

HARSHADA H. SAWANT  
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION

ELECTION PETITION NO.39 OF 2025

Rahul Tanaji Kalate .. Petitioner  
**Versus**  
Shankar S/o. Pandurang Jagtap and Ors. .. Respondents

WITH  
APPLICATION (L) NO.29702 OF 2025  
IN  
ELECTION PETITION NO.39 OF 2025

Shankar S/o. Pandurang Jagtap Applicant/  
.. Respondent No.1

WITH  
APPLICATION (L) NO.6885 OF 2026  
IN  
ELECTION PETITION NO.39 OF 2025

Rahul S/o. Tanaji Kalate Applicant/  
.. Petitioner

.....

- Ms. Shriya Awale, Advocate appearing through Video Conferencing i/by Mr. Asim Sarode for Petitioner.
- Mr. Manish Kelkar a/w. Mr. Saurabh Raut, Mr. Pratik Irpatgiri and. Ms. Gauri Phadake, Advocate for Respondent No.1 in Election Petition No.39 of 2025 and Applicant in Interim Application (Lodging) No.29702 of 2025.

.....

CORAM : MILIND N. JADHAV, J.  
DATE : JUNE 08, 2026

P.C.:

1. Heard Mr. Awale, learned Advocate for Petitioner appearing through Video Conferencing and Mr. Kelkar, learned Advocate for Respondent No.1 in Election Petition No.39 of 2025. None appear for

Respondent Nos. 2 to 4.

**2.** This Election Petition is filed by Petitioner who was one of the unsuccessful candidate in the General Election to the Legislative Assembly of Maharashtra – 2024 in Pune Chinchwad constituency (205). Respondent No.1 is the returned candidate who has been declared elected in said Election. Respondent No.2 is Chief Election Commissioner. Respondent No.3 is Chief Electoral Officer and Respondent No.4 is Collector / District Election Officer.

**3.** Respondent No.1 has filed Interim Application (Stamp) No.29702 of 2025 under Order VII Rule 11 of the Code of Civil Procedure, 1908 (for short '**CPC**') seeking dismissal of Election Petition.

**4.** Petitioner has filed Interim Application (Stamp) No.6885 of 2026 for withdrawal of Election Petition under Section 109 of the Representation of Peoples Act, 1951 (for short '**the said Act**').

**5.** Relief prayed for in the Election Petition is for setting aside and declaration of Election of Respondent No.1 as null and void. This is the principal relief. There is one more relief namely prayer clause (c) against Respondent Nos.2 to 4 to maintain all records of Election and subject it to disposal only with leave of the Court. In so far this relief is concerned, Respondent Nos.2 to 4 filed Interim Application (Stamp) No.22753 to 2025, *inter alia*, seeking withdrawal of the VVPAT machines used in the election which came to be allowed on

22.09.2025 by this Court. Hence this relief becomes redundant and infructuous.

**6.** Election Petition is filed on 06.01.2025. Application by Respondent No.1 under Order VII Rule 11 of the CPC and Election Petition No.39 of 2025 were listed on board for hearing on 03.11.2025 when directions for hearing Application under Order VII Rule 11 were passed by this Court. On that date following order was passed:-

*“1. Heard Mr. Kelkar, learned Advocate for Applicants.*

*2. Present Application under O. 7, R. 11 of the CPC is filed by Respondent No. 1 who is the returned candidate. If that be the case, then the present Application will have to be heard forthwith. Copy of the Application has been served on Petitioner. Mr. Sarode, learned Advocate appears for Petitioner which can be seen from the record. Today Mr. Sarode is not present. Mr. Kelkar informs the Court that he had received intimation from Mr. Sarode about his non-appearance today. Be that as it may, let the affidavit in reply be filed to the present Application within a period of two weeks from today. Rejoinder, if any, shall be filed within one week thereafter.*

*3. Stand over to **24th November, 2025.**”*

**7.** The matter was then posted on 24.11.2025. On 24.11.2025, matter was adjourned and posted on 27.11.2025 and on 27.11.2025, the matter got adjourned and posted on 02.12.2025. On 02.12.2025, matter was adjourned and posted on 09.12.2025. On 09.12.2025, matter was again adjourned and posted on 05.01.2026. The aforesaid five adjournments were at the behest and request of Petitioner made through his Advocate present before the Court.

