

Legal Review of the Election Commission of India's 2026 Special Intensive Revision (SIR)

1.0 Introduction: The Nexus of Legal Overreach and Systemic Disenfranchisement

This document provides a comprehensive legal review of the Election Commission of India's (ECI) 2026 Special Intensive Revision (SIR). The SIR, a pan-state exercise to create new electoral rolls, has been initiated under the ECI's authority to ensure free and fair elections. However, the design and implementation of this process raise grave questions of constitutional propriety and statutory authority, fundamentally challenging its impact on the right to vote.

The unique contribution of this review is its synthesis of two distinct but complementary lines of inquiry: the formal legal and constitutional arguments presented before the Supreme Court, and the detailed, on-the-ground findings of an independent investigation into the SIR's procedural architecture. By connecting the abstract principles of law with the tangible experiences of citizens, this analysis aims to provide a holistic understanding of the matter at hand.

This review will deconstruct the SIR process, examine the primary constitutional and statutory grounds on which it is being challenged, and present evidentiary analysis of its implementation as a form of technological and procedural obstruction. Ultimately, this document will argue that the 2026 SIR, as conceived and executed, represents a significant and perilous threat to the constitutional right to vote, transforming what should be a routine procedural revision into a potential instrument of mass disenfranchisement.

2.0 The Impugned Action: Deconstructing the 2026 Special Intensive Revision (SIR)

A clear and precise understanding of the mechanics of the 2026 Special Intensive Revision is foundational to assessing its legality and practical impact. The SIR is not a simple update but a complex, multi-layered process that imposes significant new burdens upon the electorate. Its core components, as detailed in both court filings and independent investigations, reveal a system that is fundamentally different from any previous revision exercise.

The process begins with the distribution of an "Enumeration Form," which voters are required to complete. The central requirement of this form is to provide details from a "Source Document"—specifically, the voter lists created during the Special Intensive Revisions of 2002 or 2005. A voter who can successfully locate their or their relative's name in this 20-year-old document and accurately fill in the details (including the old assembly constituency, part number, and serial number) is deemed verified.

However, for those who cannot produce this information, the process mandates the submission of alternative "Time/Period/Work/Finance related Identity Documents." This effectively creates two classes of voters and places a heavy evidentiary burden on those unable to navigate the complexities of accessing historical electoral rolls.

The ECI's stated justification for this arduous process is "to maintain the order of the voter list for conducting elections freely and fairly," to include all eligible citizens, and to remove ineligible persons such as the deceased or relocated. To this end, the SIR establishes three distinct age-based classifications, each with different documentary requirements:

1. **Voters above 38 years of age (born before 01.07.1987):** Must either provide information from the Source Document or submit a document proving their date and/or place of birth.
2. **Voters between 20 and 38 years of age (born between 01.07.1987 and 02.12.2004):** Must submit a document proving their date and/or place of birth, *and* a similar document for at least one parent.
3. **Voters below 20 years of age (born after 02.12.2004):** Must submit a document proving their date and/or place of birth, *and* similar documents for *both* parents (with specific conditions regarding the citizenship status of each parent).

This intricate and demanding framework, with its reliance on historical records and differentiated proof requirements, raises a critical question: is such a process permissible under the existing constitutional and statutory regime governing elections in India?

3.0 Grounds of Challenge I: Constitutional and Statutory Overreach

The validity of the Special Intensive Revision hinges on a fundamental legal question: has the Election Commission of India acted within the powers granted to it by the Constitution and the statutes enacted by Parliament? The primary legal challenge posits that the SIR is an exercise in overreach, transgressing the clear boundaries established by the Representation of the People Act, 1950 (RPA) and the Constitution itself.

3.1 The Constitutional Framework: Circumscription of Power under Article 324

The central constitutional argument presented before the Supreme Court is that the ECI's plenary powers under Article 324 of the Constitution are not absolute. They are circumscribed by, and must operate within, the legislative framework enacted by Parliament under its authority in Article 327.

Petitioners argue that Parliament has fully "occupied the field" of electoral roll preparation through the comprehensive provisions of the RPA and its associated rules. This legislative framework prescribes the specific forms and procedures for voter registration and revision. Consequently, there is no legal vacuum or "interstice" for the ECI to fill through "executive innovation." The introduction of the new "Enumeration Form" and its complex documentary requirements, which are not contemplated or authorized by the RPA, is therefore an act of disobedience to the statutory mandate. This principle was articulated in the landmark case of *A.C. Jose v. Sivan Pillai*, which stands in direct contradiction to the ECI's claims of plenary power:

"where there is an act and express rules made there it is not open to the commission to override the act or rules and pass orders direct disobedient exercise is an overreach."

