

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CIVIL APPLICATION (CAO) NO. 595 OF 2020
IN
ELECTION PETITION NO. 20 OF 2019

Ashish S/o Pundalik Dharmale

Vs.

The Election Commission of India & ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Shri C.V. Mahurkar, Advocate for the petitioner.

Ms. Neerja Chaubey, Advocate for the respondent No. 1.

Smt. K.S. Joshi, learned G.P. with A.G.P.Ms. Hemlata Jaipurkar, for the
respondent Nos. 3 and 4/State.

CORAM : S.M. MODAK, J.

DATE : 23rd AUGUST, 2021.

1. Heard Shri C.V. Mahurkar, Advocate for the petitioner and Smt. K.S. Joshi, learned A.G.P. for the respondents/State.

2. There is a prayer for releasing the EVMs and VVPATs for shifting them from present location to any other location suitable to suitable to respondent Nos. 1 to 4. Shri Mahurkar learned Advocate for the petitioner is not having any objection. These machines pertain to the election conducted for the State Legislative Assembly Election from 037-Badnera Constituency. If there is an election petition, these machines have to be kept in the safe custody. The ground taken for release is that there is no grievance about tampering of machines and petitioner is not asking for re-counting.

3. My attention is also invited to an order dated 23.10.2020 passed in Election Petition No. 18/2019. In that petition the election of respondent No.5 is also challenged by different petitioner.

4. This Court has granted permission to release the machines for their use in other election. The present application was also filed at that time. For some reason or other it was not decided. In view of that, the application is allowed and disposed of accordingly.

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5. Heard Shri C.V. Mahurkar, learned Advocate for the petitioner.

The election of returned candidate-respondent No.5 is challenged. The present petitioner has not contested that election. He does not say that he be declared as elected. The election is challenged on the ground of corrupt practices.

6. Smt. K.S. Joshi, learned A.G.P. waives notice for respondent Nos. 3 and 4 and Ms. Neerja Chaubey waives notice for respondent No.1. Copies be supplied to them. Hence, summons be issued to respondent Nos. 2 and 5. In addition to usual mode, the summons be served on respondent Nos. 2 and 5 by private mode.

Matter be kept on **23.09.2021.**

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7. There is a prayer for deletion of the name of respondent No.1. My attention is invited to provisions of Section 82 of the Representation of Peoples Act, 1951. Petitioner seeks time to file reply.

Matter be kept on **23.09.2021**.

JUDGE

C.L.Dhakate