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मध्यप्रदेश राजपत्र

(असाधारण)
प्राधिकार से प्रकाशित

क्रमांक 344]

भोपाल, सोमवार, दिनांक 27 जून 2022—आषाढ 6, शक 1944

विधि (निर्वाचन) कार्य विभाग

भोपाल, दिनांक 27 जून 2022

फा. क्र. 02, 03, 13 एवं 29-2019-चार-वि.निर्वा-149.—भारत निर्वाचन आयोग के पत्र क्र. 82-म.प्र.-2022-1282, दिनांक 20 जून 2022 द्वारा प्रेषित निम्नलिखित अधिसूचनाओं को सर्वसाधारण की जानकारी के लिए प्रकाशित किया जाता है:—

1. अधिसूचना क्रमांक 82-MP-(02/2019)-2022, दिनांक 20 जून 2022
2. अधिसूचना क्रमांक 82-MP-(03/2019)-2022, दिनांक 20 जून 2022
3. अधिसूचना क्रमांक 82-MP-(13/2019)-2022, दिनांक 20 जून 2022
4. अधिसूचना क्रमांक 82-MP-(29/2019)-2022, दिनांक 20 जून 2022

राजेश कुमार कौल, अपर सचिव.

भारत निर्वाचन आयोग

निर्वाचन सदन, अशोक रोड, नई दिल्ली—110 001

नई दिल्ली, दिनांक 20 जून, 2022—30 ज्येष्ठ, 1944 (शक)

अधिसूचना

सं. 82-म.प्र.-(02/2019)-2022.—लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण में, भारत निर्वाचन आयोग, 2019 की निर्वाचन याचिका सं. 02 (मिथलेश जैन विरुद्ध संदीप श्री प्रसाद जायसवाल) में मध्यप्रदेश के माननीय उच्च न्यायालय जबलपुर खण्डपीठ के दिनांक 10 मई 2022 के निर्णय/आदेश को एतद्वारा प्रकाशित करता है।

आदेश से,
हस्ता./-
(अमित कुमार)
सचिव,
भारत निर्वाचन आयोग.

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi—110 001

New Delhi, Dated 20th June, 2022—30 Jyaistha, 1944 (Saka)

NOTIFICATION

No. 82-MP-(02/2019)-2022.—In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission of India hereby publishes the Judgement/order dated 10th May 2022 of Hon'ble High Court of Madhya Pradesh, Jabalpur Bench, in Election Petition No. 02 of 2019 (Mithlesh Jain Vs. Sandeep Shree Prasad Jaiswal).

IN THE HIGH COURT OF MADHYA PRADESH PRINCIPAL SEAT AT
JABALPUR

Election Petition No. 02 /2019

PETITIONER :

Mithlesh Jain,
S/o Late Shri Hemchand Jain,
Aged about 59 years,
R/o House No. 1, Sudhar Nyas Colony,
Vishrambaba Ward No.44, Katni,
District: KATNI (M.P.)

*Deleted as per
C.O. dated 3/11/20
dated 13/11/20
Consent for deletion
Affected
18.11.20
Joint Registrar
CMJ*

VERSUS

RESPONDENTS :

Sandeep Jaiswal,
S/o Shri Shriprasad Jaiswal
Aged about 56 years,
R/o Gurunanak Ward, Katni
District: KATNI(MP)

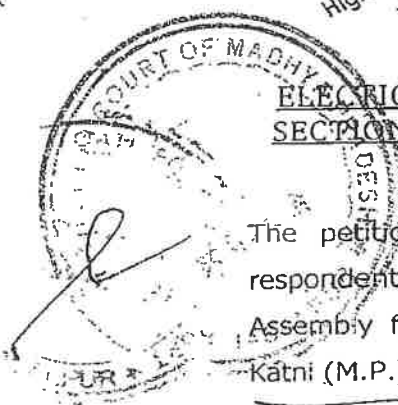
*12/1/19
Presented by S. Mithlesh Jain who is
authenticated by Shri Rakesh Kumar 1.
Approved at 1-20 PM on 12-1-19.
It is properly drawn up and
within the time and properly stamped
It is accompanied by request
no of same copies, list of documents
registered address, P.F and receipt
of security deposit of Rs 200/-*

Election Commission of India,
Through its Secretary,
Nirvachan Sadan, Ashoka Road,
New Delhi 110001

Chief Electoral Officer,
M.P. Nirvachan Sadan, 17 Arera Hills,
BHOPAL (M.P.)

Returning Officer,
Cum Sub-Divisional Officer (Revenue),
93, Mudwara Vidhan Sabha, Katni,
District: KATNI (M.P.)

*12/1/19
Registrar (Judicial)
High Court of Madhya Pradesh
Jabalpur (M.P.)*



ELECTION PETITION UNDER SECTION 80, 80-A, 81 AND
SECTION 100 (1) (d) (iii) (iv) OF THE REPRESENTATION
OF PEOPLE ACT, 1951

The petitioner seeks to call in question the election of the respondent No.1 as a member of the M.P. State Legislative Assembly from 93, Mudwara Vidhan Sabha Constituency, District Katni (M.P.) inter-alia on the following facts:

1. That, the petitioner is a citizen of India and is permanently residing on the address mentioned in the cause title. The petitioner is a voter from booth No. 243 of 93, Mudwara Vidhan Sabha Constituency, District Katni and his name is registered at serial No. 3 in booth No. 243. He was defeated by the respondent No. 1 from 93, Mudwara Vidhan Sabha Constituency. The respondent No. 4

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR
BEFORE

HON'BLE SHRI JUSTICE RAJEEV KUMAR DUBEY
ELECTION PETITION NO.2 OF 2019

Between:-

MITHLESH JAIN, S/O LATE SHRI HEMCHAND JAIN,
AGED ABOUT 59 YEARS,
R/O HOUSE NO.1, SUDHAR NYAS COLONY,
VISHRAMBABA WARD NO.44, KATNI
DISTRICT KATNI, MADHYA PRADESH

.....PETITIONER

(BY SHRI MUKESH AGRAWAL, ADVOCATE WITH SHRI
UTKARSH AGRAWAL, ADVOCATE)

AND

SANDEEP JAISWAL, S/O SHRI SHRIPRASAD
JAISWAL, AGED ABOUT 56 YEARS,
R/O GURUNANAK WARD, KATNI,
DISTRICT KATNI, MADHYA PRADESH

.....RESPONDENT

(BY SHRI SANJAY KUMAR AGRAWAL, ADVOCATE WITH SHRI
SIDDHARTI SHARMA, ADVOCATE)

Reserved on : 03/03/2022
Delivered on : 10/05/2022

This petition coming on for orders this day, the Court passed the following:

ORDER

This petition has been filed under Sections 80, 80-A, 81, 100 (1)(d) (iii)(iv) of the Representation of the People Act, 1951 (hereinafter referred to as the "Act") for having the election of respondent (returned

candidate), from 93 Murwara Legislative Constituency, District Katni held on 28/11/2018, (in which result was declared on 13/12/2018) declared as void on the grounds specified in Section 100(1)(d) (iii) & (iv) of the Act.

