PURIFYING THE ROLL, RECOMPOSING THE DEMOS: THE CONSTITUTIONAL ARCHITECTURE OF THE SPECIAL INTENSIVE REVISION OF ELECTORAL ROLLS IN INDIA

by

Taranjot Singh

(Research Scholar, Department of Laws, Panjab University, Chandigarh)

ABSTRACT

From June 2025 the Election Commission of India extended a "Special Intensive Revision" (SIR) of electoral rolls from Bihar to almost every State and Union Territory, requiring enrolled electors to re-establish eligibility through fresh enumeration and, if unlinked to an earlier intensively revised roll, documentary proof. In *Association for Democratic Reforms v. Election Commission of India* (2026), the Supreme Court upheld the exercise as traceable to Article 324 of the Constitution read with section 21(3) of the Representation of the People Act, 1950, found it proportionate, and recognised a "limited enquiry" into citizenship confined to electoral consequences. This article argues that the judgment settles the question of power but leaves three problems unresolved. First, by treating entries made through summary revisions as carrying only a rebuttable presumption, it relocates the burden of proving eligibility onto enrolled electors in a manner difficult to reconcile with *Lal Babu Hussein v. Electoral Registration Officer* (1995). Second, its proportionality review was largely retrospective: the safeguards that sustained the exercise were judicially supplied mid-stream, and the Bihar election was completed before adjudication, exposing a gap between roll revision and the finality Article 329(b) attaches to elections. Third, the open-textured phrase "in such manner as it may think fit" has enabled procedural law-making by administrative order and software, as the 2026 dispute over the Form 6 declaration illustrates. The article proposes statutory codification of special revision, a minimum pre-election interval, individualised deletion procedures, cohort-sensitive documentation, and a statutory purpose limitation on SIR data.

Keywords: Special Intensive Revision; Article 324; electoral rolls; right to vote; citizenship; Election Commission of India

Indian Journal of Law and Jurisprudence | Licensed under Creative Commons — https://creativecommons.org/licenses/by/4.0/ | DOI: 10.5281/zenodo.23401893 | Title: Purifying The Roll, Recomposing The Demos: The Constitutional Architecture Of The Special Intensive Revision Of Electora

I. INTRODUCTION

"Before any representative government can count votes, it must first know whose votes may be counted." With that sentence the Supreme Court opened its judgment upholding the Special Intensive Revision (SIR) of the electoral rolls of Bihar.[1] The sentence is accurate, but it conceals the question that made the litigation difficult. The Constitution does not leave the identification of the electorate to administrative discretion alone; it fixes the qualifications for enrolment, assigns the preparation of rolls to an independent Commission, and authorises Parliament to regulate that preparation by law.[2] The SIR did not merely count; it asked roughly ninety-nine crore electors, in successive phases, to demonstrate again that they belonged on a list on which the State had already placed them.

The scale of what followed is without modern precedent. In Bihar the roll fell from about 7.89 crore electors on 24 June 2025 to 7.24 crore in the draft roll of 1 August 2025, and stood at 7.42 crore in the final roll of 30 September 2025.[3] In the second phase, covering nine States and three Union Territories, the combined roll contracted from about 50.99 crore to 45.81 crore, a reduction of 10.2 per cent.[4] A third phase, announced on 14 May 2026, extended the exercise to sixteen further States and three Union Territories with about 36.73 crore electors, leaving only Himachal Pradesh, Jammu and Kashmir and Ladakh outside its schedule.[5]

The challenge to the Bihar order raised three questions of constitutional law: whether the Election Commission of India (ECI or Commission) could, by administrative order, require existing electors to re-qualify; whether an elector's presence on the existing roll carried a presumption that the Commission was bound to respect; and whether the Commission could examine citizenship at all. The Court answered each question in the Commission's favour.[6]

— IJLJ —
ISSN: 2583-2794

[1] Ass'n for Democratic Reforms v. Election Comm'n of India, 2026 INSC 564, ¶ 1 (India) [hereinafter *ADR v. ECI*]. The judgment is also reported as 2026 SCC OnLine SC 990 and 2026 LiveLaw (SC) 549.

[2] INDIA CONST. arts. 324–327.

[3] *ADR v. ECI*, 2026 INSC 564, ¶¶ 10.9, 10.14.

[4] *SIR Trims Voter Rolls by 10pc in 12 States, UTs; Over 5.18 Cr Names Scrapped*, THE FEDERAL (Apr. 11, 2026), https://thefederal.com/elections-2026/ec-sir-12-states-ut-reduces-voter-rolls-by-10pc-over-5-crore-names-scrapped-elections-2026-238635.

[5] *EC Announces Phase-III of SIR: Schedule Released for 16 States, 3 UTs*, WION (May 14, 2026), https://wionews.com/india-news/ec-announces-phase-iii-of-sir-schedule-released-for-16-states-3-uts-check-full-list-1778760105739.

[6] *ADR v. ECI*, 2026 INSC 564, ¶ 15 (framing four issues: power, proportionality, statutory conformity and citizenship scrutiny).

This article accepts the Court's conclusion on competence but contests the adequacy of its reasoning on design and timing. Its central claim is that *ADR v. ECI* sustains the SIR through what may be called remedial proportionality: the measure, as originally designed, was concededly open to "legitimate concerns," and it survived review because the Court itself supplied the safeguards that cured them.[7] Such a holding has limited authority for later phases that the Court did not supervise and whose design differs. Three unresolved problems follow: the reallocation of the burden of proving eligibility; the structural mismatch between the time judicial review takes and the finality that Article 329(b) attaches to completed elections; and the use of the phrase "in such manner as it may think fit" as a source of rule-making by order and software. The analysis is doctrinal. Statistical figures are those published by the Commission and reported in the press; they have not been independently audited, and the account is current to 12 October 2026, when several related proceedings remained pending.

II. THE ELECTORAL ROLL IN THE CONSTITUTIONAL AND STATUTORY SCHEME

A. Constitutional Design and the Nature of the Franchise

Article 324(1) vests in the Election Commission "the superintendence, direction and control of the preparation of the electoral rolls" for elections to Parliament and the State Legislatures. Article 325 requires one general roll for every territorial constituency and forbids exclusion on grounds only of religion, race, caste or sex. Article 326 entitles every citizen who is not less than eighteen years of age to be registered, subject to disqualification by law on grounds of non-residence, unsoundness of mind, crime or corrupt or illegal practice. Article 327 empowers Parliament, "subject to the provisions of this Constitution," to legislate on all matters relating to elections, including the preparation of rolls.[8] The Court in *ADR v. ECI* read the Constituent Assembly's choices as a deliberate removal of roll preparation from executive control.[9]

Historical scholarship gives that choice a sharper meaning. Ornit Shani has shown that the preparation of the first draft roll on the basis of universal adult franchise was undertaken before the Constitution came into force and before Parliament enacted any law on citizenship, so that enrolment operated in practice as an early instrument of inclusion into

[7] *Id.* ¶ 97.
[8] INDIA CONST. arts. 324(1), 325, 326, 327.
[9] *ADR v. ECI*, 2026 INSC 564, ¶ 5 (citing 8 CONSTITUENT ASSEMBLY DEBATES (June 15–16, 1949)).

membership of the new polity.[10] The SIR reverses that polarity. Its organising premise is not that the roll must reach every eligible person but that every person on the roll must be verified. Both aims are constitutionally legitimate, and the Commission's order invoked both.[11] The constitutional difficulty lies in the weight assigned to each when they conflict.

