

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(1)

CWP-25488-2024
Date of Decision: 03.10.2024

SOM NATH

...Petitioner

V/S

STATE OF PUNJAB AND OTHERS

...Respondents

2	CWP-25342-2024	SHINGARA SINGH V/S STATE OF PUNJAB AND OTHERS
3	CWP-25346-2024	JAGRUP SINGH V/S STATE OF PUNJAB AND OTHERS
4	CWP-25402-2024	SUCHA SINGH V/S STATE OF PUNJAB AND OTHERS
5	CWP-25419-2024	BALDEV SINGH V/S STATE OF PUNJAB AND OTHERS
6	CWP-25452-2024	SUKHWINDER SINGH V/S STATE OF PUNJAB AND ORS
7	CWP-25458-2024	BHUPINDER SINGH V/S STATE OF PUNJAB AND ORS
8	CWP-25459-2024	TEHAL SINGH V/S STATE OF PUNJAB AND ORS
9	CWP-25469-2024	SARJIWAN SINGH V/S STATE OF PUNJAB AND ORS
10	CWP-25479-2024	NIRMAL SINGH V/S STATE OF PUNJAB AND ORS
11	CWP-25480-2024	BALWINDER KAUR ALIAS JASWINDER KAUR AND ANR V/S STATE OF PUNJAB AND ORS
12	CWP-25497-2024	LAXMAN V/S STATE OF PUNJAB AND OTHERS
13	CWP-25502-2024	NARESH KUMAR V/S STATE OF PUNJAB AND OTHERS
14	CWP-25512-2024	RAJ PAL SINGH V/S STATE OF PUNJAB AND ORS
15	CWP-25516-2024	JASWINDER SINGH KASHYAP V/S THE SECRETARY GOVERNMENT OF PUNJAB AND OTHERS
16	CWP-25520-2024	RAJ SINGH V/S STATE OF PUNJAB AND ORS
17	CWP-25522-2024	GURDEEP SINGH V/S STATE OF PUNJAB AND OTHERS



18	CWP-25527-2024	AMANDEEP SINGH V/S STATE OF PUNJAB AND ORS
19	CWP-25534-2024	GURJEET SINGH V/S STATE OF PUNJAB AND ORS
20	CWP-25536-2024	BALRAJ SINGH V/S STATE OF PUNJAB AND OTHERS
21	CWP-25540-2024	SWARAN SINGH AND ANOTHER V/S STATE OF PUNJAB AND OTHERS
22	CWP-25541-2024	RAGHVIR SINGH AND ANOTHER V/S STATE OF PUNJAB AND OTHERS
23	CWP-25545-2024	SARBJIT V/S STATE OF PUNJAB AND OTHERS
24	CWP-25548-2024	HARDEEP SINGH V/S STATE OF PUNJAB AND ORS
25	CWP-25550-2024	BALKARANJEET SINGH V/S STATE OF PUNJAB AND OTHERS
26	CWP-25552-2024	TARSEM SINGH V/S STATE OF PUNJAB AND ORS
27	CWP-25565-2024	KULWINDER SINGH AND ORS V/S STATE OF PUNJAB AND ORS
28	CWP-25566-2024	SUKHWINDER SINGH AND OTHERS V/S STATE OF PUNJAB AND OTHERS
29	CWP-25567-2024	KARANBIR SINGH V/S STATE OF PUNJAB AND ORS
30	CWP-25602-2024	RAM PAL AND ORS V/S STATE OF PUNJAB AND ORS
31	CWP-25639-2024	JAGDISH CHANDER AND OTHERS V/S STATE OF PUNJAB AND ORS
32	CWP-25641-2024	NARINDER SINGH AND ORS V/S STATE OF PUNJAB THR ITS SECRETARY DEPT OF RURAL DEVLOPMENT AND PANCHAYAT PUNJAB AND ORS
33	CWP-25676-2024	GURMEET SINGH V/S STATE OF PUNJAB AND ORS
34	CWP-25684-2024	AMANDEEP SINGH AND ANOTHER V/S STATE OF PUNJAB AND OTHERS
35	CWP-25687-2024	JASVIR KAUR AND ANOTHER V/S STATE OF PUNJAB AND OTHERS
36	CWP-25690-2024	MOHAN SINGH V/S STATE OF PUNJAB AND ORS
37	CWP-25698-2024	AMRITPAL SINGH AND OTHERS V/S STATE OF PUNJAB AND OTHERS
38	CWP-25699-2024	SUKHWINDER SINGH V/S STATE OF PUNJAB AND ORS.
39	CWP-25705-2024	AMOLAK SINGH AND OTHERS V/S STATE OF PUNJAB AND OTHERS
40	CWP-25713-2024	NARESH KUMAR V/S STATE OF PUNJAB AND ORS

