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**IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH.**

**Reserved on : 20.11.2024**

**Pronounced on : 13.12.2024**

**1. CWP-23649-2023**

Harish Rai Dhanda

.....Petitioner

Versus

State of Punjab and Others

.....Respondents

Argued by: Mr. Jai Vir Yadav, Senior Advocate with  
Mr. Tarun Yadav, Advocate ;  
Mr. Aman Gautam, Advocate ;  
Mr. Gursimrat Sandhu, Advocate ;  
Mr. Deepak Nagar, Advocate  
for the petitioner.

Mr. Maninder Singh, Sr. DAG, Punjab.

Mr. D.V.Sharma, Senior Advocate with  
Ms. Sunder Kumari, Advocate  
for respondent No. 4.

**2. CWP-25743-2023**

Raman Bakshi and Another

.....Petitioners

Versus

State of Punjab and others

.....Respondents

Argued by: Mr. Pawan Kumar, Senior Advocate with  
Ms. Vidushi Kumar, Advocate  
Mrs. Seema Rani, Advocate  
for the petitioners.

Mr. Maninder Singh, Sr. DAG, Punjab.

Mr. Sanjeev Soni, Advocate and  
Mr. Sarthak Soni, Advocate

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for respondent No. 4- M.C., Amritsar.

**3. CWP-24149-2023**

Davinder Ram

.....Petitioner

Versus

State of Punjab and others

.....Respondents

Argued by: Mr. V.K.Sandhir, Advocate  
for the petitioner.

Mr. Maninder Singh, Sr. DAG, Punjab.

Mr. Sanjeev Soni, Advocate and  
Mr. Sarthak Soni, Advocate  
for respondent No. 4 – M.C., Jalandhar.

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR  
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

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**SURESHWAR THAKUR, J.**

1. Since all the writ petition(s) (supra) involve common questions of facts and law, therefore, they are amenable to be decided through a common verdict.

2. Be that as it may, the facts of each of the writ petition(s) are required to be separately delineated.

**Facts of CWP-23649-2023**

3. Through the instant writ petition, the petitioner herein prays for the issuance of a writ of Certiorari for setting aside the notification dated 04.10.2023 (Annexure P-7), the same being illegal, arbitrary and against the provisions of Section 7-A and 8 of the Punjab Municipal Corporation Act, 1976 (hereinafter for short called at the 1976 Act), besides the same breaching the procedure prescribed in the Delimitation of Wards of Municipal Corporation Order, 1995, and, also breaching the

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provisions of Punjab Municipal Election Rules, 1994 (hereinafter for short called as the Election Rules, 1994).

4. The Secretary to Government of Punjab, Local Government Punjab earlier issued notification dated 01.08.2023 mentioning therein, that draft Rules are being proposed by his Excellency, the Governor of Punjab, to be made according to Section 8 of the 1976 Act and as per clause 7 of the Delimitation of Wards of Municipal Corporation Order, 1995, whereto objections/suggestions were invited from the aggrieved. In the said draft Rules, it was mentioned that for the election of the Councillors of the Municipal Corporation, Ludhiana, the same has been divided into 95 wards, out of which in 56 wards, the hereinafter extracted words within bracket would be written alongwith them.

1. *Reserved for the Scheduled Caste Members.*
2. *Reserved for female members.*
3. *Reserved for the female scheduled caste members and*
4. *Reserved for the backward class members.*

5. Thereafter, the details of boundaries of the wards of Municipal Corporation were described from Ward No. 1 to Ward No.95.

6. The petitioner alongwith others submitted an application on 08.08.2023 to respondents No. 2, 3 and 4 for supply of documents for the purpose of filing objections to the notification (supra) published in the newspaper on 04.08.2023. Though no documents were supplied by respondents No. 2 to 4, yet the petitioner alongwith others filed detailed objections dated 09.08.2023. The said objections were submitted to

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respondent No. 2 through Deputy Commissioners, Ludhiana and Municipal Corporation, Ludhiana.

7. The objections filed by the petitioner and others were pending before respondent No. 2, when he came to know that respondents No. 1 and 2 are going to declare the elections of the Councillors of Municipal Corporation, Ludhiana, therefore, he filed CWP No. 22338 of 2023. However, during the course of hearing of the said writ petition, the impugned notification dated 04.10.2023 was issued by the respondent, thereby, the petitioner sought withdrawal of the writ petition filed by him with liberty to assail the said notification. Accordingly, the writ petition (supra) was dismissed as withdrawn with liberty aforesaid.

8. Therefore, the petitioner has now filed the instant writ petition challenging the afore notification dated 04.10.2023 (Annexure P-7).

**Facts of CWP-25743-2023**

9. Through the instant writ petition, the petitioners herein pray for the issuance of a writ of Certiorari for setting aside the notification dated 04.10.2023 (Annexure P-7), the same being illegal, arbitrary and against the provisions of Section 7-A and 8 of the 1976 Act, besides the same breaching the procedure prescribed in the Delimitation of Wards of Municipal Corporation Order, 1995, and, also breaching the provisions of the Election Rules, 1994.

