

(2003) 08 PAT CK 0093
In the Patna High Court
Case No : L.P.A. No. 756 of 2002

Sahdeo Yadav @ Sahdeo Pd. Yadav

APPELLANT

Vs

Election Commissioner and Others

RESPONDENT

Date of Decision : 27-08-2003

Acts Referred:

Citation : (2003) 08 PAT CK 0093

Final Decision : Allowed

Judgement

Nagendra Rai, J.—This appeal filed by the intervenor is directed against the judgment and order dated 1-7-2002 passed by the learned Single Judge allowing the writ application being CWJC No. 542 of 2001 filed by respondent Bhola Prasad Sao and directing respondent Election Commission, Bihar and its officers to complete the counting and declare the result within one week of the post of Mukhiya of Mahudar Gram Panchayat of Kowakole Block in the district of Nawada.

2. The election to the Gram Panchayats was due since long in this State and due to intervention of the Court, the process of election started. A notification was issued on 7-2-2001 for holding the election to the Panchayats including the Panchayat in question. According to the election programme, 14-2-2001 was the date fixed for filing nomination papers, 15-2-2001 for scrutiny and 16-2-2001 for withdrawals and 11-4-2001 for election. Respondent No. 6 appellant and other candidates filed their nomination papers and after scrutiny 8 nomination papers were found in order. On 21-2-2001, the Returning Officer prepared a list of the contesting candidates in Form 9 and published it in his office and sent its copy through registered post to the District Election Officer. According to Rule 43 of the Bihar Panchayat Election Rules, 1995 (for short "the Rules"), the list contained the names of the contesting candidates with address in alphabetical order in Devnagari Script. The election symbols were also allotted to the candidates in terms of Rule 44 of the Rules. Rule 44 provides for allotment of symbols in prescribed manner to each candidate out of the symbols fixed by the State Election Commission.

3. It is not in dispute that in terms of the said Rules, the Election Commission has fixed symbols to the candidates for the office of Mukhiya and other posts. For the office of Mukhiya, 15 symbols have been prescribed by the Election Commission. It also provided that symbols are to be allotted in seriatim to the candidates, whose names are mentioned in Form 9, which, as stated above, is prepared in alphabetical order in Devnagari Script. Names of eight candidates were mentioned in Form 9 in alphabetical order and the name of the appellant came at serial No. 8 and according to the symbols prescribed by the Election Commission, serial No. 8 is "Balti" and, accordingly, the said symbol was allotted to the appellant. Respondent No. 6 was allotted symbol according to his position in Form 9. The parties did canvassing during election on the basis of the symbols allotted to them. 11-4-2001 was the date fixed for election. According to the appellant, on that day it transpired that there was mistake in the printing of ballot-papers regarding his case as instead of showing "Balti" symbol against his name, "bungalow" was shown, as a result of which the voters were misled and did not cast vote for him. Immediately, he brought this fact to the notice of the Presiding Officer and the Presiding Officer of Booths No. 192, 193 and 194 submitted a report to the concerned officer stating therein that as the symbol of the appellant was wrongly printed in the ballot papers, the voters did not cast their votes. The said reports have been annexed as Annexures 4 series to the memo of appeal. The appellant brought this facts to the notice of the State Election Commissioner by filing a petition on 16-4-2001 and requested for a fresh poll.

4. On 30-4-2001, the Election Commission had issued general guidelines mentioning, inter alia, that the votes cast on the basis of the ballot papers, which are not printed as Form 9, approved by the Returning Officer, should not be counted. The said guidelines was issued by the Commission taking into consideration that the voting might have place with defective ballot papers, which could not be noticed by the Presiding Officer at the time of poll due to rush of work and due to their inexperience in conducting Panchayat election, which was being held after such a long time. A copy of the said guideline has been annexed as Annexure 1 to the writ application and Annexure 6 to the memo of appeal.