The standard of review depends on how the franchise is characterised. Early decisions described the right to vote as a creature of statute.[12] Later decisions recognised that the act of voting engages freedom of expression, and in *Rajbala v. State of Haryana* the right under Article 326 was treated as constitutional.[13] A Constitution Bench in *In re Section 6A of the Citizenship Act, 1955* confirmed that development, and *ADR v. ECI* adopted that passage.[14] Once the right is constitutional, measures conditioning its exercise must be justified, which is why the Court applied a proportionality analysis rather than a bare vires test. That methodological choice is the article's point of departure.

B. The Statutory Machinery of Revision

The Representation of the People Act, 1950 (RP Act) gives effect to Article 326 by prescribing who may be registered and how rolls are prepared, corrected and revised. Section 16 disqualifies a person who is not a citizen; section 19 requires that the applicant be not less than eighteen years of age on the qualifying date and ordinarily resident in the constituency; section 22 permits the Electoral Registration Officer (ERO) to correct or delete entries after giving the person concerned a reasonable opportunity of being heard; section 23 governs inclusion; and section 24 provides appeals.[15] Since 2021, section 23(4) to (6) permit the ERO to ask for an Aadhaar number for the purpose of establishing identity, and section 14(b) recognises four qualifying dates in each year.[16] Rule-making power rests with the Central Government, after consulting the Commission.[17]

---

[10] ORNIT SHANI, HOW INDIA BECAME DEMOCRATIC: CITIZENSHIP AND THE MAKING OF THE UNIVERSAL FRANCHISE (2018).

[11] *ADR v. ECI*, 2026 INSC 564, ¶ 63 (recording the twin objects of inclusion of eligible and exclusion of ineligible persons).

[12] N.P. Ponnuswami v. Returning Officer, Namakkal Constituency, 1952 SCR 218 (India); Jyoti Basu v. Debi Ghosal, (1982) 1 SCC 691, ¶ 8 (India).

[13] People's Union for Civil Liberties v. Union of India, (2003) 4 SCC 399 (India); Kuldip Nayar v. Union of India, (2006) 7 SCC 1 (India); Rajbala v. State of Haryana, (2016) 2 SCC 445 (India).

[14] *In re* Section 6A of the Citizenship Act, 1955, (2024) 16 SCC 105, ¶ 340 (India), *quoted in ADR v. ECI*, 2026 INSC 564, ¶ 90.

[15] The Representation of the People Act, 1950, No. 43, Acts of Parliament, 1950, §§ 16, 19, 22–24 (India) [hereinafter RP Act].

[16] The Election Laws (Amendment) Act, 2021, No. 49, Acts of Parliament, 2021 (India).

[17] RP Act § 28.

Section 21 is the provision on which the SIR rests. Sub-section (2) requires the roll to be revised "in the prescribed manner" before each general election and bye-election, or in any year if the Commission so directs. Sub-section (3) provides that, notwithstanding sub-section (2), the Commission "may at any time, for reasons to be recorded, direct a special revision of the electoral roll for any constituency or part of a constituency in such manner as it may think fit," with a proviso that the existing roll continues in force until the special revision is complete.[18] The legislative history is instructive. As enacted in 1950, the equivalent power in section 25(a) authorised revision "in the prescribed manner"; the Representation of the People (Amendment) Act, 1956 substituted the present formulation.[19] The shift from "prescribed manner" to "such manner as it may think fit" is the textual hinge of the Commission's case.

The "prescribed manner" for ordinary revision is found in rule 25 of the Registration of Electors Rules, 1960, which contemplates intensive, summary or partly intensive and partly summary revision, an intensively revised roll being prepared afresh as if for the first time.[20] Rule 21A prescribes the procedure for deleting names on grounds of death, cessation of ordinary residence or disqualification, requiring a list to be prepared and exhibited and the person concerned to be given a reasonable opportunity to be heard.[21] Neither the Act nor the Rules uses the composite expression "special intensive revision." The label is the Commission's own, assembled from the vocabulary of section 21(3) and rule 25.[22]

Intensive revision as such is not new. The Commission's order of 24 June 2025 listed earlier intensive revisions for all or parts of the country in 1952–56, 1957, 1961, 1965, 1966, 1983–84, 1987–89, 1992, 1993, 1995, 2002, 2003 and 2004.[23] What distinguishes the 2025–26 exercise is not house-to-house enumeration but its evidentiary structure. Earlier intensive revisions, on the available historical account, built upon the existing roll rather than requiring enrolled electors to establish eligibility afresh against a decades-old baseline.[24]

IJLJ
ISSN: 2583-2794

[18] *Id.* § 21(2)–(3).
[19] *ADR v. ECI*, 2026 INSC 564, ¶¶ 30–31, 34.
[20] Registration of Electors Rules, 1960, r. 25 (India) [hereinafter 1960 Rules]; *ADR v. ECI*, 2026 INSC 564, ¶ 36.
[21] 1960 Rules r. 21A.
[22] *Beyond 'Special': How the 2025 Bihar SIR Marks a Break from the Past*, SUP. CT. OBSERVER (2026), https://www.scobserver.in/journal/beyond-special-how-the-2025-bihar-sir-marks-a-break-from-the-past/.
[23] Election Comm'n of India, Order No. 23/ERS/2025, ¶ 4 (June 24, 2025), *as reproduced in Bihar Electoral Rolls Revision*, THE WIRE, https://thewire.in/government/bihar-electoral-rolls-revision-eci-nrc-election.
[24] *Beyond 'Special'*, *supra* note 22.

C. The Precedent of 1992–1995: Lal Babu Hussein

The closest precedent arose from directives issued by the Commission on 21 August 1992 and 9 September 1994, the latter empowering EROs to identify and declare foreign nationals and delete their names from the rolls. Searches were conducted through police stations in Bombay and Delhi, and EROs relied on police lists to presume that the persons named were not citizens.[25] According to an account drawn from the Commission's own history, about 1.67 lakh persons in thirty-nine polling-station areas of Greater Bombay were called upon to produce documentary proof of citizenship.[26]

The Supreme Court set aside the proceedings and laid down guidelines for EROs. Among them was the direction that where a person whose citizenship is suspected appears in the immediately preceding roll, the ERO must bear in mind that the process for inclusion had already been undertaken and must attach "adequate probative value" to that fact before issuing notice.[27] The principle was that a prior statutory determination of eligibility is evidence, and that an administrative officer cannot treat it as a nullity merely because an exercise of verification has commenced. The relevance of *Lal Babu Hussein* to the SIR is obvious: it concerned the same statutory provisions, the same tension between roll purity and the security of existing electors, and the same instinct to place the burden on the person enrolled.