3.2 Statutory Misinterpretation: The Scope of Section 21(3) of the RPA, 1950

The ECI has sought to justify the SIR under Section 21(3) of the RPA, which allows it to direct a "special revision of the electoral roll for any constituency or part of a constituency." However, petitioners argue that this provision is being fundamentally misinterpreted to authorize a mass, pan-

state exercise that it was never intended to cover. A close reading of the statutory language reveals five key "clues to interpretation" that militate against the ECI's position:

1. **"Any" does not mean "all":** The statutory context resists an interpretation where "any constituency" can be expanded to mean "all constituencies" within a state. Such a reading distorts the plain meaning of the provision.
2. **Structural Integrity:** The composite phrase "constituency or any part of" would be rendered meaningless if "any" were interpreted to mean "all." The structure of the provision points towards a specific, localized application.
3. **The Proviso:** The proviso to Section 21(3) reinforces this individuated approach by referring to "the electoral role for the constituency," implying a focus on a single, specific electoral unit.
4. **"Reasons to be recorded":** This requirement implies a quasi-judicial application of mind, where specific reasons are provided for a specific action in a particular constituency. It does not permit a "one size fits all" justification for an entire state.
5. **Non-Obstante Clause:** The clause "Notwithstanding anything contained in sub-section (2)" means that Section 21(3) only overrides the procedural requirements of sub-section (2), not sub-section (1). Sub-section (1), which mandates that electoral rolls "shall be prepared in the prescribed manner," remains fully operative. The "prescribed manner" is detailed in Rule 25 of the Registration of Electors Rules, 1960, which the SIR bypasses.

The generic reasons cited by the ECI for the SIR—such as "rapid urbanization" and "frequent migration"—are argued to make a "mockery of 21(3)." They are broad, non-specific trends that lack the direct and specific causal nexus required to trigger a "special revision" for a particular constituency. The absence of such a nexus is central to the challenge that the ECI's action is arbitrary and beyond the scope of its statutory power.

3.3 Usurpation of Jurisdiction: The Unlawful Citizenship Test

A further ground of challenge is that the ECI, through the SIR process, has unlawfully arrogated to itself the power to conduct a citizenship test. The determination of citizenship is the exclusive constitutional and statutory domain of the Central Government under the Citizenship Act, a principle affirmed in cases like *Bhagwati Prasad v. Rajeev Gandhi*.

By demanding specific documents linked to birth and parentage, particularly from younger voters, the SIR effectively creates a "parallel mechanism of citizenship determination." This process reverses the established legal burden of proof, as set by the Supreme Court in *Lal Babu Hussein v. Electoral Registration Officer*. That case established that the presence of a name on an electoral roll serves as *prima facie* proof of eligibility, including citizenship, and the burden to prove otherwise lies with any objector. The SIR unlawfully shifts this burden onto the individual citizen.

3.4 Violation of Fundamental Rights: Manifest Arbitrariness under Article 14

Finally, the SIR process is challenged as being violative of Article 14 of the Constitution on the grounds of manifest arbitrariness. The classification of citizens into those registered pre-2003 and post-2003, and the further three sub-classifications for post-2003 voters based on their date of birth, lacks a reasonable nexus to any legitimate public interest objective. These classifications create differential burdens on citizens without any rational basis, making the entire scheme arbitrary and discriminatory.

These legal challenges establish a *prima facie* case that the SIR is constitutionally and statutorily invalid, a conclusion substantiated by the evidentiary analysis that follows.

4.0 Grounds of Challenge II: Evidentiary Analysis of the SIR as "Technological Fraud"

While the preceding section outlined the abstract legal and constitutional arguments against the SIR, this section provides the factual evidence demonstrating that the process is not merely legally flawed but is a systematically engineered "planned game" designed to obstruct voter verification. The findings from an independent investigation reveal a series of deliberate procedural and technological hurdles that transform a civic duty into an insurmountable ordeal for millions. This evidence points not to incompetence, but to a calculated "technological fraud"—the use of digital infrastructure and data management not to facilitate, but to systematically obstruct, a citizen's constitutional right to vote.

4.1 Withholding the "Correlation Table": Weaponizing Constituency Delimitation

A foundational requirement for a voter to access the "Source Document" (the 2002/2005 voter list) is to know their assembly constituency as it existed *before* the 2008 delimitation exercise. The investigation reveals that the ECI created a "Correlation Table" in 2008 precisely for this purpose—linking old, pre-2008 constituencies to the newly delimited ones. However, this critical piece of infrastructure has been deliberately withheld from the public and from Booth Level Officers. This act of omission creates an "illusory obstacle," forcing voters to guess their 20-year-old constituency, an almost impossible task that ensures a high rate of failure from the very first step.