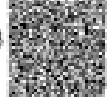
41	CWP-25716-2024	KULWANT RAM V/S STATE OF PUNJAB AND ORS
42	CWP-25721-2024	INDERJIT SINGH V/S STATE OF PUNJAB AND ORS.
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51	CWP-25769-2024	GURPREET SINGH CHAHAL V/S STATE OF PUNJAB AND ORS
52	CWP-25782-2024	BALJIT SINGH V/S STATE OF PUNJAB AND ORS
53	CWP-25784-2024	JAGMIT SINGH V/S STATE OF PUNJAB AND OTHERS
54	CWP-25786-2024	AMARJIT SINGH V/S STATE OF PUNJAB AND OTHERS
55	CWP-25790-2024	PARSHOTTAM SINGH AND ORS V/S STATE OF PUNJAB AND ORS
56	CWP-25808-2024	SANDEEP SINGH V/S STATE OF PUNJAB AND OTHERS
57	CWP-25665-2024	RAMANDEEP SINGH V/S STATE OF PUNJAB AND ORS

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HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

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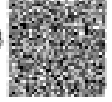
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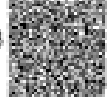
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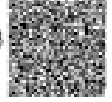
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Mr. Maninder Singh, Sr. DAG, Punjab.
Mr. Salil Sablok, Sr. DAG, Punjab.
Mr. Karunesh Kaushal, Assistant A.G. Punjab.

**SURESHWAR THAKUR, J.**

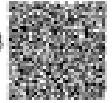
1. Since all the writ petitions involve a common question of law as well as common reliefs have been sought therein, as such, all the writ petitions are amenable to become decided through a common verdict.

2. For the sake of brevity, the facts are taken from CWP-25488-2024.

3. Through the instant writ petition, the petitioner asks for the quashing of the notification dated 19.09.2024 (Annexure P-1), as became issued by respondent No.1, whereby the respondents have made amendments in Rule 3 and Rule 6-A of the Punjab Reservation, for the Offices of Sarpanches of Gram Panchayats and Chairmen and Vice-Chairmen of Panchayat Samitis and Zila Parishads Rules, 1994 (hereinafter referred to as “the Rules of 1994”). It is further prayed that the respondents concerned, be directed to reserve the post(s) of Sarpanch(es), thus for Scheduled Caste category hence in the forthcoming Panchayat elections.

4. The petitioner avers that for the last two consecutive elections, the post of Sarpanch has not been reserved for the candidates belonging to the Scheduled Caste category whereby becomes ignored the significant Scheduled Caste population in village Khera Kalmot. It is further averred that the said pattern has persisted even in the forthcoming general elections scheduled to be held on 15.10.2024, whereby again the post of Sarpanch has been proposed to be filled up from amongst the General category.

5. That there are a total 900 votes in village Khera Kalmot out of which 300 votes are of Scheduled Caste (SC) category and 600 votes belong to the General Category. However despite the statutory mandate borne in the



statutory provisions carried in Section 12 of Punjab Panchayati Raj Act, 1994 (hereinafter referred to as 'the Act of 1994) and the Rules of 1994, the reservation for the post of the Sarpanches was to be made as per the roster prepared by Deputy Commissioner and the rotation thereof was to be made for reserving the aforementioned post(s) for different categories as provided in the Act and Rules of 1994. Nonetheless, rather owing to the political influence of the General Category candidate(s) yet the rotation principle has not been followed by the authorities. Moreover, since even in the prior hereto two consecutive elections, rather the post (supra) become earmarked for the candidates belonging to the General Category, thereby an opportunity to the Scheduled Caste candidate to contest for the post of Sarpanch rather has been arbitrarily denied.

6. That in the previous General Elections of the Gram Panchayats, the reservation to the Scheduled Caste (including one-half women belonging to the Scheduled castes) was given in the same proportion as the population of the Scheduled Castes in the **DISTRICT** used to be.

7. However, after the makings of the impugned amendment on 19.09.2024, to Rule 3(1) of the above said Rules of 1994, the reservation to the Scheduled Caste (including one-half women belonging to the Scheduled castes) rather is to be given on the basis of the proportion of the population of Scheduled Caste, in the **BLOCK** concerned. As such, it is averred that the said substitution is arbitrary so as to benefit the Open Category candidate(s) and to discriminate against the Reserved Category candidate(s)

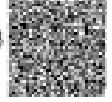
Related Legal Provisions

8. As per the provsio to the amended Rule 3(1) of the Rules of 1994, the overall percentage of reservation for the whole of the district is yet declared to remain as per Section 12 of the Act of 1994. The unamended and the amended Rule 3(1) of the Rules of 1994, are extracted hereinafter:

Unamended Rule 3(1)	Amended Rule 3(1)
Rule 3(1): The Deputy Commissioner shall, by notification in the Official Gazette, reserve the offices of the Sarpanches of Gram Panchayats for the persons belonging to Scheduled Castes (including one-third women belonging to the Scheduled Castes) in the same proportion as the population of the Scheduled Castes in the district bears to the total population of the district. The offices of Sarpanches of Gram Panchayats shall be reserved as per the roster prepared by the Deputy Commissioner.	Rule 3(1): - The Deputy Commissioner shall, by notification in the Official Gazette, reserve the offices of the Sarpanches of the Gram Panchayats for the persons belonging to the Scheduled Castes (including one-half women belonging to the Scheduled Castes) in the same proportion as the population of the Scheduled Castes in the Block bears to the total population of the Block: Provided that the overall percentage of reservation for whole of the district shall remain as per section 12 of the Act.

