

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO.21355 of 2016
With
SPECIAL CIVIL APPLICATION NO.21364 of 2016
With
SPECIAL CIVIL APPLICATION NO.21366 of 2016
With
SPECIAL CIVIL APPLICATION NO.21368 of 2016
With
SPECIAL CIVIL APPLICATION NO.21370 of 2016
With
SPECIAL CIVIL APPLICATION NO.21379 of 2016
With
SPECIAL CIVIL APPLICATION NO.21380 of 2016
With
SPECIAL CIVIL APPLICATION NO.21381 of 2016

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VASAVA BABUBHAI TALSHIBHAI....Petitioner(s)
 Versus
 STATE OF GUJARAT & 2....Respondent(s)

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Appearance:

Special Civil Applications No.21355/2016, 21364/2016, 21370/2016 and 21379/2016

MR VIJAY H NANGESH, ADVOCATE for the Petitioner(s) No.1
 MR DHAWAN M JAYSWAL, ASSISTANT GOVERNMENT PLEADER for the Respondent(s) No.1
 MS ROOPAL PATEL, ADVOCATE for the Respondent(s) No.2 – 3

Special Civil Applications No.21366/2016, 21368/2016, 21380/2016 and 21381/2016

MR VIJAY H NANGESH, ADVOCATE for the Petitioner(s) No.1
 MR SHIRISH H GOHIL, ASSISTANT GOVERNMENT PLEADER for the Respondent(s) No.1
 MS ROOPAL PATEL, ADVOCATE for the Respondent(s) No.2 – 3

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CORAM: **HONOURABLE MS. JUSTICE HARSHA DEVANI**
 and
HONOURABLE MR. JUSTICE A.S. SUPEHIA

Date : 22/12/2016

COMMON ORAL ORDER
(PER : HONOURABLE MS. JUSTICE HARSHA DEVANI)

1. In all these petitions, the individual petitioners have challenged the action of the respondent No.3 – Returning Officer in not accepting the nomination paper of the petitioners for the seat of members of the respective wards of the Vala Gram Panchayat, taluka Jhagadia, district Bharuch.

2. The grievance voiced in the present petitions is that each of the petitioners had reached the place specified for filing of nomination papers before the prescribed period namely, before 3 o'clock in the afternoon; however, the Returning Officer refused to accept the nomination papers.

3. As to whether the petitioners had, in fact, submitted the nomination papers within the prescribed period namely, between 11 o'clock in the forenoon and 3 o'clock in the afternoon is a disputed question of fact. The learned advocate for the petitioners had submitted that the CCTV camera footage of the specified place would clearly reveal that the petitioners had approached the Returning Officer within the prescribed time limit. Even if that be true, this court, in exercise of powers under Article 226 of the Constitution of India, would not embark upon an inquiry with regard to a disputed question of fact and render a finding one way or the other. If the nomination paper of the petitioners has been illegally rejected, it is always open for the petitioners to challenge the same by filing an election petition after the elections are over.

4. Under the circumstances, the court is not required to exercise discretion in favour of the petitioners at this stage.

The petitions are, therefore, summarily rejected. However, with a view to see that any election petition filed by the petitioners may not be frustrated, the respondent No.2 is directed to ensure that the CCTV camera footage of the Mamlatdar office, Jhagadia if any is duly sealed and preserved.

(Harsha Devani, J.)

(A.S. Suphia, J.)

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