

1971 Present : H. N. G. Fernando, C.J., Sirimane, J., and
Samerawickrame, J.

S. ANANDAKUMARASWAMY, Appellant, and A. THIAGARAJAH,
Respondent

*Election Petition Appeal No. 4 of 1971—Electoral District No. 75
(Vaddukodai)*

*Parliamentary election—Election petition—Allegation of corrupt or illegal practice—
Requirement of full particulars in the petition itself—Ceylon (Parliamentary
Elections) Order in Council (Cap. 381), as amended by Act, No. 9 of 1970,
ss. 80 B (d), 80 C.*

Section 80 B (d) of the Ceylon (Parliamentary Elections) Order in Council,
as amended by Act No. 9 of 1970, requires "full particulars" of any alleged
corrupt or illegal practice to be stated in the petition itself. This requirement
is mandatory. The only exception is that which is provided in section 80 C.

ELECTION Petition Appeal No. 4 of 1971—Electoral District No. 75
(Vaddukodai).

*M. Tiruchelvam, Q.C., with H. L. de Silva, S. C. Crossette-Thambiah
and K. Sivanandan, for the petitioner-appellant.*

*O. Thiagalingam, Q.C., with S. Sharvananda, T. Sunderalingam and
P. Thuraiappah, for the respondent-respondent.*

September 9, 1971. H. N. G. FERNANDO, C.J.—

This appeal was dismissed after we had heard the submissions of Counsel for the appellant ; but it is desirable to set out our opinion on one aspect of the law relating to Election Petitions, which was referred to at the hearing.

The learned Election Judge held that the petitioner in this case had failed to set out in his petition (as required by s. 80B (d) of the Order in Council) " full particulars " of the alleged illegal practice charged in the petition, which was that the 1st respondent had made a false return of his Election expenses by omitting to include certain expenses in the return. The only " particulars " mentioned in the petition took the form of a statement that duplicates of 5 receipts for payment for printing allegedly issued to the 1st respondent had been seen among the books and records of a printing establishment. The petitioner did not state that these alleged payments had been made by the 1st respondent for the printing of any Election notices or pamphlets ; nor did he refer to any orders for printing issued by the 1st respondent or to any bills submitted to the latter by the printing establishment. Indeed, Counsel for the petitioner could not at the appeal seriously contend that " full particulars " of the alleged illegal practice had been furnished in the petition.

Prior to the amending Act No. 9 of 1970, Rule 5 of the Election Petition Rules provided for the filing of particulars upon an order made in that behalf by an Election Judge. But thereafter, s. 80B requires " full particulars " of any alleged corrupt or illegal practice to be stated in the petition itself. Parliament has thus imposed a clear requirement that a petition must contain all the particulars necessary to inform the respondent of the matters on which a petitioner relies when he alleges the commission of a corrupt or illegal practice.

In our opinion, this requirement is mandatory, and the failure of a petitioner to comply with it necessitates the dismissal of a petition. The only exception would be in a case where an Election Judge thinks fit, as provided in s. 80C (1), to allow a petitioner to furnish further particulars. The petitioner in the present case made no attempt to resort to that Section, and the question whether the Election Judge could properly have allowed relief to the petitioner under that Section did not therefore arise for consideration in this appeal.

SRIMANE, J.—I agree.

SAMEBAWICKRAME, J.—I agree.

Appeal dismissed.