9. The provisions of Section 12 of the Act of 1994, become extracted hereinafter:

“Section 12: - Reservation of seats for the office of Sapranch (1) Offices of Sarpanch of Gram Panchayats in the district shall be reserved for Scheduled Castes and the number of such offices shall bear, as nearly as many, the same proportion to the total number of offices of Sarpanches, in the district as the population of Scheduled Castes in the district bears to the total population of the district:



Provided that not less than one-half of the total number of offices of Sarpanch of Gram Panchayats in the district shall be reserved for women belonging to the Scheduled Castes.

Provided further that a fraction of an office (seat) shall not be treated an office (seat) for the purpose of reservation.

(2) One-half of the total number of offices of Sarpanches in the district shall be reserved for women including such offices, reserved for women belonging to Scheduled Caste and sub-section (1).

Provided that a fraction of an office (seat) shall not be treated an office (seat) for the purpose of reservation

(3) There shall be no reservation in the offices of Sarpanches for Back-ward Classes.

(4) The offices reserved under this section shall be allotted by rotation to the different Gram Panchayats in such manner as may be, prescribed.

Explanation for the removal of doubts it is hereby declared that the principle of rotation for the purpose of reservation of offices under sections 2 and 12 shall commence from the first election to be held after the commencement of this Act.”

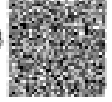
10. It is pertinent to mention here that vide amendment dated 16.09.2024, the explanation to Section 12 of the Act of 1994 has been omitted, as mentioned below:-

“2. In the Punjab Panchayati Raj Act, 1994 in section 12, after sub-section Amendment in (4), the Explanation shall be omitted section 12 of Punjab Act 9 of 1994.”

11. The provisions of Article 243-D and Article 243-O of the Constitution of India are extracted hereinafter.

243D. Reservation of seats.—(1) Seats shall be reserved for—

(a) the Scheduled Castes; and



(b) the Scheduled Tribes,

in every Panchayat and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Panchayat as the population of the Scheduled Castes in that Panchayat area or of the Scheduled Tribes in that Panchayat area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Panchayat.

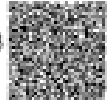
(2) Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.

(3) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Panchayat shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Panchayat.

(4) The offices of the Chairpersons in the Panchayats at the village or any other level shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide:

Provided that the number of offices of Chairpersons reserved for the Scheduled Castes and the Scheduled Tribes in the Panchayats at each level in any State shall bear, as nearly as may be, the same proportion to the total number of such offices in the Panchayats at each level as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State bears to the total population of the State:

Provided further that not less than one-third of the total number of offices of Chairpersons in the Panchayats at each level shall be reserved for women:



Provided also that the number of offices reserved under this clause shall be allotted by rotation to different Panchayats at each level.

(5) The reservation of seats under clauses (1) and (2) and the reservation of offices of Chairpersons (other than the reservation for women) under clause (4) shall cease to have effect on the expiration of the period specified in article 334.

(6) Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Panchayat or offices of Chairpersons in the Panchayats at any level in favour of backward class of citizens.

X x x

“243O. Bar to interference by courts in electoral matters.—Notwithstanding anything in this Constitution,—

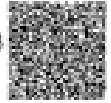
(a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 243K, shall not be called in question in any court;

(b) no election to any Panchayat shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State.”

12. Vide notification dated 19.09.2024, Rule 6A was substituted as under:-

“6A. The offices of Sarpanches of Gram Panchayats as notified by the Deputy Commissioner of the concerned district under sub-rule (1) of rule 3 shall be rotated in subsequent election.

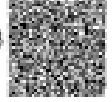
6B. The newly created Gram Panchayats shall also be reserved for the offices of the Sarpanches in accordance with the provisions of rule 3.”

**Submissions of the learned counsel for the petitioners**

13. The learned counsels for the petitioners submit, that the explanation to Section 12 of the Act of 1994 has been erroneously amended, inasmuch as, unless the substantive provisions of the said Act, became amended, thereby the deletion of the explanation (supra), to Section 12 of the Act of 1994, rather was an impermissible deletion. Resultantly, the Constitutional vires of the said amendment has been impugned.

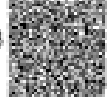
14. They further submit that the proper procedure as required under Section 2(tt) of the Act of 1994, has not been followed, as no publication has been done through the medium of electronic or print media, inasmuch as, though the statutory media (supra), rather requires publication of the notification in Hindi, Punjabi and English newspapers, yet the said adoption remains unmade.