III. THE SIR AS ADMINISTERED, 2025–2026

A. The Bihar Order of 24 June 2025

The Commission's order recorded that the last intensive revision in Bihar had taken place in 2003 with 1 January 2003 as the qualifying date, and that rapid urbanisation, migration for education and livelihood, and the failure of shifting electors to have their earlier entries deleted had altered the roll substantially. It also invoked the Commission's obligation under Article 326 to ensure that only citizens are enrolled.[28] Clause 11 treated the 2003 roll as probative evidence of eligibility, including a presumption of citizenship, unless rebutted; clause 12 required persons not found in that roll to produce one or more prescribed

[25] Lal Babu Hussein v. Electoral Registration Officer, (1995) 3 SCC 100 (India); *see* Lal Babu Hussein v. Electoral Registration Officer, 1995 INSC 98 (headnote).

[26] *Close Encounter of the SIR Kind, but Not Quite*, IANS (Sept. 4, 2025), https://ianslive.in/close-encounter-of-the-sir-kind-but-not-quite--20250904163801.

[27] *Lal Babu Hussein*, (1995) 3 SCC 100 (guideline 3).

[28] *ADR v. ECI*, 2026 INSC 564, ¶¶ 10.1, 45.

documents.[29] Every elector on the existing roll received a pre-filled enumeration form. Failure to submit it by 25 July 2025 meant exclusion from the draft roll, and an indicative list of eleven documents was annexed. After publication of the draft roll, EROs were to scrutinise eligibility, issue show-cause notices where eligibility appeared doubtful, and pass speaking orders appealable to the District Magistrate and then to the Chief Electoral Officer.[30] New applicants were required to submit Form 6 together with a declaration in Annexure D to the order.[31]

The novelty of this design lies in its first step. Under the ordinary scheme, enrolment is a continuing legal status that can be disturbed only through an individualised procedure under section 22 or rule 21A. The order converted that status into a conditional one, sustained only by a fresh act on the elector's part. Non-submission did not lead to a notice; it led to absence from the draft roll. When the enumeration period closed, the Commission reported that seven lakh electors were found enrolled at multiple places, twenty-two lakh were recorded as deceased and thirty-six lakh were permanently shifted or not found, so that nearly sixty-five lakh names did not appear in the draft roll.[32] The final roll added 21.53 lakh electors and deleted a further 3.66 lakh, and the Assembly election was conducted on that roll, with results declared on 14 November 2025.[33]

B. The Judicial Reconstruction of the Process

The process that was eventually upheld was not the process the Commission first designed. On 10 July 2025 the Court identified three questions (power, procedure and timing) and asked the Commission to consider Aadhaar, the Electors Photo Identity Card and ration cards in addition to the eleven listed documents.[34] On 28 July 2025 it declined to restrain the exercise.[35] On 14 August 2025 it directed publication of the list of about sixty-five lakh excluded electors with reasons, and permitted claims to be filed with a copy of Aadhaar. On 22 August 2025 it impleaded twelve political parties and directed their booth-level agents to assist electors. On 1 September 2025 it recorded the Commission's statement that claims would be received until the last date for nominations and directed the deployment of para-

[29] *Id.* ¶ 10.2.
[30] *Id.* ¶¶ 10.3–10.5.
[31] *Id.* ¶ 45(f).
[32] *Id.* ¶ 10.9.
[33] *Id.* ¶¶ 10.14–10.15.
[34] *Id.* ¶ 10.8.
[35] *The Unravelling of the SIR Challenge*, INDIAN CONST. L. & PHIL. (Feb. 3, 2026), https://indconlawphil.wordpress.com/2026/02/03/the-unravelling-of-the-sir-challenge/.

legal volunteers through the Legal Services Authorities. On 8 September 2025 it directed that Aadhaar be treated as a twelfth document for establishing identity, while noting that it is not proof of citizenship.[36]

These orders transformed the exercise. Transparency of exclusions, an expanded documentary base and an assisted claims process were not features of the Commission's order; they were judicial additions under Article 32. The Court later characterised them as "structural correctives" that brought the process into conformity with procedural fairness.[37] That characterisation is candid, and its implications are considered in Part IV.

C. National Expansion: Phase II and the West Bengal Experience

On 27 October 2025 the Chief Election Commissioner announced the second phase, covering Andaman and Nicobar Islands, Chhattisgarh, Goa, Gujarat, Kerala, Lakshadweep, Madhya Pradesh, Puducherry, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal, with about fifty-one crore electors. Rolls were frozen; enumeration ran from 4 November to 4 December 2025; draft rolls were to be published on 9 December 2025, claims and objections received until 8 January 2026, and final rolls published on 7 February 2026. Electors whose names appeared in the roll of the State's last intensive revision were not required to submit documents.[38] Assam, also due for elections in 2026, was excluded and subjected to a separate special revision.[39] The draft rolls omitted about 6.56 crore names, of which 4.64 crore were attributed to shifting, 1.46 crore to death and 44.06 lakh to multiple registration.[40] The final rolls, completed in April 2026 after several States' deadlines were extended, showed a net reduction of about 5.18 crore.[41]

West Bengal exposed a dimension that the Bihar litigation had not. Electors whose linkage to the 2002 roll disclosed "logical discrepancies," such as a mismatch in a parent's

---

[36] *ADR v. ECI*, 2026 INSC 564, ¶¶ 10.10–10.13; *see* The Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016, No. 18, Acts of Parliament, 2016, § 9 (India); RP Act § 23(4).

[37] *ADR v. ECI*, 2026 INSC 564, ¶¶ 97–101.

[38] *Election Commission to Conduct Special Intensive Revision in 12 States, UTs*, ALL INDIA RADIO NEWS (Oct. 27, 2025), https://www.newsonair.gov.in/election-commission-to-conduct-special-intensive-revision-sir-in-12-states-uts; *ECI to Conduct Second Phase of Special Intensive Revision in 12 States, UTs*, DD NEWS (Oct. 2025), https://ddnews.gov.in/en/eci-to-conduct-second-phase-of-special-intensive-revision-in-12-states-uts-final-voter-list-on-feb-7-2026/.

[39] *Second Phase of SIR in 12 States, UTs from Nov 4*, TRIBUNE (Oct. 27, 2025), https://www.tribuneindia.com/news/india/second-phase-of-sir-in-12-states-uts-from-nov-4-exercise-to-span-3-months.

[40] *SIR 2.0: Nearly 6.5 Crore Electors Removed from Draft Rolls of 12 States, Union Territories*, DECCAN HERALD (Jan. 8, 2026), https://www.deccanherald.com/india/sir-20-nearly-65-crore-electors-removed-from-draft-rolls-of-12-states-union-territories-3855247.

