2026 INSC 643

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

WRIT PETITION(S)(CIVIL) NO(S). 766/2026

MEENAKSHI NATARAJAN **PETITIONER(S)**

VERSUS

ELECTION COMMISSION OF INDIA & ANR. **RESPONDENT(S)**

O R D E R

1. The petitioner would call in question the order passed by the Returning Officer on 09.06.2026, rejecting her nomination for a Rajya Sabha seat in the biennial election for the Rajya Sabha seats of the State of Madhya Pradesh.

2. The petitioner being a candidate belonging to Indian National Congress submitted her nomination; however, the same has been rejected by the impugned order on the ground that the nomination paper filed by the petitioner *Smt. Meenakshi Natarajan* as a candidate in the Madhya Pradesh Rajya Sabha election, in the Form-26 Affidavit, she did not disclose the pendency of a criminal case against her, thereby suppressing material information by filing an incomplete affidavit. It is also mentioned that the Court has taken cognizance of the criminal complaint filed against the petitioner and summons have also been issued to her to appear before the Court and that the petitioner has also filed her statement before the

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said Magisterial Court, therefore, she has full knowledge about pendency of the case.

3. According to the petitioner, after the impugned order was passed by the Returning Officer, the petitioner approached the Election Commission of India; however, no orders have been passed by the Election Commission despite filing a written representation and arguing-in-person as well, before the Election Commission on 10.06.2026.

4. Dr. Abhishek Manu Singhvi, learned Senior Counsel, appearing for the petitioner would submit, at the outset, that the bar under Article 329(b) of the Constitution of India is not attracted, for the reason that the petitioner desires completion of the election process in a fair and transparent manner; and preferring this writ petition has no purpose or motive to thwart the election process. It is also submitted, referring to Section 33A of the Representation of the People Act, 1951[1] that what is required under the Statute is of disclosure of any case where a candidate is accused of an offence punishable with imprisonment for two years or more in a pending case, in which a charge has been framed by a Court of competent jurisdiction. Since, in the case pending against the petitioner, cognizance is yet to be taken and charges are yet to be framed, there is no such violation of the provisions contained in Section 33A of the 1951 Act and as such rejection of nomination is *ex facie* illegal and manifestly arbitrary. It

[1] **For short, "the 1951 Act"**

is also submitted, referring to the law laid down in *Mohinder Singh Gill & Anr. vs The Chief Election Commissioner, New Delhi & Ors.*[2]*; Election Commission of India Through Secretary vs. Ashok Kumar & Ors.*[3]*; and Manda Jaganath vs. K.S. Rathnam & Ors.*[4] that the Constitution does not contemplate a complete bar for entertaining an election related dispute, when the relief claimed in the petition is not for obstructing the process of election but for its smooth completion in the manner known to law under the 1951 Act.

5. *Per contra,* Shri Mukul Rohatgi, learned Senior Counsel, representing the private respondents and Shri Dama Seshadri Naidu, learned Senior Counsel, representing the Election Commission of India and Shri Tushar Mehta, learned Solicitor General, appearing for the Intervenor - State of Madhya Pradesh, would vehemently oppose, not only the prayer made in the writ petition but its very maintainability. According to them, the right to contest election being a statutory right, a petition under Article 32 of the Constitution of India which is invokable only when fundamental right of a citizen is infringed, is not maintainable. It is also submitted that the law is well-settled, in catena of decisions starting from *N.P. Ponnuswami vs. Returning Officer, Namakkal Constituency and Ors.*[5] *("Ponnuswami")* followed without any dilution till date,

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[2] (1978) 1 SCC 405
[3] (2000) 8 SCC 216
[4] (2004) 7 SCC 492
[5] (1952) 1 SCC 94

that when nomination paper of a candidate who is a proposed candidate in an Assembly election or a Parliamentary election is rejected on whatsoever ground, the only remedy for the candidate is to file an election petition, and the High Court under Article 226 of the Constitution of India or the Supreme Court under Article 32 of the Constitution of India has no jurisdiction to entertain any such dispute.

