

(1988) 11 GUJ CK 0007
In the Gujarat High Court

Chhatrodia Jasuben Lakhman and Another	APPELLANT
Vs	
State of Gujarat and Another	RESPONDENT

Date of Decision : 18-11-1988

Acts Referred:

Gujarat Panchayats Act, 1961 — Section 21C(5), 21C(5)

Citation : (1989) 2 GLR 1295

Hon'ble Judges : A.P. Ravani, J

Bench : Single Bench

Judgement

A.P. Ravani, J.—The petitioners are voters for the election of Umberi Gram Panchayat held on November 6, 1988. The election programme was notified on September 12, 1988 by the appropriate election authority. The voters list for the election in question was published on September 22, 1988. Thereafter the Assistant Collector, Veraval passed an order dated October 18, 1988 which is produced at Annexure "D" to the petition. As disclosed in this order, he found that certain names of voters were falsely included in the voters list and complaint was lodged by Mamlatdar against these voters. He directed that these voters should not be permitted to vote at the election. The Assistant Collector instructed the Mamlatdar, Veraval to see that the Polling Officers concerned are given these instructions and the instructions given by him in the order were required to be strictly complied with. Feeling aggrieved by the aforesaid order, the petitioners approached this Court and challenged the legality and validity of the aforesaid order.

2. On November 3, 1988, this Court (Coram: P. M Chauhan, J.) passed an order admitting the matter and directing That the voters referred to in the impugned order be permitted to vote and the votes tendered by them be kept separate and the counting of other votes should proceed but the result of the election should be declared till November 16, 1988. The Court also directed that the votes tendered by the petitioners and other persons whose names are shown in the Schedule (Annexure "G") attached to the petition be produced in scaled boxes

before the Court, Pursuant to the aforesaid direction, the respondent authorities have produced the sealed boxes in this Court.

3. Today at the time of final hearing, learned Counsel for respondents Nos. 3 to 5, Mr. Nanavati, submitted that the persons whose names are included in the voters list and in respect of whom the impugned order has been passed by the Assistant Collector are not voters at all and are not residing within the limits of Umbergi Gram Panchayat and therefore the order is eminently just and proper and should not be interfered with. The contention cannot be accepted for the simple reason that after the voters list having become final amendment whatsoever can be made therein. This becomes abundantly clear if one refers to the provisions of Section 21C(5) of the Gujarat Panchayats Act, 1961 which reads as under:

No amendment deletion or addition of any entry in the list of voters for an electoral division shall be made under Sub-section (2) and no direction for inclusion of a name in that list shall be given under Sub-section (4) during the period between such date as the State Government may, by general or special order, notify in this behalf and the date of the completion of any concerned election in the electoral division.

4. It is an undisputed position that the date notified by the Government as required u/s 21C(5) of the Act is the date of publication of voter list i.e. September 22, 1988. Therefore, after September 22, 1988 upto November 6, 1988 i.e., the date of election, no change whatsoever could have been made in the electoral roll by any officer whomsoever.

5. Nanavati, learned Counsel for respondents Nos. 3 to 5 has not been able to show any provision of law under which the Assistant Collector has power to issue instructions embodied in order Annexure "D". Thus the instructions issued by the Assistant Collector are clearly without jurisdiction and therefore nullity.

6. In above view of the matter, the petition is required to be allowed. The order Annexure "D" is hereby quashed and set aside. Respondents are directed to carry the bag of sealed boxes produced before this Court and proceed further with the counting of votes and declare the result of election in accordance with law. Rule made absolute accordingly.