5. In view of the aforesaid circular, counting of votes was not made. The writ petitioner-respondent No. 6 filed a representation before the Election Commission and a report was called for from the District Election Officer, who reported about the facts of defective ballot papers in respect of the posts of Mukhiya for three Gram Panchayats including the Gram Panchayat in question. Thereafter, the Election Commission called for a report from the District Election Officer on 30-6-2001 to explain as to why repoll for the post of Mukhiya was not held in the terms of the earlier guidelines. A copy of the said letter has been annexed as Annexure "B" to the counter-affidavit filed on behalf of the respondent-Election Commission in the writ application.

6. As the counting of votes for the post of Mukhiya for the Gram Panchayat in question was stopped by the concerned officer, respondent No. 6 filed a writ application in this Court being CWJC No. 8699 of 2001 complaining about the stay of the counting by the Election Commission. The said writ application was disposed of on 20-7-2001 (Annexure 8 to the memo of appeal), wherein an agreed order was passed directing the Election Commission to complete the process of election and the final result of the Panchayat in question must be declared by middle of November, 2001.

7. It is to be stated here that the appellant or other contesting candidates were not made parties to the said writ application and as such they were not heard and the Election Commission was only heard and, thereafter, the aforesaid order was passed. The Election Commission, thereafter, filed MJC No. 2948 of 2001 requesting for extension of time for completion of the election process of the Gram Panchayat by the end of January, 2002 and the said MJC application was dismissed on 6-12-2001.

8. The Election Commission, thereafter, considered the matter and found that such mistakes have been committed in different constituencies. It has also found certain other infirmities, as a result of which the election could not be held or the final declaration of the result could not be made. The Election Commission decided to hold fresh re-poll and fixed 20-1-2002 as the date of the election by its communication dated 19-11-2001 (Annexure 7 to memo of appeal).

9. The writ petitioner-respondent No. 6 thereafter, filed the present writ application on 9-1-2002, out of which this appeal arises. On 16-1-2002, this Court by an interim order stayed the election process and issued a notice to officials of the Commission to show cause why they be not punished for disobedience of the earlier order dated 20-7-2001. Thereafter, the matter as finally heard and the impugned judgment has been delivered.

10. The learned Single Judge has allowed the writ application primarily on two grounds, firstly that the order of the Election Commission of re-poll is in violation of the earlier order dated 20-7-2001 directing to complete the process of election by the middle of November, 2001 as the Election Commission has no power to order for fresh election but to declare the result and secondly that once the poll had already taken place, no authority including the Election Commission has power to interfere with the process of election process by declaring the result.

11. Learned Counsel appearing for the appellant raised two points. Firstly, he submitted that in view of the provision contained in Article 243O(b) of the Constitution of India and Section 140 of the Bihar Panchayat Raj Act, 1993 (for short "the Act"), the learned Single Judge should not have interfered with the decision taken by the Election Commission to cancel the election and hold the re-poll as the same was passed in exercise of the power of superintendence, direction and control vested in him in terms of the provision contained in Article 243K of the Constitution of India and Section 136 of the Act and the same was

just and proper decision and was made with the sole purpose of completing the process of election and also that the said decision has not the effect of interrupting, or obstructing or protracting the election proceeding. Secondly, he submitted that the learned Single Judge was not justified in holding that the direction of re-poll by the Election Commission was in breach of the earlier order of the High Court, as by earlier order the High Court had not directed for declaration of the result on the basis of the earlier poll held, on the other, it has directed to complete the process of election and the process of election begins from the issuance of the notification till the declaration of the result and during this period, if the Election Commission decides to hold re-poll after taking into consideration the fact situation of the matter, the same does not amount to disobedience of the earlier order.

12. Learned Counsel for the Election Commission supported the stand of the appellant. He argued that the Election Commission has been given a power under the aforesaid provision to hold free and fair election. Once the Commission found that as a result of wrong printing of ballot papers, there was no fair poll as the voters did not cast their votes and boycotted the same, it decided to cancel the poll and ordered for re-poll. The said decision being not arbitrary or mala fide, the learned Single Judge should not have interfered with the said direction of the Commission.

