withdrawal of any candidate,*

being a statement reasonably calculated to prejudice the prospects of that candidate's election.

(viii) Section 125 of the Act, 1951 deals with promoting enmity between classes in connection with election and reads as follows:

125. Promoting enmity between classes in connection with election.—*Any person who in connection with an election under this Act promotes or attempts to promote on grounds of religion, race, caste, community or language, feelings of enmity or hatred, between different classes of the citizens of India shall be punishable, with imprisonment for a term which may extend to three years, or with fine, or with both.*

(ix). Rule 4A of the Conduct of Election Rules, 1961 mandate the form of affidavit to be filed at the time of delivering the nomination paper. Such affidavit shall be in Form 26.

(x). Rule 23 of the Rules, 1961 deals with the issue of postal ballot which discloses that a postal ballot comprises of four parts namely a declaration Form 13A, a cover in Form 13B, a large cover addressed to the Returning Officer in Form 13C and instructions for the guidance of the elector in Form 13D.

(xi). The procedure for exercising the vote by a postal ballot is found in Rule 24 of the Rules, 1961. A voter shall enclose the ballot paper in the cover in Form 13B. He shall also sign the declaration in Form 13A in the presence of or have his signature attested by a stipendiary Magistrate or such other officer as set out therein and thereafter place all of them in the larger cover in Form 13C.

(xii). Rule 25 of the Rules, 1961 deals with assistance to illiterate or infirm voters is as follows:

25. Assistance to illiterate or infirm voters.— (1) *If an elector is unable through illiteracy, blindness or other physical infirmity to record his vote on a postal ballot paper and sign the declaration, he shall take the ballot paper, together with the declaration and the covers received by him to an officer competent to attest his signature under sub-rule (2) of rule 24 and request the officer to record his vote and sign his declaration on his behalf.*

(2) *Such officer shall thereupon mark the ballot paper in accordance with the wishes of the elector in his presence, sign*

the declaration on his behalf and complete the appropriate certificate contained in Form 13A

(xiii). Rule 54A of the Rules, 1961 reads as follows:

54A. Counting of votes received by post.—(1) *The returning officer shall first deal with the postal ballot papers in the manner hereinafter provided.*

(2) *No cover in Form 13C received by the returning officer after the expiry of the time fixed in that behalf shall be opened and no vote contained in any such cover shall be counted.*

(3) *The other covers shall be opened one after another and as each cover is opened, the returning officer shall first scrutinise the declaration in Form 13A contained therein.*

(4) *If the said declaration is not found, or has not been duly signed and attested, or is otherwise substantially defective, or if the serial number of the ballot paper as entered in it differs from the serial number endorsed on the cover in Form 13B, that cover shall not be opened, and after making an appropriate endorsement thereon, the returning officer shall reject the ballot paper therein contained.*

(5) *Each cover so endorsed and the declaration received with it shall be replaced in the cover in Form 13C and all such covers in Form 13C shall be kept in a separate packet which shall be sealed and on which shall be recorded the name of the constituency, the date of counting and a brief description of its content.*

(6) *The returning officer shall then place all the declarations in Form 13A which he has found to be in order in a separate packet which shall be sealed before any cover in Form 13B is opened and on which shall be recorded the particulars referred to in sub-rule (5).*

(7) *The covers in Form 13B not already dealt with under the foregoing provisions of this rule shall then be opened one after another and the returning officer shall scrutinise each ballot paper and decide the validity of the vote recorded thereon.*

(8) *A postal ballot paper shall be rejected—*

(a) *if it bears any mark (other than the mark to record the vote) or writing by which the elector can be identified; or*

(aa) *if no vote is recorded thereon; or*

(b) *if noted are given on it in favour of more candidates than one; or*

(c) *if it is a spurious ballot paper; or*

(d) *if it is so damaged or mutilated that its identity as a genuine ballot paper cannot be established; or*

(e) *if it is not returned in the cover sent along with it to the elector by the returning officer.*

(9) *A vote recorded on a postal ballot paper shall be rejected if the mark indicating the vote is placed on the ballot paper in such manner as to make it doubtful to which candidate the vote has been given.*

(10) *A vote recorded on a postal ballot paper shall not be rejected merely on the ground that the mark indicating the vote is indistinct or made more than once, if the intention that the vote shall be for a particular candidate clearly appears from the way the paper is marked.*

(11) *The returning officer shall count all the valid votes given by postal ballot in favour of each candidates, record the total thereof in the result sheet in Form 20 and announce the same.*

(12) *Thereafter, all the valid ballot papers and all the rejected ballot papers shall be separately bundled and kept together in a packet which shall be sealed with the seals of the*

returning officer and of such of the candidates, their election agent or counting agents as may desire to affix their seals thereon and on the packet so sealed shall be recorded the name of the constituency, the date of counting and a brief description of its contents.

(xiv) Rule 63 of the Rules, 1961 reads as follows:

63. Re-count of votes. — (1) *After the completion of the counting, the returning officer shall record in the result sheet in Form 20 the total number of votes polled by each candidate and announce the same.*

(2) *After such announcement has been made, a candidate or, in his absence, his election agent or any of his counting agents may apply in writing to the returning officer to re-count the votes either wholly or in part stating the grounds on which the demands such re-count.*

(3) *On such an application being made the returning officer shall decide the matter and may allow the application in whole or in part or may reject it in toto if it appears to him to be frivolous or unreasonable.*

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

(5) *If the returning officer decides under subrule (3) to allow a re-count of the votes either wholly or in part,*

He shall—

- (a) *do the re-counting in accordance with rule 54A, rule 56 or rule 56A, as the case may be;*
- (b) *amend the result sheet in Form 20 to the extent necessary after such re-count; and*
- (c) *announce the amendments so made by him.*

(6) *After the total number of votes polled by each candidate has been announced under sub-rule (1) or sub-rule (5), the returning officer shall complete and sign the result sheet*

in Form 20 and no application for a recount shall be entertained thereafter:

Provided that no step under this sub-rule shall be taken on the completion of the counting until the candidates and election agents present at the completion thereof have been given a reasonable opportunity to exercise the right conferred by sub-rule (2).