10. The petitioner No. 1 as well as different residents of Amritsar, have filed objections to the proposed draft of the Delimitation

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of the Wards of the Municipal Corporation, Amritsar. The Commissioner, Municipal Corporation, Amritsar, without considering any objection, sent the draft notification to the Government for passing the final notification. The whole exercise of Delimitation of Wards was done without following the due procedure and the wards have been re-adjusted in such a manner that a huge difference of votes has come up in some of the wards.

**Facts of CWP-24149-2023**

11. Through the instant writ petition, the petitioner herein pray for the issuance of a writ of Certiorari for setting aside the notification dated 05.10.2023 (Annexure P-2), the same being illegal, arbitrary and against the provisions of Section 7-A and 8 of the 1976 Act, besides the same breaching the procedure prescribed in the Delimitation of Wards of Municipal Corporation Order, 1995.

12. Through the impugned notification, the de-limitation of wards in Municipal Corporation, Jalandhar, has been done and ward No.32 has been arbitrarily kept for General Category whereas, there is nearly 30 % of SC voter population in the said ward.

**Common submissions of the learned counsels for the petitioner.**

13. The learned counsels for the petitioner(s) submits, that the impugned de-limitation notification(s) are illegal, arbitrary and against the principles of natural justice, besides breach the Rule of *audi alteram partem*. Moreover, he submits that the impugned notification(s) transgresses the mandatory provisions of the 1976 Act, and, also breaches the prescribed procedure for de-limitation, as exists in the

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Punjab Delimitation of Wards of Municipal Corporation Order, 1995 besides causes breaches to the apposite provisions existing in the Election Rules, 1994. The allegedly breached provisions occurring in Section 7-A and 8 of the 1976 Act, are extracted hereinafter.

***7-A. Power of Government to direct holding of general elections -***

*(1) Subject to the provisions of this Act and the rules made thereunder, the Government may, by notification, in the Official Gazette, direct that a general election or an election to fill a casual vacancy of the Councillors of the Corporation, shall be held by such date as may be specified in the notification and different dates may be specified for elections for different Corporations or group or groups of Corporations.*

*(2) As soon as a notification is issued under sub-section (1), the State Election Commission shall take necessary steps for holding such general election.*

***8. Delimitation of wards.-***

*(1) For the purposes of election of councillors, the City shall be divided into single-member wards in such manner that the population of each of the wards shall, so far as practicable, be the same throughout the City.*

*(2) The Government shall, by order in the Official Gazette, determine the extent of each ward and the wards in which seats shall be reserved for Scheduled Castes.*

14. They further submit that the respondent has not decided the objections submitted by the petitioner(s) before the issuance of the impugned notification(s), despite his becoming enjoined to pass a well reasoned decision thereons. They rest their submissions upon the provisions, as occur in Sections 7 and 8 of the Delimitation of Wards of

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Municipal Corporation Order, 1995, provisions whereof, are extracted hereinafter.

**7. Scheme for delimitation of wards to be sent to Government -** *The Board shall, as soon as may be, after it has prepared the Scheme for the de-limitation of the ward of the City, send the same to the Government for consideration.*

**8. Publication of scheme for delimitation of wards -**

*(1) The Government shall -*

*(a) publish in the official Gazette the scheme for the delimitation of the wards received by it under clause 7 for inviting objections or suggestions from the affected persons of the city ;*

*(b) specify a date on or after which the scheme along with objections or suggestions, if any, shall be considered by it ; and*

*(c) consider all objections and suggestions, which may have been received by it before the specified date ;*

**(2) The Government after considering the objections and suggestions under sub-clause (1), shall make its final order and shall get the same published in the Official Gazette.**

*[Provided that before the start of election process, the State Government, may, for good and sufficient reasons, to be recorded in writing, review the order made in the form of final notification after inviting objections and suggestions in writing from the public through the public notices in two newspapers having circulation in the locality in respect of all or any of the Ward. After considering such objections or suggestions, the State Government may supersede the previous orders in the form of final notification directly or after obtaining the opinion of the Boards.*

15. Moreover, clause 6 of the Delimitation of Wards of Municipal Corporation Order, 1995, provisions whereof are extracted hereinafter, ordains the principles for carrying out the delimitation of wards of a City. The learned counsels for the petitioner(s) submit, that

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the entire exercise of de-limitation has been carried but without adherence being made to the said principles. Therefore, they submit that the impugned notification(s) be quashed and set aside.

**6. Principles for delimitation of wards of a City.** [Section 8] - *The following principles shall be observed by the Board in the delimitation of wards of a city, namely :*

- (a) All wards shall as far as practicable, be geographically compact areas, and in delimiting them, due regard shall be had to the physical features like facilities of communication and public convenience;*
- (b) Wards in which seats are reserved for the Scheduled Castes, shall be located, as far as practicable, in those areas where the proportion of their population to the total population of the City, is the largest and such seats shall be allotted by rotation to different wards in the City;*
- (c) Seats numbers reserved for women (including number of seats reserved for women, if any, belonging to Scheduled Castes) by the Government shall, be kept reserved for women, and such seats shall be allotted by rotation to different wards in the Corporation;*
- (d) Two seats reserved for Backward Classes, by the Government, shall be kept reserved for the Backward Classes, and such seats shall be allotted by rotation to different wards in the Corporation; and*
- (e) Each Corporation shall be divided into two wards in such manner that the population of each ward as far as practicable, is the same throughout the Corporation, with a variation upto ten per cent above or below the average population figures.*