13. Learned Counsel appearing for the writ petitioner-respondent submitted that in view of the Bar created by the provisions contained in Article 243O(b) of the Constitution of India and Section 140 of the Act, irregularity or illegality in the election due to wrong printing of ballot papers could have been challenged after the poll through the election petition. The learned Single Judge has rightly held that the Election Commission has no power to order for re-poll once the process of election has started. He also submitted that once there was earlier direction of this Court in the earlier writ application to complete the process of election, the only thing, that was required to be done by the Election Commission, was to count the votes and declare the result and, therefore, direction for re-poll was made in disregard to the order passed by this Court.

14. Before advertng to the submissions advanced at the Bar, it will be relevant to refer to the constitutional and statutory provisions and the settled law with regard to the power of the Election Commission and the power of this Court to interfere during election, which begins from the issuance of the notification and ends with the declaration of the result. Part IX of the Constitution (brought by the Constitution (Seventy-third Amendment) Act, 1992) deals with the Panchayats. There are three tier Panchayats at the village, intermediate and district levels. It contains detailed provisions with regard to Constitution of Panchayats, Composition of Panchayats, Duration of Panchayats and other matters, including Constitution of Election Commission (Article 243K) and Bar to interference by Courts in electoral matters (Article 243O). Article 243K provides, inter alia that the superintendence, direction and control of the preparation of electoral rolls for,

and the conduct of, all elections to the Panchayats shall be vested in a State Election Commission consisting of a State Election Commissioner to be appointed by the Governor. Article 243O(b) provides that no election to any Panchayat shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of the State.

15. After the aforesaid amendment in the Constitution, the State Government has enacted the Bihar Panchayat Raj Act, 1993. It also framed Rules in exercise of the power vested under the Act in the year 1995, Section 136 of the Act contains provision with regard to the Election Commission of Panchayat and provides that the Governor shall appoint a State Election Commission for superintendence, direction and control of the preparation of electoral rolls for, and the conduct of all elections to the Panchayat bodies in the State under the Act and the Rules made thereunder. The Commission shall consist of a State Election Commissioner to be appointed by the Governor. Section 140 of the Act provides that the election to any office of a Panchayat of Gram Katchahry shall not be called in question except by an election petition. Thus, these two provisions have been incorporated in the Act in the light of the provisions contained in Articles 243K and 243O of the Constitution and the provisions contained in Article 243K and Section 136 of the Act is similar to the provision contained in Article 324 of the Constitution, which defines the power of the Election Commission constituted for election to the Parliament and to the Legislature of every State and of elections to the offices of President and Vice-President held under the Constitution. The provisions contained in Article 243O of the Constitution and Section 140 of the Act are *pari materia* to the provision contained in Article 329(b) of the Constitution.

16. Thus, the law laid down by the apex Court with regard to the aforesaid constitutional provisions will equally apply with regard to the provisions dealing with regard to the aforesaid provisions concerning Gram Panchayats.

17. Under the Scheme of the Act and the Rules, a detailed procedure has been provided for holding election to the Panchayats including issuance of notification containing election programme, preparation of the list of the candidate in alphabetical order, allotment of symbols, holding of polls and declaration of result in prescribed manner.

18. When the election is held for democratic bodies, it is well-settled that all steps should be taken to complete the election process smoothly and nothing is to be done, which has the effect of protracting or obstructing the election. All controversial matters and all disputes arising out of election should be challenged after the post election so that the election proceedings are not delayed or retarded. It is well-settled that the word "election" used in the Representative of the People Act or in the similar provision has a wider meaning and it includes all the steps taken from the date of issuance of the notification for holding the election till the declaration of the result. A Constitution Bench of the apex Court

in the case of N.P. Ponnuswami Vs. Returning Officer, Namakkal Constituency and Others, held that the word "election" as used in Part XV of the Constitution includes the entire procedure to be gone through to return a candidate to the legislature. Again another Constitution Bench of the apex Court in the case of Mohinder Singh Gill and Another Vs. The Chief Election Commissioner, New Delhi and Others, held that the word "election" in the Constitution as well as in the Representation of People Act has been used in wide sense and within its sweep it includes all the steps commencing from the Presidential notification calling upon the electorate to elect a candidate culminating in the final declaration of the returned candidate. It includes the total process from start to finish of the election and not merely the conclusion or culmination.