With the above prefatory references, the issues framed by this Court are taken up for consideration.

ISSUE NOs.1 AND 4

13. In order to answer the issue No.1, it is first necessary to decide issue No.4, whether the guidelines contained in the handbook for Returning Officers has statutory force and whether they have to be complied mandatorily. There can be no dispute that these guidelines are issued by the Election Commission of India in exercise of its statutory functions under Article 324 of the Constitution of India. The Apex Court in **Ram Sukh v. Dinesh Aggarwal [AIR 2010 SC 1227]** where it was held as follows:

"There is no quarrel with the proposition that the instructions contained in the Handbook for the Returning Officers are issued by the Election Commission in exercise of its statutory functions and are, therefore, binding on the Returning Officers. They are obliged to follow them in letter and spirit".

Following the above, in **Arikala Narasa Reddy v. Venkata Ram Reddy Reddygari and Others [AIR 2014 SC 1290]**,

where it was held:

"It is a settled legal proposition that the instructions contained in the handbook for Returning Officer are issued by the Election Commission in exercise of its statutory functions and are therefore, binding on the Returning Officers. Such a view stands fortified by various judgments of this Court in Ram Sukh v. Dinesh Aggarwal, AIR 2010 SC 1227; and Uttamrao Shivdas Jankar v. Ranjitsinh Vijaysinh Mohite Patil,, AIR 2009 SC 2975.

Instruction 16 of the Handbook deals with cases as to when the ballot is not to be rejected. The Returning Officers are bound by the Rules and such instructions in counting the ballot as has been done in this case”.

14. The learned Senior counsel for the respondent No.1 did not dispute the above position of law but contended that the petitioner is bound to plead and prove how the non

verification of the postal ballots materially affected the results of the election and how it prejudiced the petitioner. In view of the above, issue No.4 is answered and it is held that the Handbook for Returning Officers are binding and have to be mandatorily complied.

15. As regards issue No.1, the petitioner contended that the Returning Officer was bound to re-verify the votes in view of Guideline No.15 of the Handbook for Returning Officers, 2009 and the respondent No.1 had contested the election petition and had claimed that guidelines in hand books for Returning Officers are directory and not mandatory. Therefore, the parties and their counsel have understood that issue No.1 is in respect of reverification of postal ballots and not recounting of the postal ballots. Therefore, issue No.1 is recast as follows:

"Whether the petitioner proves that the Election officer / Returning Officer has failed to comply with the mandatory requirements in respect of reverification of postal ballots?"

16. The petitioner has marked Ex.P4 which is the Handbook for Candidates 2009 which has undergone many changes and is not applicable to the general elections held in the year 2023. As a matter of fact, Guideline No.15 relied upon by the petitioner is nowhere found in Ex.P4. It is relevant to note that the Election Commission of India has issued the Handbook for Returning Officers 2023, which

apparently is followed by the Returning Officer since he deposed in his cross-examination when a question was put by the learned counsel for the petitioner that the postal ballots have to be scrutinized and counted by the Returning Officer alone, he answered that “*recent handbook permitted the Assistant Returning Officers to count them (postal ballots)*”.

17. Guideline 15.25 of the Hand Book for Returning Officers, 2023 reads as follows:

MANDATORY RE-COUNTING OF ALL POSTAL BALLOT PAPERS:

Where the margin of victory is less than the number of postal ballot papers rejected as invalid at the time of counting, all the rejected Postal Ballot papers shall be mandatorily re-verified by the Returning Officer before declaration of result. Whenever, such re-verification is done, the entire proceedings should be video-graphed.

18. The above guideline casts a duty on the Returning Officer to compulsorily re-verify the rejected postal ballots where the margin of victory is less than the number of postal ballots rejected. Ex.P30 is the register maintained by the Returning Officer where the proceedings of the counting of votes of 123 Sringeri assembly and declaration of results of the election are recorded. This is admitted by the Returning Officer who was examined as PW.2. A perusal of Ex.P30 shows that after the postal ballots and the votes polled on EVM were counted and after recording the total votes secured by each candidate, he found that the returned candidate had secured 201 votes more than the petitioner and the rejected postal ballots were 279. Therefore, in compliance of guideline 15.25, he must have compulsorily verified all the rejected postal ballots before declaring the result of the election even without expecting a request therefor by the petitioner or his agent. It

may be that the petitioner did not suggest to the Returning Officer in his cross-examination that he did not conduct the reverification of the postal ballots. However, this does not in any way obliterate or dispense or absolve the Returning Officer of his compulsory duty to re-verify the postal ballots. When the law requires the Returning Officer to perform his duties in a particular manner, he is bound to do so in that manner alone. He has no discretion to overlook or ignore the guidelines issued by the Election Commission of India or claim that it is not mandatory. This inbuilt safeguard for re-verification of rejected postal ballots when the victory margin is less than the rejected votes, is in the light of the fact that votes cast on the EVM cannot get invalidated and it is only the physical ballot that has be checked to ensure that everything is in order.