**8.** On 05.01.2026, after hearing the learned Advocate for

Petitioner and Respondent No.1, following order was passed :-

*"1. Heard Ms. Awale, learned Advocate for Petitioner; Mr. Kelkar, learned Advocate for Respondent No.1 and for Applicant in Interim Application No.29702 of 2025.*

*2. Petitioner's Advocate informs the Court that she has received instructions to withdraw the Election Petition. In that view of the matter, appropriate Application be filed for seeking withdrawal of Election Petition No.39 of 2025. Petitioner is directed to issue public a notice of withdrawal of the Petition in the Government Gazette and in two newspapers i.e. one in vernacular language and one in English language, both having wide circulation in the constituency in question in accordance with the provisions of Section 109 of the Representation of People Act, 1951. The draft of the said notice be settled by the Registry of this Court.*

*3. In the event of any opposition forthcoming in response to the said notice published, the same will be heard on the next date fixed for withdrawal of the Petition.*

*4. The Registry shall take steps to issue appropriate notice as directed herein above.*

*5. Aforesaid compliance be carried out before the next date positively by the Petitioner.*

*6. Stand over to 05<sup>th</sup> February, 2026."*

**9.** Since Advocate for Petitioner had made oral statement for withdrawal of Election Petition, Petitioner was directed to comply with the provisions of Section 109 of the said Act. This Court directed that after the said compliance and in the event of any opposition thereto received in response to the notice published, the request for withdrawal will be considered in accordance with law.

**10.** Matter was thereafter posted on 05.02.2026. On 05.02.2026, learned Advocate for Petitioner sought time to comply with the directions contained in the order dated 05.01.2026 and matters were posted on 23.02.2026. On 23.02.2026, after hearing

learned Advocate for Petitioner and Respondent No.1, the following order was passed:-

- “1. Heard Mr. Sarode, learned Advocate for Petitioner through VC and Mr. Kelkar, learned Advocate for Respondent No. 1.*
- 2. Mr. Sarode would submit that Petitioner has complied with the directions contained in the order dated 05.01.2026 and has filed appropriate Application dated 23.02.2026 which is numbered as Application (L) No. 6885 of 2016. Said Application is not on board. Same is taken on board.*
- 3. Mr. Sarode would submit that since he is in personal difficulty, he is unable to remain present in Court. He would submit that the Application (L) No. 6885/2026 is filed seeking withdrawal of the Election Petition No. 39 of 2025 in the interest of justice and persuade the Court to pass further orders as may be deemed fit in the facts and circumstances of the present case in accordance with law.*
- 4. Chapter IV of the Representation of the People Act, 1950 (for short 'the said Act'), consists of Sections 108 to 116 which pertains to 'withdrawal and abatement of Election Petitions'. Section 109 of the said Act specifically pertains to withdrawal of Election Petitions and Sub-section (1) thereof provides that an Election Petition can be withdrawn only by leave of the High Court. Sub-section (2) requires notice of fixing a date for hearing such Application for withdrawal to be given to all other parties to the Petition and to be published in the Official Gazette. Section 110, inter alia, requires the High Court to ascertain that such an Application for withdrawal of the Election Petition has not been induced by any bargain or consideration, which ought not to be allowed. Section 111 of the said Act stipulates that report of such withdrawal should be made to the Election Commission, which in turn, shall publish the report in the Official Gazette.*
- 5. In view of the above after perusing the Application (L) No. 6885 of 2026, Petitioner is directed to issue Public Notice of withdrawal of Election Petition in the Government Gazette and two newspapers i.e one in vernacular language and one in English language, both having wide circulation in the Constituency in question in accordance with the provisions of Section 109 of the said Act. It is directed that draft of the said Notice shall be settled by the Registry of this Court.*
- 6. After effective compliance of the aforesaid directions and considering any opposition that may be forthcoming in response to the Public Notice which are published, Election Petition and Application for withdrawal i.e Application (L) No. 6885 of 2026 shall be heard and decided on the next adjourned date.*
- 7. Registry is directed to take steps to issue appropriate notices as directed herein above and settle the draft notice.*
- 8. Aforesaid compliance is directed to be carried out before the*