19. Article 329(b) of the Constitution provides, inter alia, that no election shall be called in question except by an election petition. The question as to whether in spite of the bar created by Article 329(b) of the Constitution that no election to the House of Parliament or to the State Legislature shall be called in question except by an election petition, the High Court has power to interfere with the decisions taken during the process of election, came for consideration before the apex Court in catena of cases. However, it is not necessary to overburden this judgment by referring to all those cases. Reference will be made only to the Constitution Bench decisions of the apex Court in the case of N.P. Ponnuswami (supra) and the case of Mohinder Sings Gill (supra) and the recent judgment of the apex Court in the case of Election Commission of India Through Secretary Vs. Ashok Kumar and Others, .

20. In N.P. Punnuswami's case (supra) the apex Court held that the election should be held as early as possible and all controversial matters arising during the election process should be postponed till after the election is over and the person affected shall call the election in question before the Special Tribunal specially constituted under the relevant provisions of the Act. It was further held that there cannot be two attacks on matters connected with election proceedings, one while by invoking the extra-ordinary jurisdiction of the High Court under Article 226 of the Constitution of India and the other after completion of election by filing an election petition. Any matter, which has the effect of vitiating the election, is to be brought to the Special Tribunal after the election is over and in this connection, it is relevant to refer to paragraphs 16 and 9 of the judgment, which are as follows:

"(16). The conclusions which I have arrived at may be summed up briefly as follows:

(1) Having regard to the important functions which the legislatures have to perform in democratic countries, it has always been recognised to be a matter of first importance that election 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 of 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 on to be made the subject of a dispute before any Court while the election is in process.

(9) The question now arises whether law of elections in this country contemplates that there should be two attacks on matters connected with the election proceeding, one while they are going on by invoking the extras-ordinary 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 later, seems of 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 scribed to the words used in the Article would lead to anomalies, which the Constitution could not have come contemplated one of them being that conflicting views 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."

21. In Mohinder Singh's case (supra), the apex Court held that Article 329(b) of the Constitution is itself a complete bar on litigative challenges to electoral steps taken by the Election Commission and its officers for carrying forward the process of election to its culmination in the formal declaration of the result. The sole remedy to the aggrieved party, if he wants to challenge any election, is an election petition and this excludes all remedies including the remedy provided under Article 226 of the Constitution, as a result of the non-obstante clause. In other words, it was held that if the challenge amounts to calling the election in

question then Article 329(b) will operate. However, the apex Court held that there are certain controversies, which may not attract the wrath of Article 329(b). namely, if the Election Commission acts in breach of law or its action is arbitrary or mala fide or the Election Commission has passed an order, which instead of accomplishing and completing the process of election, may have the effect of thwarting the course of election. In both the situations, the Court may interfere inspite of ban crated by Article 329(b) of the Constitution.

22. The apex Court in the case of Election Commission of India (supra) has succinctly held that apart from two categories, as held by the apex Court in Mohinder Singh Gill's case (supra), there is a third category, where the relief sought for is such that the same is not given, the wrong done shall not be undone after result of the election has been announced provided such intervention does not interrupt, delay or postpone on going election proceedings. In this connection, it is relevant to refer to paragraphs 20 and 21 of the judgment, which are as follows:

"(20) Vide para 29 in Mohinder Singh Gill case the Constitution Bench noticed two types of decisions and two types of challenges the first relating to proceedings which interfere with the progress of the election and the second which accelerate the completion of the election and acts in furtherance of an election. A reading of Mohinder Singh Gill case points out that there may be a few controversies which may not attract the wrath of Article 329(b). To wit:

(i) power vested in a functionary like the Election Commission is a trust and in view of the same having been vested in high functionary can be expected to be discharged reasonably, with objectivity and independence and in accordance with law. There possibility however, cannot be rules out where the repository of power may act in breach of law of arbitrarily nor mala fide.