15. In so far as, the first submission of the learned counsels for the petitioners, relating to the makings of an arbitrary amendment (supra), to Rule 3(1) of the Rules of 1994, thus is concerned, whereby reservation becomes effected to the post of “Sarpanches of the Gram Panchayats, hence for the persons belonging to the Scheduled Castes (including one-half women belonging to the Scheduled Castes) in the same proportion as the population of the Scheduled Castes in the “Block” bears to the total population of the Block, Provided that the overall percentage of reservation for whole of the district shall remain as per section 12 of the Act”, whereby becomes substituted, rather the prior rule declaring that the apposite proportion for the purpose of reservation vis-a-vis the Scheduled Castes including one-half women belonging to Scheduled Caste, thus is to bear the



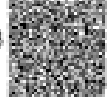
requisite proportionality qua the population of the Scheduled Caste in the “district” to the total population of the district, rather is hinged on the following grounds:-

- a) That since the unamended provisions are in terms of the substantive provisions as carried in sub Section 1 of Section 12 of the Act of 1994, thereby unless the said substantive provisions are amended, thereby any amendment as made to Rule 3(1), thus ex facie is beyond the apposite statutory permissibility, besides the same being ultra vires, the (supra) substantive statutory provisions.
- b) That the deletion of the explanation (supra) carried in Section 12 of the Act of 1994, wherein the principle of rotation for the purposes of creating reservation(s) to the democratically elected offices, thus become declared to commence from the first election to be held after the commencement of the Act of 1994, rather ex facie is only for depriving the endowings of reservation benefits qua the Scheduled Caste category, but in proportion to their population in the District. In other words, it is contended that thereby there is successive or consecutive deprivation of reservation to the Scheduled Caste category, thus only to benefit the unreserved/open category candidates, whereby there is an arbitrary denial of an opportunity qua the reserved category, thus to hold the democratically elected office(s) of Sarpanche(s) or of the Panch(s) concerned.

**Submissions of the learned State counsel**

16. The learned State counsel submits, that the impugned notification of 19.09.2024 (Annexure P-1) has been issued under Section 209(1) of the Act of 1994, thus to conduct General Elections rather to the various democratic offices of the Gram Panchayats concerned, thus within the State of Punjab. He further submits that in the previously conducted General Elections to the Gram Panchayats, the reservation as provided to the Scheduled Castes (including one-half women belonging to the Scheduled castes), thus became planked in the same proportion as the population of the Scheduled Castes in the District used to be. However, after the effecting of the amendment to Rule 3(1) of the abovesaid Rules of 1994, on 19.09.2024, the apposite bestowment of the benefit of reservation to the Scheduled Caste (including one-half women belonging to the Scheduled castes), rather is to be assigned on the basis of the proportion of the population of the Scheduled Caste(s) in the “block” concerned, thus bears to the total population of the block. The said amendment becomes reproduced hereinabove.

17. He further submits that Block wise reservation is being done, for the first time after the conducting of the previous Gram Panchayat Elections, wherein, the reservation of seats through the apposite rotation(s), was done District wise. In view of the above, the block wise reservation is being done for the first time, in terms of Rules 6-A of the Rules of 1994, thus in the present elections and the rotation thereof would only be applicable from the next general elections of the Gram Panchayat and it has no relation with the previous rotation which was District wise.



18. The learned State counsel relies upon the judgment rendered by a Division Bench of the Himachal Pradesh High Court in case titled as **“Manish Dharmaik Versus State of Himachal Pradesh and others”**, decided on 06.01.2021, reported in **2021 AIR Himachal Pradesh 73**, wherein it becomes observed as under:-

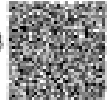
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(i) In cases of re-organization/bifurcation/separation/creation of Gram Panchayats/ Blocks etc., reservation of offices therein should be allocated afresh based upon the ‘changed’ population structure in accordance with relevant provisions of applicable Statute and the Rules. However, while applying the Election Reservation Roster, proper care should be taken so that reservation roster gets rotated to the maximum extent possible;

(ii) Grievances of the petitioners with respect to application and rotation of election reservation roster over changed territories of Gram Panchayats/Blocks, howsoever genuine these might be, cannot be examined at this stage when election process is already underway, in view of bar imposed by Article 243-O of Constitution of India. In such circumstances, we direct the respondent-State to ensure that, in future, the notification reserving offices in the Gram Panchayats/Blocks in the State for various categories in elections to Panchayati Raj Institutions is published and placed in public domain on the website of State Election Commission at least three months prior to the commencement of election process to enable timely adjudication of disputes pertaining to application/rotation of election reservation roster. All consequent steps in furtherance of same be also taken accordingly.”

19. He further relies upon the judgment rendered by Hon’ble Apex Court in case bearing **Civil Appeal No.8515 of 2018**, titled as **“West Bengal**

State Election Commission V Communist Party of India (Marxist), decided



on 24.08.2018, reported in **AIR 2018 SUPREME COURT 3964**, relevant paragraph Nos.28, 31, 32 and 33 whereof, become extracted hereinafter.