19. The Returning Officer who was examined as PW.2 deposed that the counting of the postal ballots were done by the Assistant Returning Officer and those votes which did not have a declaration in Form 13 A duly signed by the voter or duly attested by the officer concerned and where there was a mismatch of the serial number of the ballot on the cover, were rejected. This Court has not secured the rejected postal ballots though I.A No.4/2024 is filed by the petitioner for inspection of the postal ballots. The procedure for counting of postal ballots is set out in the Handbook for Returning Officer, 2023 which is largely in line with Rule 54A of the Rules, 1961 and reads as follows:

15.14.6 All postal ballots received till the time fixed for commencement of counting of votes shall be opened for counting. For counting of the postal ballots following points /stages must be scrupulously followed-

(a) All cover 'B' in Form 13-C containing postal ballot papers, which were received in time by the Returning Officer, are to be opened one after another.

(b) On opening the cover "B" in Form 13C, two documents are required to be found inside. The first is - the declaration by the voter in Form 13-A and the second is the inner "Cover A (Form 13-B) containing the postal ballot paper. Before opening the cover "A" containing the postal ballot paper, the Returning Officer shall check the declaration (Form 13-A).

(c) He shall reject a postal ballot paper without opening its inner cover (Form 13-B) in any of the following cases:

(i) If the declaration in Form 13-A is not found inside the cover "B" in Form 13-C;

(ii) the declaration has not been duly signed by the elector or has not been duly attested by an officer competent to do so or is otherwise substantially defective,

(iii) If the serial number of the ballot paper appearing on the declaration in Form 13A is different from the serial number as endorsed on the inner cover "A" in Form 13-B.

20. A word of caution is inserted in guideline 15.14.7 to guide the Returning Officers while rejecting the postal ballots so that votes that do not suffer from substantial defect are not rejected.

15.14.7 A postal ballot paper shall not be rejected merely on the ground that the attesting officer has not put his seal on the declaration of the elector in Form 13A if the attesting officer has given all relevant details with regard to his name and designation on that Form. Further, a postal ballot paper shall also not be rejected on the ground that the sender (elector) has not put his signature on the outer cover "B" (Form 13 C) in which he has returned the Postal Ballot Paper, if the identity of the sender is verifiable on the basis of his declaration in Form 13-A.

21. After the above, the postal ballots can be rejected in the following manner:

15.14.8 All such rejected covers "A" in Form 13-B containing the Postal Ballot Paper should be suitably endorsed by the RO or the authorized ARO, and will be back with the respective declarations in the larger cover "B" in Form 13-C.

15.14.9 All such larger covers "B" will be kept in a separate packet, which will be sealed by the RO/ARO concerned and full particulars, such as the name of the Constituency, the date of counting and a brief description of the content will be noted thereon for identifying the packet.

22. If the rejection of the postal ballots is by the Assistant Returning Officer, then a duty is cast on the Returning Officer to re-verify before they are put in the rejected category and the same is set out in guideline 15.14.3 which reads as follows:

15.14.3 All the cases of rejection of postal ballot on account of defects in Declaration in Form-13A should be re-verified by the Returning Officer before they are actually put in the rejected category.

23. The Returning Officer in his deposition before the Court stated that it was the ARO who counted the postal ballots. (emphasis by Court). However, Ex.P30 does not show that the Returning Officer had re-verified the rejected postal ballots before they were actually put in the rejected category. The Returning Officer deposed that no endorsement was made on each cover in Form 13B about the reason for rejecting the postal ballot but all the rejected votes were bundled and kept in a cover on which endorsements were made. (emphasis by Court). Therefore, the assertion of the Returning Officer that the postal ballots were rejected in the

presence of the election agents, cannot justify his default in not re-verifying the votes and in not making appropriate endorsements on the cover in Form 13B containing the ballot. There is no exception for this mandatory compliance as no one can now decipher whether the 279 votes were rejected due to a substantial defect or not. Therefore, as pleaded by the petitioner, this has materially affected the results of the election. Under the circumstances, it is held that the Returning Officer has failed in his duty to comply the mandatory guideline prescribed for re-verifying the postal ballot as mandated under Guideline 15.25 of the Hand Book for Returning Officers, 2023.

ISSUE NOS.2 AND 3

24. While answering Issue Nos.1 and 4, I have

considered the lapse on the part of the Returning Officer in not complying the procedure prescribed for rejecting the postal ballots. A ballot paper is rejected only when the Returning Officer or the Assistant Returning Officer complies with the procedure prescribed in the Handbook and in Rule 54A of the Rules, 1961.

25. Guideline 15.19 in the Handbook for Returning

Officer, 2023 deals with recount and reads as follows:

"RECOUNT:

15.19.1 Normally, there will be no question of recount of votes recorded in the voting machines as every vote recorded by the voting machines is a valid vote and no dispute will arise as to its validity or otherwise. Despite the necessity for recount being totally eliminated by the use of voting machines, the provisions relating to recount contained in Rule 63 of the Conduct of Elections Rules, 1961, still apply.

15.19.2 When the counting is complete and the Final Result Sheet in Form 20 has been prepared, RO should announce the total number of votes polled by each candidate as entered in Form 20. Then RO should pause for a minute or two. If during this period any candidate or, in his absence, his election agent

or any of the counting agents, asks for a recount, RO should ascertain from him the time required for making an application for recount in writing. However, in the case, where the counting places are in different locations, application for re-count in respect of such can be presented before the ARO supervising the counting in that Assembly Segment. The concerned ARO may deal with application for re-count with the approval of the RO as it would be difficult for candidates/agents located in other counting locations to reach the RO's location in time to make application for recount. A candidate has option to make request for recount of polled ballot papers and/or polled evms of all or some of the polling stations.