2. It is undisputed that during the last Madhya Pradesh Legislative Assembly Election, held in the month of November 2018, the petitioner contested from 93 Murwara Legislative Constituency, District Katni, on the ticket of the Indian National Congress and respondent on the ticket of the Bharatiya Janata Party. Apart from the petitioner and respondent, 13 other candidates also contested the election. In 93 Murwara Legislative Constituency, District Katni, the polling was held on 28/11/2018 and the result was declared on 13/12/2018. In the Election, there were 2,14,646 voters and 286 polling stations. In the election, petitioner received 63,473 votes, whereas the respondent received 79,553 votes and was declared elected since respondent secured 16,080 more votes than the petitioner and was accordingly declared the returned candidate from 93 Murwara Legislative Constituency, District Katni.

3. Apart from aforesaid undisputed facts, briefly, the case of the petitioner is that in the election many illegalities and irregularities have been committed, due to which the result of the 93 Murwara Legislative Constituency, District Katni has been materially affected. The voting machines were tampered, the seal of EVMs used in Booth Nos. 06, 10, 20, 36, 48, 62, 79, 90, 93, 104, 118, 132, 146, 174, 202, 216, 230, 244, 251, 258, 272 and 286 were found to be broken and said EVMs were tampered. In booth Nos. 146, 217, 131, 135 EVMs were not found to be

closed. In booth No.133, total 505 voters casted their votes, but the EVM shows the total number of votes casted as 569 and in Form 17-C there is an overwriting, which clearly shows that there was tampering. In booths No.24, 130, 145, 160, 195, 222, 134 and 205 control unit, ballot unit and VVPAT were changed without any prior intimation to the petitioner or his polling agents and in these changed EVMs polling had taken place without any knowledge to the petitioner or the concerned polling agents of the petitioner. Information was supplied through blank papers and not in the prescribed format under Form 17-C. In the polling booths Nos. 117,118, 142, 143, 149, 151, 152, 153, 190, 192, 193, 195, 202, 203, 211, 214, 215, 216, 244, 251, 258, 272, 285 & 286 voting got closed before 5 p.m. while in booths Nos. 114, 115, 116, 117, 118, 119, 120, 123, 124, 125, 126, 141, 144, 148, 150, 183 and 194 queue of voters remained till 06:00 p.m. – 07:00 p.m. In polling booth Nos. 211, 212 and 213 voting started much after 08:00 a.m. in the morning. Due to these manipulations the result of the 93 Murwara Legislative Constituency, District Katni has been materially affected. Regarding all these irregularities, the petitioner lodged written complaints to the Election Officer and the State Election Commissioner. Complaints were also made by his counting agents, but no action was taken by the State Election Commissioner or Election Officer on those complaints. Thus, the election of respondent Sandeep Jaiswal from 93 Murwara Legislative Constituency, District Katni be declared as null and void.

4. Respondent in his reply denied all the allegations and submitted that there is no violation of any of the provisions of the Act. The

petitioner without any material facts and particulars wrongly alleged that the EVMs were tampered with and the manipulation was done during the election. The complaint made by the polling agents of petitioner was enquired into by the officials and were found incorrect, therefore, the District Election Officer, Katni, rejected the said complaints. The election in 93 Murwara Legislative Constituency, District Katni was held in a free and fair manner. The petitioner has filed this petition without any material or documents, so the petition is liable to be dismissed.

5. On the basis of the pleadings of both the parties, the following issues have been framed by this Court for the just decision of the case. In relation to which my findings are as follows:-

S. No.	Issues Framed on 18/09/2014	Finding of the Court
1	Whether during election of Mudwara-93, Assembly Constituency dated 28.11.2018 in booth Nos. 117, 118, 142, 143, 149, 151, 152, 153, 190, 192, 193, 195, 202, 203, 211, 214, 215, 216, 244, 251, 258, 272, 285 & 286 voting got closed before 5 p.m.? If yes, what is its effect?	Not found proved
2	Whether during election of Mudwara-93, Assembly Constituency dated 28.11.2018 in booths Nos. 114, 115, 116, 117, 118, 119, 120, 123, 124, 125, 126, 141, 144, 148, 150, 183 and 194 queue of voter remains till 6pm – 7 pm? If yes, what is its effect ?	Not found proved
3	Whether during election of Mudwara-93, Assembly Constituency dated 28.11.2018 in booth Nos. 211, 212, 213 voting started much after 8 am? If yes, what is its effect?	Not found proved
4	Whether during election of Mudwara-93, Assembly Constituency dated 28.11.2018 in Booth Nos. 06, 10, 20, 36, 48, 62, 79, 90, 93, 104, 118, 132, 146, 174, 202, 216, 230, 244, 251, 258, 272 and 286 seal of E.V.M.s were found to be broken and said EVMs were tempered. If yes, what was the effect?	Not found proved
5	Whether during election of Mudwara-93, Assembly Constituency dated 28.11.2018 in booth Nos. 146, 217, 131, 135 E.V.Ms. were not found to be closed?	Not found proved
6	Whether during election of Mudwara-93, Assembly	Not found proved

	Constituency dated 28.11.2018 in booth No.133, total 505 voters casted their votes but the E.V.M. shows the total number of voters casted their votes as 569 and in Form 17(c) there is overwriting? If yes, what is its effect?	
7	Whether during election of Mudwara-93, Assembly Constituency dated 28.11.2018 in booth No. 24, 130, 145, 160, 195, 222, 134 and 205 control unit, ballot unit and VVPAT were changed without intimation to petitioner? If yes, what is its effect?	Not found proved
8	Whether during election of Mudwara-93, Assembly Constituency dated 28.11.2018 in booth No. 121, 49, 172 and 268 VVPAT were changed without intimation to petitioner? If yes, what is its effect?	Not found proved
9	Whether the election of respondent No.1 from Mudwara 93 Assembly Constituency can be declared as null and void on the basis of allegations made by the petitioner in his petition?	Not found proved
10	Relief and Costs?	Petition is dismissed. Petitioner shall bear the cost of respondent

6. Issue No.-1 : In this regard, the petitioner has pleaded in Para-21 of his Election Petition and has stated in his Court statement that during the counting of votes he and his counting agents found that in about 24 control units, the time of closing of polling was being shown even before 05:00 pm. Whereas, 100% voting was not done at any polling booth, in such a situation the voting could not be closed before 05:00 pm. The petitioner has also stated that the polling officer has to maintain a diary, when he got the copy of that diary, it was found that the time of starting and ending of the polling mentioned in the diary was different from that shown in the Control Units. Manoj Kumar Gupta (PW-2) has also stated that at the time of counting of votes 24 machines were found in which the closing time of the machine was seen before 05:00 pm.