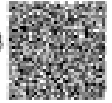
“28. The Panchayat Elections Act is a complete code in regard to the conduct of the poll and for the resolution of disputes concerning the validity of the election. Article 243-K entrusts the superintendence, direction and control over the conduct of all elections to the panchayats in the State Election Commission. Clause (b) of Article 243-O stipulates thus:

*“243-O. **Bar to interference by courts in electoral matters** – Notwithstanding anything in this Constitution -*

(b) no election to any Panchayat shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the legislature of a State”

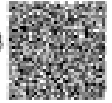
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31. Having given our anxious consideration to the rival submissions which have been urged at the bar, we find that there are several reasons why it would be inappropriate for this Court to exercise its jurisdiction to interdict the declaration of results of the uncontested seats. First and foremost, it is necessary for the Court to notice that no specific relief was claimed before the High Court in regard to those seats where there was no contest. Neither were there adequate pleadings nor indeed were specific prayers set up before the High Court when its jurisdiction under Article 226 was invoked. The proceedings before the High Court were brought by several political parties, each of whom would have been well aware of the situation on the ground and the need to formulate an adequate basis in fact to invoke the jurisdiction of the High Court. Absent such a factual foundation, the High Court dealt with the only issue which had been addressed, which was the plea that nominations should be allowed to be filed in the electronic form. No other plea was raised. The second important consideration which



must weigh with the Court is that if the above submission is accepted, election results to over 20,000 seats will be set at naught in the absence of the affected parties before the Court. Thirdly, once the election process has commenced, it is trite law that it should not be interdicted mid stage. The electoral process is afforded sanctity in a democracy. That is the reason why in a consistent line of precedent, this Court has insisted upon the discipline of the law being followed so that any challenge to the validity of an election has to be addressed by adopting the remedy of an election petition provided under the governing statute. For this Court to set aside elections to over 20,000 seats would be to prejudge the basic issue as to whether in each of those constituencies, the election stands vitiated by obstruction having been caused to candidates from filing their nominations. A general assumption of this nature cannot be made. Ultimately whether this is correct would depend upon the evidence adduced in the facts of individual cases where such a grievance has been made in an election petition. The Court has been apprised that approximately 1,700 complaints were filed and about 168 election petitions have been instituted. We are emphatically of the view that any challenge to the election must take place in a manner which is known to law.

32. Under Section 79(1) a period of 30 days is prescribed for instituting an election petition, where a dispute arises as to the validity of an election. The period of 30 days commences after the date of the declaration of the results of the election. The pendency of these proceedings may have dissuaded aggrieved individuals from seeking recourse to the remedy of an election petition, particularly after the interim order of this Court restraining the State Election Commission from notifying the results of the constituencies where there was no contest. While we are of the view that the validity of the elections must be tested in election petitions under Section 79(1), the question as



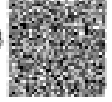
to whether there was a large scale obstruction from filing nominations is a serious matter which needs to be resolved. This is particularly because even the Election Commission, as we have seen, had proceeded to take notice of the grim situation while extending the date for the filing of nominations. Having regard to the seriousness of the allegations and bearing in mind the fact that these proceedings were pending, we are of the view that it would be necessary to exercise the power under Article 142 of the Constitution to extend the period of 30 days for the filing of election petitions in respect of the uncontested seats.

33. For these reasons, we are of the view that challenges in regard to the validity of the elections to the uncontested seats in the panchayats, panchayat samitis and zilla parishads must also be pursued in election petitions under Section 79(1) of the Panchayat Elections Act. We leave it open to any person aggrieved to raise a dispute in the form of an election petition in accordance with the provisions contained in the Panchayat Elections Act. In exercise of the power conferred by Article 142, we direct that the period of 30 days for filing election petitions in respect of the uncontested seats shall commence from the date of the publication of the results in the Official Gazette.”

20. The principles of law which can be culled out from the above are:

a) Allocation of reservation(s) to the Scheduled Caste category is to take place upon evident emergence of demographic changes, which thus ensue from the census’ becoming undertaken by the Census Department concerned.

b) Subsequently, the election reservation roster is required to be drawn so that in terms of the varying or variant population of the Scheduled Caste community, in the wards or



in the Gram Panchayat concerned, thus adequate representation is given to the Scheduled Caste category, both in the wards, and to the office(s) of the Sarpanches in the Gram Panchayat(s) concerned.

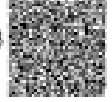
c) The Constitutional bar encapsulated in Article 243O of the Constitution of India against any interference being made qua elections to any Panchayat, thus by this Court, in the exercise of its jurisdiction under Article 226/227 of the Constitution of India, thus effectively functioning, as a complete embargo against any challenge being made to drawings of the reservation roster, hence on the basis of census' becoming conducted by the Census Department concerned, but with an exception that the remedy available to the aggrieved being through his presenting an election petition before the competent authority.

d) The alternative remedy of filing of an election petition at the instance of the aggrieved from any ineffective or fallaciously drawn reservation roster, is only through, the filing of an election petition before the competent Election Tribunal concerned.

