

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/ELECTION PETITION NO. 6 of 2018****With****R/ELECTION APPLICATION NO. 4 of 2019**=====
KAMLESHKUMAR JAYANTIBHIA PATEL**Versus****SUB-DIVISIONAL MAGISTRATE, HIMATNAGAR CUM RETURNING
OFFICER & 11 other(s)**
=====

Appearance:

RAHUL SHARMA(8276) for the Petitioner(s) No. 1

for the Respondent(s) No. 11,8

DELETED for the Respondent(s) No. 1,2

JANAK S RAJPUROHIT(7881) for the Respondent(s) No. 3

NOTICE SERVED BY DS for the Respondent(s) No. 10,12,4,5,6,7,9
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CORAM:HONOURABLE MR. JUSTICE ILESH J. VORA**Date : 28/04/2023****COMMON ORAL ORDER****Order in Election Petition No.6 of 2018**

By way of present petition under Sections 80 and 81 read with Section 100 of the Representation of Peoples Act, 1951, the petitioner has prayed as under:

"A. Declare the letter, dated 16.12.2017, passed by the Sub-Divisional Magistrate and Returning Officer, 27 – Himmatnagar Legislative Assembly Constituency as void ab initio and non est in the eyes of law;

B. Declare para 5 of the Press Note, bearing No.ECI/PN/80/2017, dated 25.10.2017, issued by the Election Commission of India (Respondent No.2), providing for the verification of votes of only one EVM with the VVPAT per constituency, as void ab initio and non est in the eyes of law;

C. Declare the Press Note, bearing No.ECI/PN/90/2017, dated 08.12.2017, issued by the Election Commission of India (Respondent No.2), providing for the verification of votes of only

one EVM with the VVPAT per constituency, as void ab initio and non est in the eyes of law;

D. Set aside the election of Respondent No.3 (three) to the Gujarat Legislative Assembly at the elections held in December, 2017, results of which were declared on 18.12.2017 (Eighteenth December Two Thousand Seventeen);

E. Allow the petitioner to apply to Respondent No.1 for counting of votes polled through Voter Verifiable Paper Audit Trail (VVPAT) and further direct Respondent No.1 to take further action on the application as per Rule 56D of the Conduct of Election Rules, 1961, as well as the declaration of the returning candidate by considering the votes counted through the VVPATs;

F. Direct the Respondents to provide to the petitioner a copy of the log of the Control Units of the EVMs deployed at the 331 polling booths in 27 – Himmatnagar Legislative Assembly Constituency;

G. By way of interim relief, direct the Respondents to preserve all election-related records, including the printed slips from VVPATs and electronic records, till the disposal of this petition;”

During the pendency of the present petition, the election of Gujarat Legislative Assembly for Himmatnagar Constituency has concluded on 01.12.2022.

In view of the above development, present election petition would not survive and is accordingly disposed of. Notice of summons is discharged.

Order in Election Application No.4 of 2019

In view of disposal of Election Petition No.6 of 2018, present application would not survive and stands disposed of accordingly.

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(ILESH J. VORA,J)