15.19.3 If RO consider that the time applied for is reasonable, he shall allow it and announce the exact hour and minute up to, which RO will wait for receiving the written application for recount. RO must not sign the Final Result Sheet in Form 20 until after the expiry of the time so announced. If RO receives an application for recount, he should consider the grounds urged and decide the matter judiciously. RO may allow the application in whole or in part if it is reasonable or may reject it if it appears to be frivolous or unreasonable. But the right of a candidate to demand a recount under Rule 63 does not mean that recount can be granted for the mere asking. The party demanding recount has to make out a, prima facie case, which the counting was not accurate and recount is necessary in the interest of justice. In every case, RO should record a brief statement of reasons for the decision and should give a speaking order. Ros decision will be final.

26. Section 63 of Act, 1951 also provides for recounting before the results are announced. However, an application seeking recount should set out the reasons for seeking recount and the discretion to allow such an application is with the Returning Officer.

27. In this petition, Ex.P6 shows that a request was made before the results were announced seeking a recount of the postal ballots as there were some doubts regarding postal ballots. Later, Ex.P5 was submitted stating that the election officer had committed mistake while securing the postal ballots resulting in rejection of 279 ballots and therefore claimed that the rejected votes be included for counting.

28. Though PW.2 deposed that before rejecting the request of the agent of the petitioner for recount, he had declared the result of the winning candidate, he thereafter claimed that he had orally declared the result, which is highly objectionable. The Returning Officer who was supposed to consider the request for recount deposed that the entries in Ex.P30 regarding the rejection of the request for recounting was made by his subordinates. This demonstrates that there was no proper application of mind while considering the application for recount.

29. An election petition is maintainable if any allegation is made about the improper reception, refusal or rejection of any vote or the reception of any vote which is void as provided under Section 101(1)(d)(iii) of the Act, 1951. As stated above,

a vote can be termed "rejected" only when the procedure prescribed in Rule 54A of the Rules, 1961, is complied. Therefore, it is held that the endorsement issued by the Returning Officer dated 13.05.2023 rejecting the request of the election agent of the petitioner is not justified and the results of the election was wrongly declared without considering the request of the petitioner for a recount.

30. As regards the contention of the learned Senior counsel for the respondent No.1 that recounting cannot be ordered as a matter of course, unless it is shown how it has materially affected the results of the election, it is relevant to note that the Returning Officer has committed a colossal

mistake in not re-verifying the postal ballots that were rejected by the Assistant Returning Officer. He has failed to re-verify the rejected postal ballots even after noticing the victory margin was less than the postal ballots rejected. There can be

no quarrel over the proposition of law expounded by the Hon'ble Supreme Court in **P.H.Pujar, Dharmin Bai Kashyap, Beliram Bhalaik, Suresh Prasad Yadav. R.Narayanan** and other judgments in the same vein referred supra, that there should be pleadings to show that rejection of the request for re-count the postal ballots materially affected the result of the election. However, if the election petition is seen, the petitioner has alleged in para No.7 as follows:

"It is submitted that during the process of counting the votes on the date of counting (13-05-23) the petitioner noticed several non compliance with respect to consideration of postal ballot about absentee voters in the category of senior citizens and persons with disabilities."

He further pleaded in para No.10 as follows:

"However, despite the petitioner raising objections regarding the counting of postal ballot votes at the time of counting of votes and filing application for recounting, the returning officer failed to re-verify the votes and issued an endorsement refusing for recounting".

At para No.17 he pleaded as follows:

"It is submitted that if the request to recount the postal ballot was allowed by the returning officer and recounting the postal ballot were made, it would have brought in material changes in the election".

Therefore, it cannot be said that there are no pleadings seeking for a recount of the postal ballot. It would have been more appropriate if the petitioner had mentioned what were the irregularities he found while counting the postal ballots. This lacuna is cured as the petitioner had furnished Ex.P6 along with the election petition, which showed that the election agent of the petitioner had expressed doubt about the counting of the postal ballots. Once Ex.P6 was filed along with the election petition, that became part of the pleading. The doubt expressed by the election agent of the petitioner stood established by the admissions made by the Returning Officer, who was examined as PW.2, which are discussed while answering issues 1 and 4. Therefore, this Court is of the opinion that the petitioner had made out a case for recounting all the postal ballots.

ISSUE NOS.5 AND 6:

31. An election petition, particularly when it is based on the allegation of corrupt practices indulged in by the returned candidate, has to strictly conform to the requirements of Section 83 of the Act, 1951. The petitioner is not only bound to give a concise statement of the allegation made but also the material particulars. He is also bound to file an affidavit as mandated in proviso to Section 83 of the Act, 1951 and as prescribed in Rule 94A of the Rules, 1961. In this regard, it is profitable to refer to a judgment of the Apex Court in ***Samant N.Balakrishna (supra)*** and ***Kanimozhi Karunanidhi (supra)***. The petitioner has vaguely pleaded that the respondent No.1 has used black money for election purposes and thus committed election mal practice but has not given any particulars as to how, when and where black money was used or spent or how the petitioner came to the conclusion that black money was used for the purpose of election. He has not even mentioned how he came to the conclusion that the respondent No.1 had overspent for the election. Even in his evidence, he did not mention how, when and where black money was used and how, when and where he had overspent. On the other hand, the learned counsel for the petitioner tried to contend that the respondent No.1 had enormous sums of black money which is evident from the fact that a huge coffee estate named Shaban Ramzan, a partnership firm, was deep in debt and that the wife and son of respondent No.1 were inducted in the firm as partners, who cleared the debt running into hundreds of crores of Rupees. He contended that the respondent No.1 had not disclosed the acquisition of M/s.Shaban Ramzan and how his wife and son managed to clear off the huge loan. He therefore contended that this shows that respondent No.1 had huge black money which he pumped into the election of Sringeri Assembly Constituency - 123 in the year 2023. Unfortunately, these are simply not sufficient to prove a grave allegation of using black money or overspending for the elections. An election petition on the ground

of corrupt practice may result in a drastic order declaring the result of a returned candidate as void. Therefore, the petitioner is bound to plead all material particulars as to what made him believe that the respondent No.1 had used black money or had overspent and also substantiate it by adducing acceptable evidence. Sadly, the petitioner has failed in both and therefore, he has failed to prove these allegations.