While, there were 16-17 polling stations, where polling went on till 06-07:00 p.m., but the machines were showing closure time around 05:00 pm. In support of his statement petitioner also filed copy of complaints (Ex.P-16, Ex.P-17 and Ex.P-19 to Ex.P-33) lodged by his polling agents before returning officer in this regard. But from the statements, of the petitioner and his witness Manoj Kumar Gupta (PW-2) it is clear that they have no personal knowledge that the polling at any polling station was closed before 05:00 PM, in this regard they have given this statement only on the basis of the time recorded in the control units of the polling machine.

7. No such person has been produced by the petitioner in evidence who could not cast his vote due to the closure of polling before 05:00 PM. The petitioner has admitted that at every polling station his polling agent was present at the time of polling, but he has not produced any of the polling agents who were present at polling booth Nos.117, 118, 142, 143, 149, 151, 152, 153, 190, 192, 193, 195, 202, 203, 211, 214, 215, 216, 244, 251, 258, 272, 285 & 286, at the time of polling, to prove the fact that the polling at these polling stations was closed before 05:00 pm, due to which voters were deprived of exercising their franchise.

8. On the contrary petitioner himself in his Court statement has stated that in the assembly elections of 93, Murwara Legislative Constituency, 286 polling booths were set up for the voting, out of which about 100 polling booths were visited by him on the day of polling. It was found that in some polling stations, voters were queuing even after 05:00 pm, those voters were issued polling slips and their voting was done even

after 05:00 pm. There were 17 polling booths, where polling was held even after 05:00 p.m. up to 7:00 p.m. The closing time of polling in the control units at these polling stations has been shown between 5:00 to 5:04 pm, whereas in actuality the polling at those polling stations went on till 06:00 pm or 07:00 pm. From the copies of the diary (Ex.P.-45 to Ex.P.-69) maintained by presiding officers of the poling booths also, it appears that at polling booth nos. 118, 251 & 285 polling lasted even after 05:00 p.m.

9. From the complaints (Ex.P-16, Ex.P-17 and Ex.P-19 to Ex.P-33) it appears that the petitioner and his agents lodged the complaints on the date of counting of votes. If the polling at any polling center had been closed before 05:00 pm and due to this the voters were deprived of exercising their franchise, the complaint would have been made by the petitioner immediately after the closure of voting and he would not have remained silent till the date of counting of votes.

10. So, on the basis of the statement of petitioner and his witness, it cannot be concluded that during the election of 93, Muwara Legislative Constituency, Katni dated 28.11.2018 voting got closed before 05:00 p.m. in booth Nos. 117, 118, 142, 143, 149, 151, 152, 153, 190, 192, 193, 195, 202, 203, 204, 214, 215, 216, 244, 251, 258, 272, 285 & 286 and due to which the voters were deprived of exercising their franchise.

11. Issue No.2: In this regard, petitioner Mithlesh Jain (PW-1) has stated that in the assembly elections of 93, Muwara Legislative Constituency, Katni 286 polling booths were set up for voting, out of which about 100 polling booths were visited by him on the day of polling.

It was found that in some polling stations, voters were queuing even after 5:00 pm, those voters were issued polling slips and their voting was done even after 05:00 pm. There were even 17 polling booths where polling was held after 05:00 pm even between 06:30 pm to 07:00 p.m., while the closing time of polling in the control units at these polling stations was shown between 05:00 to 5:04 p.m., but the polling at those polling stations went on till 06:00 p.m. or 07:00 p.m. Manoj Kumar Gupta (PW-2) has also stated that in the election there were 16-17 polling stations, where polling went on till 06-07:00 pm, but the voting machines were showing closure time around 05:00 pm.

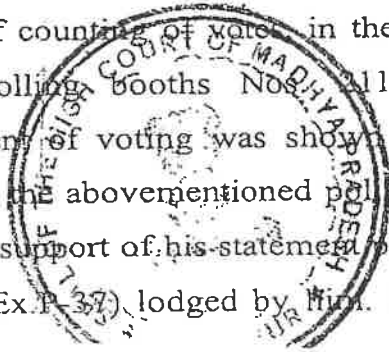
12. But, the petitioner has not produced any documentary evidence which shows that the polling at polling station Nos.114, 115, 116, 117, 119, 120, 123, 124, 125, 126, 141, 144, 148, 150, 183 & 194 went on till 06:00 pm - 07:00 pm. So, in the absence of any documentary evidence only on the basis of oral statement of petitioner Mithlesh Jain (PW-1) and Manoj Kumar Gupta (PW-2) it can not be concluded that the polling at polling stations nos.114, 115, 116, 117, 119, 120, 123, 124, 125, 126, 141, 144, 148, 150, 183 and 194 went on till 06:00 pm - 07:00 pm.

13. However from the copies of the diary (Ex.P.-45 to Ex.P.-69) maintained by presiding officers of the polling booths, it appears that at the polling Booth Nos. 118, 251 & 285 polling lasted after 05:00 p.m. But according to the provisions of Rule 43/49R of the Conduct of Elections Rules,1961 the presiding officer shall close a polling station at the hour fixed in that behalf under Section 56 and shall not thereafter admit any elector into the polling station provided that all electors present at the

polling station before it is closed shall be allowed to cast their votes. Which shows that the voters who are present at the polling booth at the end of polling time will be allowed to cast their vote even after the polling time is over. The petitioner and his witness have not stated that the voters who were allowed to vote after 05:00 pm were not present at the polling station at 05:00 p.m. In such a situation, if the election officer has allowed the voters who were present at the polling booth at 05:00 pm to cast their vote even after 05:00 pm, then it cannot be said that any illegality was committed by the election officer.

14. From the above discussion this Court finds that petitioner has failed to prove that during the election of '93, Muwara Legislative Constituency, Katni dated 28.11.2018 queue of voters remained till 06:00 pm - 07:00 pm and the polling officer allowed them to cast their votes in booth Nos. 114, 115, 116, 117, 119, 120, 123, 124, 125, 126, 141, 144, 148, 150, 183 & 194. Only it is proved that the polling at booth Nos. 118, 251 & 285 went on even after 05:00 pm. Even on that basis it can not be assumed that any manipulation was done in the EVMs used at these polling booths.

15. **Issue No.3 :** Petitioner Mithlesh Jain (PW-1) has stated that at the time of counting of votes in the control units of EVMs used for voting at polling booths Nos. 211, 212 and 213, the time of commencement of voting was shown from 08:15 to 8:30 am., which shows that in the abovementioned polling booths the voting started after 08:00 am. In support of his statement petitioner has also filed complaints (Ex.P-34 to Ex.P-37) lodged by him. Manoj Kumar Gupta (PW-2) has



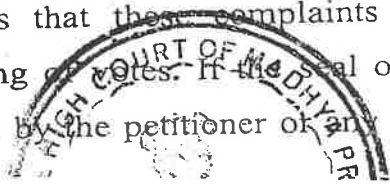
also stated the same. But from their statements it is clear that they have no personal knowledge that the polling at any polling station started after 08:00 am, they have given that statement only on the basis of the time recorded in the control units of EVMs.

