

RAJASTHAN HIGH COURT

सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 17875/2026
CNR: RJHC020866162026 | URN: CW / 37263U / 2026

Kuldeep Kumar, S/o Bheru Ram, Aged About 42 Years, Resident Of Ward No. 29, Village Godawas, Tehsil Neem Ka Thana, District Sikar (Rajasthan).

-----Petitioner

Versus

1. State Of Rajasthan, Through The Chief Election Commissioner Of Rajasthan, Jaipur.
2. The District Collector-Cum-District Election Officer, District Sikar, Rajasthan.
3. The Sub-Divisional Magistrate-Cum-Electoral Registration Officer, Neem Ka Thana, District Sikar, Rajasthan.
4. The Returning Officer/executive Officer, Nagar Palika, Neem Ka Thana, District Sikar, Rajasthan.

-----Respondents

For Petitioner(s)	:	Dr. Mahesh Sharma with Ms. Harshita Sharma
For Respondent(s)	:	Mr. Kapil Prakash Mathur, AAG with Mr. Ashutosh Udawat

JUSTICE ANOOP KUMAR DHAND

Order

03/09/2026

1. The instant petition has been preferred with the following prayer:

“(i) to quash and set aside the voter lists dated 28.08.2026 (Annexure-3) and 31.08.2026 (Annexure-6) and revised voter list may be issued including the name of the petitioner and persons mentioned in Schedule-A;
(ii) Any other relief as this Hon’ble court deems fit and proper may kindly be passed in favour of the petitioner.”
2. By way of filing the instant petition, a challenge has been led to the impugned voter lists dated 28.08.2026 and 31.08.2026

whereby the name of the petitioner has been deleted from the voter list for the Nagar Palika General Elections, 2026.

3. Counsel for the petitioner submits that prior to publication of the aforesaid impugned voter lists, name of the petitioner was very much present in the earlier voter list. Now, without any basis and without providing any opportunity of hearing, his name has been deleted from the voter list in contravention of the provisions contained under the applicable rules. Counsel submits that the aforesaid action on the part of the respondents is contrary and violative of the principles of natural justice. Hence, the same is not sustainable in the eyes of law and is liable to be quashed, and a direction is required to be issued to the authorities concerned to provide due opportunity of hearing to the petitioner and his name be allowed to be re-entered in the voter list for the Nagar Palika General Elections, 2026.

4. Heard and considered the submissions made at the Bar and perused the material available on the record.

5. The matter pertains to casting of vote in the forthcoming Municipal Elections for which a detailed election program has already been issued by the Rajasthan State Election Commission, wherein dates for conducting municipal elections in the State of Rajasthan have been declared. The election schedule has been notified as per the program. The last date for filing the nomination was 31st July, 2026 and the entire election process would schedule to commence from 27.08.2026 and be completed by 29.09.2026.

6. The Hon'ble Apex Court in the case of **N.P. Ponnuswami v. Returning Officer, Namakkal Constituency and Ors.**, reported in **(1952) 1 SCC 94**; and

Mohinder Singh Gill vs. Chief Election Commissioner, New Delhi, reported in **(1978) 1 SCC 405**, has held that once the election process has been initiated, upon issuance of the election program by the Election Commission, there can be no interference by the Court in the election schedule.

7. The six Judges Constitutional Bench of the Apex Court in the case of **N.P. Ponnusamy** (supra) has dealt with identical situation in para number 15, 20, 24 & 25, which reads as under:

"15. The question now arises whether the law of elections in this country contemplates that there should be two attacks on matters connected with election proceedings, one while they are going on by invoking the extraordinary jurisdiction of the High Court under Article 226 of the Constitution (the ordinary jurisdiction of the courts having been expressly excluded), and another after they have been completed by means of an election petition. In my opinion, to affirm such a position would be contrary to the scheme of Part XV of the Constitution and the Representation of the People Act, which, as I shall point out latter, seems to be that any matter which has the effect of vitiating an election should be brought up only at the appropriate stage in an appropriate manner before a special tribunal and should not be brought up at an intermediate stage before any court. It seems to me that under the election law, the only significance which the rejection of a nomination paper has consists in the fact that it can be used as a ground to call the election in question. Article 329(b) was apparently enacted to prescribe the manner in which and the stage at which this ground, and other grounds which may be raised under the law to call the election in question could be urged. I think it follows by necessary implication from the language of this provision that those grounds cannot be urged in any other manner, at any other stage and before any other court. If the grounds on which an election can be called in question could be raised at an earlier stage and errors, if any, are rectified, there will be no meaning in enacting a provision like Article 329(b) and in setting up a special tribunal. Any other meaning ascribed to the words used in the article would lead to anomalies, which the Constitution could not have contemplated, one of them being that conflicting

view may be expressed by the High Court at the pre-polling stage and by the election tribunal, which is to be an independent body, at the stage when the matter is brought up before it.