ISSUE NO.7:

32. As stated earlier, an election petition may result in drastic consequences and therefore the petitioner is bound to plead when, where, how and who made the hate speeches or speeches that demeaned his character which affected the voters in voting against the petitioner. It is no doubt true that when a candidate or his agent or by any other person with the consent of the respondent No.1 or his election agent publishes any statement which is false and which he either believes to be false or does not believe to be true in relation to the personal character or conduct of any candidate to prejudice the prospect of that candidate's election is a corrupt practice as defined under Section 123 of the Act, 1951. However, the petitioner who was aware of what those hate speeches were and who made them and when and where they were made, was bound to plead them in the petition, so that the same could be controverted by the respondent No.1. Though the petitioner claimed before Hon'ble Apex Court in Civil Appeal No.11013/2024 that he could amend the election petition to furnish particulars, the petitioner failed to do so. The petitioner instead furnished some evidence which is patchy and did not establish that these were done by the respondent No.1 or his election agent or someone with the consent of the respondent No.1 or his agent. Therefore this issue has to be held against the petitioner.

ISSUE NO.8:

33. As regards this issue too, the petitioner has failed to plead what were the false promises made by respondent No.1 during the elections. He also failed to adduce evidence to demonstrate what were the false promises. On the contrary PW.1 in his cross examination stated that the false promises were nothing but the election manifesto of the Congress party made prior to the code of conduct coming into force. Therefore, this issue too will have to be held against the petitioner.

ISSUE NOS.9, 10 AND 11:

34. These issues relate to the allegation that the respondent No.1 had indulged in spree of paid news, paid campaign and opinion to influence the mind of the voters, that he made truce with other candidates in the fray to divide the votes, that 2000 to 3000 duplicate voters were registered in multiple areas of the constituency who cast their votes in favour of respondent No.1. Sadly, the petitioner has failed to plead this and furnish material particulars in the election petition. If he had furnished the material particulars, the respondent No.1 would have suitably replied to it. The petitioner also did not furnish any evidence on these allegations. Therefore, without any hesitation, it can be held that the petitioner failed to prove the above issues.

ISSUE NO.12:

35. In view of the answers to issue Nos.5 to 11, this issue is held in the affirmative and in favour of the respondent No.1 and against the plaintiff.

ISSUE NO.13:

36. As regards issue No.13, the petitioner was examined as PW.1 and at the time of marking Ex.P9, it was opposed by the learned senior counsel for the

respondent No.1. This objection regarding marking was considered and Ex.P9 which was already marked as a true copy was treated as a certified copy. However, in the course of cross examination, nothing is brought on record to disbelieve the veracity of Ex.P9. The marking of Ex.P10 was also opposed on the ground that it was incomplete and the Court noticed the same on 21.01.2025 that page No.14 of Ex.P10 is not available. Exs.P11 to P29 were marked subject to objections but nothing is extracted from PW.1 as to how those documents cannot be received in evidence or that they are inadmissible. Ex.P30 was marked through PW.2, who is the Returning Officer but was objected by the learned senior counsel for the respondent No.1 on the ground that it was not summoned by the Court but it was forwarded by the Deputy Commissioner. During crossexamination of PW.2, it is not disputed by the learned Senior counsel for the respondent No.1 that Ex.P30 was the proceedings book maintained by the Returning Officer. PW.3 is the witness at whose instance, Ex.P44 was marked but it was objected on the ground that the same was not a certified copy. Likewise, the photograph at Ex.P45 was marked subject to objection as the witness was not the author of the said document. When PW.3 had received the photograph at Ex.P45 on his mobile and he had marked the said photograph along with the prescribed certificate, the objection to mark the said document on the ground that he was not the author of the document is without any basis. In the cross-examination of this witness, nothing is elicited to disbelieve the certificate. Hence, issue No.13 is held against the respondent No.1 and in favour of the petitioner.

ISSUE NO.14:

37. As regards Issue No.14, this issue is framed in view of the contention of the respondent No.1 that the petitioner has failed to plead which provision of

Section 100 of the Act, 1951 is violated and the grounds urged in the election petition do not constitute any violation of any provision contained in Section 100 of the Act, 1951. In view of the findings recorded on issue Nos.2 and 3, this Court is of the opinion that the petitioner was entitled to file an election petition on the ground that there was an improper rejection of the postal ballots which is a ground available to the petitioner under Section 100(1)(d)(iii) of the Act, 1951.

ISSUE NOS.15 AND 17:

38. In view of the answers to Issue Nos.1 to 4, though the declaration of the result of the elections of the respondent No.1 can be declared as void but yet in view of the admission of PW.1 that the postal ballots were counted in the presence of his election agents, it is not proper to hold that the election of the respondent No.1 is void and instead it is appropriate to direct a re-verification of the rejected 279 postal ballots and recounting of all the postal ballots. Hence, issue Nos.15 and 17 are answered accordingly.

ISSUE NO.16:

39. In view of the answers to issue Nos.5 to 11, this issue is held against the petitioner and it is held that the election of the respondent No.1 cannot be declared as void in view of the corrupt practices alleged by the petitioner.