(ii) A dispute raised may not amount to calling in question an election if it subserves the progress of the election and facilitates the completion of the election. The Election Commission may pass an order which far from accomplishing and completing the process of election may thwart the course of the election and such a step may be wholly unwarranted by the Constitution by wholly unsustainable under the law.

In Mohinder Singh Gill case this Court gives an example (vide para 34). Say after the President notifies the nation on the holding of elections u/s 15 and the Commissioner publishes the calendar for the poll u/s 30 if the latter orders returning officers to accept only one nomination or only theoe which come from one party as distinguished from other parties or independents, which order would have the effect of preventing an election and not promoting it, the Court's intervention in such a case will facilitate the flow and not stop the election stream.

(21) A third category is not far to visaulaise. u/s 81 of the Representation of the People Act, 1951 an election petition cannot be filed before the date of election,

i.e, the date on which the returned candidate is declared elected. During the process of election something may have happened which would provide a good ground for the election being set aside. Privity of election process has to be preserved. One of the means for achieving this end is to deprive a returned candidate of the success secured by him by resorting to means and methods falling foul of the law of elections. But by the time the election petition may be filed and judicial assistance secured, material evidence may be lost. Before the result of the election is declared assistance of Court may be urgently and immediately needed to preserve the evidence without in any manner intermeddling with or thwarting the progress of election. So also there may be cases where the relief sought for may not interfere or intermeddle with the process of the election but the jurisdiction of the Court is sought to be invoked for correcting the process of election taking care of such aberrations as can be taken care of only at that moment failing which the flowing stream of election process may either stop or break its bounds and spill over. The relief sought for is to let the election process proceed in conformity with law and the facts and circumstances be such that the wrong done shall not be undone after the result of the election has been announced subjected to overriding consideration that the Court's intervention shall not interrupt, delay or postpone the on going election proceedings. The facts of the case at hand provide one such illustration with which we shall deal with a little later. We proceed to refer a few other decided cases of this Court cited age the Bar."

23. Thus, the settled law is that in view of the bar created by Article 329(b) of the Constitution, no election shall be called in question except by filing an election petition as provided under the relevant provisions. However, under the three situations, as mentioned above, this Court in exercise of Article 226 of the Constitution may interfere. However, this power, as held in the case of Election Commission of India (supra), should be exercised with circumspection and the Court must guard against any attempt of retarding, interruption protracting or stalling the election proceeding.

24. The provision contained in Article 243K of the Constitution with regard to the power of the State Election Commission is similar to the power of the Election Commission as provided under Article 324 of the Constitution. The apex Court in the case of Mohinder Singh Gill (supra) considered the scope of power of the Election Commission and held that the constitutional provision vests comprehensive responsibility of superintendence, direction and control of election in the Election Commission. Wide power has been conferred on the Commission for holding free and fair election. However, its decisions are to be bona fide and necessary for vindication of the free verdict of electorate. The plenary power given to the Election Commissioner or the Commission has two restrictions, firstly that if there valid law made by the Parliament or the State Legislature in connection with the election, the Commission shall act in conformity and not in violation of such provision. Secondly, the Commission shall be responsible to act bona fide and in consonance with the requirement of the natural justice. In case,

any decision is taken arbitrarily, mala fide or there is misuse of the power of the Commission, the Court has power to strike the particular action in exercise of the power under Article 226 of the Constitution..

25. The apex Court in the case of Election Commission of India (supra), also held that the words "superintendence, direction and control" have a wide connotation so as to include therein such powers which though not specifically provided but are necessary to be exercised for, effectively accomplishing the task of holding the elections to their completion.