16. No such person has been produced by the petitioner in evidence who has been present at polling booth Nos. 211, 212 & 213 at 08:00 am and has observed that polling at these polling stations did not start at 08:00 am. The petitioner has admitted in his statements that his polling agent was present at each and every polling station at the time of polling, but he has not produced his polling agents of polling booth Nos. 211, 212 & 213 to prove the fact that the polling on those polling stations started after 08:00 am. So on the basis of the oral statement of the petitioner and his witness Manoj Kumar Gupta (PW-2), it cannot be concluded that the polling at any polling station actually started much after 08:00 am. Even for the sake of arguments, if it is assumed that the polling at polling booth No. 211, 212 & 213 started after 08:00 am, there is no evidence on record to show that due to the delay in start of voting voters were deprived of exercising their franchise. So it has no effect.

17. **Issue No.4 :** In this regard, petitioner Mithlesh Jain (PW-1) has stated that on the day of counting, the control units of EVM machines were brought to the counting table and their seal were checked before their votes were counted. During counting, at the time of checking of the seal of control units, it was found that the seals of 22 control units, which were used for voting were broken and on some of those machines the slip signed by his polling agents was not found, on some of the machines the

signatures found on the slip did not match with the actual signatures of his agents. Manoj Kumar Gupta (PW-2) has also stated that at the time of counting, the seals of 22 control units, which were used in the polling were found broken when they were brought to the counting table. In support of his statement petitioner has also filed the copies of complaints (Ex.P-7 to Ex.P-11 and Ex.P-34 to Ex.P-37) lodged by his polling agents and himself in this regard.

18. But the petitioner has admitted in his cross-examination that it is a rule to show the paper slips of the voting machines to the agents of the candidates before the commencement of the counting of votes. If there is any dispute regarding the seal, the Returning Officer has the right not to count the votes in that machine. Though, the petitioner has stated that even after raising objection in this regard the counting of votes of those machines was done, but from the complaint Ex.P-7 and Ex.P-34 to Ex.P-37 it appears that these complaints were filed after the completion of counting. From the remaining complaints Ex.P-8 to Ex.P-11 also it does not appear that these complaints were filed at the time of checking of control units. Petitioner has not presented his polling agents who had filed the said complaints to prove the fact that these complaints were made at the time of checking of the control unit, whereas from the findings (Ex.D-1) given by the Returning Officer after examining these complaints, it appears that these complaints were lodged after the closing of the counting of votes. If the seal of any polling machine was found to be broken by the petitioner or any of his counting agents, they should have



made a complaint in writing prior to the counting of the votes of that machine at the same time.

19. Petitioner did not make any complaint to the Election Commission about tampering in the voting machines before the counting of votes. If in fact any tampering was done by the Election Officer in the voting machines, the petitioner would have filed the complaint before Election Commission at the time of counting or before the counting of votes started. The absence of such prior complaint shows that the petitioner has objected in this regard only because he lost the election, there is no solid basis behind it.

20. On the contrary respondent Sandeep Jaiswal (DW-2) has stated in his Court statement that at the time of counting, the seal of any EVM machine used in the election was not found broken and even during the counting of votes, petitioner Shri Mithilesh Jain was ahead for the first three to four rounds of counting and no complaint was filed by him till that time. Whatever complaints were made by the petitioner, were decided on the spot by the polling officer. In this regard in support of his statements, he also filed the details of the orders passed by the returning officer (Ex.D-1) and the reports given by the Returning Officer to the District Election Officer, Katni (Ex.D-2 & Ex.D-3). From the order passed by the Returning Officer and the reports sent by him to the District Election Officer, Katni, it is clear that the Returning Officer had found the complaints made by the counting agents of the petitioner to be baseless. There is no evidence or record to show that any of the polling officers or the returning officer had any nexus with the respondent.

21. So, on the basis of the oral statements of the petitioner Mithlesh Jain (PW-1) and his witness Manoj Kumar Gupta (PW-2), it cannot be concluded that at the time of counting of votes of 93 Murwara Legislative Constituency, Katni dated 28.11.2018 seal of EVMs used for voting at booth Nos. 06, 10, 20, 36, 48, 62, 79, 90, 93, 104, 118, 132, 146, 174, 202, 216, 230, 244, 251, 258, 272 & 286 were found to be broken and said EVMs were tampered.

22. **Issue No.5 :** In this regard, the petitioner Mithlesh Jain (PW-1) has stated that at the time of counting of votes it was found that control units of EVMs used for polling at booth Nos.146, 217, 131, 135 were not switched off after the voting was over and Manoj Kumar Gupta (PW-2) has also stated the same. Petitioner also filed copies of complaints Ex.P-11 & Ex.P-15 lodged by his agents regarding this. But in this regard his statement do not appears trustworthy. According to Section 49T of Conduct of Elections Rules, 1961, after the closing of the poll, the Presiding Officer shall close the control unit and detach the balloting unit from the control unit. The control unit and the balloting unit shall thereafter be sealed. The polling agents present at the polling station, who desire to affix their seals, shall also be permitted to do so.

23. Petitioner Mithlesh Jain (PW-1) has admitted in his cross-examination that according to the rules, after the polling is over, the machine is closed and it is sealed. At the time of closing the machine where the polling agents are present at the booth, their signatures are taken on the paper slip of which are used in the sealing of the machines. He has also admitted that the papers used to seal the voting machines

were signed by his agents at the polling booths after the polling was over. If any control unit had not been switched off by the Polling Station Officer after the closing of the poll, a complaint would have been made by the petitioner or his polling agent on the date of the poll. So, only on the basis of oral statements of petitioner Mithlesh Jain (PW-1) and his witness Manoj Kumar Gupta (PW-2) it can not be assumed that during election of 93 Murwara Legislative Constituency, Katni dated 28.11.2018 EVMs used for polling at booth Nos. 146, 217, 131 & 135 were not switched off after the voting was over.

24. **Issue no.6 :** Petitioner Mithlesh Jain (PW-1) has stated in his Court statement that the list of voters kept with the polling officer at polling station No. 133 shows that total 505 votes were casted at that polling station, whereas at the time of counting it came to be 569. Manoj Kumar Gupta (PW-2) has also stated that during the counting of votes the voting machine used at booth No.133 was showing a total of 569 votes, while only 505 voters had exercised their voting right at that booth. Overwriting was also done in Form No.17(c) by the Presiding Officer of that polling station and Presiding Officer overwrote the number 569 in Form No.17(c). In this regard petitioner has also filed the copy of Form No. 17 (c) (Ex.P-43) prepared by the polling officer of booth No.133 and the list of voters (Ex.P-44). But, in the Part-II of Ex.P-43 it is clearly mentioned that the 569 voters casted their votes at polling booth No.133 and there is no overwriting in that document. Respondent has also filed the copy of voter register of booth No.133 (Ex.D-4) and the copy of the diary maintained by the polling officer of booth No.133 (Ex.D-5). Those

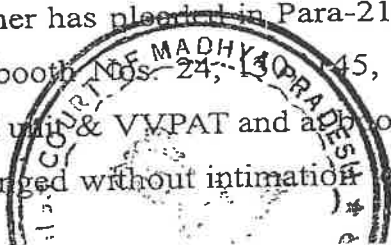
documents also show that 569 voters had exercised their voting right at that booth.