ISSUE NO.18:

40. The petitioner has established that 279 postal ballots were improperly rejected as no endorsements were made by the Returning Officer indicating the reason for rejection. The election agent of the petitioner had also expressed doubts about the manner of counting the postal ballots. The Returning Officer who was examined as PW.2 admitted various lapses which are extracted while answering

Issue Nos.2 and 3. Consequently, the petitioner is entitled for the alternative relief of re-counting of postal ballots of senior citizens who are 80+ years old and persons with disabilities and the Returning Officer issue a fresh declaration if there is any change in the number of votes secured by the petitioner / respondent No.1. It is made clear that if there is no change in the number of votes secured, the earlier declaration issued by the Returning Officer shall remain.

For the aforesaid reasons, the following:

ORDER

- (i) The Election Petition is ***allowed in part.***
- (ii) The Returning Officer is directed to re-verify 279 postal ballots that were rejected. While reverifying the 279 rejected postal ballots, he shall strictly comply with guideline 15.14.7 of the Hand Book for Returning Officer, 2023 and also ascertain whether the rejected postal ballots suffered from any substantial defect. After re-verification as stated above, if any rejected votes do not suffer from any substantial defect, they shall be included in recounting and the Returning Officer shall recount all the postal ballots and issue a fresh declaration only if there is any change in the number of votes secured by the petitioner or respondent No.1.
- (iii) This shall be complied within a period of two weeks from the date of receipt of a copy of this Order.

(iv) I.A. No.4/2024, which is filed by the petitioner for securing the postal ballots boxes, does not survive for consideration and the same is disposed off.

(iv) Registry is directed to forward a copy of this order to the following forthwith through speed post as well as email:

- (a) Secretary, Election Commission of India, Nirvachan Sadan, Ashoka Road, New Delhi-110001.
- (b) Chief Electoral Officer, Government of Karnataka, Nirvachana Nilaya, Maharani's College Circle, Sheshadri Road, Bengaluru-560 001.
- (c) The District Election Officer, Chikkamagaluru District, Chikkamagalur.
- (d) The Returning Officer, Sringeri, 123 Assembly Constituency, Chikkamagaluru District.

**Sd/-
(R. NATARAJ)
JUDGE**

ANNEXURE**LIST OF WITNESSES EXAMINED ON BEHALF OF THE PETITIONER**

1	PW.1 : SRI D.N.JEEVARAJA
2	PW.2 : SRI VEDAMURTHY
3	PW.3 : SRI H.K. DINESH

LIST OF DOCUMENTS MARKED ON BEHALF OF THE PETITIONER

Ex-P1	Copy of final result sheet in Form No.20 in Sringeri Assembly Constituency.
Ex-P1(a)	Signature of PW 2 Sri. Vedamurthy, Returning Officer which is in Form No.20.
Ex-P2	Copy of declaration of result of returning candidate in Form No. 21C
Ex-P3	Copy of return of Election in Form No.21E
Ex-P4	Copy of handbook for candidates issued by Election Commission of India.
Ex-P4(a)	Para No.3.10 of Chapter 11 of copy of the Hand Book for candidate.
Ex-P4(b)	Relevant guidelines of Chapter 11 of copy of the hand book for candidate.
Ex-P4(c)	Chapter 16 of the copy of Hand book for candidates.
Ex-P4(d)	Relevant Portion at guideline No.21 to Chapter 16 of copy of Hand book of candidate.
Ex-P4(e)	Guideline No.21.1 of the Chapter 16 of copy of Hand book for candidate.
Ex-P5	Copy of acknowledgment dated 13.05.2023 of the application in Kannada given by the petitioner agent to the Returning Officer.
Ex-P5(a)	Typed copy of Ex-P5.

Ex-P5(b)	Translated copy of Ex-P5.
Ex-P6	Original acknowledgment of objection raised by the petitioner agent before Returning Officer.
Ex-P7	Endorsement dated 13.05.2023 issued by Returning Officer.
Ex-P7(a)	Translated copy of Ex-P7.
Ex-P8	Original Certificate of security deposit produced while filing this Election petition.

Ex-P9	Certified copy of affidavit of the respondent No.1 for the year 2013.
Ex-P9(a)	English version of Ex-P9.
Ex-P10	Certified copy of affidavit of the respondent No.1 in respect of election held in 2018.
Ex-P10(a)	English version of Ex-P10.
Ex-P11	Affidavit filed by Respondent No.1 to the Hon'ble Lokayukta during the year 2019-2020.
Ex-P11(a)	Covering Letter of Ex-P11.
Ex-P11(b)	Typed copy of Ex-P11.
Ex-P12	List of property submitted by Respondent No.1 to Hon'ble Lokayukta.
Ex-P12(a)	Covering Letter of Ex-P12.
Ex-P13	Declaration filed by Respondent No.1 to Hon'ble Lokayukta in respect of assets & liabilities for the year 2020-2021.
Ex-P13(a)	Covering Letter of Ex-P13
Ex-P14	Declaration is filed by Respondent No.1 to Hon'ble Lokayukta with regard to assets & liabilities for the year 2021-2022.
Ex-P14(a)	Covering Letter of Ex-P14
Ex-P15	Affidavit filed by Respondent No.1 during the election held in the year 2023 Sringeri Assembly Constituency.
Ex-P16	English version of Ex-P15.

