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ONE JUDGMENT, TWO STANDARDS: THE ACCOUNTABILITY ASYMMETRY IN THE BIHAR SIR VERDICT

Jagriti Pandey

Here is a fact the Bihar SIR judgment never quite confronts. When Bihar's electoral roll shrank by about 47 lakh names between June and September 2025, those deletions were checked by nobody outside the Election Commission's own machinery. When West Bengal ran the same exercise a few months later, the deletions had to get past roughly 700 judicial officers, and then past appellate tribunals staffed by retired High Court judges, before the state voted. Same statute. Same Commission. The Court has yet to tell us why.

WHAT THE COURT DECIDED

The judgment itself, delivered on 27 May 2026 by Chief Justice Surya Kant and Justice Joymalya Bagchi, upheld the Bihar revision in *Association for Democratic Reforms v. Election Commission of India*.¹ Some background helps. The Commission's order of 24 June 2025 directed the first intensive revision of Bihar's rolls in over two decades, and it took the 2003 roll as its baseline: anyone on that roll was presumed eligible, while anyone who joined later had to prove eligibility afresh from a fixed menu of documents. The numbers moved quickly. From 7.89 crore electors at the start, the final roll of 30 September 2025 settled at 7.42 crore, and Bihar elected its Assembly that November on this basis. The Court traced the Commission's power to Section 21(3) of the Representation of the People Act, 1950,² read with Article 324,³ held that a name on the roll gives an elector a rebuttable presumption of eligibility and nothing more, and found nothing in the design of the exercise manifestly excessive or disproportionate.

¹ Ass'n for Democratic Reforms v. Election Comm'n of India, 2026 INSC 564 (India).

² The Representation of the People Act, No. 43 of 1950, § 21(3) (India).

³ India Const. art. 324.

THE DOCTRINE THAT CARRIED THE DAY

There was little new law in any of this. Article 324 has worked as a reservoir of residual power ever since *Mohinder Singh Gill*,⁴ filling gaps where the statute is silent, though it cannot displace an express statutory command; the Bench conceded that much to the petitioners and no more. Section 21(3), for its part, lets the Commission order a special revision at any time, for recorded reasons, in whatever manner it thinks fit. The real work was done by proportionality. A clean roll serves free and fair elections, which the Court has long treated as resting on the elector herself,⁵ and the intrusion was held tolerable because of the safeguards accumulated along the way, several forced by the Court's own interim orders: Aadhaar admitted as a twelfth identity document, booth-level publication of about 65 lakh draft exclusions with reasons, Booth Level Agents helping with claims and objections, show-cause notices before doubtful deletions, statutory appeals throughout. I do not doubt that these safeguards mattered. But look at where they all sit. Every one of them operates inside the revision, run by the same administrative machinery whose judgment is in issue. The Court certified the manner of the deletions. Whether the deletions were correct was a question nobody independent of the process was ever asked to answer.

TWO STATES, TWO STANDARDS

West Bengal is the awkward comparator. Its SIR began on 4 November 2025 under the identical legal framework, and then went badly wrong on the ground: accusations flew between state officials and the Commission's deputies, officers on SIR duty were assaulted, and the Court eventually reached for Article 142, its power to do complete justice in a pending matter. Through a series of orders culminating on 10 March 2026, the adjudication of claims and objections passed to more than 700 judicial officers (with reinforcements drawn from Jharkhand and Odisha), and 19 Appellate Tribunals chaired by retired High Court judges were constituted to hear appeals against deletion.⁶ Supplementary rolls made sure a successful appellant could still vote in April 2026. So Bengal's deleted electors got what Bihar's did not: a look at their deletions by someone outside the Commission, after the fact. The May judgment was the obvious place to explain the difference. It doesn't. Read it end to end and you will find

⁴ *Mohinder Singh Gill v. Chief Election Comm'r*, (1978) 1 SCC 405 (India).

⁵ *Union of India v. Ass'n for Democratic Reforms*, (2002) 5 SCC 294 (India).

⁶ Order dated Mar. 10, 2026, Supreme Court of India, in *Ass'n for Democratic Reforms v. Election Comm'n of India*, W.P.(C) No. 640/2025 (directing constitution of an appellate body for the West Bengal SIR); see also Supreme Court Observer, *West Bengal SIR: SC Directs Creation of Appellate Body as Verification Exercise Continues* (Mar. 10, 2026), <https://www.scobserver.in/reports/west-bengal-sir-sc-directs-creation-of-appellate-body-as-verification-exercise-continues/>.

no statement of when internal safeguards are enough and when deletion must also answer to a judge. What produced the Bengal arrangements was circumstance, political heat and institutional distrust and violence in the field, and circumstance is not a legal standard. A petitioner in Assam or Tamil Nadu, where the exercise has since spread, has no way to predict which of the two regimes her state will get.

WHY THE ASYMMETRY MATTERS

This is more than an untidy loose end. Bihar becomes the template by default, because Bihar is where the reasoning is; the Bengal orders are discretionary, unreasoned, and tied to their own facts. Any Commission planning the next revision can read the judgment as saying that enumeration forms and published lists discharge its constitutional obligations, and that judges arrive only once an exercise has collapsed into open conflict. Think about the incentive that creates. Judicial oversight stops being something a deleted elector is entitled to and becomes something agitation earns. Lose your name quietly and you face a registration officer's file; lose it amid protest and you face a tribunal headed by a former Chief Justice. Article 14 does not sit well with any of this. Two citizens deleted under the same statute for the same reason carry the same injury, and a remedial scheme that turns on the volume of local politics is a classification without any intelligible differentia connected to a legitimate object. The timing makes it worse. The verdict came six months after Bihar voted, after a government had formed, when every error in the process had already hardened into an electoral result no court could undo. Ex-post review exists exactly for that situation. Bengal received it; Bihar never will.

None of this required striking the SIR down. It required a sentence the judgment never wrote, one saying when mass deletion needs a judge. Until it gets written, revision of the rolls in India will proceed state by state, with review reserved for wherever the noise is loudest.