25. Petitioner Mithlesh Jain (PW-1) has admitted in his cross-examination that after the poll is over, the polling officer prepares the account of the votes cast at the booth and a copy of the same is given to the agents of the candidates. He has also admitted that copies were given to him by his agents. But, he has not produced the copy of Form No. 17(c) given by the polling officer of booth No.133 to his agent.

26. If only 505 voters had cast their votes at polling station No. 133 instead of 569 the petitioner would have lodged the complaint in this regard on the day of voting itself and would have also filed a copy of Form No.17 (c) given to his agent by the polling officer of booth No.133 to prove this fact. So in this regard the statement of petitioner Mithlesh Jain (PW-1) and his witness Manoj Kumar Jain (PW-2) can not be believed. From the above discussion this Court finds that the petitioner has failed to prove the fact that only 505 voters and not 569 voters, as shown in the voting machine, had exercised their voting right at booth No.133.

27. **Issue nos.7 & 8:** Both the issues are related to the same fact, so for the sake of convenience they are being dealt with together.

28. The burden of proving these issues was on the petitioner. In this regard, the petitioner has pleaded in Para-21 of his Election Petition that during polling at booth Nos. 24, 130, 145, 160, 195, 222, 134 and 205 control unit, ballot unit & VVPAT and at booth Nos. 121, 49, 172 and 268 VVPATs were changed without intimation to petitioner and in this regard



petitioner Mithlesh Jain (PW-1) has stated in his Court statement that 5 control units and four VVPAT machines were replaced while polling was in progress without informing him or his polling agents. In support of his statement petitioner has also produced copy of complaints (Ex.P-34 to Ex.37) sent by him to District Election Officer, 93 Mudwara Legislative Constituency, District Katni, Chief Election Officer, Election Commission of India and Chief Election Commissioner of India and the copy of complaint (Ex.P-18) lodged by his polling agent. He also produced the list (Ex.P-6) to show the numbers allotted to each polling station and the corresponding number of ballot unit, control unit and VVPAT assigned to each of them. But he has not produced a copy of the diary maintained by the polling officer of the polling booth Nos. 24, 130, 145, 160, 222, 134 & 205 to show the numbers of the ballot unit, control unit and VVPAT actually used in these polling stations. If in fact the ballot unit, control unit or VVPAT of the above mentioned polling booths would have been changed during the polling, the diary maintained by the Polling Officers of the above mentioned polling booths would have been produced by the petitioner in evidence to substantiate this fact.

29. Though petitioner has filed copy of the diary maintained by the Polling Officer of polling booth No.195 (Ex.P-56). On perusal of the list (Ex.P-6) and the diary of the Presiding Officer (Ex.P-56), it is clear that at polling station No.195, the same ballot unit and control Unit as allotted to the said polling booth were used. Only the number of VVPAT allotted to the booth as mentioned in the list (Ex.P-6) and number of used VVPAT as mentioned in the diary of the Presiding Officer (Ex.P-56) is different. But

only on that basis also in absence of other evidence it can not be said that said VVPAT was changed during polling without intimation to the petitioner.

30. Petitioner Mithlesh Jain (PW-1) has admitted in his cross-examination that according to the rules, after the polling is over, the machine is closed and it is sealed. At the time of closing the machine where the polling agents are present at the booth, their signatures are taken on the paper slips which are used in the sealing of the machines. He has also admitted that the papers used to seal the voting machines were signed by his agents at the polling booths after the polling was over. He has even admitted in Para-34 of his examination that he was informed about the replacement of the voting machines on 29.11.2018, but even after getting the information on 29/11/2018, he did not complain about it till the date of counting of votes. If any ballot unit, control unit and VVPAT of the polling booth Nos. 24, 130, 145, 160, 195, 222, 134 & 205 were changed, during voting without intimating the petitioner, he or his polling agent should have complained about it on the date of the poll.

31. So only on the basis of oral statements of petitioner Mithlesh Jain (PW-1) and his witness Manoj Kumar Gupta (PW-2) it cannot be concluded that during polling control unit, ballot unit and VVPAT at booth Nos. 24, 130, 145, 160, 195, 222, 134 & 205 and VVPAT at polling booth Nos. 121, 49, 172 & 268 were changed without intimation to the petitioner.

32. **Issue No.9 :** As discussed above, petitioner has failed to prove that during election of 93 Mudwara Legislative Constituency, Katni

dated 28.11.2018 voting got closed before 05:00 p.m. at booth Nos.117, 118, 142, 143, 149, 151, 152, 153, 190, 192, 193, 195, 202, 203, 211, 214, 215, 216, 244, 251, 258, 272, 285 & 286, or that the queue of voters remained in booths Nos.114, 115, 116, 117, 118, 119, 120, 123, 124, 125, 126, 141, 144, 148, 150, 183 & 194 till 06:00 pm – 07:00 pm. and voting started much after 08:00 am at booth Nos.211, 212, 213.

33. Petitioner has also failed to prove that seals of EVMs used at the booth Nos.06, 10, 20, 36, 48, 62, 79, 90, 93, 104, 118, 132, 146, 174, 202, 216, 230, 244, 251, 258, 272 & 286 were found to be broken and said EVMs were tampered with or that the EVMs used at the booth Nos.146, 217, 131 & 135 were not found to be closed nor he could prove that at booth No.133 total 505 voters casted their votes, but the EVM showed them as 569. Petitioner has also failed to prove that in booth Nos. 24, 130, 145, 160, 195, 222, 134 & 205 control unit, ballot unit and VVPAT and at the booth Nos.121, 49, 172 & 268 VVPAT were changed without intimation to the petitioner. Therefore, the petitioner is not entitled to get the election of respondent declared void. Hence his petition deserves to be dismissed and is hereby dismissed.

34. Issue No.10 :

- (i) As discussed above the petitioner has failed to make any case for grant of relief. Resultantly, this Election Petition preferred by petitioner Mithlesh Jain challenging election of returned candidate respondent Sandeep Jaiswal as a member of 93 Mudwara-93, Assembly Constituency held on 28/11/2018, (result declared on 13/12/2018) is hereby dismissed.
- (ii) The petitioner shall bear his cost of proceedings and of respondent Sandeep Jaiswal.
- (iii) Advocate fee shall payable if certified or as per the table whichever is the minimum.

35. Office is directed to send the certified copy of this order to the Election Commission and the Speaker of Madhya Pradesh Legislative Assembly forthwith as per Section 103 of the Act.

Certified copy as per rules.

Sd./-
(RAJEEV KUMAR DUBEY)
Judge.

By order.

Sd./-
(AMIT KUMAR)
Secretary,
Election Commission of India.