[41] THE FEDERAL, *supra* note 4.

name or an implausible age difference between elector and parent, were placed in a separate category for verification.[42] Citing a breakdown of trust between the State Government and the Commission, the Supreme Court on 20 February 2026 requested the Chief Justice of the Calcutta High Court to depute serving and former judicial officers to adjudicate these claims, describing both the circumstances and the entrustment as extraordinary.[43] As the caseload grew to an estimated fifty lakh and then eighty lakh cases, the Court permitted civil judges and officers from Odisha and Jharkhand to be deployed.[44] Pursuant to the Court's order of 10 March 2026, the Commission constituted nineteen appellate tribunals presided over by former High Court judges to hear appeals against the judicial officers' decisions.[45] Further directions on appeals pending at the time of the April 2026 polls were issued on 13 April 2026.[46]

D. Phase III and the Census

The third phase, announced on 14 May 2026, covers Andhra Pradesh, Arunachal Pradesh, Chandigarh, Dadra and Nagar Haveli and Daman and Diu, Delhi, Haryana, Jharkhand, Karnataka, Maharashtra, Manipur, Meghalaya, Mizoram, Nagaland, Odisha, Punjab, Sikkim, Telangana, Tripura and Uttarakhand. The Commission fixed its schedule by reference to the field machinery engaged in the house-listing operations of the Census, and deployed about 3.94 lakh booth-level officers.[47] Qualifying dates of 1 July or 1 October 2026 apply, and final rolls are to be published on staggered dates between September and 23

[42] *SC Orders Deployment of Judicial Officers in Bengal's SIR Exercise*, BUS. STANDARD (Feb. 20, 2026), https://www.business-standard.com/india-news/sc-orders-deployment-of-judicial-officers-in-bengal-s-sir-exercise-126022000727_1.html.

[43] *Id.*; *see also 'Extraordinary Circumstances', SC Seeks Appointment of Judicial Officers for Bengal SIR*, ETV BHARAT (Feb. 20, 2026), https://www.etvbharat.com/en/bharat/supreme-court-bengal-electoral-roll-revision-sir-allows-draft-voter-list-on-feb-28-enn26022003664.

[44] *WB SIR: Supreme Court Allows Deployment of Judges from Odisha & Jharkhand*, LIVELAW (Feb. 2026), https://www.livelaw.in/top-stories/west-bengal-sir-supreme-court-allows-judges-from-odisha-jharkhand-to-be-used-to-decide-claims-524324; *West Bengal SIR: Supreme Court Modifies Order to Expand Judicial Pool*, VERDICTUM (Feb. 2026), https://www.verdictum.in/app-lite/court-updates/supreme-court/west-bengal-sir-modifies-order-to-expand-judicial-pool-for-west-bengal-voter-list-1608496.

[45] *Bengal SIR: ECI Constitutes 19 Appellate Tribunals*, SIASAT (Mar. 21, 2026), https://www.siasat.com/bengal-sir-eci-constitutes-19-appellate-tribunals-3438573/ (quoting the notification issued pursuant to the order in W.P. (C) No. 1089 of 2025).

[46] *West Bengal SIR*, SCC ONLINE BLOG (Apr. 2026), https://www.scconline.com/blog/?p=381258 (discussing order dated 13 April 2026 in W.P. (C) No. 1089 of 2025).

[47] WION, *supra* note 5; *ECI Announces Third Phase of SIR Covering 16 States and 3 UTs*, THE NEWS MINUTE (May 14, 2026), https://www.thenewsminute.com/news/eci-announces-third-phase-of-sir-covering-16-states-and-3-uts.

December 2026.[48] As in the second phase, no documents are collected at the enumeration stage; only electors who cannot be linked to the roll of the last intensive revision are later asked to produce a document from the prescribed list.[49] The Bihar order was framed from the outset as the first stage of a nationwide revision, a point the Commission's later correspondence confirmed.[50]

E. The Role of the Union Government

The SIR is the Commission's exercise, but the Union is implicated at four points. First, through Parliament it enacted the 2021 amendments that permit Aadhaar-based identification and multiple qualifying dates, both of which the SIR uses.[51] Secondly, by the Chief Election Commissioner and Other Election Commissioners (Appointment, Conditions of Service and Term of Office) Act, 2023, it replaced the interim selection arrangement directed in *Anoop Baranwal v. Union of India* with a committee of the Prime Minister, the Leader of the Opposition and a Union Cabinet Minister.[52] The composition of the body exercising section 21(3) is therefore itself a matter of contemporary constitutional debate. Thirdly, the Central Government is the competent authority for adjudicating citizenship, and the Court's referral direction places that machinery at the end of the SIR process. Fourthly, the Central Government holds the power to frame rules under section 28 and has framed none specifically regulating special revision. The Court treated that silence as leaving the Commission's discretion unconfined.[53] An alternative reading, developed below, is that the absence of rules is a reason for a narrower construction of the power.

— I J L J —
ISSN: 2583-2794

[48] *SIR Phase-3: ECI Releases Schedule*, MORUNG EXPRESS (May 21, 2026), https://morungexpress.com/sir-phase-3-eci-releases-schedule-for-blo-visits-publication-of-final-voters-list-in-16-states-3-uts; *EC Announces Staggered Rollout of SIR Phase 3*, DT NEXT (May 14, 2026), https://www.dtnext.in/news/national/ec-ld-sir.

[49] *ECI Announces Phase 3 of SIR*, DRISHTI IAS (May 15, 2026), https://www.drishtiias.com/daily-updates/daily-news-analysis/eci-announces-phase-3-of-sir/print_manually.

[50] *ADR v. ECI*, 2026 INSC 564, ¶ 10.1; *ECI to Begin Special Revision of Electoral Rolls in Delhi, 21 States/UTs from April*, IANS (Feb. 19, 2026), https://ianslive.in/eci-prepares-for-sir-of-electoral-rolls-in-delhi-21-statesuts-from-april--20260219185704.

[51] The Election Laws (Amendment) Act, 2021, *supra* note 16.

[52] Anoop Baranwal v. Union of India, (2023) 6 SCC 161 (India); The Chief Election Commissioner and Other Election Commissioners (Appointment, Conditions of Service and Term of Office) Act, 2023, § 7 (India).

[53] *ADR v. ECI*, 2026 INSC 564, ¶ 37.

IV. ASSOCIATION FOR DEMOCRATIC REFORMS v. ELECTION COMMISSION OF INDIA (2026)

A. The Issues and the Disposition

The petitions, led by W.P. (C) No. 640 of 2025, were decided on 27 May 2026 in a judgment authored by Surya Kant, C.J.I.[54] Four issues were framed: the Commission's power; legitimacy of purpose and proportionality; conformity of the procedure with the RP Act and the 1960 Rules; and the Commission's authority to scrutinise citizenship.[55] The petitions were disposed of with findings in the Commission's favour on each issue and with directions on citizenship-based deletions, discussed in Part IV.E.

