

## No fresh polls if NOTA exceeds candidates' votes

Justice Dipak Misra

"Holding elections in our country costs money," Chief Justice of India Dipak Misra said, while rejecting a public interest litigation petition suggesting fresh elections whenever the public chose overwhelmingly the "None of the Above" (NOTA) option.

Supreme Court advocate Ashiwni Upadhyay said that if NOTA got the highest number of votes, it would amount to an expression of public dissatisfaction with the candidates in the fray.

If this happened, the result should have to be nullified by the Election Commission.

In response, a three-judge Bench, led by the Chief Justice, gave Mr. Upadhyay an illustration.

"Let us say the highest percentage of votes polled by a candidate is 40 and the rest goes to NOTA. Does this mean we subject this candidate to another election," Chief Justice Misra asked.

"So, this means there should be an election each time a candidate gets less than 51% of the votes polled ... We cannot say such things. We will not be doing our duty and will be crossing a constitutional barricade," the Chief Justice said.

The court said a voter had the right to express his dissent by staying at home.

Mr. Upadhyay has decided to withdraw his petition from the court. He may now approach the Election Commission.

His petition had even sought a ban on the parties and their candidates who failed to NOTA in the first election from contesting the fresh polls.

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