

CAEP 03/2010 K. Thiruchchelvan Vs. Dayananda Dissanayake And 217 Others (1/CA) decided on 15.10.2014.

Election Petition- time limit of the Notice of the Petition. Application of the rule 14 in the 4th schedule of the Act No. 1/1981 – Application of the sections 97 1(b) and 98(d) of the Act to support allegations of the corrupt practice by an affidavit.

Sisisra De Abrew J.

Decided on three preliminary objections raised by the state;

1. Non service of the Notice under Rule 14 of the 4th Schedule of the Act 1/1981 within the stipulated time limit.
2. Failure to support allegations of corrupt practice of the third respondents by an affidavit section 98(d).
3. Failure to support allegations of corrupt practice of easily identifiable persons by an affidavit section 98(d) and failure to join such persons as the party respondents section 97(1)(b).

Petitioner contended that Notice had been delivered after the Petition being filed on 11.05.2010 and within time i.e. ten days from filing the petition. The journal entries neither depict so nor were any other proof produced by the petitioner to prove the same.

Allegation of corrupt practitioner has not been supported by the affidavit.

First Preliminary Objection

Held;

Journal entries do not depict that Notices had been tendered before 24.05.2010 and petitioner has not taken the benefit of the right to ask for receipt of proof under Rule 14 either- contention of the petitioner that tendering of notices that was within the time was rejected.

Compliance of Rule 14 is mandatory and failure was a 'fatal defect'. Followed **Nanayakkara Vs. Kiriella [1985] 2SLR 391**

Preliminary objection upheld.

Second Preliminary Objection

when Allegations of corrupt practice are set forth in the petition, date, place of the commission of such practice and a statement of names of such parties shall be included and shall be accompanied by an affidavit ins support of petitioner's

contention that it is not necessary was rejected and held that petitioner has not complied with the section 98(d).

Preliminary objection upheld.

Third preliminary objection

Not considered In view of the conclusion on first and second preliminary objections.

Petition dismissed.