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EC: NOTA 'failed idea', never got a fraction of total votes

Centre Agrees; SC For Min Vote % For Winner

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New Delhi: The Election Commission and the Union govt. on Thursday told Supreme Court that the SC's 2013 mandate to provide NOTA option to voters had turned out to be a "failed idea" and that it was preposterous for a PIL to insist on conducting election even in the rare instance of there being only a single candidate in the fray to know whether she/he secures more votes than NOTA.

Appearing for EC before a bench of Justices Surya Kant and N Kotiswar Singh, senior advocate Rakesh Dwivedi said, "According to us (EC),

IN THE COURTS

> SC grants bail till May 8 to Vikas Yadav, serving a 25-year term in the 2002 Nitish Katara murder case, to meet his ailing mother

> 'Must deal with parole requests with compassion': Delhi HC says authorities cannot reduce a convict to a 'chattel' merely because he spent over 20 years in jail

> SC asks IAF how it can deny family pension to a stepmother who cared for her stepson from childhood to adulthood and enabled him to join the forces | P 2

> SC okays finalisation and notification of UGC-framed regulations to curb caste-based discriminations in higher edu institutions | P 2

NOTA is a failed idea. It never impacted any election since its inception as a minuscule of voters exercised this option. Every winning candidate got far higher votes than NOTA votes even though some of the candidates may have secured votes lower than NOTA."

Attorney general R Venkataramani, with additional solicitor general S D Sanjay, said the Union govt concurred with the EC. Justice Kant said this may be a hypothetical is-

sue—a single candidate in the fray may secure less votes than NOTA in case an election was held instead of declaring that candidate elected unopposed.

"But can the Union govt and EC deliberate on prescribing a minimum vote percentage benchmark for winning candidates. The govt may think of constituting an expert body comprising parliamentarians and domain experts to discuss this issue. Since our Constitution pro-

vides for a democracy by majority, is it not desirable that the winning candidate secures a threshold vote percentage, which would be fixed by Parliament," the bench said.

Venkataramani said this issue was deliberated upon at length by the EC which gave a report on 'one nation one poll'. The recommendations were debated by parliamentarians and there were divergent views, he said.

In its affidavit, the EC said a candidate getting elected unopposed from a Lok Sabha constituency was very rare. Since 1991, there was only a single such instance of a candidate getting elected to Lok Sabha unopposed, Dwivedi said. "Since 1971 till today, that is in the last 54 years, there have been six uncontested elections in total. In the 20 general elections since 1951, there have been only nine uncontested elections," he added.

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SC moots minimum votes for unopposed candidates

NEW DELHI: The Supreme Court on Thursday asked the Centre to come up with certain 'enabling' provisions requiring the unopposed candidates in elections to secure at least a minimum percentage of votes before being declared as winner.

A bench consisting of justices Surya Kant and N Kotiswar Singh made the observation while hearing a PIL against the validity of the Section 53 (2) of the Representation of the People Act, which deals with the procedure in contested and uncontested elections.

Section 53 (2) says if the number of contesting candidates is equal to the number of seats to be filled, the returning officer shall forth-

with declare all such candidates to be duly elected to fill those seats.

The bench, which perused the reply of the Election Commission, said there were only nine instances where uncontested candidates were declared winners in Parliamentary elections.

Senior advocate Arvind Datar, appearing for petitioner think-tank Vidhi Centre for Legal Policy, said in Assembly elections, these instances were more common.

Senior advocate Rakesh Dwivedi, appearing for the poll panel, said in the past 25 years, there was only a single instance at the Parliamentary election level where a candidate was declared as winner unopposed.

Datar tried to canvass his point by citing several hypothetical situations and asked what happens if a candidate uses official machinery to ensure his opponents withdraw?

Justice Kant told the poll panel if this issue was addressed, it would be a very good reform.

"It's not something that should cause inconvenience to anyone... It's only a question of creating a mechanism which may or may not be utilised ever. Keeping the

given trend of the changing dimensions in the political field, there is every possibility of some affluent candidate pressuring, influencing or persuading others who have filed nomination to withdraw at

the last moment and only one candidate remains. Now suddenly the voters know that they have no other choice, except one person," the judge said.

"Voters will never get a chance to elect," Justice Kant added, "because the Election Commission will have to declare the candidate as elected unopposed in the existing regime."

Dwivedi urged the bench that these were larger questions that only Parliament could consider.

"Why should we allow someone to enter Parliament by default who is unable to get even five per cent votes? It is only an enabling provision you can think of. If the provision is put in place and the problem arises in future, the election commission will have a mechanism in place," the bench said.

