

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CIVIL APPLICATION NO. 5056 of 2026**

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JAYESH BATUKBHAI PATEL(VANANI)
Versus
STATE OF GUJARAT & ORS.

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Appearance:

MR. KIRTAN H MISTRY(10012) for the Petitioner(s) No. 1

AISHVARYA(8018) for the Respondent(s) No. 2

G H VIRK(7392) for the Respondent(s) No. 3

MS VAISHNAVI VERMA, AGP for Respondent No.1

MR. SAHIL M SHAH(6318) for the Respondent(s) No. 1

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CORAM:HONOURABLE MR.JUSTICE N.S.SANJAY GOWDA
and
HONOURABLE MR.JUSTICE J. L. ODEDRA

Date : 07/04/2026

JUDGMENT

(PER : HONOURABLE MR.JUSTICE N.S.SANJAY GOWDA)

1. The petitioner seeks to challenge an endorsement dated 4.4.2026 by which the Electoral Officer has refused to include his name in the electoral roll.

2. These facts are not in dispute:-

(1) The petitioner's name was included in the electoral roll of the Legislative Assembly Constituency in the year 2021. However, since he had shifted his residence, his name came to be deleted during the course of the Special Intensive Revision (SIR) of the electoral rolls of the Legislative Assembly.



(2) The petitioner made an application to include his name on 8.2.2026.

(3) On 17.2.2026, the Chief Electoral Officer, pursuant to a Special Intensive Revision (SIR) of the electoral rolls of the Legislative Assembly, published an electoral roll in which the name of the petitioner was not found. This was obviously because the petitioner was not available when the enumerating officer visited his residence and he had already shifted his residence.

(4) On 3.3.2026, the application filed by the petitioner for inclusion of his name in the electoral roll in the Legislative Assembly was accepted by the Electoral Registration Officer under the authority empowered under the RP Act, 1950.

(5) Thus, as on 3.3.2026, the name of the petitioner was ordered to be included in the electoral roll of the Legislative Assembly Constituency.

(6) It is pertinent to state here that though this application has been accepted, the final electoral list is yet to be published and is stated to be published on 10.4.2026.

(7) On 23.3.2026, as required under Rule 4 of the



Bombay Provincial Municipal Corporation (Registration of Electoral Votes) Rules, 1994 (“the Rules, 1994” for short), the basis for preparation of this preliminary list was the electoral roll of the Legislative Assembly Constituency.

(8) As noticed above, though the application of the petitioner to include his name had been accepted, as a matter of fact, his name was not found in the list of voters which was published by the Election Commission of India on 17.2.2026.

(9) Consequently, the authority under the Rules, 1994 did not include the name of the petitioner nor could they have included the name of the petitioner since Rule 4 of the Rules, 1994 clearly stated that the basis for the electoral roll would be the electoral roll of the Assembly Constituency.

(10) The petitioner, thereafter, pursued the officer under the Rules, 1994 to incorporate his name since his request to be included in the Assembly Constituency electoral roll had been accepted by the concerned officer on 3.3.2026.

(11) However, the authority under the Rules, 1994 has refused to incorporate his name by placing reliance on sub-Rule (4) of Rule 6 of the Rules, 1994. As a consequence, the petitioner is before this Court challenging the endorsement.



3. The learned counsel for the petitioner submits that so long as the name of the petitioner has been ordered to be included in the Assembly Constituency prior to the period of 10 days contemplated under Rule 6(4) of the Rules, 1994, he has an indefeasible right to be a part of the election process and he would have a right to be in the electoral roll and cast his vote and even to participate in the election. He submits that the mere delay in the publication of the revised list, which is scheduled to be published on 10.4.2026, cannot be the reason for including his name. The learned counsel points out that in the given facts of the case, when the petitioner's name has been included in the electoral roll of the Assembly Constituency, his name should be permitted to be included in the electoral roll published under the Rules, 1994 and enable the petitioner to participate in the election process.

4. The learned counsel appearing for the respondent submits that Rule 6(4) of the Rules, 1994 specifically bars the officer from making any addition or alteration or modification in the final list of the electorates before 10 days of the last day of filing of the nominations and since the last date for filing of the nominations was 11.4.2026 and the request was made within this period of 10 days, the impugned endorsement has rightly been issued.



5. From the above facts, what is clear is that the name of the petitioner was in the electoral roll of the Assembly Constituency but was deleted since he had moved his residence. However, subsequently on 8.2.2026, much before the preliminary list was published, he had made an application for the inclusion of his name and this request was also accepted by the concerned officer on 3.3.2026, once again before the publication of the preliminary list under Rule 4 of the Rules, 1994.

6. In the light of this particular fact that the name of the petitioner was ordered to be included in the electoral roll of the Legislative Assembly Constituency, notwithstanding the fact that the ultimate publication is scheduled on 11.4.2026, in our view, it would be appropriate to direct the authorities to consider the petitioner's name as having been included by virtue of the order dated 3.3.2026 and permit him to participate in the election, which is scheduled on 26.4.2026.

7. The argument of the learned counsel appearing for the State Election Commission is that the basis for preparation of the preliminary list was the publication of the electoral roll on 17.2.2026 by the Election Commission of India and the State Election Commission was bound to follow the said electoral roll. In our view, there can be no quarrel with this proposition. However,



the fact remains that before the preliminary list was published by the State Election Commission on 23.3.2026, the electoral officer under the RP Act had accepted the application of the petitioner for including his name by passing an order on 3.3.2026. Therefore, the publication of the preliminary list on 23.3.2026 under Rule 4 of the Rules, 1994 pales into insignificance.

8. Learned counsel for the respondent also made the submission that any intrusion into the electoral process at this stage would derail the entire process and such a course of action should not be entertained.

9. In our view, this submission cannot be accepted. Firstly, as stated above, the name of the petitioner has been ordered to be included in the electoral list has already been made on 3.3.2026 and once his name has been ordered to be included, by placing reliance on a technicality, such as Rule 6(4) of the Rules, 1994 or the publication of the preliminary list on 23.3.2026 which was in accordance with the Assembly Constituency list dated 17.2.2026, the right of a citizen to participate in the election cannot be denied.

10. Secondly, by virtue of the order dated 3.3.2026, the name of the petitioner would become a part of the electoral rolls and formal publication of this list, which is scheduled on 10.4.2026, cannot result in denial of the



right of the petitioner to participate in the electoral process. It is to be borne in mind that every resident of the local self-government has a right to participate in the electoral process and the only condition is that he should be on the electoral roll. The manner in which the electoral roll is to be operated, no-doubt is governed by the rules. However, it is to be stated here that once the electoral roll of the Assembly Constituency is corrected, the benefit of the same should be given to the petitioner by incorporating his name in the final list published under the Rules, 1994.

11. In this view of the matter, the concerned authorities are directed to insert the name of the petitioner pursuant to this order which would formally be reflected in the electoral list which is scheduled to be published on 10.4.2026.

12. The writ petition is accordingly ALLOWED. The impugned order dated 4.4.2026 is quashed and set aside.

13. This order is made in the peculiar facts of the case and shall not be treated as a precedent for any other case. Direct Service is permitted **TODAY**.

Sd/-
(N.S.SANJAY GOWDA,J)

Sd/-
(J. L. ODEDRA, J)

OMKAR