

Serial No. 08
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

MC (EP) No. 16 of 2023 in
El. Pet. No. 6 of 2023

Date of Decision: 18.07.2023

Chief Electoral Officer & Anr. Vs. Shri K. Phlastingwell
Pangniang & Ors.

Coram:

Hon'ble Mr. Justice H. S. Thangkhiew, Judge

Appearance:

For the Petitioner(s)/Applicant(s) : Mr. Philemon Nongbri, Adv.

For the Respondent(s) : Mr. K. Paul, Sr. Adv. with
Mr. S. Thapa, Adv.

i) Whether approved for reporting in Law journals etc: Yes/No

ii) Whether approved for publication in press: Yes/No

JUDGMENT AND ORDER (ORAL)

1. This is an application under Section 151 of the CPC, for clarification that except for 1 (one) EVM used in the Polling Station No. 52 (with Ballot Unit Id: EBUEB69931, Control Unit Id: ECUEB04753

and VVPAT Id: EVTEA04101), the remaining 59 (fifty nine) numbers EVM-VVPAT being not the subject matter in the election petition be released from the strong room for further use and transportation by the applicants No. 1 and 2.

2. Mr. Philemon Nongbri, learned counsel for the applicants submits that as the only issue raised by the electioneer petitioner is with regard to the Mock Poll Data that had not been erased from the said EVM, there was no necessity for the other 59 (fifty nine) EVMs used in the Poll for the constituency to be retained, as they will not be needed for the purpose of evidence. He therefore, prays that appropriate orders be passed for release of the 59 (fifty-nine) EVMs, and this regard has also filed an additional affidavit detailing therein the manner of storage of the said EVMs.

3. Mr. K. Paul, learned Senior counsel assisted by Mr. S. Thapa, learned counsel appearing for the election petitioner (respondent/opposite party herein) has however, voiced objections and has drawn the attention of this Court to Clause 14.13 of the ***Manual on Electronic Voting Machine and VVPAT***, more particularly which deals with the Storage of VVPAT Paper Slips, and in the case where any election petition has been filed, the action has been prescribed at Clause 14.13 B. He submits that as stipulated by the manual that if the EVMs or

Counting of Votes are the subject of the election petition, the EVMs used at the Polling Stations in the constituency concerned should continue to be kept in the safe custody of the District Election Officer, till such time the election petition is finally disposed of by the Courts. He therefore, submits that as the stipulation does not allow the release of the EVMs as prayed, the Misc. Case has no merit.

4. Having heard the learned counsels for the parties and examined the application, as also Clause 14.13 B, it is clear that the stipulation as submitted is correct that the EVMs used at all the Polling Stations in a particular constituency should be kept in the safe custody till such time the election petition is finally disposed of.

5. In this view of the matter, this Misc. Case is rejected, and is disposed of accordingly.

JUDGE

Meghalaya
18.07.2023
"V. Lyndem-PS"