भारत निर्वाचन आयोग

निर्वाचन सदन, अशोक रोड, नई दिल्ली—110 001

नई दिल्ली, दिनांक 20 जून, 2022—30 ज्येष्ठ, 1944 (शक)

अधिसूचना

सं. 82-म.प्र.-(03/2019)-2022.—लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण में, भारत निर्वाचन आयोग, 2019 की निर्वाचन याचिका सं. 03 (सत्यनारायण पटेल विरुद्ध महेन्द्र हार्डिया एवं अन्य) में मध्यप्रदेश के माननीय उच्च न्यायालय जबलपुर खण्डपीठ के दिनांक 21 अप्रैल 2022 के निर्णय/आदेश को एतद्वारा प्रकाशित करता है।

आदेश से,
हस्ता./-
(अमित कुमार)
सचिव,
भारत निर्वाचन आयोग.

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi—110 001

New Delhi, Dated 20th June, 2022—30 Jyaistha, 1944 (Saka)

NOTIFICATION

No. 82-MP-(03/2019)-2022.—In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission of India hereby publishes the Judgement/order dated 21st April 2022 of Hon'ble High Court of Madhya Pradesh, Jabalpur Bench, in Election Petition No. 03 of 2019 (Satyanarayan Patel Vs. Mahendra Hardia & Others).

1

EP No.3/2019**IN THE HIGH COURT OF MADHYA PRADESH****AT INDORE****BEFORE****HON'BLE SHRI JUSTICE ANIL VERMA****ON THE 21st OF APRIL, 2022****ELECTION PETITION No. 3 of 2019****Between:-**

**SATYANARAYAN PATEL S/O SHRI RAMESHWAR PATEL ,
AGED ABOUT 51 YEARS, OCCUPATION: AGRICULTURIST
R/O H.NO. 143 BICHOLI MARDANA INDORE M.P.
(MADHYA PRADESH)**

.....PETITIONER*(None present for the petitioner)***AND**

- SHRI MAHENDRA HARDIA / R/O H.NO. 6 GALI NO. 1
1. NAVLAKHA, MAIN ROAD INDORE M.P. (MADHYA PRADESH)
 2. SHRI CHHOTE LAL S/O N/M R/O H.NO LUV KHU COMPLEX KALYAN MILL INDORE (MADHYA PRADESH)
 3. DONGER 'SIGNG GOYAL S/O N/M H.NO 53 SHANTI SONIA GANDHI NAGAR (MADHYA PRADESH)
 4. KAILASH KUMAWAT S/O N/M 185 MAHADEV TOTLA NAGAR INDORE (MADHYA PRADESH)
 5. ZAHEERUDEEN S/O N/M R/O H.NO 5 AMAN NAGAR KHAJRANA (MADHYA PRADESH)
 6. PRABHU DAYAL S/O N/M R/ GRAM LASUDIYA MORI TEHSIL AND (MADHYA PRADESH)
 7. BHUPENDRA CHOURASIYA S/O N/M R/O H.BNO 51 SWAMI VIVEKANDANDA NAGAR (MADHYA PRADESH)
 8. MUKESH KUMAR DWIVEDI S/O N/M R/O H.NO 506 SHAGUN RESIDENCY KANADIYA ROAD (MADHYA PRADESH)
 9. SHAILENADRA KUMARI RANAWAT D/O N/M R/O H.NO 76 AMBIKA NAGAR KANADIYA ROAD INDORE (MADHYA PRADESH)
 10. SANTOSH MEENA S/O N/M R/O H.NO 55-56 KUKSHWAHA SHRI NAGAR (MADHYA PRADESH)
 11. ASHOK BALKRISHNA S/O N/M R/O H.NO 236 PANCHAM KE FAIL (MADHYA PRADESH)
 12. MOHAMMAD IMTIYAZ KHAN S/O N/M R/O H.NO 1 HAZI MADNI BAGH COLONY KHAJRANA (MADHYA PRADESH)

.....RESPONDENTS

(SHRI Vishal Baheti Adv. For respondent No.1)

This Election Petition coming on for orders this day, the court passed the following:

ORDER

1/ None for the petitioner. Even in the pass over round nobody has appeared on behalf of the petitioner.

2/ This is the 3rd consecutive occasion when nobody has appeared on behalf of the petitioner. On the last date of hearing i.e. 8.3.2022 this Court had issued specific direction that last chance is given to the petitioner to appear and prosecute this petition, but despite the above mandatory direction the petitioner neither appeared before this

Court and nor paid the process fees and produced the correct address of the respondent No.3.

3/ The Hon'ble Apex Court in the case of P. Nalla Thampy Thera Vs. B.L. Shankar reported in 1984 Supp SCC 631 has observed as follows:-

“16. There is no support in the statute for the contention of the appellant that an election petition cannot be dismissed for default. The appellant contended that default of appearance or non-prosecution of the election petition must be treated as on par with withdrawal or abatement and therefor, through there is no clear provision in the Act, the same principle should govern and the obligation to notify as provided in Section 110 or 116 of the Act should be made applicable. We see no justification to accept such a contention. Non-prosecution or abandonment is certainly not withdrawal. Withdrawal is a positive and voluntary act while non-prosecution or abandonment may not necessarily be an act of volition. It may spring from negligence, indifference, inaction or even incapacity or inability to prosecute. In the case of withdrawal steps are envisaged to be taken before the Court in accordance with the prescribed procedure. In the case of non-prosecution or abandonment, the election petitioner does not appear before the Court and obtain any orders. We have already indicated that the Act is a self-contained statute strictly laying down its own procedure and nothing can be read in it which is not there nor can its provisions be enlarged or extended by analogy. In fact, the terms of Section 87 of the Act clearly prescribe that if there be no provision in the Act to the contrary, the provisions of the Code would apply and that would include Order 9, Rule 8 of the Code, under which an election petition would be liable to be dismissed if the election petitioner does not appear to prosecute the election petition”

EP No.3/2019

4/ Full Bench of the Allahabad High Court in the case of Duryodhan Vs. Sitaram and others reported in AIR 1970 Allahabad 1 has held as under:-

“49. In my opinion Order 9 and 17 of the Code of Civil Procedure are applicable to the trial of an election petition both under Section 90(1) as well as Section 92 (e) of the Representation of the People Act.”

5/ The coordinate bench of this Court in the case of Pecyush Sharma Vs. Yashodhra Raje Scindhia in Election Petition No.14/2014 vide order dated 22.6.2015 has held as under:-

“Keeping in mind the provision of Section 109 & 110 of the Representation of People Act, 1951, non-prosecution of election petition or default of appearance by petitioner is examined.

Whether the default of appearance or non prosecution can be treated as on par with withdrawal or abandonment?

There is clear provision in the said Act, 1951. In the opinion of this Court, non-prosecution or abandonment is certainly not withdrawal. Withdrawal is positive or voluntarily act while non prosecution or abandonment may not necessarily be an act of volition. Non- prosecution or abatement might have caused due to negligence, indifference, inaction or even in-capacity or inability to prosecute. But, it cannot be equated to that of withdrawal. Legislature has incorporated or envisaged different steps in case of withdrawal. But in case of non-prosecution or abandonment, if the election petitioner does not appear before the Court, the statute has not provided any prescribed procedure. This Court has hesitation to lay down different procedure, then what has been provided in the statute. Nor the provision of the Representation of People Act, 1951 can be enlarged or extended by analogy.