B. Competence: Article 324, Article 327 and Section 21(3)

The Court rejected the proposition that Article 324 operates only in the interstices left by legislation. Articles 324 and 327 were read as instruments of "mutual accommodation, and not mutual destruction": parliamentary law regulates the field, but Article 327 is expressly subject to the Constitution and cannot reduce Article 324 to a "dead letter."[56] The Court read *Mohinder Singh Gill v. Chief Election Commissioner* as establishing a middle position: constitutional power survives legislation but must be exercised consistently with it, and may not be deployed against an express statutory prohibition.[57] *A.C. Jose v. Sivan Pillai* was confined to its facts, where the Commission had introduced voting machines in a field in which the Act and the Rules positively contemplated ballot papers. Section 21(3), by contrast, was an affirmative parliamentary authorisation to depart from the ordinary regime.[58] Rule 25 was held inapplicable to special revision, and the absence of rules under section 28 was held not to curtail the power.[59] The non obstante clause, the words "at any time" and "in such manner as it may think fit," and the requirement of recorded reasons together made section 21(3) an "autonomous and enabling provision."[60] Finally, "any constituency" was read, with

IJLJ
ISSN: 2583-2794

[54] *ADR v. ECI*, 2026 INSC 564. Reports differ on whether the Bench comprised two or three judges.
[55] *Id.* ¶ 15.
[56] *Id.* ¶¶ 17–18.
[57] *Id.* ¶ 22 (discussing Mohinder Singh Gill v. Chief Election Comm'r, (1978) 1 SCC 405, ¶¶ 92, 113 (India)).
[58] *Id.* ¶¶ 28–29 (discussing A.C. Jose v. Sivan Pillai, (1984) 2 SCC 656 (India)).
[59] *Id.* ¶ 37.
[60] *Id.* ¶¶ 35, 40–43.

the aid of section 13(2) of the General Clauses Act, 1897 and *Prabhakaran v. P. Jayarajan*, to include many or all constituencies.[61]

The synthesis of Articles 324 and 327 is orthodox and, in this author's view, correct. The difficulty lies in the construction of section 21(3). The Court treated "manner" as encompassing the entire design of the revision, including the evidentiary conditions on which an existing elector retains enrolment. There is a defensible distinction, which the judgment does not address, between the manner of a revision (the sequence of steps, the personnel and the forms of enumeration) and the substantive standards of eligibility and deletion that Parliament has fixed in sections 16, 19 and 22 and that the Central Government has elaborated in rule 21A. A power to choose the manner of verifying facts is not self-evidently a power to change what an enrolled person must prove, or to replace notice with non-inclusion. The 1956 amendment widened procedural flexibility; nothing in the text or in the history recounted by the Court indicates an intention to permit the Commission to redefine the incidence of proof.[62]

The reading of "any constituency" is linguistically available, but the cumulative effect deserves notice. A sub-section introduced as an exception to the ordinary scheme of revision has become the ordinary mode of revising the national roll. The proviso to section 21(3), which keeps the existing roll in force until completion of the special revision, presupposes a discrete corrective exercise rather than a periodic re-foundation of the entire electorate. The judgment acknowledges the provision's original function of meeting exigencies but does not consider whether its repeated nationwide use alters the balance Parliament struck between the two sub-sections.[63]

The treatment of reasons also invites scrutiny. Section 21(3) requires reasons to be recorded, and the Court found two in the order: demographic change through urbanisation and migration over two decades, and the Article 326 obligation to enrol only citizens.[64] When the petitioners objected that the order disclosed no empirical basis, the Court responded that migration, unreported deaths and duplication are "matters of common administrative experience."[65] That standard is undemanding for an order that could, and did, alter the composition of the electorate on a large scale. It also sits uneasily with the principle,

[61] *Id.* ¶¶ 47–50 (citing The General Clauses Act, 1897, No. 10, Acts of Parliament, 1897, § 13(2) (India); Prabhakaran v. P. Jayarajan, (2005) 1 SCC 754 (India)).
[62] *See id.* ¶¶ 30–34.
[63] *Id.* ¶ 33.
[64] *Id.* ¶¶ 44–46.
[65] *Id.* ¶ 74.

articulated in *Mohinder Singh Gill* itself, that the validity of a statutory order is to be judged by the reasons it states and cannot be supplemented by fresh reasons supplied in an affidavit.[66] Some of the justifications advanced on the Commission's behalf, such as illegal cross-border migration, appear in its submissions rather than in the reasons the Court identified in the order.[67]

C. Proportionality

The Court adopted the four-stage test of legitimate purpose, rational connection, necessity and balancing.[68] Purpose and connection were readily found.[69] At the necessity stage, the Court held that it would ask not whether a less restrictive alternative existed but whether the chosen measure was "palpably arbitrary," and drew on *Vivek Narayan Sharma v. Union of India*, the demonetisation case, for deference to specialised bodies in technical and policy matters.[70] A statewide exercise was held proportionate because the problem was systemic.[71] On balancing, the Court held that the right to vote is regulated but not abrogated by verification requirements, that proportionality "does not demand perfection," that the post-exercise data disclosed no systemic disenfranchisement, and that the concerns raised by the original design had been met by the Court's own interventions.[72]

Three objections may be raised. The first concerns the import of deference. *Vivek Narayan Sharma* concerned monetary policy, where institutional expertise is the dominant consideration and the rights affected are economic. The composition of the electorate is different in kind. Representation-reinforcing theories of judicial review hold that courts should scrutinise most closely those measures that determine who participates in the political process, precisely because ordinary political checks cannot be relied upon to correct them.[73] The Commission is an independent body, and *Anoop Baranwal* stressed the importance of that independence.[74] Deference on grounds of expertise, however, presupposes neutrality, and neutrality is the very attribute that a roll-revision exercise of this magnitude puts in issue.

ISSN: 2583-2794

[66] *Mohinder Singh Gill*, (1978) 1 SCC 405, ¶ 8.
[67] *Compare ADR v. ECI*, 2026 INSC 564, ¶ 14(f) (submissions), *with id.* ¶ 46 (reasons found in the order).
[68] *Id.* ¶ 62. The structure corresponds to the test adopted in Modern Dental Coll. & Rsch. Ctr. v. State of Madhya Pradesh, (2016) 7 SCC 353 (India), and K.S. Puttaswamy v. Union of India, (2017) 10 SCC 1 (India); *see generally* AHARON BARAK, PROPORTIONALITY: CONSTITUTIONAL RIGHTS AND THEIR LIMITATIONS (2012).
[69] *ADR v. ECI*, 2026 INSC 564, ¶¶ 69, 75.
[70] *Id.* ¶¶ 78–81 (citing Vivek Narayan Sharma v. Union of India, (2023) 3 SCC 1 (India)).
[71] *Id.* ¶ 82.
[72] *Id.* ¶¶ 91–102.
[73] JOHN HART ELY, DEMOCRACY AND DISTRUST: A THEORY OF JUDICIAL REVIEW 103, 117 (1980).
[74] *Anoop Baranwal*, (2023) 6 SCC 161.