*[(f) In every Municipal Corporation, the Board while drafting the Scheme for delimitation of wards, shall allot numbers to all wards having due regard to the principle of contiguity:]*

*[Provided that the principle of rotation shall no be applicable where the delimitation or wards of a Municipal Corporation has been done under the provisions of sub clause (ii) of clause (4) of the order.]*

16. In support of their arguments, the learned counsel for the petitioner(s) refer to a judgment rendered by a Division Bench of this

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Court in case titled as ***Rajesh Kumar Sharma and Others Vs. State of Punjab and Others***, to which ***CWP No. 7548 of 2023*** becomes assigned, wherein, the de-limitation exercise carried out by the respondents was declared illegal owing to breaches being caused to the Rules 3 to 8 of the Rules of 1972. The relevant paragraphs, as exist in the said judgment are extracted hereinafter.

*24.2 In the light of the above, the approach of the respondents seems not be bona fide and any such attempt to defeat the legal rights of the public would be resisted by this Court. The respondents cannot be allowed to take shelter of the bar contained under Article 243ZG of the Constitution of India as this would amount to subjecting the petitioners to irreversible repercussions and consequences, which cannot be substantially redressed afterwards.*

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*26.3 The Hon'ble Supreme Court recently held that as a general rule, the courts should not interfere in election matters, however, clarified that the courts must interfere in election process if there is unjust executive action or attempt to disturb level playing field. The conduct of elections to the Urban Local Bodies is the sole domain of State Election Commission and it is not bound to hold election as per the tentative date of election announced by the Department of Local Bodies. The stage of judicial hands off for the courts to interfere in any manner would arise only after the notification by the State Election Commission announcing the schedule of election indicating date of nomination and date of voting and Model Code of Conduct is implemented. It is the stage when the elections can be termed as "imminent" otherwise the authority (Secretary to Government of Punjab, Department of Local Bodies) which is responsible for carrying out delimitation and issuance of notification under Section 13-A of the Municipal Act announcing the proposed tentative date of elections. The same authority in order to avoid the scrutiny of this court can issue two notifications one after the other by finalizing the delimitation under Rule 8 of the Rules of 1972 and announcement of elections within few days. As is done in the present case, the notifications for announcement of election were issued during the pendency of these writ*

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*petitions. In our considered opinion in such as a scenario, the officials responsible for the complete derogation of the principles provided under Rule 6 of the Rules of 1972 for delimitation, cannot be allowed to take shelter of the bar under Article 243ZG of the Constitution of India. Allowing them to do so, in fact, would mean allowing them to eat their cake and have it too.*

*28 As an upshot of above discussion, we hold that the entire delimitation exercise, since inception, in Municipal Councils of Dera Baba Nanak, Dharamkot and Municipal Corporation Phagwara impugned in CWP Nos.7548, 17204 and 16079 of 2023 respectively is conducted on irrelevant consideration and by committing glaring breach of Rules 3 to 8 of the Rules of 1972. As such, the entire delimitation exercise is declared to be illegal. Once we have declared the entire delimitation exercise from the very beginning having not been conducted validly, subsequent notifications issued on the basis of such delimitation cannot survive either. As such, notifications dated 27.01.2023, 18.01.2023 and 05.09.2023 are declared invalid having no force of law.*

**Submissions of the learned State Counsel.**

17. On the other hand, the learned State Counsel submits that delimitation of the wards of the Municipal Corporations concerned, has been carried out owing to the reason that there was variation in the population or voting figures in some of the wards of the City, which require adjustment. The due procedure provided for the delimitation of the wards as provided under the Delimitation of the Wards of the Municipal Corporation Order, 1995, has been duly followed.

18. He further submits that the objections given by the petitioner(s) alongwith other objections received in this regard were duly considered by the Competent Authority and a decision was accordingly taken. The draft notification(s) were issued and finalized after considering all the objections.

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19. Furthermore, the State Election Commission has notified the Election Programme, thus to all the Deputy Commissioners-cum-District Electoral Officers in the State of Punjab. Thus, the election process has commenced and the instant petition would amount to the said municipal election being 'called in question', thereby, attracting the constitutional bar as engrafted in Article 243-ZG of the Constitution of India. The said Article 243-ZG of the Constitution of India is extracted hereinafter.

***Article 243-ZG. 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 243ZA shall not be called in question in any court;*

*(b) no election to any Municipality 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.*

**Inferences of this Court.**

20. Tritely put, once the election process has commenced through pronouncement of the election programme, thereby, there can be no interference with the said announced election schedule, as thereby it would breach the principle of law stated in the judgments rendered by the Apex Court in case titled as '***N.P.Ponnuswami Versus The Returning Officer, Namakkal Constituency and others***', reported in ***1952 SCC Online (SC) 3*** and in case titled as '***Mohinder Singh Gill Versus The Chief Election Commissioner, New Delhi***', reported in

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**(1978) 1 Supreme Court Cases 405.** The relevant paragraphs as occur in the verdicts (supra) are extracted hereinafter.