Section 87 of the Act, 1951 provides that if there is no provision in the Act to the contrary, provisions of Civil Procedure Code 1908 would apply, which include Order 9 Rule 8 Code of Civil Procedure under which the election petition is liable to be dismissed, if the petitioner does not appear to prosecute the petition. As there is no provision, in the Act, 1951 as regard when the petitioner chooses to commit default either in appearance or in prosecuting the petition, certainly, the provision of Code of Civil Procedure, 1908 would apply, as is provided under Section 87 of the Act, 1951. Therefore, in absence of any express provision, Order 9 Rule 8 of the Code of Civil Procedure will apply. This view is fortified by the judgments rendered in Sunderlal Mannalal Vs. Nandamdas Dwarkadas (AIR 1958 260), Full Bench of the Allahabad High Court in Duryodhan Vs. Sitaram (AIR 1970 Allahabad -1), Rajendra Kumari Bajpai Vs. Ram Adhar Yadav (1976 1 SCR 255) and Full Bench decision of "Dr. P. Nalla Thampy Thera Vs. B.L. Shanker and others (AIR 1984 SC 135). It is not necessary for this Court to express any opinion as to whether the omission to do so by the petitioner is deliberate or inadvertent, but the fact remains that the petitioner has failed to appear and has committed default of appearance or there is non prosecution of the election petition.

In view of the above discussion, and looking to the ratio of the decisions mentioned above, the present election petition is hereby dismissed in default."

6/ In view of Section 87 of the Representation of People Act, 1951, the provision of Code of Civil Procedure are applicable on the election petition. Though the Act does not give any power for dismissal of election petition for the non prosecution, but no court or tribunal is supposed to continue proceedings before it when a party who has moved it, has not appeared. The Court can hardly compel an unwilling party to

EP No.3/2019

prosecute its litigation, even such inaction may spring from negligence, indifference or even incapacity or inability. In such situation the only option left with the Court to dismiss the election petition under the Code of Civil Procedure. Therefore, this court has no hesitation in coming to the conclusion that an election petition can be dismissed in default or for non prosecution, as the case may be.

7/ In the present case, in spite of several and sufficient opportunities given on 25.1.2022 & 8.3.2022, today also petitioner has not appeared before this Court and he has not done the needful to prosecute this petition. Therefore, it is apparent that he is not interested to prosecute this election petition.

8/ Hence, in view of the foregoing analysis, the present election petition is hereby dismissed in default and also for want of prosecution.

No order as to the cost.

C.C. as per rules.

Sd./-
(ANIL VERMA)
Judge.

By order,

Sd./-
(AMIT KUMAR)
Secretary,
Election Commission of India.

भारत निर्वाचन आयोग

निर्वाचन सदन, अशोक रोड, नई दिल्ली—110 001

नई दिल्ली, दिनांक 20 जून, 2022—30 ज्येष्ठ, 1944 (शक)

अधिसूचना

सं. 82-म.प्र.-(13/2019)-2022.—लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण में, भारत निर्वाचन आयोग, 2019 की निर्वाचन याचिका सं. 13 (शशि कठोरिया विरुद्ध महेश राय एवं अन्य) में मध्यप्रदेश के माननीय उच्च न्यायालय की जबलपुर खण्डपीठ के दिनांक 24 फरवरी 2022 के निर्णय/आदेश को एतद्वारा प्रकाशित करता है.

आदेश से,

हस्ता./-

(अमित कुमार)

सचिव,

भारत निर्वाचन आयोग.

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi—110 001

New Delhi, Dated 20th June, 2022—30 Jyaishta, 1944 (Saka)

NOTIFICATION

No. 82-MP-(13/2019)-2022.—In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission of India hereby publishes the Judgement/order dated 24th February 2022 of Hon'ble High Court of Madhya Pradesh, Jabalpur Bench, in Election Petition No. 13 of 2019 (Shashi Kathoria Vs. Mahesh Rai & Others).

**IN THE HIGH COURT OF MADHYA PRADESH
PRINCIPAL SEAT AT JABALPUR**

Election Petition No. 13 / 2019

PETITIONER:

Shri Shashi Kathoria
S/o Shri Hariram Kathoria
R/o 6974, Village Khajuriya
Tehsil Bina, District Sagar

Versus

RESPONDENTS:

1. Mahesh Rai
S/o Shai Pannalal
R/o Shivaji Ward, Bina
Tehsil Bina, District Bina
2. Surendra Kumar Ahirwar
S/o Lakhan Lal
R/o Village Nowgaon
Tehsil Bina, District Bina
3. Dasrath Ahirwar
S/o Shri Vij Ahirawar
R/o H.No.153, Gandhi Ward-19
Tehsil Bina, District Bina
4. Bablu Ahriwar
S/o Shri Doje
R/o Village Nivoda
Post Dehri
Tehsil Bina, District Bina
5. Malkhan Parihar Khangar
S/o Shri Baldev Pradsad
R/o H.No.118, Ward No.6
Jawahar Ward,
Tehsil Bina, District Bina
6. Shri D.P. Dweidi
SDO (Revenue), Bina
Returning Officer of
35, Bina Vidhan Sabha
State of Madhya Pradesh

etc :-

represented by Shri. Shashi Kathoria, Advocate
who is identified by Shri. Moolnar Shukla, Advocate
Advocate at 12.10 a.m./p.m. on 25/11/19
It is properly drawn up, within time and
properly stamped.

It is accompanied by requisite number of
true copies, list of documents, registered
stamp, P.F. and receipt of security deposit
Rs. 2,000/-

25/11/19
Registrar (Judicial-II)

**ELECTION PETITION UNDER SECTIONS 80, 80-A, 81,
100 (d)(iv) AND 101 OF THE REPRESENTATION ACT, 1951**

IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE ATUL SREEDHARAN

ON THE 24th OF FEBRUARY, 2022ELECTION PETITION No. 13 of 2019

Between:-

SHRI SHASHI KATHORIA S/O SHRI HARIRAM
KATHORIA R/O. 69/4, VILL. KHAJURIYA TEH. BINA
DISTT. SAGAR (MADHYA PRADESH)

.....PETITIONER

(BY SHRI SUNIL KUMAR VISHWAKARMA, LEARNED COUNSEL)