6. To appreciate the rival submissions *vis-à-vis* the maintainability of this writ petition under Article 32 of the Constitution of India, it would be apt to reproduce the provisions contained in Article 329 of the Constitution of India and Section 33A of the 1951 Act. The same are reproduced hereunder for ready reference:

> **Article 329 of the Constitution of India**
>
> **329. Bar to interference by courts in electoral matters.— Notwithstanding anything in this Constitution**
>
> **(a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 327 or article 328, shall not be called in question in any court;**
>
> **(b) no election to either House of Parliament or to the House or either House of the Legislature of a State shall be called in question except by an election petition presented to such authority and in such manner as may be provided for by or under any law made by the appropriate Legislature.**
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> *******
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> **Section 33A of the 1951 Act**
>
> **33A. Right to information.—(1) A candidate shall, apart from any information which he is required to furnish, under this Act or the rules made thereunder, in his nomination paper delivered under sub-section (1) of section 33, also furnish the information as to whether—**
>
> **(i) he is accused of any offence punishable with imprisonment for two years or more in a pending case**

in which a charge has been framed by the court of competent jurisdiction;

(ii) he has been convicted of an offence other than any offence referred to in sub-section (1) or sub-section (2), or covered in sub-section (3), of section 8 and sentenced to imprisonment for one year or more.

(2) The candidate or his proposer, as the case may be, shall, at the time of delivering to the returning officer the nomination paper under sub-section (1) of section 33, also deliver to him an affidavit sworn by the candidate in a prescribed form verifying the information specified in sub-section (1).

(3) The returning officer shall, as soon as may be after the furnishing of information to him under sub-section (1), display the aforesaid information by affixing a copy of the affidavit, delivered under sub-section (2), at a conspicuous place at his office for the information of the electors relating to a constituency for which the nomination paper is delivered."

7. The requirement of submitting an affidavit is provided under Rule 4A of the Conduct of Election Rules, 1961. Rule 4A provides that the candidate or his proposer, as the case may be, shall, at the time of delivering to the returning officer the nomination paper under sub-section (1) of Section 33 of the Act also deliver to him an affidavit, sworn by the candidate before a Magistrate of the first class or a Notary in Form 26. Form 26 contains different nature of information which a candidate is required to disclose or reveal in his affidavit. Clause (5) of Form 26 provides for the following information to be submitted by a candidate at the time of filing his nomination/affidavit:

"FORM 26

.....

(5) Pending criminal cases.—
(i) I declare that there is no pending criminal case against

me.
(Tick this alternative, if there is no criminal case pending against the Candidate and write NOT APPLICABLE against alternative (ii) below)

OR

(ii) The following criminal cases are pending against me:
(*If there are pending criminal cases against the candidate, then tick this alternative and score off alternative (i) above, and give details of all pending cases in the Table below*)

TABLE

(a) FIR No. with name and address of Police station concerned			
(b) Case No. with Name of the Court			
(c) Sections of concerned Acts/Codes involved (*give no. of the section, e.g. Section .....of IPC, etc.*).			
(d) Brief description of offence			
(e) Whether charges have been framed (*mention* YES or NO)			
(f) If answer against item (e) above is YES, then give the date on which charges were framed			
(g) Whether any Appeal/Application for revision has been filed against the proceedings (*Mention YES or NO)"*			

8. According to learned counsel representing the respondents, the petitioner was required to disclose information about all the pending criminal cases, at whatever stages they are pending before any court. It is not that only such cases will be disclosed wherein cognizance has been taken or charges have been framed. It is submitted that any violation of the 1961 Rules by non-disclosure which is otherwise warranted under Clause (5) of Form 26, would entail rejection of the nomination and the returning officer has not committed any error of law.

9. In the matter of *Ponnuswami (supra)*, this Court has held thus:

> **"8. In construing this article, reference was made by**

both the parties in the course of their arguments to the other articles in the same Part, namely, Articles 324, 325, 326, 327 and 328. Article 324 provides for the constitution and appointment of an Election Commissioner to superintend, direct and control elections to the legislatures; Article 325 prohibits discrimination against electors on the ground of religion, race, caste or sex; Article 326 provides for adult suffrage; Article 327 empowers Parliament to pass laws making provision with respect to all matters relating to, or in connection with, elections to the legislatures, subject to the provisions of the Constitution; and Article 328 is a complementary article giving power to the State Legislature to make provision with respect to all matters relating to, or in connection with, elections to the State Legislature. A notable difference in the language used in Articles 327 and 328 on the one hand, and Article 329 on the other, is that while the first two articles begin with the words "subject to the provisions of this Constitution", the last article begins with the words "notwithstanding anything in this Constitution". It was conceded at the Bar that the effect of this difference in language is that whereas any law made by Parliament under Article 327, or by the State Legislatures under Article 328, cannot exclude the jurisdiction of the High Court under Article 226 of the Constitution, that jurisdiction is excluded in regard to matters provided for in Article 329.