Further Analyses of the submissions addressed by this Court and the conclusion therefroms

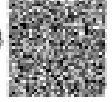
21. Though sub Section 1 of Section 12 of the Act of 1994, provisions whereof become extracted hereinabove, makes a mandate upon the respondent to ensure effective adoption of the reservation roster, which

becomes declared to be drawn in terms of the proportion of the Scheduled

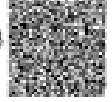


Caste population, in the district, vis-a-vis, the total population of the district. Moreover, though no amendment to the said sub Section 1 of Section 12 of the Act of 1994, has taken place. Therefore, prima facie though without any amendment thereto becoming made, thereby the apposite plank rather for the creation of reservations besides for creations of a workable reservation roster besides also for its effective adoption, thus as therein spelt prima facie remains the district. However, though in the amended Rule 3(1) of the Rules of 1994, the relevant plank for the creation of a reservation roster and for rotating the same, for thereby making effective the provision(s) relating to the endowing of an adequate representation, qua the Scheduled Caste population, but in proportion to the said population, thus in the block, rather now becomes the apposite plank. Consequently, though thereby there has been an alteration or substitution vis-a-vis the factor relating to the creation of the apposite principle of proportionality, thus for all the relevant purposes, relating to the endowing of representation to the Schedule Caste category, or to the Scheduled Tribes category. However, the trite underpinnings thereof, are that, the competent authority becomes enjoined to draw a reservation roster, thus in terms of the proportion of the Scheduled Caste category/Scheduled Tribes category, thus in a block, whereas, earlier the apposite notch was the district.

22. Moreover, when thereby there appears to be an evident percolation onto the block, vis-a-vis the Constitutional necessity as enshrined in Article 243-D of the Constitution of India, besides of the statutory necessity, whereby becomes effectively ensured, thus the adequacy of representation to the Scheduled Caste population, hence to the



various democratically elected offices of the panchayats concerned. Moreover, when an insightful reading of the Constitutional provision (supra), whereby a Constitutional mandate is constructed, rather for reservations being caused to the various democratically elected offices of the Gram Panchayat(s) concerned, thus qua the Scheduled Caste and to the Scheduled Tribes category(ies), rather does clearly unfold, that the criteria for reservations to the (supra), shall bear proportion inter se the population of the Scheduled Caste or Scheduled Tribes in the Panchayat area, thus with the total population in the area. Moreover, when thereby, thus impliedly the reservation system is to be worked on the basis of rotation thereof, to different Constituency(ies) in a Panchayat. Resultantly, when therein rather there is no reference either to the district or the block being the apposite notch or the hinge, for determining the apposite population for thereby the benefit of reservation(s) being assigned to the Scheduled Caste or Scheduled Tribe category(ies). Contrarily, when therein there is a Constitutional necessity of reservations being made vis-a-vis members of the Scheduled Caste and to the members of the Scheduled Tribes community(ies), thus to the various democratically elected offices in the Gram Panchayat. Nonetheless with the condition, that the said reservations is to bearing inter se proportion inter se the population of the said community(ies) with their total population in the area. Conspicuously, when therein, there is no explicit mentioning of a district being the relevant criteria for all the relevant purposes. Therefore, the omission of the expression “district” in the provisions carried in sub Article 1 carried in Article 243D of the Constitution of India, is deemed to be made with a contemplated legislative wisdom, that



the relevant notch was not to be the district but the relevant notch was to be relevant proportion of the population of the reserved community(ies), thus in the area. In consequence, the said legislative wisdom is to be revered.

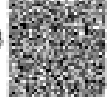
23. Pointedly also, when in relation to the reservations (supra) but on rotation basis has been declared in the amended rules, to percolate onto different Constituency(ies)/Wards/Areas in a Panchayat. Therefore, when therebys utmost deference is meted to the principle (supra), engrafted in sub Article 1 of Article 243-D of the Constitution of India. Resultantly, when the amended rules, do create the block to the relevant notch wherebys but naturally the said block is to be construed to be the apposite area. In sequel, when therebys the amended provisions are in tandem with the Constitutional principle (supra). In essence the underpinnings therein do relate to;

a) the necessity of reservations being created;

b) the said necessity becoming planked upon the inter se proportion of the members of the reserved community(ies), thus to their population in the area concerned; whereupon the said areas can be taken to be even the block as mandated in the amended rules (supra).

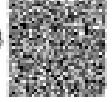
c) The apposite rotation(s) rather for subserving the purposes of adequacy of representation to the reserved categories being forwarded to different Constituency(ies)/areas in a Panchayat.