Ex-P17	Encumbrance certificate in respect of properties held by R1 & his family members.
Ex-P17(a)	English version of Ex-P17.
Ex-P18	Declaration filed by the R1 for having deposited title deeds of shaban Ramzan Estate.
Ex-P19	Copy of the title deed deposited in respect of supplementary memorandum submitted to the Bank.
Ex-P19(a)	Copy of GPA submitted by R1 to the bank along with supplementary memorandum of deposit of title deeds.
Ex-P20	Copy of deed of admission & retirement & reconstitution of the firm where respondent No.1's wife and son are the partners.
Ex-P20(a)	A copy of acknowledgment receipt of the documents by registrar of to firm.
Ex-P20(b)	Copy of Form-V notice of reconstitution of firm.
Ex-P21	Copy of deed discharge issued by standard Chartered Bank.
Ex-P21(a)	Typed Version of Ex-P21
Ex-P22	Copy of release deed issued by Bank of Baroda in favour of Wife of R1.
Ex-P23	Copy of deed of release issued by Karnataka Bank in favour of Shaban Ramzan firm of wife of respondent No.1
Ex-P24	Copy of the memorandum of deposit of title deeds executed in favour of Canara Bank by the firm represented by Wife of Respondent No.1 & Children.
Ex-P25	Copy of GPA executed by son of Respondent No.1 in favour of Wife of Respondent No.1.
Ex-P26	Copy of memorandum of deposit of title deeds by the family of Respondent No.1 executed in favour of Canara Bank Chikkamagaluru.
Ex-P27	Copy of the deed of admission retirement and reconstitution of firm M/s. Shaban Ramzan firm in which

	wife of respondent No.1 was inducted as partner.
Ex-P27(a)	Copy of Form-VI submitted to registrar of firms.
Ex-P27(b)	Copy of Form-B memorandum of acknowledgment of documents received.
Ex-P27(c)	Copy of letter issued by the RTC officer for having supplied copies of documents.
Ex-P28	Certified copy of FIR registered against followers of respondent No.1 for violation of model code of conduct.
Ex-P29	Certified copy of judgment in O.S No.6098/2013 & obtained injunction against making any defamatory statement against petitioner.
Ex-P30	Register of proceedings of counting process of Election to 123 Sringeri Assembly Constituency-2023.
Ex-P30(a)	Page No.13 of Register of proceedings pertaining to the postal ballots.
Ex-P30(b)	Inserted the entries at page No.13 of Register of proceedings.
Ex-P30(c)	Page No.18 of Register of proceedings is pertaining to military ballot papers which were received through online.
Ex-P30(d)	Page Nos.58 to 63 of Register of proceedings pertaining to postal ballots (all three categories).
Ex-P30(e)	Page No.64 of Register of proceedings mentioned that EVM poll counting.
Ex-P30(f)	Page Nos.65-67 of Register of proceedings pertaining to rejection of request made by the petitioner agent for recounting by the Returning Officer & that the same are mentioned in Register of proceedings.
Ex-P30(g)	The relevant portion at page No.67 of Register of

	proceedings pertaining to declaration of election.
Ex-P31	Original copy of application given by petitioner agent to the Returning officer in Kannada language.
Ex-P32	Original copy of application given by petitioner agent to the Returning officer in English language.

Ex-P33	Original copy of endorsement dated 13.5.2023 issued by the Returning officer to the election agent for having rejected the request Mr. Vedamurthy.
Ex-P33(a)	Signature of PW.2, which is in the copy of endorsement dated 13.5.2023 issued by Returning Officer to the election agent.
Ex-P34	Original copy of complaint dated 15.04.2023 submitted to the Returning Officer by the President of BJP Sri B.S. Satish.
Ex-P34(a)	Signature of the PW-2 (Returning Officer) for having received the complaint dated 15.04.2023.
Ex-P34(b)	Copy of pamphlet.
Ex-P34(c)	Copy of pamphlet.
Ex-P35	Original copy of endorsement dated 15.04.2023 issued by Returning officer to Executive Officer, Koppa.
Ex-P35(a)	Signature of PW-2 which is in endorsement dated 15.04.2023 issued by Returning Officer to Executive Officer, Koppa.
Ex-P36	Original copy of complaint dated 3.5.2023 submitted to the Returning officer by the President of B.J.P. N.R. Pura Sri. Arun Kumar H. M.
Ex-P36(a)	Signature of PW2 for having received complaint dated 3.5.2023
Ex-P36(b)	Enclosure annexed to the complaint dated 3.5.2023.
Ex-P37	Original copy of letter dated 3.5.2023 forwarded to the Deputy Superintendent of Police, Koppa Taluk by the Returning Officer.
Ex-P37(a)	Signature of PW2 which is in letter dated 3.5.2023 forwarded to the Deputy Superintendent of Police, Koppa Taluk by the Returning Officer.
Ex-P38	Original copy of letter dated 4.5.2023 forwarded to the Dy. SP Koppa Taluk by the Returning Officer.
Ex-P38(a)	Signature of PW.2 which is in letter forwarded to the Dy. SP Koppa Taluk by the Returning Officer.

Ex-P39	Original copy of the Complaint dated 3.5.2023 addressed to the Returning Officer by Mr. T.S. Umesh President of BJP, Sringeri.
Ex-P39(a)	Signature of PW.2 (Returning Officer) for having received complaint dated 3.5.2023.
Ex-P39(b)	Copy of whatsapp message in respect of defamatory materials against the petitioner, annexed to the complaint dated 3.5.2023
Ex-P40	Original copy of another letter dated 13.5.2023 sent by the Returning officer to the Dy. SP Koppa referring to all previous complaints.
Ex-P40(a)	Signature of PW2 (Returning Officer) which is in letter dated 13.5.2023 sent by the Returning Officer
Ex-P41	Original copy of letter dated 13.5.2023 submitted by Mr. Ramaswamy Election agent of petitioner to the Returning Officer to take action against the polling officer.
Ex-P42	Original copy of letter dated 13.5.2023, by Returning officer issuing notice to one Mr. Venkatesh B.R., Polling Officer for furnishing explanation.
Ex-P43	Original copy of complaint dated 13.5.2023 addressed