4.2 Disabling Critical Infrastructure: The Non-Functional "SEARCH BY EPIC"

The investigation found that the most straightforward and reliable method for voters to find their old records—the "SEARCH BY EPIC" function, which uses the unique Voter Photo Identity Card number—has been non-functional since the SIR process began. This is the one tool that could bypass the confusion created by delimitation and provide instant, accurate results. Its conspicuous and persistent disablement is not a mere technical glitch; it points towards a clear intent to obstruct rather than facilitate voter verification. This is the functional equivalent of removing the index from a thousand-page legal text; it is an act of deliberate incapacitation designed to make compliance impossible.

4.3 Transforming Public Records into Unusable Data: The "Image-PDF" Ploy

The investigation uncovered a "Third Knot" for voters who manage to overcome the first two hurdles. Even when a voter successfully identifies their old constituency and navigates the ECI's website to download the correct voter list, the document provided is a non-searchable "image PDF." This is a scanned image of the list, rendering a computer's text-search function useless. The ECI, meanwhile, possesses fully searchable, text-based versions of these same documents, which power its own internal systems. This deliberate transformation of usable data into a static image turns a simple data lookup, which should take seconds, into an arduous manual task of scanning up to 1,500 names. This is a clear design choice intended to make voters "abandon their attempt" in frustration.

These systemic impediments are not accidental flaws but appear to be calculated features of the SIR process. They form the practical bedrock of the legal challenges, demonstrating how a theoretically neutral revision can become a tool of exclusion.

5.0 Synthesis: Connecting Legal Abstraction to Practical Disenfranchisement

The systemic obstructions detailed in the investigation are not merely practical failures; they are the direct and foreseeable consequences of the ECI's unconstitutional and *ultra vires* actions. The "planned game" of technological hurdles is not separate from the legal overreach; it is its direct and inevitable consequence.

The ECI's interpretation of "manner as it thinks fit" under Section 21(3) of the RPA is not just legally dubious; the investigation proves this discretion has been exercised in bad faith. The withheld Correlation Table and non-searchable PDFs are not administrative choices but deliberate acts of obfuscation, rendering the "manner" chosen by the ECI manifestly arbitrary and illegal. This is not a reasonable exercise of statutory discretion but a subversion of it, designed to frustrate the very purpose of creating an inclusive electoral roll.

The procedural roadblocks are the engine of the ECI's *ultra vires* citizenship test. By engineering the failure of the primary verification path—access to the "Source Document"—the ECI systematically coerces the electorate, particularly vulnerable populations, into an alternative process where they are unlawfully compelled to produce documents serving as proxies for citizenship. The ECI thereby achieves its *ultra vires* objective not through an explicit declaration, but through a coercive procedural design that makes the legally sound path impassable.

Finally, the "planned game" of confusion and non-functionality gives concrete substance to the Article 14 challenge of "manifest arbitrariness." State action is deemed arbitrary when it is irrational, non-transparent, and without adequate determining principle. The deliberate creation of a convoluted and defective system, where the easiest paths are blocked and essential information is withheld, is the epitome of arbitrary state action that fails the test of fairness and equality enshrined in the Constitution.

6.0 Conclusion and Recommendations

This legal review has examined the Election Commission of India's 2026 Special Intensive Revision from both a constitutional and a practical standpoint. The analysis reveals a process that is deeply flawed in its legal foundation and demonstrably obstructive in its implementation.

The central finding is that the ECI's 2026 Special Intensive Revision, as currently designed and implemented, is both *ultra vires* its constitutional mandate and a violation of the Representation of the People Act, 1950. Its reliance on a misinterpretation of statutory powers, its usurpation of the jurisdiction to determine citizenship, and its manifestly arbitrary procedures are legally untenable. In practice, these legal failings have been translated into a system of technological and procedural disenfranchisement that places unreasonable and often insurmountable burdens on the Indian electorate.

In light of these severe and systemic deficiencies, the following urgent actions, derived directly from the "What Must Be Done?" section of the independent investigation report, are recommended:

1. **Immediate Cessation:** The 2026 Special Intensive Revision plan must be stopped immediately.
2. **Accountability:** The senior officials responsible for drafting this plan must be dismissed.
3. **Investigation:** A transparent, independent investigation must be initiated against these officials.
4. **Invalidation of Results:** Any voter list created under this scheme, and any election conducted based upon it, must be considered legally invalid.
5. **Future Process Reform:** A new, transparent process for creating voter lists must be established in a way that includes all ordinary people without imposing unreasonable and obstructive burdens.

The 2026 Special Intensive Revision is more than a flawed administrative exercise; it is an attack on the foundational principles of the Indian Republic and the sacred constitutional right to universal adult suffrage. It must be addressed with the gravity and urgency that this threat to our democracy demands.