



2026:AHC:209918-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

PUBLIC INTEREST LITIGATION (PIL) No. - 2394 of 2026

Akshay Upadhyay

.....Petitioner(s)

Versus

Election Commission of India and 5 others

.....Respondent(s)

Counsel for Petitioner(s)	: Khwaja Shamshad Ahmad, Sagheer Ahmad
Counsel for Respondent(s)	: Rakesh Pande (Sr. Adv.) with Ashutosh Kumar Mishra, A.K. Goyal (A.C.S.C.)

Chief Justice's Court

HON'BLE ARUN BHANSALI, CHIEF JUSTICE
HON'BLE KSHITIJ SHAILENDRA, J.

1. The petitioner, claiming himself to be resident of the Allahabad - Jhansi Graduate Constituency for Legislative Council, Uttar Pradesh, has filed the present petition seeking quashing of the notice/notification dated 29.09.2026 for conducting elections of Graduates' and Teachers' Constituencies for Legislative Council of Uttar Pradesh on the basis of voter list prepared pursuant to notification dated 30 September 2025. Further prayer has been made for directing the respondents to prepare fresh voter list and to conduct elections for 5 Graduates' Constituencies as well as for 6 Teachers' Constituencies as per provisions of the Representation of the People Act, 1951 and Registration of Electors Rules, 1960 ('Rules, 1960').

2. Submissions have been made that the respondents have started conducting elections for the 5 Graduates' Constituencies and 6 Teachers' Constituencies without preparing the electoral rolls before the general elections. Reference has been made to provisions of Representation of the People Act, 1950 ('Act, 1950') regarding the eligibility for enrollment as voters for the said constituencies.

3. Further submissions have been made that in the year 2025, electoral roll was revised with the qualifying date of 1 November 2025 and though the elections are scheduled to be conducted on 23 October 2026, the elections are sought to be conducted based on the same electoral roll

revised in 2025 depriving graduates who have qualified in the year 2023.

4. Whereafter, reference has been made to provisions of Section 21 of the Act, 1950 and Rule 31(3) of the Rules, 1960. It is alleged that when one of petitioner's friend contacted the office of District Election Officer on 28.09.2026, he came to know that the voter list is being prepared and that the preparation was started since 26.09.2026.

5. Submissions have been made that the respondents have undertaken the exercise of preparation of voter list from 26 September 2026 till 29 September 2026 violating the law and therefore, the elections, based on the said electoral rolls, cannot be permitted to be held. Submissions have been made that the respondents were required to publish a notification by following Rule 31(4) of Rules, 1960, which exercise has not been done, depriving large number of young electors from getting their names included.

6. Learned counsel appearing for the Election Commission made submissions that the plea, sought to be raised, is absolutely baseless. Submissions have been made that the process for preparation of electoral rolls was started vide notification dated 21 November 2025 and final publication of electoral rolls was made on 06 January 2026. The exercise, which has now been undertaken, is in consonance with the provisions of Section 23(3) of the Act, 1950 which provides for inclusion of names in the electoral rolls, for which there is no provision for publication of the notification in the newspapers, as claimed by the petitioner, which resulted in alleged deprivation of the eligible voters. Submissions have been made that the plea raised seeking to question the validity of the electoral rolls as well as the holding of the elections is totally baseless.

7. It was submitted that the petitioner had earlier filed **Public Interest Litigation (PIL) No. 3213 of 2025** (Akshay Upadhyay Vs. Election Commission of India and 4 others) which petition was dismissed on 15 October 2025, wherein petitioner had questioned the revision of the electoral rolls for Graduates' and Teachers' Constituencies for Legislative Council of Uttar Pradesh, finding no substance in any of the pleas raised.

8. Further submissions have been made that the plea raised cannot be

entertained in view of bar contained in Article 329 of the Constitution of India.

9. We have considered the submissions made and have perused the material available on record.

10. The relevant provisions for preparation and revision of electoral rolls, correction of entries in electoral rolls and inclusion of names in electoral rolls are contained in Sections 21, 22 and 23 respectively of the Act, 1950, wherein elaborate provisions have been given along with steps required to be taken in relation to the electoral rolls.

11. The revision of electoral rolls, in terms of instructions produced on behalf of the Election Commission of India as well as Electoral Registration Officer, had concluded on 6 January 2026. The exercise, which has led to the petitioner filing the present petition, is governed by provisions of Section 23 of the Act, 1950 which, in sub-section (3), provides as under:

"23. Inclusion of names in electoral rolls.-

.... ..

(3) No amendment, transposition or deletion of any entry shall be made under section 22 and no direction for the inclusion of a name in the electoral roll of a constituency shall be given under this section, after the last date for making nominations for an election in that constituency or in the parliamentary constituency within which that constituency is comprised and before the completion of that election."

(emphasis supplied)

12. Section 23 of the Act, 1950 provides for amendment, transposition or deletion of any entry till last date for making nominations for an election in the constituency and therefore, apparently the exercise conducted by the respondents from 26 September 2026 till 29 September 2026 cannot be faulted. The filing of the petition on account of the said exercise by the respondents, apparently is based on misplaced apprehension and failure to distinguish between provisions of Sections 21 and 23 of the Act, 1950.

13. The plea raised pertaining to non-compliance of provisions of Rule 31 of the Rules, 1960 is baseless, inasmuch as the same pertains to the preparation of the electoral rolls under Section 21 of the Act and the same has no application to the provisions of Section 23, more particularly Section 23(3) of the Act, 1950.

14. In that view of the matter, the plea sought to be raised, rather the doubts sought to be raised pertaining to the action of the respondents in providing for the amendment of the electoral rolls in terms of Section 23 of the Act has absolutely no basis.

15. Besides the fact that the petition is bereft of any substance, insofar as laying challenge to the notification for holding of elections is concerned, the said exercise having already started, the bar contained in Article 329 of the Constitution of India would also be attracted and therefore, challenge to the notification cannot be entertained.

16. In that view of the matter, we do not find any substance in the petition, the same is therefore, **dismissed**.

(Kshitij Shailendra, J) (Arun Bhansali, CJ)

October 7, 2026

AHA/Jyotsana