**(N.P.PONNUSWAMI VERSUS THE RETURNING OFFICER, NAMAKKAL CONSTITUENCY)**

15. *The question now arises whether the law of elections in this country contemplates that there should be two attacks on matters connected with election proceedings, one while they are going on by invoking the extraordinary jurisdiction of the High Court under article 226 of the Constitution (the ordinary jurisdiction of the courts having been expressly excluded), and another after they have been completed by means of an election petition. In my opinion, to affirm such a position would be contrary to the scheme of Part XV of the Constitution and the Representation of the People Act, which, as I shall point out later, seems to be that any matter which has the effect of vitiating an election should be brought up only at the appropriate stage in an appropriate manner before a special tribunal and should not be brought up at an intermediate stage before any court. It seems to me that under the election law, the only significance which the rejection of a nomination paper has consists in the fact that it can be used as a ground to call the election in question. Article 329(b) was apparently enacted to prescribe the manner in which and the stage at which this ground, and other grounds which may be raised under the law to call the election in question could be urged. I think it follows by necessary implication from the language of this provision that those grounds cannot be urged in any other manner, at any other stage and before any other court. If the grounds on which an election can be called in question could be raised at an earlier stage and errors, if any, are rectified, there will be no meaning in enacting a provision like article 329 (b) and in setting up a special tribunal. Any other meaning ascribed to the words used in the article would lead to anomalies, which the Constitution could not have contemplated, one of them being that conflicting views may be expressed by the High Court at the pre-polling stage and by the election tribunal, which is to be an independent body, at the stage when the matter is brought up before it.*

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20. *It was argued that since the Representation of the People Act was enacted subject to the provisions of the Constitution, it cannot bar the jurisdiction of the High Court to issue writs under article 226 of the Constitution. This argument however is completely shut out by reading the Act along with article 329 (b). It will be noticed that the language used in that article and in section 80 of the Act is almost identical, with this difference only that the article is preceded by the words*

*"notwithstanding anything in this Constitution". I think that those words are quite*

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*apt to exclude the jurisdiction of the High Court to deal with any matter which may arise while the elections are in progress.*

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24. *It may be pointed out that article 329 (b) must be read as complimentary to clause (a) of that article. Clause (a) bars the jurisdiction of the courts with regard to such law as may be made under articles 327 and 328 relating to the delimitation of constituencies or the allotment of seats to such constituencies. It was conceded before us that article 329 (b) ousts the jurisdiction of the courts with regard to matters arising between the commencement of the polling and the final selection. The question which has to be asked is what conceivable reason the legislature could have had to leave only matters connected with nominations subject to the jurisdiction of the High Court under Article 226 of the Constitution. If Part XV of the Constitution is a code by itself, i. e., it creates rights and provides for their enforcement by a special tribunal to the exclusion of all courts including the High Court, there can be no reason for assuming that the Constitution left one small part of the election process to be made the subject-matter of contest before the High Courts and thereby upset the time-schedule of the elections. The more reasonable view seems to be that article 329 covers all "electoral matters".*

25. *The conclusions which I have arrived at may be summed up briefly as follows :--*

***(1) Having regard to the important functions which the legislatures have to perform in democratic countries, it has always been recognized to be a matter of first importance that elections should be concluded as early as possible according to time schedule and all controversial matters and all disputes arising out of elections should be postponed till after the elections are over, so that the election proceedings may not be unduly retarded or protracted.***

***(2) In conformity with this principle, the scheme the election law in this country as well as in England is that no significance should be attached to anything which does not affect the "election"; and if any irregularities are committed while it is in progress and they belong to the category or class which, under the law by which elections are governed, would have the effect of vitiating the 'election' and enable the person affected to call it in question, they should be brought up before a special tribunal by means of an election petition and not be made the subject of a dispute before any court while the election is in progress.***

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***'MOHINDER SINGH GILL VERSUS THE CHIEF ELECTION COMMISSIONER, NEW DELHI***

29. *Thus, there are two types of decisions, two types of challenges. The first relates to proceedings which interfere with the progress of the*

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*election. The second accelerates the completion of the election and acts in furtherance of an election. So, the short question before us, in the light of the illumination derived from Ponnuswami, is as to whether the order for re-poll of the Chief Election Commissioner is "anything done towards the completion of the election proceeding" and whether the proceedings before the High Court facilitated the election process or halted its progress. The question immediately arises as to whether the relief sought in, the writ petition by the present appellant amounted to calling in question the election. This, in turn, revolves round the point as to whether the cancellation of the poll and the reordering of fresh poll is 'part of election' and challenging it is 'calling it in question'.*

21. A reading of hereinabove extracted underlined portions of the conclusions as became drawn in the verdict (supra) rendered by the Hon'ble Supreme Court in **N.P.Ponnuswami's case (supra)**, thus unfold that :

a) Elections should be concluded as early as possible according to the time schedule and all controversial matters and all disputes arising out of elections should be postponed till after the elections are over, so that the election proceedings may be not retarded or protracted.

b) The election laws as prevalent in this Country, do carry the import that no significance should be attached to anything which does not affect the election and that if any irregularities are committed while it is in progress, and wherebys they would have the effect of vitiating the election yet the person affected by such purported vitiations, thus has the remedy to challenge the declaration of result, before a special Tribunal by means of an election petition being filed and ;

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c) that any subject covering a dispute relating to the commission of any irregularities when the elections are in progress is not amenable to be agitated before a Court of Law.