9. Now, the main controversy in this appeal centres round the meaning of the words "no election shall be called in question except by an election petition" in Article 329(*b*), and the point to be decided is whether questioning the action of the Returning Officer in rejecting a nomination paper can be said to be comprehended within the words, "no election shall be called in question". The appellant's case is that questioning something which has happened before a candidate is declared elected is not the same thing as questioning an election, and the arguments advanced on his behalf in support of this construction were these:

(*1*) That the word "election" as used in Article 329(*b*) means what it normally and etymologically means, namely, the result of polling or the final selection of a candidate;

(*2*) That the fact that an election petition can be filed only after polling is over or after a candidate is declared elected, and what is normally called in question by such petition is the final result, bears out the contention that the word "election" can have no other meaning in Article 329(*b*) than the result of polling or the final selection of a candidate;

(*3*) That the words "arising out of or in connection with" which are used in Article 324(1) and the words "with respect to all matters relating to, or in

connection with" which are used in Articles 327 and 328, show that the Framers of the Constitution knew that it was necessary to use different language when referring respectively to matters which happen prior to and after the result of polling, and if they had intended to include the rejection of a nomination paper within the ambit of the prohibition contained in Article 329(*b*) they would have used similar language in that article; and

(*4*) That the action of the Returning Officer in rejecting a nomination paper can be questioned before the High Court under Article 226 of the Constitution for the following reason : Scrutiny of nomination papers and their rejection are provided for in Section 36 of the Representation of the People Act, 1951. Parliament has made this provision in exercise of the powers conferred on it by Article 327 of the Constitution which is "subject to the provisions of the Constitution". Therefore, the action of the Returning Officer is subject to the extraordinary jurisdiction of the High Court under Article 226.

These arguments appear at first sight to be quite impressive, but in my opinion there are weightier and basically more important arguments in support of the view taken by the High Court.

10. As we have seen the most important question for determination is the meaning to be given to the word "election" in Article 329(*b*). That word has by long usage in connection with the process of selection of proper representatives in democratic institutions, acquired both a wide and a narrow meaning. In the narrow sense, it is used to mean the final selection of a candidate which may embrace the result of the poll when there is polling or a particular candidate being returned unopposed when there is no poll. In the wide sense, the word is used to connote the entire process culminating in a candidate being declared elected.

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12. It seems to me that the word "election" has been used in Part XV of the Constitution in the wide sense, that is to say, to connote the entire procedure to be gone through to return a candidate to the legislature. The use of the expression "conduct of elections" in Article 324 specifically points to the wide meaning, and that meaning can also be read consistently into the other provisions which occur in Part XV including Article 329(*b*). That the word "election" bears this wide meaning whenever we talk of elections in a democratic country, is borne out by the fact that in most of the books on the subject and in several cases dealing with

the matter, one of the questions mooted is, when the election begins.

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14. The next important question to be considered is what is meant by the words "no election shall be called in question". A reference to any treatise on elections in England will show that an election proceeding in that country is liable to be assailed on very limited grounds, one of them being the improper rejection of a nomination paper. The law with which we are concerned is not materially different, and we find that in Section 100 of the Representation of the People Act, 1951, one of the grounds for declaring an election to be void is the improper rejection of a nomination paper.

15. The question now arises whether the law of elections in this country contemplates that there should be two attacks on matters connected with election proceedings, one while they are going on by invoking the extraordinary jurisdiction of the High Court under Article 226 of the Constitution (the ordinary jurisdiction of the courts having been expressly excluded), and another after they have been completed by means of an election petition. In my opinion, to affirm such a position would be contrary to the scheme of Part XV of the Constitution and the Representation of the People Act, which, as I shall point out later, seems to be that any matter which has the effect of vitiating an election should be brought up only at the appropriate stage in an appropriate manner before a Special Tribunal and should not be brought up at an intermediate stage before any court. It seems to me that under the election law, the only significance which the rejection of a nomination paper has consists in the fact that it can be used as a ground to call the election in question. Article 329(*b*) was apparently enacted to prescribe the manner in which and the stage at which this ground and other grounds which may be raised under the law to call the election in question, could be urged. I think it follows by necessary implication from the language of this provision that those grounds cannot be urged in any other manner, at any other stage and before any other court. If the grounds on which an election can be called in question could be raised at an earlier stage and errors, if any, are rectified, there will be no meaning in enacting a provision like Article 329(*b*) and in setting up a Special Tribunal. Any other meaning ascribed to the words used in the article would lead to anomalies, which the Constitution could not have contemplated, one of them being that conflicting views may be expressed by the High Court at the pre-polling stage and by the Election Tribunal which is to be an

independent body, at the stage when the matter is brought up before it.