Scholarship on the "fourth branch" institutions that guard constitutional democracy treats their insulation as a reason for careful review rather than a substitute for it.[75]

The second objection concerns the logic of remedial proportionality. The Court accepted that the process "as initially designed" raised legitimate concerns regarding documentation, transparency and access, and found it proportionate because those concerns "were addressed through a series of judicial interventions."[76] The assessment is honest, but it changes what the precedent decides. The holding validates a process co-designed by the Court under continuous supervision. It does not validate the Commission's original design, nor does it validate later designs that the Court has not examined, such as the "logical discrepancy" categorisation in West Bengal or the Form 6 declaration considered in Part V.C. The Commission's reliance on the judgment as general authority for subsequent phases should be read with that limit in mind.

The third objection is evidentiary. The Court drew comfort from the post-exercise data and recorded the Commission's submission that no appeals had been filed against the deletion of 3.66 lakh names.[77] The absence of appeals is equivocal. It is consistent with accurate deletion, but equally with the costs, ignorance and practical impossibility of appeal for migrant and poor electors, a constituency the Court itself identified as disproportionately burdened.[78] A balancing analysis that treats non-appeal as evidence of fairness risks inferring legitimacy from the very barriers it is meant to assess.

D. Procedure: Rule 21A and the Documentary Regime

On the third issue the Court held that deletions under the SIR did not violate rule 21A because the essential safeguards of notice and hearing were preserved in substance, and that the documentation framework, including the exclusion of certain previously accepted documents, rested on intelligible criteria with a direct nexus to roll integrity.[79] The "in substance" approach is difficult to reconcile with the sequence of events. Exclusion from the draft roll for non-submission occurred without individual notice; the public list of excluded

[75] MARK TUSHNET, THE NEW FOURTH BRANCH: INSTITUTIONS FOR PROTECTING CONSTITUTIONAL DEMOCRACY (2021); *see also* Tarunabh Khaitan, *Killing a Constitution with a Thousand Cuts: Executive Aggrandizement and Party-State Fusion in India*, 14 LAW & ETHICS HUM. RTS. 49 (2020); UJJWAL KUMAR SINGH & ANUPAMA ROY, ELECTION COMMISSION OF INDIA: INSTITUTIONALISING DEMOCRATIC UNCERTAINTIES (2019).

[76] *ADR v. ECI*, 2026 INSC 564, ¶ 97.

[77] *Id.* ¶¶ 14(o), 95.

[78] *Id.* ¶ 100.

[79] *Id.* (Part E.3); *see ECI Can Conduct "Limited Enquiry" on Citizenship for Voter List Verifications*, VERDICTUM (May 27, 2026), https://www.verdictum.in/supreme-court/2026-insc-564-association-for-democratic-reforms-v-election-commission-of-india-1614782 (summarising the holdings).

persons with reasons came into existence only because of the order of 14 August 2025. Rule 21A is a mandatory safeguard framed by the rule-making authority, not a guideline to be approximated. If its substance can be satisfied by a judicially compelled publication after exclusion, the rule's sequence (list, exhibition, objection, hearing and only then deletion) becomes optional for future revisions.

E. Citizenship: The "Limited Enquiry"

The fourth holding is the most consequential. The Court held that, because citizenship is a statutory condition of registration under section 16, the Commission may undertake a limited enquiry into citizenship for the purpose of satisfying itself of eligibility. It distinguished adjudication of citizenship, a conclusive determination of status under the Citizenship Act, 1955, from administrative satisfaction for enrolment, which is prima facie and contextual.[80] An adverse conclusion does not declare a person a non-citizen; in the Court's words, its consequences are "confined to electoral consequences alone."[81] Section 9(2) of the Citizenship Act and the Allocation of Business Rules were held not to deprive other constitutional authorities of an incidental power to examine citizenship for their own functions.[82] The Court directed that where the Commission is not satisfied of eligibility on citizenship grounds, it must refer the case to the competent authority under the Citizenship Act. It further directed that cases of persons deleted from the 2003 roll on that ground be referred within four weeks, and that the competent authority decide them after notice and hearing, preferably before the next election.[83]

The distinction is analytically coherent but understates its own stakes. The franchise is the most visible public incident of citizenship in a democracy. To describe its loss as merely electoral treats the core political right as a peripheral consequence. The referral mechanism also produces asymmetric timing: disenfranchisement is immediate, while adjudication is to occur only "preferably" before the next election, without a binding outer limit. And the enquiry imports, in practice, a documentary burden of the kind associated with the foreigners regime. In that regime the burden of proving nationality rests on the person by express

[80] *ADR v. ECI*, 2026 INSC 564 (Part E.4); *Verdictum*, *supra* note 79.

[81] *Verdictum*, *supra* note 79 (quoting the judgment).

[82] *Id.*; *see* The Citizenship Act, 1955, No. 57, Acts of Parliament, 1955, § 9(2) (India).

[83] *ADR v. ECI*, 2026 INSC 564, at 123; *ECI Can Examine Citizenship for Limited Purpose of Electoral Roll Inclusion but Its Determination Not Final*, LIVELAW (May 27, 2026), https://www.livelaw.in/top-stories/eci-can-examine-citizenship-for-limited-purpose-of-electoral-roll-inclusion-but-its-determination-not-final-supreme-court-535917.

statute, and the Court upheld that allocation in *Sarbananda Sonowal v. Union of India*.[84] The RP Act contains no comparable reversal of the burden. The SIR achieves a similar allocation by administrative design, through the requirement that an unlinked elector produce a qualifying document, without any statutory basis for it.

Developments after the judgment confirm the concern. On 17 July 2026 a Bench led by the Chief Justice issued notice on a petition alleging that SIR deletions in West Bengal were being used to withdraw welfare benefits and re-examine caste certificates, and observed orally that SIR outcomes serve electoral purposes only and that deletion does not entail loss of citizenship.[85] Press reports in the following weeks questioned whether the referral direction had been implemented and noted that no State had disclosed how many references had been made.[86] Whatever the accuracy of particular allegations, the pattern shows that administrative actors outside the electoral domain read a deletion as a signal about citizenship. The doctrinal line drawn in May 2026 has thus required judicial reinforcement within two months.

V. UNRESOLVED CONSTITUTIONAL PROBLEMS

A. Presumption, Burden and the Baseline Year

The Court held that inclusion in the roll carries a presumption of validity that is rebuttable and does not bar a special revision, and that *Lal Babu Hussein* does not require otherwise.[87] The Commission had distinguished *Lal Babu Hussein* on the ground that it was decided when intensive revisions were regular, so that its observations should not extend to entries made through summary revisions.[88] That distinction does not meet the precise terms of the 1995 guideline, which attached probative value to inclusion in the "immediately preceding" roll. The SIR attached presumptive value not to the immediately preceding roll,

[84] Sarbananda Sonowal v. Union of India, (2005) 5 SCC 665 (India) (upholding § 9 of The Foreigners Act, 1946, No. 31, Acts of Parliament, 1946 (India)). The Foreigners Act, 1946 has since been repealed and replaced by The Immigration and Foreigners Act, 2025; the corresponding burden-of-proof provision should be verified against the 2025 Act.

