

News

The Supreme Court notes that the ECI's jurisdiction includes the inclusion and exclusion of citizens and non-citizens from electoral rolls.



The Election Commission's ruling requiring a Special Intensive Revision (SIR) of the Bihar electoral records was being challenged in petitions before the court.

Bihar Map and the Supreme Court

Tuesday's ruling by the Supreme Court noted that the Election Commission of India (ECI) is responsible for determining who is eligible to vote and who is not.

ECI was correct to say that an Aadhaar card is not definitive proof of citizenship, according to the bench of Justices Surya Kant and Joymalya Bagchi.

Additionally, the Court rejected the argument that the majority of the papers the ECI requested as evidence during the Special Intensive Revision (SIR) were not in the possession of the people of Bihar.

"This is a case of trust deficiency that's all," stated Justice Kant at the hearing.

A number of petitions against the ECI's June 24 ruling requiring a SIR of electoral records in advance of the next State assembly elections were being heard by the Court.

The Association of Democratic Reforms (ADR), one of the petitioners, has contended that SIR has the power to arbitrarily and without due process deny thousands of residents the right to vote for their representatives, upsetting the nation's democracy and free and fair elections.

However, the ECI has defended its June 24 directive, claiming that it has the authority to revise electoral rolls in accordance with Article 324 of the Constitution and Section 21(3) of the Representation of the People Act, 1950.

It informed the Court that urban migration, demographic shifts, and worries about errors in the current rolls—which had not undergone a thorough revision in almost 20 years—were among the causes that made the exercise necessary.

The Court was informed on August 6 that 65 lakh names had been removed from the August 1 draft of the Bihar electoral record.

No name will be removed from Bihar's draft electoral roll without prior notice, a hearing, and a reasoned order from the appropriate authorities, the ECI promised the court in its response.

Additionally, it stated that the ECI is not required by the Representation of People Act of 1950 or the Registration of Electors Rules of 1960 to disclose the reasons why a person was not included in the draft electoral rolls.

Senior Advocate Kapil Sibal, the petitioners' attorney, brought up a case at today's hearing in which the election authorities had declared 12 living individuals dead.

Senior Advocate Rakesh Dwivedi, speaking on behalf of the ECI, stated that the published roll was merely a draft and that mistakes are inevitable in a process this size. At this point, the Court declared,

"We have to ask you how many are identified as dead persons... your authorities must have done some work."

Speaking on behalf of the petitioners, Senior Advocate Gopal Sankaranarayanan said that the SIR had already led to widespread exclusion. But the Court stated,

"Mass exclusion will depend on facts and figures."

The documents on the list for presenting identification at the SIR were then addressed by the Court. Sibal contended that people in Bihar do not have access to the majority of the enlisted papers. Justice Kant, however, referred to it as a wide argument and cited a number of papers that the public would have access to.

However, in order to determine whether or not they are residents, something will be required. The Court stated, "There are family registers, pension cards, etc.. very broad arguments to say that people do not have these documents."

Sibal went on to claim that ration cards and Aadhaar are not even accepted by the electoral officials.

"Once I give Aadhaar, I prove my residence...but then the burden lies on the person saying that the document is not correct," he stated.

The Court also investigated how many persons were left out of the SIR. Given that even individuals listed on the 2025 summary roster were left out of the SIR, Sibal questioned the extent of the investigation used to exclude the voters. Justice Bagchi stated at this point,

"This inclusion in summary revision roll does not give you a carte blanche inclusion into the intensive revision roll."

Additionally, Justice Kant stated that ECI was right to state that Aadhaar cannot be used as a definitive confirmation of citizenship.

"It must be confirmed. Refer to Aadhaar Act Section 9," the Court stated.

There is a presumption of citizenship, according to Senior Advocate Abhishek Manu Singhvi, who also emphasized how quickly the entire process is happening in the run-up to the elections. He also argued that presumptions cannot be used to deem crores of individuals illegitimate.

"We will make the same decision if they do. Will we tell to everyone that we can't put everyone on the 2025 list—into the roll—if we discover something suspicious? Kant, Justice, said.

Singhvi went on to say that the Election Commission was never meant to serve as the citizen police.

The ECI is responsible for including and excluding citizens and non-citizens from the rolls, according to Justice Kant. Regarding this, Singhvi stated,

"Yes I can be stopped till I apply and get citizenship but if I am on the roll already..."

The excluded voters had already cast ballots in five or six elections, he continued.

"De facto deletion is taking place here. The clever word here is non-inclusion," Singhvi stated.

Advocate Prashant Bhushan, meanwhile, questioned why the draft roster was made non-searchable.

"The draft roll was searchable on August 4. Names can no longer be searched as they removed it after August 6. He remarked, "That was suspicious."

Additionally, he stated that at least 10–12% have been denied by Block Level Officers (BLOs) without any justification.

"BLO has written against each of the 7.24 crore individuals who completed enumeration forms, indicating which ones are recommended and which are not. We have a whistleblower's lists from two districts. They are the ones who filled out the papers, but at least 10–12% of them are now not advised," he stated.

Psychologist Yogendra Yadav also spoke to the Bench on the matter at the conclusion of the hearing. He claimed that mass exclusion was a result of the SIR's design.

"Vast exclusion has already started; the amount excluded exceeds 65 lakhs. Since the outcome will be the same wherever SIR is implemented, this is not a failure of SIR implementation.

Yadav added that no one has ever been asked to submit their paperwork for a revision process in the nation's history.

"If it was done in 2003, the other side should point it out," he stated.

He added that no additions have resulted from the SIR. He said this was an experiment in intensive deletion.

Aside from the usage of the word "intensive," what made 2003 unique was that SIR was carried out. This is the first time in the nation's history that revisions have been made without any additions.

Yadav referred to the entire procedure as "dreadful" and claimed that the SIR was the biggest disenfranchisement exercise.

"The fact that women have erased more than men is also confirmed. 25 lakh men and 31 lakh women have been removed," he continued.

Additionally, the psephologist identified two individuals in the courtroom who were purportedly pronounced deceased by the election authorities.

"The amount will undoubtedly surpass one crore. This is not a revision issue. See them, please. They are deemed deceased. They don't show up. But look at them, they're living!

Justice Kant praised Yadav for his help at the conclusion of today's session.