*next date by Petitioner.*

**9.** *Stand over to 30th March, 2026 under the caption "for Direction".*

**11.** From the above order, it is seen that Advocate for Petitioner made a statement that Petitioner had complied with directions contained in the order dated 05.01.2026 and filed appropriate Application (Lodging) No.6885 of 2026 which is taken on board for hearing. This Application is filed seeking withdrawal of Election Petition No.39 of 2025 by Petitioner. Statement on oath is made for seeking withdrawal of Election Petition. Learned Advocate for Respondent No.1 appeared before the Court. According to the Application direction was given to Petitioner to issue public notice of withdrawal of Election Petition in the Government Gazette and in two newspapers both having wide circulation in the constituency in question in accordance with provisions of Section 109 of the said Act and matter was posted on 30.03.2026.

**12.** On 30.03.2026, matter was adjourned due to paucity of time and posted on 06.04.2026. On 06.04.2026, learned Advocate for Petitioner sought time to take steps to issue public notice in accordance with law and requested for an adjournment. Matter was thereafter posted on 27.04.2026. On 27.04.2026, due to paucity of time, matter was adjourned to 04.05.2026. On 04.05.2026, none appeared for the Petitioner. Learned Advocate for Respondent No.1 appeared on that

date and made a grievance to the Court for passing appropriate orders in view of repeated adjournments sought for by the Petitioner and the Application filed for withdrawal of Election Petition and sought dismissal of the Election Petition. This Court reasoned with learned Advocate for Respondent No.1 that the Election Petition cannot be dismissed for default for non-appearance and it will have to be disposed of in accordance with law in view of the statement made by learned Advocate for Petitioner seeking withdrawal of the Election Petition and Application (Lodging) No.6885 of 2026 having been filed for seeking withdrawal of the same.

**13.** The above timeline will suggest that Election Petition has been filed and has remained languishing on the record of this Court from 06.01.2025. It is seen that after passing of the order dated 22.09.2025 in Application (Lodging) No.22753 of 2025 filed by Respondent Nos.2 to 4, Petitioner has shown no interest whatsoever to prosecute the present Election Petition. Infact on 05.01.2026, a statement was made on behalf of Petitioner on instructions through his Advocate seeking withdrawal of Election Petition which is recorded by the Court. Thereafter on 23.02.2026, Court's attention is drawn to Application (Lodging) No.6885 of 2026 seeking withdrawal of Election Petition and compliance with provisions of Section 109 of the said Act. Apart from these two dates, on all dates it is *prima facie* seen that Petitioner is not remaining present neither his Advocates have

remained present. On some occasions, Advocate for Petitioner has remained present through Video Conferencing but sought adjournment. Simultaneously, Application under Order VII Rule 11 of the CPC seeking dismissal of the Election Petition is pending adjudication and on all the above dates, learned Advocate for Respondent No.1 has pressed this Application for hearing.

**14.** In that view of the matter, Mr. Kelkar has persuaded the Court to consider the aforesaid timeline and absence of Petitioner to not only prosecute the Election Petition but also to take steps for withdrawal of the Petition and pass appropriate orders in accordance with law dismissing the Election Petition.

**15.** I have considered the submissions made by the learned Counsel appearing for the parties and with his able assistance perused the record of the case.

**16.** The facts in brief are that Respondent No.1 is the returned candidate whereas Petitioner is one of the 20 unsuccessful candidates. In Application (Lodging) No.6885 of 2025 filed for withdrawal of the Election Petition, Petitioner has made a categorical statement in paragraph No.3 that he has filed the present Election Petition to challenge and set aside the Election of Respondent No.1 and for further declaration that Petitioner who has secured second highest votes be declared elected on various grounds as particular set out in

the Election Petition.