22. In terms of the above culled out principles of law, as carried in the verdict (supra), the apt deduction therefrom but naturally, is that, any purported irregularities arising from breaches being caused to the principles appertaining to the carryings out of the de-limitation exercise, thus is a dispute though may purportedly vitiate the election, yet the said dispute cannot at this stage be raised before this Court by the aggrieved. **Contrarily, the said dispute is to be agitated by the aggrieved, but only after the declaration of the results, and only before the Election Tribunal concerned.**

23. In sequel, in view of the above expostulations of law made in verdict (supra), especially when the expostulations of law (supra) are not reversed by a Bench strength of the Hon'ble Supreme Court, thus larger in size vis-a-vis the Bench strength which delivered the verdict (supra), whereby there is a complete bar, against the invocation of the writ remedy by the aggrieved, even if the said grievance becomes hinged, upon, any purported breaches being caused to the statutory provisions relating to the de-limitation exercise. Moreover, in the wake of the said grievance but purportedly vitiating the elections, rather the remedy to the aggrieved, is only through the filing of an election petition before the Election Tribunal concerned. Consequently, the said expostulation of law is not required to be derogated from.

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24. Furthermore, the principles (supra) rendered in **N.P.Ponnuswami' case (supra)** became reiterated in the verdict rendered by the Apex Court in '**Mohinder Singh Gill's case (supra)**. Consequently, since the verdict (supra) reiterated the principles of law expounded by the Apex Court in **N.P.Ponnuswami' case (supra)**, thereupon, the said reiterated principles, thus also apply with their fullest force, to the instant case, wherebys there is a bar against the invocation of the writ remedy by the aggrieved rather during the course of undertakings of the announced election schedule, at the instance of the respondent.

25. Moreover, since in the instant case, the tenure of the elected councillors to the Municipal Corporations concerned rather has expired, therebys, when Article 243U of the Constitution of India, provisions whereof are extracted hereinafter, thus casts a constitutional mandate upon the authorities concerned, besides make a per-emptory injunction upon the authorities concerned, to coterminii therewith, to thus draw an election schedule. Resultantly the election programme was to be announced, as aptly done, and, was required to be potentialized rather than the same being interfered with.

***243U. Duration of Municipalities, etc.***

*(1) Every Municipality, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer:*

*Provided that a Municipality shall be given a reasonable opportunity of being heard before its dissolution.*

*(2) No amendment of any law for the time being in force shall have the effect of causing dissolution of a Municipality at any*

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*level, which is functioning immediately before such amendment, till the expiration of its duration specified in clause (1).*

*(3) An election to constitute a Municipality shall be completed,-*

*(a) before the expiry of its duration specified in clause (1);*

*(b) before the expiration of a period of six months from the date of its dissolution:*

*Provided that where the remainder of the period for which the dissolved Municipality would have continued is less than six months, it shall not be necessary to hold any election under this clause for constituting the Municipality for such period.*

*(4) A Municipality constituted upon the dissolution of a Municipality before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Municipality would have continued under clause (1) had it not been so dissolved.”*

26. Be that as it may, the continuous updation and revampings of electoral rolls, is also a paramount necessity for ensuring, that therebys all the voters, who acquire the apposite eligibility, do become empowered to exercise their franchise. The effect thereof, would be that therebys the democratic process would be fully activated. Moreover, to give effectivity to the roster reservation system, as becomes contemplated in Article 243 T of the Constitution of India, thereupons, the said constitutional mandate is also required to be fully galvanized. The apposite galvanizations to the (supra) constitutional mandate, would occur only when the occurrences of respective increases in the populations' in the wards concerned, thus becomes gauged from or becomes raised upon a census being carried out. Moreover, subsequently to ensure the well administration of the wards concerned, which may not effectively take place owing to an immense increase in

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the demographic sizes within the apposite wards, thereupons, the de-limitation of wards is also a concomitant thereto necessity.

27. The respondent concerned, to facilitate the makings of lawful de-limitation of the wards concerned, but after a census being conducted, for determining the demographic increases in the wards concerned, thus proceeded to make the exercise of delimitation of wards. In the said regard, the draft rules became prepared which become appended with the respective writ petition(s). The said draft Rules are encyclopedic and therefore, they need not be ad verbatim extracted.

28. Be that as it may, what would be required to discerned from the draft rules is :

a) Whether therebys there was adherence to the Rules of natural justice, besides to the principles set forth in Clauses 3 to 8 of the Delimitation of Wards of Municipal Corporation Order, 1995 besides whether the provisions embodied in Section 8 of the Act of 1976, becoming borne in mind in the carryings out of the de-limitation exercise.

b) Whether the objections, as became preferred by the petitioner(s) were considered before the issuance of the impugned notification(s).

c) Whether there was untenable exclusion of voters in the voting list, thus on account of de-limitation being carried out.