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17. The Representation of the People Act, 1951, which was passed by Parliament under Article 327 of the Constitution, makes detailed provisions in regard to all matters and all stages connected with elections to the various legislatures in this country. That Act is divided into 11 parts, and it is interesting to see the wide variety of subjects they deal with. Part II deals with "the qualifications and disqualifications for membership", Part III deals with the notification of General Elections, Part IV provides for the administrative machinery for the conduct of elections, and Part V makes provisions for the actual conduct of elections and deals with such matters as presentation of nomination papers, requirements of a valid nomination, scrutiny of nominations, etc., and procedure for polling and counting of votes. Part VI deals with disputes regarding elections and provides for the manner of presentation of election petitions, the constitution of Election Tribunals and the trial of election petitions. Part VII outlines the various corrupt and illegal practices which may affect the elections, and electoral offences. Obviously, the Act is a self-contained enactment so far as elections are concerned, which means that whenever we have to ascertain the true position in regard to any matter connected with elections, we have only to look at the Act and the Rules made thereunder.

18. The provisions of the Act which are material to the present discussion are Sections 80, 100, 105 and 170, and the provisions of Chapter II of Part IV dealing with the form of election petitions, their contents and the reliefs which may be sought in them. Section 80, which is drafted in almost the same language as Article 329(*b*), provides that "no election shall be called in question except by an election petition presented in accordance with the provisions of this Part". Section 100, as we have already seen, provides for the grounds on which an election may be called in question, one of which is the improper rejection of a nomination paper. Section 105 says that "every order of the Tribunal made under this Act shall be final and conclusive". Section 170 provides that:

> **"170. *Jurisdiction of civil courts barred.*—No civil court shall have jurisdiction to question the legality of any action taken or of any decision given by the Returning Officer or by any other person appointed under this Act in connection with an election."**

These are the main provisions regarding election matters being judicially dealt with, and it should be noted that there is no provision anywhere to the effect that anything connected with elections can be questioned at an intermediate stage.

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20. It was argued that since the Representation of the People Act was enacted subject to the provisions of the Constitution, it cannot bar the jurisdiction of the High Court to issue writs under Article 226 of the Constitution. This argument however is completely shut out by reading the Act along with Article 329(*b*). It will be noticed that the language used in that article and in Section 80 of the Act is almost identical, with this difference only that the article is preceded by the words "notwithstanding anything in this Constitution". I think that those words are quite apt to exclude the jurisdiction of the High Court to deal with any matter which may arise while the elections are in progress.

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22. It appears that similar language was used in the earlier statutes, and it is noteworthy that it has never been held in England that the improper rejection of a nomination paper can be the subject of a writ of certiorari or mandamus. On the other hand, it was conceded at the Bar that the question of improper rejection of a nomination paper has always been brought up in that country before the appropriate tribunal by means of an election petition after the conclusion of the election. It is true that there is no direct decision holding that the words used in the relevant provisions exclude the jurisdiction of the High Court to issue appropriate prerogative writs at an intermediate stage of the election, but the total absence of any such decision can be accounted for only on the view that the provisions in question have been generally understood to have that effect.

23. Our attention was drawn to Rule 13 of the Rules appended to the Ballot Act of 1872 and a similar rule in the Parliamentary Elections Rules of 1949, providing that the decision of the Returning Officer disallowing an objection to a nomination paper shall be final, but allowing the same shall be subject to reversal on a petition questioning the election or return. These Rules however do not affect the main argument. I think it can be legitimately stated that if words similar to those used in Article 329(*b*) have been consistently treated in England as words apt to exclude the jurisdiction of the courts including the High Court, the same consequence must follow from the words used in Article 329(*b*) of the Constitution. The words "notwithstanding anything in this Constitution" give to that article the same wide

and binding effect as a statute passed by a sovereign legislature like the English Parliament.