20. It was argued that since the Representation of the People Act was enacted subject to the provisions of the Constitution, it cannot bar the jurisdiction of the High Court to issue writ under Article 226 of the Constitution. This argument however is completely shut out by reading the Act along with Article 329(b). It will be noticed that the language used in that article and in section 80 of the Act is almost identical, with this difference only that the article is preceded by the words 'notwithstanding anything in this Constitution.' I think that those words are quite apt to exclude the jurisdiction of the High Court to deal with any matter which may arise while the elections are in the progress.

24. It may be pointed out that Article 329(b) must be read as complimentary to clause (a) of that article. Clause (a) bars the jurisdiction of the courts with regard to such law as may be made under articles 327 and 328 relating to the delimitation of constituencies or the allotment of seats to such constituencies. It was conceded before us that Article 329(b) ousts the jurisdiction of the courts with regard to matters arising between the commencement of the polling and the final selection. The question which has to be asked is what conceivable reason the legislature could have had to leave only matters connected with nominations subject to the jurisdiction of the High Court under article 226 of the Constitution. If part XV of the constitution is a code by itself, i.e. it creates rights and provides for their enforcement by a special tribunal to the exclusion of all courts including the High Court, there can be no reason for assuming that the Constitution left one small part of the election process to be made the subject matter of contest before the High Courts and thereby upset the time schedule of the elections. The more reasonable view seems to be that article 329 covers all "electoral matters".

25. The conclusions which I have arrived at may be summed up briefly as follows :-

(1) Having regard to the important functions which the legislature have to perform in democratic countries, it has always been recognized to be a matter of first importance that elections should be concluded as early as possible according to time

schedule and all controversial matters and all disputes arising out of elections should be postponed till after the elections are over, so that the election proceedings may not be unduly retarded or protracted.

(2) In conformity with this principle, the scheme of the election law in this country as well as in England is that no significance should be attached to anything which does not affect the "election :" and if any irregularities are committed while it is in progress and they belong to the category or class which, under the law by which elections are governed, would have the effect of vitiating the "election " and enable the person affected to call it in question, they should be brought up before a special tribunal by means of an election petition and not be made the subject of a dispute before any court while the election is in progress."

8. Similar observations have been made by the Hon'ble Apex Court in the case of **Mohinder Singh Gill** (supra), wherein the above principle has been reiterated, particularly in para number 29, which reads as under:

"29. Thus, there are two types of decisions, two types of challenges. The first relates to proceedings which interfere with the progress of the election. The second accelerates the completion of the election and acts in furtherance of an election. So, the short question before us, in the light of the illumination derived from Ponnuswami, is as to whether the order for re-poll of the Chief Election Commissioner is 'anything done towards the completion of the election proceeding' and whether the proceedings before the High Court facilitated the election process or halted its progress. The question immediately arises as to whether the relief sought in, the writ petition by the present appellant amounted to calling in question the election. This, in turn, revolves round the point as to whether the cancellation of the poll and the reordering of fresh poll is 'part of election' and challenging it is 'calling it in question.'"

9. Considering the above settled proposition of law as laid down by the Apex Court in the above noted cases, this Court is of the considered opinion that upon declaration of the election program by the State Election Commission, the election process has been

initiated. Hence, the bar contained under Article 243-ZG of the Constitution of India comes into operation automatically.

10. The grievance raised by the petitioner cannot be adjudicated by this Court, in the light of the judgment passed by the Apex Court in the above noted cases, at this stage after the election process has been initiated.

11. On this count alone the instant writ petition is liable to be and is hereby rejected. The stay application and all pending applications, if any, also stand rejected.

(ANOOP KUMAR DHAND),J