**17.** However when the Election Petition is *prima facie* seen and more specifically the prayers therein are perused, it is observed that Petitioner has prayed for setting aside of Election of Respondent No.1 only. There is no declaration sought for Respondent No.1 to be declared as elected candidate. This is a dichotomy which is noted by the Court in the Application which is filed for seeking withdrawal by the Petitioner and the Election Petition filed by him. In paragraph No.4 of Application (Lodging) No.6885 of 2026, Petitioner has stated as follows:-

*“4. The Applicant states that the Applicant is now desirous to withdraw the present Election Petition No.39 of 2025 from the Hon’ble Court and, therefore, remained present in this Hon’ble Court on 05/01/2026 and made statement before this Hon’ble Court for taking appropriate steps to withdraw the present Election Petition in accordance with law and, therefore, filing the present Interim Application for withdrawal of present Election Petition No. 39 of 2025 filed by the Applicant in the Hon’ble High Court and prays that this Hon’ble Court be pleased to allow the present Applicant to withdraw the present Election Petition No. 39 of 2025 in the interest of justice.”*

**18.** The Election Petitioner has thereafter stated in paragraph No.5 that if relief for withdrawal is not granted he would suffer heavy and irreparable loss and hence seeks withdrawal of the Election Petition. On the one hand, Election Petitioner is not showing any interest whatsoever in prosecuting the Petition whereas on the other hand he has filed Application for withdrawal of the Petition but is taking taken steps as directed by the Court in accordance with the

provisions of Section 109 of the said Act for withdrawal of the Petition.

**19.** Advocate for the Petitioner has been heard and the request made by Petitioner himself for withdrawal of Election Petition on 05.01.2026 has been noted by the Court in the order. If the present statement continues, this Court will end up merely adjourning this Election Petition from time to time without any resolution despite the fact that Petitioner desires to withdraw the Election Petition. Petitioner has been put to notice which is clear from the aforesaid orders.

**20.** Petitioner has also filed Application (Lodging) No.6885 of 2026 seeking withdrawal of the Election Petition. Though in the Application seeking the withdrawal of Election Petition, Petitioner has averred that he be declared as the successful candidate after the Election of Respondent No.1 is set aside, there is no Application taken out by Petitioner for amendment to that effect in the main Election Petition.

**21.** In any event, it is quite clear that Court cannot order amendment under Order VI Rule 17 of the CPC to avoid consequence of the Petition being dismissed for non-joinder of the parties under Section 82 read with Section 86 of the said Act. This is so because if Petitioner seeks to be declared himself as elected after setting aside of Election of Respondent No.1, present Election Petition as it is filed is in

contravention of the provisions of Section 82 of the said Act on the face of record for non-joinder of proper and necessary parties namely the contesting candidates. Respondent Nos.2 to 4 filed Application (Lodging) No.22753 of 2025 which came to be allowed by order dated 22.09.2025. The said order is reproduced below for reference:-

*"1. Heard Mr. Sarode, learned Advocate for Petitioners and Mr. Kumbhakoni, learned Senior Advocate for Applicants.*

*2. This application is filed for the following reliefs:-*

- "a. This Hon'ble Court be pleased to order and declare that the Applicants are neither a necessary nor proper party to the present Election Petition;*
- b. This Hon'ble Court be pleased to delete the name of the Applicants as a party to the present Election Petition and all consequential amendments be made;*
- c. This Hon'ble Court be pleased to declare that the EVM's consisting of Ballot Units 1128 and Control Units 564 which are kept in the custody of District Election Officer are not necessary for the adjudication or determining the dispute in the above Election Petition.*
- d. This Hon'ble Court be pleased to release of EVM's consisting of Ballot Units 1128 and Control Units 564 which are kept in the custody of District Election Officer."*