24. It may be pointed out that Article 329(*b*) must be read as complementary to clause (*a*) of that article. Clause (*a*) bars the jurisdiction of the courts with regard to such law as may be made under Articles 327 and 328 relating to the delimitation of constituencies or the allotment of seats to such constituencies. It was conceded before us that Article 329(*b*) ousts the jurisdiction of the courts with regard to matters arising between the commencement of the polling and the final selection. The question which has to be asked is what conceivable reason the legislature could have had to leave only matters connected with nominations subject to the jurisdiction of the High Court under Article 226 of the Constitution. If Part XV of the Constitution is a code by itself i.e. it creates rights and provides for their enforcement by a Special Tribunal to the exclusion of all courts including the High Court, there can be no reason for assuming that the Constitution left one small part of the election process to be made the subject-matter of contest before the High Courts and thereby upset the time schedule of the elections. The more reasonable view seems to be that Article 329 covers all "electoral matters".

25. The conclusions which I have arrived at may be summed up briefly as follows:

(*1*) Having regard to the important functions which the legislatures have to perform in democratic countries, it has always been recognised to be a matter of first importance that elections should be concluded as early as possible according to time schedule and all controversial matters and all disputes arising out of elections should be postponed till after the elections are over, so that the election proceedings may not be unduly retarded or protracted.

(*2*) In conformity with this principle, the scheme of the election law in this country as well as in England is that no significance should be attached to anything which does not affect the "election"; and if any irregularities are committed while it is in progress and they belong to the category or class which, under the law by which elections are governed, would have the effect of vitiating the "election" and enable the person affected to call it in question, they should be brought up before a Special Tribunal by means of an election petition and not be made the subject of a dispute before any court while the election is in progress.

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> **29. The points which emerge from this decision may be stated as follows:**
>
> **(*1*) The right to vote or stand as a candidate for election is not a civil right but is a creature of statute or special law and must be subject to the limitations imposed by it.**
>
> **(*2*) Strictly speaking, it is the sole right of the legislature to examine and determine all matters relating to the election of its own members, and if the legislature takes it out of its own hands and vests in a Special Tribunal an entirely new and unknown jurisdiction, that special jurisdiction should be exercised in accordance with the law which creates it."**

10. The principles laid down in *Ponnuswami* (supra) has been followed by this Court in all election related disputes and whenever an attempt is made to invoke this Court's or the High Court's writ jurisdiction to interject during the process of conduct of election, on every occasion, the Constitutional Court has rejected such an attempt keeping in view the principle contained in Article 329(b) of the Constitution of India.

11. In a recent judgment, this Court in the matter of *Poonam vs. Dule Singh & Ors.*[6], authored by one of us (Atul S. Chandurkar, J.), had an occasion to deal with a similar case concerning non-disclosure of previous conviction under Section 138 of the Negotiable Instruments Act, 1881, by a candidate contesting election for the post of Councillor in a *Nagar Parishad,* to eventually hold that under the applicable rule, every candidate contesting elections is required to furnish information as prescribed in the format under Rule 24-A(5) of

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the Madhya Pradesh Nagar Palika Nirvachan Niyam, 1994.

12. It is vehemently put forth by Dr. Abhishek Manu Singhvi that in a case of this nature where the illegality in rejection of nomination is glaring and manifest, this Court must step in to curb the injustice, otherwise the very sanctity of the election process would be affected. However, this argument cannot be accepted in view of the law laid down in *Ponnuswami* (supra). If this Court accepts such argument to find out such glaring cases, which are required to be interfered with under Articles 32 or 226 of the Constitution of India and the other set of cases in which the rejection is not so improper *prima facie* relegating them to avail the remedy of filing election petition, this Court would be reading some principle which is not provided for under Article 329 of the Constitution of India. We are afraid, any such interpretation, that in some cases this Court can entertain a petition wherein a candidate's nomination paper has been improperly rejected, while leaving some others to avail the remedy of filing an election petition before the election tribunal, should not be encouraged, being in direct conflict with the law laid down in *Ponnuswami* (supra).

13. In view of the above, we are not inclined to entertain this petition under Article 32 of the Constitution of India in view of express bar contained in Article 329(b) of the Constitution of India; therefore, the writ petition fails and is hereby dismissed.

14. Needless to say, any observation made herein concerning the basis of rejection of petitioner's nomination is only for the purpose of appreciating the facts of the case and nothing contained in this Order shall affect the election petition, should any such election petition is filed by the petitioner or any other person before the concerned High Court and the same shall be decided on its own merits, in accordance with law.

15. Pending application(s), if any, shall stand disposed of.

……J.
[PRASHANT KUMAR MISHRA]

……J.
[ATUL S. CHANDURKAR]

NEW DELHI;
June 12, 2026.