29. In the above endeavour, it is apparent on a reading of the draft rules, whereafters on consideration of the apposite objections, the impugned notification(s) became issued, that the exercise of de-

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limitation was taint free nor it breached the Rules (supra). In sequel, the undertakings of the well purpose of makings the de-limitation exercise, thus for takings into account the apposite demographic increases in the wards concerned, rather for concomitantly the reservation system becoming drawn, as has been drawn, but has also been achieved. Naturally also therebys, prima facie, there appears to be no exclusion of voters in the voters list, even after the completion of the de-limitation exercise, especially, when no tangible evidence in respect of the relevant exclusions has been put forth as such. Even if such a grievance is put forth, therebys, it was to be ventilated before and also was to be decided rather only by the Election Tribunal concerned, who on receiving such a motion, with averments therein, that on account of inapt exclusions of the eligible voters, from the voters list, thus may have proceeded to declare the election to be vitiated, the same being materially affected therebys.

30. However, the said grievance is stated to be neither put forth before the Election Tribunal concerned, through an election petition being cast therebefore, nor has been stated to be under consideration before the State Election Tribunal. Resultantly therebys, the completed de-limitation exercise, as done, but on the basis of a census, thus as a necessary precursor of the de-limitation of the wards taking place, but when naturally also becomes the hinge for the creation of a reservation roster for endowing the apposite representations to the category(ies), whose population size so deserves. In sequel, the de-limitation exercise, as undertaken but cannot be faulted on any score, especially, when the

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election programme has been announced, election programme whereof, is un-interfereable in terms of the expostulations of law made in the verdicts (supra). Importantly also, when there is no grievance that in pursuance to the de-limitation exercise, there being any evident deprivation of the rights of exercising franchise vis-a-vis any of the voters, therebys, also the de-limitation exercise cannot be faulted.

31. Moreover, when roster reservation system has already been notified, wherebys, the benefit of the apposite reservation to the deserving categories, in terms of their apposite demographic sizes, thus has been endowed in the now created fresh wards. Therefore, unless there is evidence to display, that the Census Department, had made an incorrect evaluation of the demographic sizes of the category(ies), deserving reservation. In sequel, thereupon alone, the census statistics which became borne in mind, while carrying out the de-limitation exercise besides for creating a reservation roster, but may have lead this Court to make an interference with the election programme.

32. However, when the said evidence is amiss, thereupon, the reservation roster as created in terms of the demographic sizes of the categories deserving endowments of reservation in the wards concerned, rather is to be deemed to be aptly drawn.

33. Reiteratedly, since all (supra) has been done in accordance with law, besides has been ensued from adherence being made to the rules of natural justice. Moreover, when supra have ensued from prima facie, no breach being made to the principles (supra). In addition, reiteratedly when in terms of the population sizes of the deserving

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categories, assignments of reservation in terms of the drawn reservation roster, thus has been endowed to them qua the apposite wards. Consequently, reiteratedly therebys, the parameters relating to even the creation of reservations vis-a-vis the deserving categories, thus in terms of their increased size of population in the wards concerned, but has also been well borne in mind, by the respondents concerned. As such therebys too, no fault can be found in the impugned notification(s).

34. Though the learned counsels for the petitioner(s) vehemently argue on the basis of a judgment rendered by a Division Bench of this Court in Rajesh Kumar's case (supra), relevant paragraphs whereof have been extracted above, wherein, this Court has set forth, the principle that if there are glaring breaches caused vis-a-vis the supra rules/procedure relating to the de-limitation exercise, therebys, there is necessity of interference being made by the Writ Court, in the announced election programme but irrespective of the fact that there is a constitutional bar envisaged in Article 243-ZG of the Constitution of India, against interference being made with the announced election programme.

35. However, the said principle has been founded upon certain judgments of the Hon'ble Supreme Court, as detailed in paragraphs No. 10, 13 and 14 of the said verdict, paragraphs whereof are extracted hereinafter, but the said judgments have been not been specifically detailed in the supra paragraphs nor the principles expostulated therein have been reproduced in the judgment rendered by the Division Bench of this Court.

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*10. The petitioners before this Court in the instant writ petitions are challenging the delimitation process of the wards on the ground that the State Government, while carrying the delimitation process of the wards, has completely brushed aside the constitutional and statutory provisions. As a general rule, it is not for the Court to indicate in what manner the delimitation of the wards would be done so long as the same is done in conformity with the constitutional and statutory provisions or without committing a breach thereof. However, if the infirmities/illegalities committed by the respondent-State while carrying out the exercise of delimitation of wards are grave and palpably illegal, this Court can interfere under writ jurisdiction especially when the election process is yet to be put into motion by the State Election Commission to hold elections by issuing a schedule of election containing the date of filing nomination papers, voting and result etc.*

xxxx    xxxx

*13. The sequence and events of the case would indicate that the petitioners have approached the concerned quarters by way of representations well in time and also approached this Court by filing the present writ petition much before the issuance of notifications dated 01.08.2023 and 05.10.2023 and thus, the respondents cannot take the shelter of technicalities and plead the bar under Article 243ZG of the Constitution of India by issuing the notification of finalizing delimitation on 01.08.2023 and 05.10.2023 during the pendency of writ petitions. The issues raised by the petitioners cannot be frustrated by efflux of time. The Hon'ble Supreme Court in **Union Territory of Ladakh (supra)** has held as under:-*