*3. Application is filed by Chief Election Commissioner on behalf of Election Commission of India, the Chief Electoral Officer and the Collector / District Election Officer, Pune. The Applicants seek an order permitting the Election Commission of India to use Electronic Voting Machine (for short "EVM") and Symbol Loading Units (Control Units) pertaining to the election i.e. the subject matter of the present Election Petition. Election Petition is filed to challenge election of Respondent No. 1 to the 205 - Pune Chinchwad Constituency in the Maharashtra State Legislative Assembly. Applicants have been enjoined as Respondent Nos. 2, 3 and 4 in the Election Petition. They have sought relief for their deletion and permitting them to use the EVM's and the Control Units.*

*4. Petitioner has filed Affidavit - in - Reply dated 14.08.2025 to oppose the application. When the matter is heard, Mr. Sarode learned Advocate for Petitioner in his usual fairness would submit that with regard to prayer clause 'a', this Hon'ble Court may pass appropriate order rather he would readily agree for grant of prayer clauses 'a' and 'b' of the Application. He would express reservation only in respect of prayer clause 'c'. As stated in the Affidavit-in-Reply,*

according to Petitioner it is necessary to keep the EVM units and the Control Units which are in the custody of the District Election Officer for adjudication of the dispute in the Election Petition. At the time of arguments Mr. Sarode would submit that paper trail of the said EVM machines be retained in a printed format by the District Election Officer to be produced if so required in the Election Petition. He would persuade the court to consider order dated 23.10.2024 passed in an identical and similar placed Application No. 31209 of 2024 in Election Petition No. 4 of 2024 . He would submit that if record of the machines namely EVM machines and Control Units are taken in a printed format by the District Election Officer in the presence of a neutral witness then after this exercise is carried out, prayer clause 'c' can be allowed.

5. **PER CONTRA**, Mr. Kumbhakoni, learned advocate for the applicants who are Respondent Nos. 2, 3, and 4 in the Election Petition would make the following 2 submissions for consideration and determination of the Application:-

(I) He would submit that impleadment of the Applicants is not a requirements of the election petition and Applicants should be deleted as Respondent in view of the decisions of the Supreme Court and this Court in the case of **Micheal B. Fernandes V/s C.K. Jaffar Sharif & Ors<sup>1</sup>** and **Sangram Sampatrao Deshmukh V/s Election Commissioner of India<sup>2</sup>**. He would submit that this Court has time and again in several Election Petitions while relying upon the ratio of the Supreme Court directed deletion of name of Applicants as Respondents in Election Petition. What Mr. Kumbhakoni submit is true and correct. Applicants are not proper and necessary parties to the Election Petition. This issue is completely covered by the aforesaid Supreme Court decision and several orders passed by this court in similar applications filed by Applicants. The Petitioner also does not have any grievance or objection in this regard as voiced by Mr. Sarode. On affidavit, the Petitioner has left the decision to the Court, hence prayer clause 'a' and 'b' of the Application stand allowed.

(II) Next Mr. Kumbhakoni would submit that the order dated 23.10.2024 passed by this Court requiring keeping record of the EVM machines and Control Units in printed format which is referred to hereinabove needs to be distinguished. He would submit that an EVM machines consists of 3 units namely the Ballot Unit, the Control Unit and the VVPAT. He would submit that the Ballot Unit acts as a keyboard / keypad and it consists of 16 keys / buttons one of which the voter has to press while exercising his choice to vote for any candidate. He would submit that serial number, names of candidates and symbols of political party / candidates are physically pasted on the Ballot Unit to enable the voter to identify the corresponding key / button against the respective candidate and symbol. He would submit that the second unit i.e. the Control Unit which is also called Master Unit remains with the Polling / Presiding Officer. He would submit that before the Ballot Unit can be used by a voter, the Polling / Presiding Officer is required to press the Ballot Button on the Control Unit