AND

1. MAHESH RAI S/O SHAI PANNALAL R/O. SHIVAJI
WARD BINA TEH. BINA DISTT. SAGAR (MADHYA
PRADESH)
2. SURENDRA KUMAR AHIRWAR S/O LAKHAN LAL
R/O VILLAGE NOWGAON TEHSIL BINA (MADHYA
PRADESH)
3. DASRATH AHIRWAR S/O SHRI VIJ AHIRWAR R/O
H.NO.153, GANDHI WARD 19, TAHSIL BINA
(MADHYA PRADESH)
4. BABLU AHIRWAR S/O SHRI DOJE R/O VILLAGE
NIVODA POST DEHRI, TAHSIL BINA (MADHYA
PRADESH)
5. MALKHAN PARIHAR KHANGAR S/O SHRI BALDEV
PRASAD R/O H.NO.118, WARD NO.6, JAWAHAR
WARD, TEHSIL BINA (MADHYA PRADESH)
6. SHRI D.P.DWIVEDI, SDO (REVENUE) BINA
RETURNING OFFICER OF 35, BINA VIDHAN SABHA
STATE OF M.P. (MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI ABHIJIT BIHOWMIK, LEARNED COUNSEL AND SHRI
AKSHAY NAMDEO, LEARNED GOVERNMENT ADVOCATE FOR THE
STATE)

*This petition coming on for orders on I.A.No 9265/2021, which is an
application for withdrawal of petition this day, the court passed the following:*

ORDER

Pursuant to the previous order passed by this Court upon an application of
the petitioner, who want to withdraw this petition. The procedure laid down under

section 110 of the People of Representation Act, 1951 (hereinafter referred to as the "Act") has been complied with in *toto*. The notice for withdrawal has also been published in the official gazette dated 21.01.2022.

Under the circumstances, I.A.No.9265/2021 moved by the petitioner for withdrawal of the election petition is allowed, subject to payment of cost of Rs.1000/- to the respondent no.1, who was the contesting respondent in this case.

Office is requested to send the report of withdrawal of the election petition to the Election Commission forthwith in compliance of section 111 of the Act.

With the above, the election petition is dismissed as withdrawn.

Sd./-
(ATUL SREEDHARAN)
Judge.

By order,

Sd./-
(AMIT KUMAR)
Secretary,
Election Commission of India.

भारत निर्वाचन आयोग

निर्वाचन सदन, अशोक रोड, नई दिल्ली—110 001

नई दिल्ली, दिनांक 20 जून, 2022—30 ज्येष्ठ, 1944 (शक)

अधिसूचना

सं. 82-म.प्र.-(29/2019)-2022.—लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण में, भारत निर्वाचन आयोग, 2019 की निर्वाचन याचिका सं. 29 (कुन्दन मालविया विरुद्ध देवेन्द्र वर्मा एवं अन्य) में मध्यप्रदेश के माननीय उच्च न्यायालय की जबलपुर खण्डपीठ के दिनांक 16 फरवरी 2022 के निर्णय/आदेश को एतद्वारा प्रकाशित करता है।

आदेश से,
हस्ता./-
(अमित कुमार)
सचिव,
भारत निर्वाचन आयोग.

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi—110 001

New Delhi, Dated 20th June, 2022—30 Jyaistha, 1944 (Saka)

NOTIFICATION

No. 82-MP-(29/2019)-2022.—In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission of India hereby publishes the Judgement/order dated 16th February 2022 of Hon'ble High Court of Madhya Pradesh, Jabalpur Bench, in Election Petition No. 29 of 2019 (Kundan Malviya Vs. Devendra Verma & others).

**IN THE HIGH COURT OF MADHYA PRADESH
PRINCIPAL SEAT AT JABALPUR (M.P.)**

Election Petition.....29.....2019

PETITIONER

Kundan Malviya S/o Late Shri. Shobharam Malviya, Aged about 47 years R/o 14, Narayan Nagar , Jaswadi Road, Khandwa, District Khandwa (MP).

// VERSUS //

177-Khandwa⁽²⁹⁾ A.C

RESPONDENTS

1. Devendra Verma S/o Late Shri. Kishorilal Verma R/o 56, Vidya Nagar, Anand Nagar Ward, Khandwa District Khandwa (MP).
2. Koshal Mehra R/o Kishore Nagar, Khandwa District Khandwa (MP).
3. Sampat Pachore Advocate District Court Khandwa District Khandwa (MP).
4. Bhaiya Rajkumar Ketwas R/o Bekunth Nagar, In Front of S.L. Collage Khandwa District Khandwa (MP).
5. Sanjay Medekar R/o Matachbuk , Jawadi Road, Khandwa District Khandwa (MP).
6. Pannalal Ginnare R/o Village Bhakrada Tehsil Khandwa District Khandwa (MP).

Identified by Shri. Kundan Malviya Applied
Identified by Shri. V.P. N...
at 4.45 a.m./p.m. on 25/1/19
properly drawn up, within time and stamped.

Accompanied by requisite number of copies, list of documents, registered F.F. and receipt of security deposit
100/-

Registrar (Judicial-II)



**ELECTION PETITION UNDER SECTION 80, 80 - A, 81,
100 (d) (iv) and 101 OF THE REPRESENTATION
OF PEOPLE ACT, 1951**

checked and verified by me [Signature]

IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR
BEFORE
HON'BLE SHRI JUSTICE VIVEK AGARWAL
ON THE 16th OF FEBRUARY, 2022
ELECTION PETITION No. 29 of 2019

Between:-

KUNDAN MALVIYA S/O LATE SHRI
SHOBHARAM MALVIYA, AGED ABOUT 47
YEARS, R/O 14 NARAYAN NAGAR JASWADI
ROAD, KHANDWA DISTT. KHANDWA M.P.
(MADHYA PRADESH)

.....PETITIONER

(BY SHRI ABHISHEK ARJARIYA, ADVOCATE)

AND

1. DEVENDRA VERMA S/O LATE SHRI
KISHORILAL R/O 56, VIDYA NAGAR ANAND
NAGAR WARD KHANDWA DISTT. KHANDWA
M.P. (MADHYA PRADESH)
2. KOSHAL MEHRA S/O NOT MENTION R/O
KISHORE NAGAR KHANDWA, (MADHYA
PRADESH)
3. SAMPAT PACHORE S/O NOT MENTION
OCCUPATION: ADVOCATE DISTRICT COURT
KHANDWA (MADHYA PRADESH)
4. BHAIYA RAJKUMAR KETWAS S/O NOT
MENTION R/O BEKUNTH NAGAR IN FRONT OF
S.L.COLLEGE KHANDWA (MADHYA PRADESH)
5. SANDAY MEDEKAR S/O NOT MENTION R/O
MATACHOUK, JAWADI ROAD, KHANDWA
(MADHYA PRADESH)
6. PANNALAL GINNARE S/O NOT MENTION R/O
VILLAGE BHAKRADA TEHSIL KHANDWA
(MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI SHREYAS PANDIT, ADVOCATE FOR RESPONDENT NO.1)

This petition coming on for hearing this day, the court passed the
following:

ORDER

Shri Abhishek Arjariya. learned counsel for the petitioner.

Shri Shreyas Pandit, learned counsel for the respondent no.1.

Shri Abhishek Arjariya submits that he has already given intimation to the petitioner but he has not received any instructions. Therefore, this petition is dismissed for want of instructions.

Let record be sent to the record room.

Sd./-
(VIVEK AGARWAL)
Judge

By order,

Sd./-
(AMIT KUMAR)
Secretary,
Election Commission of India.