	to the Returning Officer alleging election malpractice, submitted by Mr. S.N. Ramaswamy, Election agent of petitioner.
Ex-P43(a)	Signature of PW2 (Returning Officer) for having received complaint dated 13.5.2023 submitted by Mr.S.N. Ramaswamy Election agent of petitioner.
Ex-P44	Copy of complaint dated 30.11.2022 given by PW.3 Sri H.K. Dinesh to the Hon'ble Lokayuktha as against respondent No.1 Sri T.D. Rajegowda.
Ex-P45	Photo received by PW3 Sri H.K. Dinesh in his Mobile Phone.
Ex-P45(a)	Photo received by PW3 Sri H.K. Dinesh in his Mobile Phone.
Ex-P45(b)	Photo received by PW3 Sri H.K. Dinesh in his Mobile Phone.

Ex-P45(c)	Photo received by PW3 Sri H.K. Dinesh in his Mobile Phone.
Ex-P45(d)	Photo received by PW3 Sri H.K. Dinesh in his Mobile Phone.
Ex-P45(e)	Photo received by PW3 Sri H.K. Dinesh in his Mobile Phone.
Ex-P45(f)	Photo received by PW3 Sri H.K. Dinesh in his Mobile Phone.
Ex-P45(g)	Photo received by PW3 Sri H.K. Dinesh in his Mobile Phone.
Ex-P45(h)	Photo received by PW3 Sri H.K. Dinesh in his Mobile Phone.
Ex-P45(i)	Photo received by PW3 Sri H.K. Dinesh in his Mobile

	Phone.
Ex-P45(j)	Photo received by PW3 Sri H.K. Dinesh in his Mobile Phone.
Ex-P45(k)	Photo received by PW3 Sri H.K. Dinesh in his Mobile Phone.
Ex-P45(l)	Photo received by PW3 Sri H.K. Dinesh in his Mobile Phone.
Ex-P45(m)	Photo received by PW3 Sri H.K. Dinesh in his Mobile Phone.
Ex-P45(n)	Photo received by PW3 Sri H.K. Dinesh in his Mobile Phone.
Ex-P45(o)	Photo received by PW3 Sri H.K. Dinesh in his Mobile Phone.
Ex-P45(p)	Photo received by PW3 Sri H.K. Dinesh in his Mobile Phone.
Ex-P45(q)	Photo received by PW3 Sri H.K. Dinesh in his Mobile Phone.
Ex-P45(r)	Photo received by PW3 Sri H.K. Dinesh in his Mobile Phone.
Ex-P45(s)	Photo received by PW3 Sri H.K. Dinesh in his Mobile Phone.

Ex-P45(t)	Photo received by PW3 Sri H.K. Dinesh in his Mobile Phone.
Ex-P45(u)	Photo received by PW3 Sri H.K. Dinesh in his Mobile Phone.
Ex-P45(v)	Photo received by PW3 Sri H.K. Dinesh in his Mobile Phone.
Ex-P45(w)	Photo received by PW3 Sri H.K. Dinesh in his Mobile Phone.
Ex-P45(x)	Photo received by PW3 Sri H.K. Dinesh in his Mobile Phone.
Ex-P46	All translation copies of Ex-P45, Ex-P45(a) to Ex-P45(x).
Ex-P47	Copy of transcript of the 1 st video which is in pen drive.
Ex-P47(a)	Copy of transcript of the 2 nd video which is in pen drive.
Ex-P47(b)	Copy of transcript of the 3 rd video which is in pen drive.
Ex-P47(c)	Copy of transcript of the 4 th video which is in pen drive.
Ex-P47(d)	Copy of transcript of the 5 th video which is in pen drive.
Ex-P47(e)	Copy of transcript of the 6 th video which is in pen drive.
Ex-P47(f)	Copy of transcript of the 7 th video which is in pen drive.
Ex-P48	Certificate under section 65 B of Indian Evidence Act.
Ex-P48(a)	Signature of PW3 Sri H.K. Dinesh which is in certificate v/s 65 B of Indian Evidence Act.
Ex-P49	Complaint lodged by PW3-H.K. Dinesh before Lokayuktha Police dated 30.11.2022.
Ex-P49(a)	Signature of PW3-H.K. Dinesh affixed to the complaint.
Ex-P50	Copy of Form No.1 (Complaint) given by PW3-H.K. Dinesh before Lokayuktha Police dated 30.11.2022.
Ex-50(a)	Signature of PW3-H.K.Dinesh on Form No.1 (Compliant) dated 30.11.2022.
Ex.P51	Endorsement issued by Public Information Officer and Deputy Superintendent of Police, Lokayukta Police, Chikkamagaluru dated 19.02.2025.

**LIST OF OBJECTS MARKED : M.O. NO.1 WITNESS EXAMINED ON
BEHALF OF THE RESPONDENT NO.1 :**

NIL

DOCUMENTS MARKED ON BEHALF OF THE RESPONDENT NO.1:

Ex.D1	Memo for permission to appear through Video conference filed by Advocate for petitioner
Ex.D1(a)	Signature of petitioner (PW-1) Sri. D.N. Jeevaraja which is in memo for permission filed by petitioner to appear through Video conference
Ex.D2	Affidavit of Form No.25 (Rule 94-A) filed by Advocate for petitioner
Ex.D2(a)	Signature of petitioner (PW-1) Sri. D.N. Jeevaraja which is in the affidavit of Form No.25

**Sd/-
(R. NATARAJ)
JUDGE**

By Order

**(PAWAN DIWAN)
SECRETARY
ELECTION COMMISSION OF INDIA**

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