---

1 AIR 2002 SC 1042

2 2025 SCC OnLine 661

thereby enabling the voter to cast his vote on the Ballot Unit. He would submit that as soon as the voter presses the blue button and casts his / her vote on the Ballot Unit an LED against the candidate button glows red upon which the Control Unit sends the command to the VVPAT. This VVPAT is the third unit of EVM. He would submit that the VVPAT prints the VVPAT slip comprising of the serial number, candidate name and symbol. He would submit that this VVPAT slip after being printed is displayed through the glass window which is illuminated for 7 seconds to enable the voter to know and verify the serial number, the candidate name and the symbol. He would submit that the VVPAT slip then gets cut from the roll and falls into the box / compartment attached to the VVPAT. He would submit that once this happens, the fall sensor in the VVPAT Unit sends a confirmation to the Control Unit which records the vote. He would submit that the data stored in the Control Unit upon the vote being cast records and counts the button or the key pressed on the Ballot Unit and this data records the total number of votes as cast by the voters and the key or the button on the Ballot Unit pressed by the voters for casting their vote. He would submit that after the vote is cast and the Control Unit has recorded the vote, a loud beep sound confirms the registration of the vote. He would submit that therefore the direction contained in the order dated 23.10.2024 passed by this court (Coram: Ms. Gauri Godse, J) pertaining to submitting record of the machine in the printed format to be maintained by the District Election Officer is not required to be passed because the said data is already available in view of the aforesaid process. He would submit that the said data is stored as a thermal print out in a black envelope in a sealed cover with the District Election Officer and can be always be produced before the court if so required. He would submit that no further direction is required to be passed by this Court for taking a physical print out of the EVM machines and the Control Units separately. He would therefore submit that the direction passed by his Court in the Order dated 08.09.2025 requiring recording of the printed format of the EVM and Control Units in the present case in the presence of independent witnesses is not at all necessary and would submit that though suggestion was made by the Counsel for Applicants at that time which was recorded by the Court, in view of the aforesaid procedure undertaken during polling pertaining to the EVM used in the election, no further direction for taking a physical printout of the record is required to be passed.

(III) He has placed before me directions passed by the Supreme Court in the case of **Association for Democratic Reforms vs Election Commission of India**<sup>3</sup>, wherein the Supreme Court has explained the composition of EVM, the data that it records and stores and all incidental things associated with the EVM machines. He has drawn my attention particularly to paragraph Nos.17 to 23 and 41 of the said decision in support of his submissions. For ease of reference, the aforesaid paragraphs are reproduced hereinbelow:-

17. The control unit, as explained below in some detail, has burnt memory, which is agnostic and does not have the names of the candidates and symbols allotted to the candidates or

political parties. As noted earlier, the Polling/Presiding Officer has to activate the EVM by pressing the “BALLOT” button on the control unit. The data stored in the control unit, upon the vote being cast, records and counts the button or the key pressed on the ballot unit. The data, therefore, records the total number of votes as cast by the voters, and the key or the button number on the ballot unit pressed by the voters for casting their vote. After the vote is cast and the control unit has recorded the vote, a loud beep sound confirms the registration of the vote.

18. The EVMs are manufactured and supplied to the ECI by two public sector undertakings, namely, Bharat Electronics Ltd. (for short “BEL”) (which functions under the Ministry of Defence), and Electronic Corporation of India Ltd. (for short “ECIL”) (which functions under the Department of Atomic Energy) (collectively referred to as “the manufacturers”). The EVMs in use after 2013 are referred to as ‘M3’ EVMs. The EVM set-up is designed in a rudimentary fashion and the EVM units are stand-alone and non-networked, that is, they are unconnectable to any other third-party machine or input source. In case any unauthorised attempt is made to access the microcontroller or memory of the EVM, the Unauthorised Access Detection Mechanism (UADM) disables it permanently. The advanced encryption techniques and strong mutual authentication or reception capability rules out the deciphering of communication between the EVM units and any unauthorised interaction with the EVM.

19. The program loaded in the EVM [ EVM here refers to the ballot unit, the control unit and the VVPAT unit.] is key hashed and burnt into a One-Time Programmable microcontroller chip at the time of manufacturing, thus dispelling any possibility of tampering. It is pertinent to note that all the three units of the EVM—ballot unit, control unit and VVPAT, have microcontrollers in which the respective firmware is burnt. The burnt program/code is unalterable and cannot be modified after the EVM is delivered/supplied by the manufacturer to ECI. Every key press of the control unit is dynamically coded, thus making it impossible to decode the signal flowing among the units of the EVM inter se. Further, each key press is recorded with date and time stamp on a real-time basis.