*"32. The Court would categorically emphasize that no litigant should have even an iota of doubt or an impression (rather, a misimpression) that just because of systemic delay or the matter not being taken up by the Courts resulting in efflux of time the cause would be defeated, and the Court would be rendered helpless to ensure justice to the party concerned. It would not be out of place to mention that this Court can even turn the clock back, if the situation warrants such dire measures. The powers of this Court, if need be, to even restore status quo ante are not in the realm of any doubt. The relief(s) granted in the lead opinion by Hon. Khehar, J. (as the learned Chief Justice then was), concurred with by the other 4 learned Judges, in **Nabam Rebia and Bamang Felix v Deputy Speaker, Arunachal Pradesh Legislative Assembly, (2016) 8 SCC 1** is enough on this aspect. (emphasis supplied).*

*14. The Full Bench decision in **Prithvi Raj (supra)** has its own persuasive value but in the facts and circumstance of this case, we respectfully borrow the opinion of the Hon'ble Supreme Court in **Union Territory of Ladakh (supra)**, **Ashok Kumar (supra)** and **State of Goa Vs. Fouziya Imtiaz Shaikh (2021) 8 SCC 401**. In view of the above discussion, we hold that the present petitions are maintainable.*

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36. Therefore, it appears that though thereins became noticed certain palpable breaches vis-a-vis the rules (*supra*), which constrained this Court, to thus purportedly depart from the norms set forth in the ***N.P.Ponnuswami' case (supra)***, rather against the Writ Court making any interference with the announced election programme, yet the judgment rendered by this Court, in case (*supra*) did not subsequently rescind the election programme but proceeded to in the operative part thereof, operative part whereof becomes extracted hereinafter, rather permit the carryings ahead of the announced elections to the Municipal Constituencies, on the strength of the earlier completed de-limitation exercise, but with a direction to the State Election Commission, to conclude the revision/finalization of the electoral rolls. Consequently, it appears that the *supra* were ideally made, as they became not fully effectuated.

***28.1. Consequently, CWP Nos.7548, 17204 and 16079 of 2023 are allowed in the above terms and following directions are issued:***

*(i) The State Election Commission is at liberty to hold election to the Municipal constituencies (wards) as it existed before the impugned delimitation exercise (which resulted into issuance of notifications dated 27.01.2023, 18.01.2023 and 05.09.2023) in the first fortnight of the November as intended by the State Government vide notifications dated 01.08.2023 and 05.10.2023.*

*(ii) As per the information given by the learned State counsel, process of revision and finalization of the electoral roll is underway. Therefore, the State Election Commission is at liberty to conclude the revision/finalization of the electoral rolls and issue appropriate notification for conducting elections to local bodies by giving schedule of election, providing dates for filing nomination papers, scrutiny of nomination papers and voting etc.*

37. Since post the making of the said verdict, the election programmes to various Municipal Corporations, Councils, and, Nagar

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Panchayat in the State of Punjab rather have been announced. Therefore, there can be no interference in the announced election programme nor the verdict (supra) does hold any force.

38. As such, on a cumulative reading of the judgment (supra) it becomes unfolded that therein there is no firm trite expostulation of law, to the extent that even when the de-limitation exercise is flawed thus on account of any supra breaches being made, therebys, the Writ Court is empowered to interfere with the election programme.

39. The other primary reason which prevailed upon the Division Bench of this Court, which pronounced the verdict in **Rajesh Kumar's case (supra)**, to declare the delimitation exercise to be illegal, was banked upon the fact that since an earlier notification became issued, wherebys, the de-limitation exercise became notified, yet subsequently an ill informed notification becoming issued. If so, in the instant case, there is only one notification, thus making the requisite de-limitation exercise and it is not succeeded by any subsequent notification, as happened in the facts and circumstances of **Rajesh Kumar's case (supra)**. Additionally also, in the instant case unlike in the facts in **Rajesh Kumar's case (supra)**, wherein, there was blatant departure from the Rules (supra). Contrarily, in the instant case(s), there are for reasons (supra) no blatant departures from the Rules (supra). Importantly also herein, there is reverence meted to the principles enshrined in the statutory provisions (supra). In summa, the judgment rendered by the Division Bench of this Court is completely in applicable to the facts at hand.

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40. Now in view of the supra, obviously, the judgment pronounced in **Rajesh Kumar's case (supra)** rather was not required to be meted reverence. Moreso, when the challenge made to the said judgment, before the Hon'ble Supreme Court rather did not result in the said challenge temporarily succeeding through an order becoming passed by the Apex Court, thus staying the operation of the said judgment. Consequently, when the operative part of the judgment made in **Rajesh Kumar's case (supra)** remains undisturbed nor also when the observations, as occur in the case (supra) do not appear to be finding any weight whatsoever with the Apex Court. Resultantly, it holds no force at all.

41. In aftermath, the principle of law declared (supra) in ***N.P.Ponnuswami's case (supra)*** and ***Mohinder Singh Gill's case (supra)***, thus come to the fore front, whereby, thus no iota of leverage becomes bestowed upon this Court, to, in the exercise of its writ jurisdiction, hence on evident breaches being made to the statutory provisions (supra), especially when the election schedule becomes announced, thus make any interference(s) in the announced election programme.

