

psv

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.11450 OF 2017

Mr.Sunil Sudam Khatale-Patil

..Petitioner

Vs.

The Maharashtra State Election Commission
through the Election Commissioner & Ors.

..Respondents

Mr.V.P. Sawant with Ms.Tanaya Patankar i/b. Mr.P.M. Jadhav for
Petitioner.

Mr.S.B. Shetye for Respondent No.1.

Mr.Pradeep Rajagopal for Election Commission of India-
Respondent No.2.

Mr.Sandeep Babar, AGP for Respondent Nos.3, 4 & 5.

**CORAM : SHANTANU S. KEMKAR AND
G.S. KULKARNI, JJ.**

DATE : 27th NOVEMBER 2017

P.C.:

By filing this Writ Petition under Section 226 of the
Constitution of India, the petitioner is seeking following
directions:-

“That this Hon'ble Court be pleased to issue a writ of
mandamus or any other writ, order, or direction in the
nature of mandamus directing the Respondents to use
the Voter Verifiable Paper Audit Trail machines, along
with the EVM machine during the up coming elections to
the Igatpuri Municipal Council.”

2. On notice being issued, the respondent No.1 has filed reply.

3. On going through the reply more particularly paragraph nos.6 and 9 of the same, we are of the view that the directions as aforesaid cannot be granted in favour of the petitioner. Paragraphs 6 and 9 of the reply read thus:-

“6. I further humbly state that, 31 out of 37 VVPATs functioned smoothly while, VVPAT units on 6 polling booths could not function properly due to certain technical issues. The technical expert found that there were various errors in functioning of those 6 VVPAT units. ECIL is now further developing the said VVPAT model to remove the experienced technical issues.

9. In view of above I humbly submit the following,
- a) Multi-post VVPATs developed and tested by ECIL in Nanded Elections, requires some more development & modification. Therefore the 70 VVPATs used & tested by ECIL cannot be used for another elections till the technical issues found are removed and finally tested, to the satisfaction of Political Parties & SEC.
 - b) Since the counting of votes through EVM at 31 polling stations tallied completely with printed voter slip generated from VVPATs, it can be inferred that EVMs are totally tamper proof. Therefore, the decision to use VVPATs will have to be taken consciously.
 - c) If at all it is decided to use VVPATs in local body elections,
 - i. The State Government will have to provide huge initial capital investment & recurring expenditure and
 - ii. ECIL will have to manufacture and supply the multi-post VVPATs after modification and satisfaction of political parties and SEC.”

4. In the circumstances, we decline to interfere in the matter. However, it is open for the petitioner to raise any larger issue, if so

advised, by way of Public Interest Litigation in accordance with law.

5. The Writ Petition is disposed of.

[G.S. KULKARNI, J.]

[SHANTANU S. KEMKAR, J.]