20. As mentioned earlier, the firmware of the control unit is agnostic to any candidate name or political party symbol. The control unit only recognises the button/key pressed on the ballot unit. The control unit has a capacity to store up to 2000 vote entries.

21. Apart from the burnt one-time programmable memory, the VVPAT has a flash memory of 4 megabytes. The flash memory of the VVPAT is designed to solely store and recognise a bitmap format file. The VVPAT can store a maximum of 1024 bitmap files containing the symbol, the serial number and name of the candidate. One candidate's name, symbol, and serial number is

packed into a single bitmap file of 4 kilobytes. The Vvpats do not store or read any other software or firmware. [ It is apposite to note the difference between firmware and software. Firmware is a form of microcode or instructions embedded into hardware devices to help them operate effectively. Firmware size is usually small and ranges in size of a few kilobytes. Software on the other hand, is installed onto a device and used for interaction, such as browsing the internet, computing, word processing and many more complex tasks. Software usually runs on the top of operating systems and are usually large in size between few hundred kilobytes to gigabytes. Software is upgradable or updatable, and its memory is usually accessible and designed for user interactions. The ECI submits that the Vvpats do not have software as they only have firmware.

22. The VVPAT flash memory is empty and does not contain any symbol or name related details at the time of supply/delivery to the ECI. VVPATS in this form/state are stored in warehouses. The control units and ballot units are also stored and secured in the warehouses.

23. Five to six months before national or State elections are to be held, the required quantity of the EVMs are taken out from the warehouses and stored in the designated strongrooms. The EVMs, after they are put in the strongroom, are subjected to First Level Check (for short "FLC") by engineers of the manufacturers in the presence of the representatives of the recognised political parties. The FLC is carried out at the district level under the supervision of the District Election Officer.

XXXXXX

41. It flows from the above discussion that the possibility to hack or tamper with the agnostic firmware in the burnt memory to tutor/favour results is unfounded. Accordingly, the suspicion that the EVMs can be configured/manipulated for repeated or wrong recording of vote(s) to favour a particular candidate should be rejected. At this stage we would refer to other checks and protocols to ensure and ascertain the legitimacy and integrity of the EVMs and the election process.

6. In view of the aforesaid observations and the composition of EVMs as explained by Mr Kumbhakoni, learned Senior Advocate on behalf of the Applicants, once it is confirmed that the data is available and stored in a thermal printout, the physical exercise of reprinting such data is not required to be undertaken. The Applicants have stated that they shall produce the data of the EVM and Control Units in the present case if so called upon by the Court in the Election Petition. Hence in view thereof, the Application stands allowed in terms of prayer clause 'c' and 'd' also.

7. List Application (L) No.29702 of 2025 on the Board on 3<sup>rd</sup> November 2025.

8. *Application (L) No.22753 of 2025 is therefore disposed in the above terms.”*

**22.** However, in the aforesaid circumstances since Election Petitioner has filed Application (Lodging) No.6885 of 2026 seeking withdrawal of the Election Petition and in the said Application, he has averred that Election Petition is filed for setting aside of the Election of the returned candidate namely Respondent No.1 and for declaration of Petitioner as elected on various grounds set out in the Election Petition, and considering that notification is published on 07.05.2026 and no objections have been received, Petition is dismissed with no order as to costs. Application (L) No.6885 of 2026 is accordingly disposed in view of dismissal of Election Petition.

**23.** Application (Lodging) No.29702 of 2025 filed under Order VII Rule 11 of the CPC accordingly stands allowed and disposed.

H. H. SAWANT

[ MILIND N. JADHAV, J. ]

HARSHADA  
HANUMANT  
SAWANT

Digitally signed  
by HARSHADA  
HANUMANT  
SAWANT  
Date: 2026.06.09  
10:41:59 +0530