[85] *Removal from Electoral Roll Does Not Mean Loss of Citizenship, Supreme Court Reiterates*, FREE PRESS J. (July 17, 2026), https://www.freepressjournal.in/india/removal-from-electoral-roll-does-not-mean-loss-of-citizenship-supreme-court-reiterates; *SC: ECI Has No Power to Determine Citizenship Status Based on Electoral Roll Deletions*, SABRANG INDIA (July 2026), https://sabrangindia.in/sc-eci-has-no-power-to-determine-citizenship-status-based-on-electoral-roll-deletions/.

[86] *Mr ECI, Four Weeks Have Passed Since the SIR Judgment. Where Are the Names of Suspected Foreigners?*, THE WIRE (July 2026), https://thewire.in/rights/mr-eci-four-weeks-have-passed-since-the-sir-judgment-where-are-the-names-of-suspected-foreigners.

[87] *ADR v. ECI*, 2026 INSC 564 (Part E.3); *Verdictum*, *supra* note 79.

[88] *ADR v. ECI*, 2026 INSC 564, ¶ 14(j).

the one finalised in January 2025, but to a roll more than two decades old.[89] It therefore did not merely rebut a presumption in individual cases; it re-ranked categories of entries according to the date on which the State made them.

Every entry added through a summary revision since 2003 resulted from the ERO's satisfaction under section 23, on an application in Form 6 and after the claims-and-objections process. Treating those determinations as presumptively weaker amounts to the State impeaching its own statutory acts collectively. The law of evidence presumes that official acts have been regularly performed.[90] That presumption is rebuttable, but only by evidence relating to the particular act, not by a general assertion that summary revision is less rigorous. If summary revision was defective, the defect lay in the State's own machinery, and the cost of correcting it was transferred to the electors whom that machinery had enrolled.

The choice of baseline also raises a question of rational nexus. The Commission defended the 2003 roll partly by reference to the Citizenship (Amendment) Act, 2003, and the Court recorded a submission that its cut-off took effect on 7 January 2004.[91] The commencement date of that Act requires verification, since it is commonly given as 3 December 2004. More fundamentally, section 3(1) of the Citizenship Act establishes three cohorts. Persons born in India between 26 January 1950 and 1 July 1987 are citizens by birth without more. Those born between 1 July 1987 and the commencement of the 2003 amendment require one citizen parent. Those born thereafter require both parents to be citizens, or one parent to be a citizen and the other not an illegal migrant.[92] A documentary regime that applies a single standard to all unlinked electors, regardless of birth cohort, is not tailored to the law it claims to implement. An elector born in 1970 needs only to show birth in India; the parental-linkage inquiry that underlies the "progeny" mapping is relevant in law only to the later cohorts. A cohort-sensitive regime would be less restrictive and more faithful to section 3, and it is a concrete alternative that the necessity analysis did not consider.

B. Timing, Finality and Article 329(b)

The Bihar petitions were filed in July 2025; the Court declined interim relief on 28 July; the election was held on the revised roll in November 2025; and judgment followed in

[89] *Id.* ¶¶ 10.2, 45(a).

[90] The Bharatiya Sakshya Adhiniyam, 2023, No. 47, Acts of Parliament, 2023, § 119 illus. (e) (India) (corresponding to The Indian Evidence Act, 1872, No. 1, Acts of Parliament, 1872, § 114 illus. (e) (India)).

[91] *Id.* ¶ 14(l); *see* The Citizenship (Amendment) Act, 2003, No. 6, Acts of Parliament, 2004 (India).

[92] The Citizenship Act, 1955, § 3(1)(a)–(c).

May 2026.[93] Commentary at the time of reservation observed that the length of the proceedings had effectively insulated the Bihar result from the legal challenge to its roll.[94] The constitutional structure explains why that matters. Article 329(b) provides that no election shall be called in question except by an election petition, and *Ponnuswami* held that the courts will not interfere with the electoral process once it has begun.[95] Within an election petition, the correctness of the roll is ordinarily not open to challenge: the Court held in *Hari Prasad Mulshanker Trivedi v. V.B. Raju* that questions such as ordinary residence, which go to the preparation of the roll, cannot be reopened there.[96]

The combined effect is that a person wrongly excluded during a pre-election special revision has no remedy capable of restoring the lost vote once the poll has been notified. The direction in *ADR v. ECI* that erroneously deleted persons may seek judicial review operates only prospectively. A constitutional order that channels election disputes into post-election petitions and treats the roll as settled for that purpose implies a corresponding duty to complete roll revision early enough for disputes about it to be resolved before the election. Neither the RP Act nor the judgment imposes that duty. The second phase was scheduled to conclude in February 2026 for elections held in April and May 2026, and some States' final rolls were published only weeks before the poll.[97] The judicial deployment of officers in West Bengal, and the directions of 13 April 2026 on appeals still pending as polling began, are symptoms of the same compression.[98]

C. Governance by Order, Form and Software

Forms for enrolment are prescribed by the 1960 Rules, which are subordinate legislation made by the Central Government under section 28. The Bihar order attached a declaration to Form 6 for new applicants.[99] In 2026 the online Form 6 used during the SIR required applicants to state whether they, a parent or a grandparent appeared in the roll of the previous intensive revision. On 26 September 2026 the Commission's Press Note No. 120 stated that the declaration had been upheld by the Supreme Court. On 5 October 2026 the

[93] *ADR v. ECI*, 2026 INSC 564, ¶¶ 10.8–10.15; *The Unravelling of the SIR Challenge*, *supra* note 35.
[94] *The Unravelling of the SIR Challenge*, *supra* note 35.
[95] INDIA CONST. art. 329(b); *Ponnuswami*, 1952 SCR 218.
[96] Hari Prasad Mulshanker Trivedi v. V.B. Raju, (1974) 3 SCC 415 (India); *see* The Representation of the People Act, 1951, No. 43, Acts of Parliament, 1951, § 62(1) (India).
[97] THE FEDERAL, *supra* note 4; *SIR Across Six States and Three Union Territories Amends Voter List by 8%*, INDIAN EYE (Feb. 24, 2026), https://theindianeye.com/2026/02/24/sir-across-six-states-and-three-union-territories-amends-voter-list-by-8/.
[98] *West Bengal SIR*, *supra* note 46.
[99] *ADR v. ECI*, 2026 INSC 564, ¶ 45(f).

Chief Justice, presiding over a Bench that included Joymalya Bagchi and V. Mohana, JJ., stated in open court that no modified Form 6 had been approved, called for the record, and issued notice on a petition alleging that the change was made through the Commission's software without amendment of the Rules and without the concurrence of the two Election Commissioners.[100] The declaration was reportedly withdrawn from the online form in States where the SIR had concluded on 30 September 2026.[101] These allegations are under adjudication and are noted here only for the structural questions they raise.

