

**HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
HON'BLE SRI JUSTICE S.V. BHATT**

WRIT PETITION No 44833 OF 2018

Order : (Per The Hon'ble The Chief Justice Sri Thottathil B. Radhakrishnan)

We have heard the learned counsel for the petitioner in this Writ Petition, which is instituted seeking a direction to the respondents to count the votes manually from the slips obtained from VVPATS (Voter verifiable Audit Trail) in addition to the electronic record of the ballot in Electronic Voting Machines to ensure the accuracy and transparency in the system for No. 42, Gajwel Assembly Constituency, Siddipet District, Telangana and consequently direct the respondents to count the votes manually from the slips obtained from VVPATs (Voter verifiable Audit Trail) in addition to the electronic record of the ballot in Electronic Voting Machines for No. 42, Gajwel Assembly Constituency, Siddipet District, Telangana.

2. The Standing Counsel for the 1st respondent-Election Commission of India and the 2nd respondent-Chief Electoral Officer has also been heard.

3. The reliefs sought for relate to counting of votes polled in the election to the State Legislative Assembly of the State of Telangana. The counting of votes is fixed for today and is stated to be going on. The result of the election may or may not generate litigation in relation to that. Counting of votes is itself a matter, which will then be within the domain of the Election Tribunal under the provisions of the Representation of the People Act, 1951 (hereinafter referred to as "the Act"). Whether there has to be a particular mode of counting and

whether votes have to be manually counted for the purpose of cross-checking the election, are all in the domain of the Election Tribunal. It will not be in the interest of justice for us to assume that certain things would or would not have happened.

4. Certainty of result is a must. Uncertainty in the procedure which might have led to any uncertainty in acceptance of the verdict on judicial scrutiny is itself a matter for the Election Tribunal to decide. We cannot pre-suppose such situation and issue writ, direction or orders by commanding that something shall be done in a particular manner, at this point of time, on this day and at this hour.

5. We leave open the issues raised by the petitioner for consideration by the Election Commission of India, if such matter is pending deliberations at that end, at least for the purpose of future guidance.

6. Leaving open all issues to be raised in appropriate jurisdiction under the Act, through duly constituted Election Petition in terms of that Act, this Writ Petition is dismissed.

7. As a sequel thereto, miscellaneous applications, if any, pending in the Writ Petition shall stand closed.

THOTTATHIL B. RADHAKRISHNAN, CJ

S.V. BHATT, J

11th December, 2018.

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