24. Therefore, but obviously when reiteratedly therein, there is no reference to a district besides when the constitutional provisions relating to the subject at hand, further declares, that the reservation roster has to be



applied and is to be rotated, but amongst different Constituencies/areas, in a Panchayat. In sequel, the import thereof is that, qua within the Constitution framework, the reservation roster has to percolate even onto the various Wards or the Constituency(ies)/areas, rather within the Gram Panchayat(s) concerned. Therefore, with the Constitutional framework ensuring the percolation of the reservation roster to the various wards/areas, in a Gram Panchayat. As such, when the Constitutional mandate per se exemplifies the requisite percolation making its inroads onto a Ward/area or a Constituency, thus in a Gram Panchayat concerned. Therefore, the amended rule, which ensures percolation of the reservation roster, through adoptions, besides effective workings thereof, rather even onto a block/area, thus through creating thereunders the block to be the criteria, hence for determining the inter se proportionality of the Scheduled Caste and Scheduled Tribes population, rather does not suffer from any infirmity.

25. In aftermath, even if no amendment became effected to sub Section 1 of Section 12 of the Act of 1994, wherein, the district has been taken to the notch for the creations of reservation, thus on the principle of apposite inter se proportionality, yet the factum of no amendment being made to (supra), does not at all, thus ill affect the amendment as effected to sub Rule 3(1) of the Rules of 1994, whereby the block has been contemplated to be the relevant notch or the plank for all the requisite purpose. Reiteratedly when for all the reasons (supra), the said amendment is neither Constitutionally void nor the same breaches the principles (supra), which otherwise are the *prima donna* underpinnings, thus for creations of



reservation roster(s) vis-a-vis the Scheduled Caste and the Scheduled Tribes category(ies).

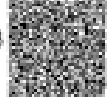
26. Be that as it may, the further reason for there being no necessity for an amendment being effected to sub Section 1 of Section 12 of the Act of 1994, despite an amendment being made to Rule 3(1) of the Rules of 1994, becomes generated from:

a) The amended rule (supra), carrying thereunders a proviso wherein it becomes contemplated that the overall percentage of reservation for whole of the district shall remain as per Section 12 of the Act.

b) That thereby there appears to be no possibility of under representation to the Scheduled Caste or Scheduled Tribe(s) category persons, thus the election(s) to be held to the democratic offices of the Sarpanches or of the Panches concerned, nor the endowment of reservation to them gets disturbed at all.

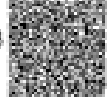
c) The said proviso effectively ensures, that the earlier made reservations rather on the basis of the percentage of population of the Scheduled Caste and Scheduled Tribes community in the district, thus remains intact or remains undisturbed, whereby also there is neither under sizing(s) nor decimation(s) qua the apposite allotment(s) becoming made to the reserved category(ies) (supra), for theirs contesting elections to the democratic offices' in the Gram Panchayat(s) concerned.

27. Though the explanation underneath Section 12 of the Act of 1994 has been deleted, whereby the therein created principles of rotation



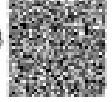
rather for the purposes qua reservation of the democratic offices, has been declared to commence from the first election to be held after the commencement of the Act of 1994, rather has become effaced, from the statute book. Moreover, when now the rotation roster has to be worked, besides is to be implemented in terms of Rule 6-A of the Rules of 1994. However, through deletion thereof, though there is a repetitiveness of reservation, to the General Category candidate(s), thus to the various democratically elected offices to the Gram Panchayat concerned. Nonetheless, the said repetitiveness of reservation to non Scheduled Caste or non Scheduled Tribes members', to contest qua the various democratically elected offices, but yet does not render the said to be either Constitutionally void nor does the said repetitiveness of reservation to the open category candidates suffers from any statutory fallacy.

28. The reason being that since it is drawn within the Constitutional framework (supra), thereby the said deletion holds vigor. Moreover, when the apposite population is the relevant criteria for all the relevant purposes. In addition, when the determination of the apposite population is to be well planked upon a census becoming conducted. Furthermore, when with the increase(s) in the apposite populations, there may become encumbered a further necessity to carry out the exercisings of de-limitation(s) of the areas rather for the purpose of creating fresh Constituency(ies) or even creating fresh Gram Panchayats concerned. If the above are necessary precursors, thus for the subsequent creations of the rotation system of reservation and adoptions thereof. Resultantly, when on the completion of the exercises (supra) there may be an increase in the numerical strength of the reserved



category (supra) either in the area or within(s) the block, within whose territorial domains, thus a large numbers' of Gram Sabhas or Gram Panchayats' rather may fall. In sequel, the increased numerical strength of the reserved category (supra), in the block, when becomes the prime factor now, for the endowment of benefits of reservation to the reserved categories (supra). Consequently, rather than the amended rule adversely affecting the reservation criteria. Contrarily, it appears to be creating an almost perfect system of reservation, besides also becomes an able plank for the creation of a reservation roster besides for its well application, but obviously wherebys there would be endowment of the requisite benefits thereof vis-a-vis the categories (supra). Moreover, when the prior thereto plank of the district, thus may beget an ill sequel, arising from the apposite minimal demographic locations of the reserved categories in the district, or as arising from the apposite population being sparsely spread over the entire district, wherebys the minimality or the sparsely spread, thus the apposite population may ultimately result in deprivation of reservation to the reserved category(ies).