26. The question for consideration in this case is as to whether the decision taken by the Election Commission to cancel the election and to hold repoll is amenable to writ jurisdiction in view of the settled law as stated above. Nothing is on the record to show that the decision is either arbitrary or mala fide, on the other hand, the facts of the case show that in terms of the provisions of the Act and the Rules and the guidelines issued, the candidates at serial No. 8 the appellant should have been allotted the symbol of "Balti" and as a matter of fact in terms of the provision, he was allotted the symbol of "Bunglow". We have asked the learned Counsel for the Commission to produce the relevant records and he also produced the relevant records showing allotment of symbol of "Balti" to the appellant. It is also an admitted fact that the "Balti" symbol was not printed against the name of the appellant and the "Bunglow" was printed as his symbol in the ballot-paper, On the date of the poll, the matter came to light and the report of the Returning Officer shows that because of that a large number of voters boycotted the poll. The Election Commission has issued a guideline that in case of wrong printing of ballot-papers, counting should be postponed. It also took a decision to order for re-poll in such cases. This decision was not taken in any individual case but this was a general guideline. In such a situation, the decision taken by the Election Commission cannot be termed as arbitrary or mala fide exercise of power or in violation of any provision of the Commission or the relevant provisions of the Act. The decision taken by the Commission was a step in the election process for fair poll.

27. Similar question arose for consideration in the case of Mohinder Singh Gill (supra) and the apex Court held that "the conclusion is, therefore, irresistible that the jurisdiction under Article 226 cannot consider the correctness, legality or otherwise of the direction for cancellation integrated with re-poll because prima facie purpose of such re-poll was to restore a detailed poll process and to complete it through the salvatory effort of a re-poll. Whether in fact or law, the order is validly made within his powers or violative of natural justice can be examined later by the High Court as an Election Tribunal. If the regular poll, for some reasons, has failed to reach the goal of choosing the returned candidate and to achieve this object a fresh poll (not a new election) is needed, it may still be a step in the election. Hence, the writ application challenging the cancellation coupled with re-poll amounts to calling in question a step in election and is, therefore, barred by Article 329(b).

28. Thus, the decision taken by the Commission in the present case for postponing the counting and holding a fresh poll was not amenable to writ jurisdiction in view of the clear bar created by Article 243O(b) of the Constitution and Section 140 of the Act.

29. As stated above, the Election Commission has vast power to pass order during the process of election and, thus, the learned Single Judge was not justified in holding that once the poll has already started, no authority has power to interfere with the completion of election process by declaring the result except on the grounds maintained in Rule 50, 70 and 71 of the Rules. The power of control, direction and superintendence is vested in the Election Commission. The Election Commission took a decision for the vindication of the free verdict of the electorate and ordered for abatement of the previous poll because it failed to achieve the goal.

30. Earlier writ application was filed by the writ petitioner-respondent without impleading the appellant and other candidates as party and only Election Commission was made as a party, wherein this Court only directed to complete the process of election. The process of election as stated above begins from issuance of the notification till the declaration of the result and during this period, the Election Commission is vested with the power of superintendence, direction and control and it can issue direction as stated above, which may result in even postponing the election, or postponing the counting or repelling. Such decisions are also steps in the election and part of the process of election and as such the decision taken by the Election Commission to cancel the poll on the ground of mistake in printing of ballot papers and re-poll cannot be said to be in disobedience of the earlier order passed by this Court. The appellant was not a party in the earlier writ application and as such the said order affecting him was not binding on him. The second writ application was also filed by the writ petitioner-respondent without impleading the appellant as party. The appellant after having knowledge of the case filed intervention application and, thereafter, was heard.

31. Thus, in my considered view, during the process of election this Court should not have interfered with the decision taken by the Election Commission, which as stated above, was a step in the election and challenge to the same was barred by Article 243O(b) of the Constitution and Section 140 of the Act. The Election Commission has not violated the direction given by this Court in the earlier order, on the other hand, its action is bona fide and was done for the sole purpose and with a view to achieve the goal of free and fair poll.

32. In the result, this appeal is allowed and the impugned order passed by the learned Single Judge is set aside and all consequential steps including the declaration of the result pursuant to the order of this Court are also quashed. The Election Commission is directed to proceed in accordance with its decision and hold a fresh poll immediately.

M.L. Visa, J.

33. I agree.