42. Now, bearing in mind, the expostulation of law declared by the Apex Court in case titled as ***Kishan Singh Tomar vs. Municipal corporation of City of Ahmedabad and others***, reported in (2006) 8 SCC 352 and in case titled as ***Suresh Mahajan vs. State of Madhya Pradesh and another***, reported in (2022) 12 SCC 770, wherein, in the relevant paragraphs thereof, paragraphs whereof are extracted

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hereinafter, thus becomes pointedly established, the trite pointed statement of law, that the ongoing activity of de-limitation or formations of wards, rather may not be relevant consideration to detain the announced election programme by the State Election Commission, in respect to elections of local bodies, as and when the said elections become due much less overdue.

**[Kishan Singh Tomar's case (supra)]**

*“21. In terms of Article 243 K and Article 243 ZA (1) the same powers are vested in the State Election Commission as the Election Commission of India under Article 324. The words in the former provisions are in pari materia with the latter provision.*

*22. The words, 'superintendence, direction and control' as well as 'conduct of elections' have been held in the "broadest of terms" by this Court in several decisions including in Re : Special Reference No. 1 of 2002 (2002) 8 SCC 237 and Mohinder Singh Gill's case (1978) 1 SCC 405 and the question is whether this is equally relevant in respect of the powers of the State Election Commission as well.”*

**[Suresh Mahajan vs. State of Madhya Pradesh and another]**

*“11. In any case, the ongoing activity of delimitation or formation of ward cannot be a legitimate ground to be set forth by any authority much less the State Election Commission - to not discharge its constitutional obligation in notifying the election programme at the opportune time and to ensure that the elected body is installed before the expiry of 5 (five) years term of the outgoing elected body. If there is need to undertake delimitation - which indeed is a continuous exercise to be undertaken by the concerned authority - it ought to be commenced well-in-advance to*

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*ensure that the elections of the concerned local body are notified in time so that the elected body would be able to take over the reigns of its administration without any disruption and continuity of governance (thereby upholding the tenet of Government of the people, by the people and for the people). In other words, the amendment effected to the stated enactments cannot be reckoned as a legitimate ground for protracting the issue of election programme of the concerned local bodies.*

*15. We once again reiterate that the process of delimitation work and/or triple test compliance is a continuous, complex, time consuming and more so without any timeline (directly linked to the expiry of the term of the outgoing elected body). Whereas, the conduct of elections for installing newly elected body to take over the reins from the outgoing elected representative whose term had expired, is explicitly provided for by the Constitution and the relevant enactments. Therefore, the former need not detain the issue of election programme by the State Election Commission, in respect of local bodies as and when it becomes due much less overdue, including where the same is likely to become due in the near future.*

*30. We once again make it clear that if delimitation is not done by the State Government in terms of Amendment Act(s) of 2022 or the triple test requirement is completed “in all respects” for providing reservation to OBC category, the State Election Commission shall give effect to this order also in respect of upcoming elections of local bodies which would/had become due by efflux of time.*

*31. We also make it clear that this order and directions given are not limited to the Madhya Pradesh State Election Commission/State of Madhya Pradesh; and Maharashtra State Election Commission/State of Maharashtra in terms*

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*of a similar order passed on 04.05.2022, but to all the States/Union Territories and the respective Election Commission to abide by the same without fail to uphold the constitutional mandate.”*

43. Moreover, when the learned State Counsel has also placed on record the copy of the order dated 08.12.2024, as made by the State Election Commission, Punjab, whereby, the schedule for the elections to various Municipal Corporations, Councils, and Nagar Panchayats, in the State of Punjab, thus has been announced. Therefore, the breaches, if any, to the Rules (supra) by the competent authority in the latter making de-limitation of wards also thus cannot undo the announced election programme.

44. Additional support to the above finding becomes lent by the decision recorded by this Court in case titled as **Beant Kumar alias Beant Kinger Vs. State of Punjab and Others**, to which **CWP-PIL-142 of 2024** becomes assigned, wherein, the hereinafter extracted operative part has been rendered, thus on a controversy similar to the instant one, especially, when the said judgment has been upheld by the Apex Court vide order dated 11.11.2024, as made upon, in case titled as **The State of Punjab and Others Vs. Beant Kumar and Another**, to which **SLP (Civil) Nos. 26468-26469 of 2024** became assigned.

*4.1 The upshot of the aforesaid discussion is that this Court has no hesitation in issuing a writ of mandamus directing the State Election Commission, Punjab, and the State of Punjab to forthwith comply with the constitutional mandate and initiate the process of holding elections by notifying election programmes in all the Municipalities and*

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*Municipal Corporations in question within 15 days from the date of this order without conducting the fresh exercise of delimitation.*

**Final Order of this Court.**

45. In aftermath, this Court finds no merit in the writ petition(s) (supra) and with the observation(s) aforesaid, the same are dismissed.
46. Since the main case itself has been decided, thus, all the pending application(s), if any, are disposed of as such.

**(SURESHWAR THAKUR)**  
**JUDGE**

**13.12.2024**  
kavneet singh

**(SUDEEPTI SHARMA)**  
**JUDGE**

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