29. Consequently, to ensure the elimination of the ill-effects of under representation to the reserved categories, thus in those pockets of the districts, wherein the Gram Panchayat(s) concerned, do fall, wherein rather the Scheduled Caste or Scheduled Tribes population, may not be of such a size, so as to create and apply the reservation roster qua them. Resultantly, the percolation of the apposite demographic factor onto the block, when rather may subserve the principle of adequate representation to the reserved categories. In aftermath, the said percolation as becomes effected through the amended rule, wherein a proviso also occurs, thus for ensuring that there

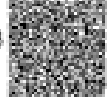


is no scope left qua the cap or the ceiling vis-a-vis the limit of reservation, to the reserved categories, but becoming affected. Therefore, when thereby the holistic purpose of adequate representation becoming endowed, to the reserved categories (supra), thus not only to the democratically elected offices of the Sarpanch, but also to the democratically elected offices of Panches, rather becomes well facilitated. Resultantly, no fallacy occurs in the impugned amendment and to the deletion of the explanation. Moreover, the reservation roster, as is required to be henceforth drawn in terms of Rule 6-A of the Rules of 1994, is also ingrained with a holistic purpose.

30. Be that as it may, the repetitiveness of reservation to a particular category, did fall for consideration before the High Court of Himachal Pradesh. In a judgment rendered by a Division Bench of the said High Court, in **Manish Dharmaik's case (supra)**, the arguments raised therein, about invalidity of repetitiveness of reservation to a non Scheduled Caste category or to a particular category, yet after delimitation of the wards of Gram Panchayat concerned, taking place, rather became discountenanced. The principle set forth therein are extracted hereinafter.

a) the application of the roster reservation being applicable in perpetuity;

b) The High Court of Himachal Pradesh while dealing with the statutory amendment, thus with the therein occurring a statutory amendment, which is also almost alike qua the one as become effected in rule 3(1) of the Rules of 1994, besides is almost alike qua the deletion of the amendment (supra), whereby the earlier in vogue system of reservations, has been



discontinued. Resultantly, there is no ill nexus inter se deletion of the explanation and the amendment made to Rule 3(1) of the Rules of 1994, whererbys rather the earlier relevant notch or plank being the district, thus becomes replaced by block. In sequel, besides when otherwise, the deletion of the amendment is in alignment with the Constitutional mandate (supra). Moreover, when the deletion of the amendment is forwarding the holistic purpose (supra). Therefore, neither the amendment made to the rule (supra) nor the deletion of the explanation to Section 12 of the Act of 1994 rather suffers from any illegality. As a matter of fact, for all the reasons (supra), therebys' the prior thereto under representation to the reserved categories rather may become overcome.

31. Therefore, since the intactness of the ceiling(s) and limits for the apposite reservation(s) but becomes well preserved. Resultantly, when therebys the Constitutionally endowed principle relating to the ensuring(s) of the adequacy of representation to the Scheduled Caste and Scheduled Tribes community(ies), in the Gram Panchayat(s) concerned, rather through the said principle percolating onto the block, with all its well effect(s) (supra), thus also has been well preserved. Moreover, when the Constitutional principle for reasons (supra), has been declared to make its inroads even onto the Constituency(ies)/areas in the Panchayat concerned, therebys when under the now created reservation system the same has also percolated onto the blocks/areas concerned. As such reiteratedly both the deletion (supra) and the amendment (supra), thus do not suffer from any

fallacy. In addition, Rule 6-A of the Rules of 1994, also does not suffer from any fallacy.

32. Since in the verdict rendered by Hon’ble Apex Court in “West Bengal State Election Commission case (supra)”, the Apex Court in the above extracted paragraphs, has declared that in terms of the Constitutional bar contained in in Article 243-O of the Constitution of India, rather against any interference being made by Courts of law in electoral matters, therebys rather the remedy to question any election to the Panchayats, thus is not through the aggrieved invoking the writ jurisdiction of this Court. Contrarily, the remedy to question the elections to the Gram Panchayat(s) concerned, is through his/her filing an election petition before the competent Election Tribunal concerned.

33. Therefore, there is no merit in the writ petitions and the same are hereby dismissed. The impugned rules No.3 and 6A of the Rules of 1994, as become effected through notification dated 19.09.2024 (Annexure P-1) are upheld. Moreover, the deletion of the explanation, as carried in Section 12 of the Act of 1994, is also upheld. It is directed that henceforth the reservation roster shall be drawn in terms of the amended rules, besides the same shall be strictly enforced.

(SURESHWAR THAKUR)
JUDGE

03.10.2024

Ithlesh

Whether speaking/reasoned:-	Yes/No
Whether reportable:	Yes/No

(SUDEEPTI SHARMA)
JUDGE