

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s).24950/2015

(Arising out of impugned final judgment and order dated 29-07-2015 in SCA No.12084/2015 passed by the High Court Of Gujarat At Ahmedabad)

PARMAR SAMANTSINH UMEDSINH Petitioner(s)

VERSUS

STATE OF GUJARAT & ORS. Respondent(s)

([ONLY I.A. NO. 124718/2020 - APPLICATION FOR DIRECTION IN SLP (C) NO. 30635/2015 TO BE LISTED ON 07/12/2020])

WITH
SLP(C) No. 30635/2015 (III)
(FOR CLARIFICATION/DIRECTION ON IA 124718/2020)

Date : 09-12-2020 This application was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ASHOK BHUSHAN
HON'BLE MR. JUSTICE R. SUBHASH REDDY
HON'BLE MR. JUSTICE M.R. SHAH

Counsel for the parties:

Mr. Anirudh Sharma, AOR

State Election Commission

Mr. Maninder Singh, Sr. Adv.
Ms. Ranjeeta Rohatgi, AOR
Mr. Prabhas Bajaj, Adv.
Ms. Jesal Wahi, AOR

State of Gujarat

Mr. Tushar Mehta, SG
Ms. Manisha Luvkumar, Sr. Adv.
Mr. Aniruddha P. Mayee, AOR
Ms. Aastha Mehta, Adv.
Ms. Deepanwita Priyanka, Adv.

Ms. Hemantika Wahi, AOR

UPON hearing the counsel the Court made the following

O R D E R

I.A. NO. 124718/2020 in SLP (C) NO.30635/2015

Heard Shri Tushar Mehta, learned Solicitor General appearing

for the respondent/State, Shri Anirudh Sharma, learned counsel appearing for the petitioner and Shri Maninder Singh, learned senior counsel for State Election Commission. By this application the following prayers have been made:

"A. Stay the operation of the impugned final judgment and order dated 21.10.2015 passed by the Hon'ble High Court of Gujarat at Ahmedabad in Special Civil Application No.16313 of 2015, to the extent that it reads deemed extension of the term of an elected body which is contrary to the Constitutional mandate prescribed in Part IX and Part IX-A of the Constitution of India, and

B. Hold and declare that, on conclusion of the term of local bodies, in the event elections cannot be held on account of circumstances beyond control of the State Election Commission, the State government in consonance with the provisions of the Constitution of India would be empowered to appoint administrators to the local bodies till elections are held by the Respondent No.3 Commission..."

As per the constitutional provisions the term of the local bodies - Municipality, Nagar Palika, Panchayat is to continue for five years from the date appointed for its first meeting and no longer. It is submitted by Shri Tushar Mehta that the tenure of Municipality Corporation/Municipalities/Panchayats are coming to an end in December, 2020. He submits that looking to the pandemic Covid-19 the process of completion of election, before the end of tenure, could not be completed and State Election Commission has already taken a decision to postpone the process of preparation of voter list for a period of three months. On the query by the Court at what earliest time election of all the aforesaid bodies can be completed, Shri Maninder Singh, learned senior counsel, after instructions, submits that election of all the local bodies shall

be completed by the end of February, 2021.

In the meantime, we are of the view that the Chief Executive Officer (whatever designation called in each local body) shall carry on necessary functions without taking any policy decision so that all local bodies will be smoothly run till the newly elected bodies take charge. We make it clear that as per the constitutional provision of Article 243E and 243U, the tenure of elected bodies is only for five years from the date appointed for its first meeting and no longer. After expiry of the tenure in the month of December, 2020, it goes without saying that elected bodies shall cease to function and as submitted fresh steps for constituting the fresh elected bodies shall be undertaken within the time stated hereinabove.

The application is disposed of accordingly.

(ARJUN BISHT)
COURT MASTER (SH)

(RENU KAPOOR)
BRANCH OFFICER