The first question is one of legality. Even on the Court's generous reading, section 21(3) authorises departure from the ordinary scheme for the purposes of a special revision. It does not obviously authorise the Commission to alter, by order, a form prescribed by the Rules for continuous enrolment. Where the Rules positively prescribe, the reasoning of *A.C. Jose*, which the Court in *ADR v. ECI* preserved, forbids substitution by executive direction.[102] The second question is one of publicity. A condition imposed through an online interface binds applicants as effectively as a rule, yet escapes the publication and laying requirements that attend subordinate legislation. The Constitution Bench in *Harla v. State of Rajasthan* treated promulgation as a precondition of binding law.[103] The third question is one of collegiality. Since *T.N. Seshan v. Union of India*, the Commission's multi-member character has been understood to require decisions to be taken collectively, by majority where there is disagreement.[104] An open-textured power to act "in such manner as it may think fit" is tolerable only if the manner is fixed by the Commission as a body and recorded. If it can be fixed by a technical change to an interface, the safeguard of recorded reasons in section 21(3) becomes illusory.

D. Federalism and the Judicialisation of Roll Preparation

The field machinery of roll revision consists overwhelmingly of State officers, who are deemed to be on deputation to the Commission while so employed.[105] The SIR therefore

ISSN: 2583-2794

[100] *Supreme Court Clarifies It Did Not Approve Any Changes to Form 6 Used in SIR*, ALL INDIA RADIO NEWS (Oct. 5, 2026), https://newsonair.gov.in/supreme-court-clarifies-it-did-not-approve-any-changes-to-form-6-used-in-sir/; *SIR Form 6: SC Says It Never Approved Changes*, MONEYLIFE (Oct. 5, 2026), https://www.moneylife.in/article/sir-form-6-sc-says-it-never-approved-changes-seeks-record-on-who-modified-voter-registration-form/81853.html.

[101] *Form 6 Controversy: How an ECI Order Reached the Supreme Court?*, OUTLOOK (Oct. 2026), https://www.outlookindia.com/national/form-6-controversy-how-an-eci-order-reached-the-supreme-court.

[102] *A.C. Jose*, (1984) 2 SCC 656; *ADR v. ECI*, 2026 INSC 564, ¶ 28.

[103] Harla v. State of Rajasthan, AIR 1951 SC 467 (India).

[104] T.N. Seshan, Chief Election Comm'r of India v. Union of India, (1995) 4 SCC 611 (India).

[105] RP Act § 13CC.

depends on cooperative federalism in a practical sense. In West Bengal that cooperation failed, and the Court's response was to install judicial officers as adjudicators of claims, to make their orders appealable to tribunals of former judges, and to sustain the arrangement through Article 142.[106] The intervention may have been necessary, but it sits uneasily with the deference the same Court extended to the Commission's institutional competence in *ADR v. ECI*, where it declined to review whether the Commission's methodology was optimal.[107] The two positions are reconcilable only on the premise that judicial deference to the Commission depends on the Commission's capacity to command the trust of the States whose officers implement the roll. That premise argues for statutory dispute-resolution structures rather than episodic recourse to Article 142.

E. Purpose Limitation and the Data of the SIR

The SIR has generated a dataset of unusual richness, linking electors to parents and grandparents across two decades of rolls and recording documentary evidence of birth, residence and identity. Informational privacy, recognised in *Puttaswamy*, requires that the collection and use of personal data be authorised by law and confined to its purpose.[108] The Court's oral observations of July 2026 assert such a limitation, but no provision of the RP Act or the 1960 Rules expressly confines SIR data to electoral use. A limitation that rests on a judicial gloss and a pending petition is weaker than one in statute, particularly when the dataset is held by a body whose decisions affecting it are themselves contested.

VI. TOWARDS A CONSTITUTIONALLY DISCIPLINED SPECIAL REVISION

The preceding analysis supports several reforms, which are offered as the author's proposals rather than as statements of existing law. First, Parliament, or the Central Government under section 28 after consulting the Commission, should codify special revision. Rules should specify the circumstances justifying a statewide revision, the evidentiary standards for continued enrolment, the documents admissible, and the procedure for deletion. That would convert "in such manner as it may think fit" from an open delegation into a structured discretion and would answer the objection that the SIR's substantive rules were made by order.

[106] *See* sources cited *supra* notes 42–46.
[107] *ADR v. ECI*, 2026 INSC 564, ¶¶ 81, 84.
[108] *Puttaswamy*, (2017) 10 SCC 1.

Secondly, the law should state that an entry in the immediately preceding roll raises a presumption of eligibility, rebuttable only by evidence specific to the elector, and that the burden of establishing non-citizenship as a ground of deletion rests on the State. Documentary requirements for unlinked electors should be calibrated to the birth cohorts in section 3(1) of the Citizenship Act, so that electors born before 1 July 1987 are required to establish no more than birth in India.

Thirdly, a statutory minimum interval should separate publication of the final roll of a special revision from the expected date of a general election. A period of the order of six months would allow claims, appeals and judicial review to conclude before the protections of Article 329(b) attach. Continuous updation would remain available during that period, but no special revision should commence within it.

Fourthly, non-submission of an enumeration form should result in the elector being flagged for verification, not omitted from the draft roll. Deletion should follow only the sequence prescribed in rule 21A, with individual notice. The publication of exclusion lists with reasons, introduced in Bihar by judicial order, should become a statutory requirement in machine-readable form at the level of the polling station.

Fifthly, the RP Act should contain an express purpose limitation prohibiting the use of SIR data, or of the fact of deletion, for any purpose other than the preparation of electoral rolls, save through a reference to the competent authority under the Citizenship Act. The Commission and the Ministry of Home Affairs should publish periodic statistics on references made and their outcomes, so that the referral direction in *ADR v. ECI* is capable of verification.

Sixthly, every order initiating or modifying a special revision, including any change to forms or online interfaces, should be made by the Commission as a body and published with its reasons. Finally, the West Bengal experiment with judicial adjudicators and appellate tribunals suggests the value of standing, statutorily constituted electoral roll tribunals for appeals arising from special revisions, so that independent adjudication does not depend on the exercise of Article 142 in a particular case.

VII. CONCLUSION

ADR v. ECI establishes that the Election Commission may conduct a statewide, and by extension nationwide, special revision of electoral rolls under Article 324 read with section 21(3), and that it may examine citizenship for the limited purpose of enrolment. On the question of power, that conclusion is well founded in the text of section 21(3) and in a

balanced reading of Articles 324 and 327. The judgment is less persuasive on the questions that will determine whether the SIR is remembered as a purification of the roll or a recomposition of the electorate. It accepted a re-ranking of existing entries that *Lal Babu Hussein* had cautioned against, sustained the exercise largely on the strength of safeguards the Court itself supplied, and left the phrase "in such manner as it may think fit" without the limits needed to prevent it from becoming a source of unpublished rules. The events of 2026, including the judicial administration of the West Bengal roll, the welfare consequences of deletion and the Form 6 dispute, indicate that these questions are not hypothetical. The constitutional promise of Article 326 is not satisfied merely by a roll that is accurate on the day it is published. It requires a process by which the State verifies eligibility without placing on citizens the cost of its own administrative lapses, and which concludes early enough for errors to be corrected before votes are cast.

— I J L J —
ISSN: 2583-2794