



**141 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP-9452-2026(O&M)
Date of Decision:01.04.2026**

Rama Nand and Others

...Petitioners

Versus

State of Haryana and Others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Mukesh Kumar Verma, Advocate and
Mr. Dharam Pal Saini, Advocate
for the petitioners.

Mr. Akshit Pathania, AAG, Haryana.

Mr. Amandeep Vashisth, Advocate
for respondent No.6-Caveator.

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioners through instant petition under Articles 226/227 of the Constitution of India are seeking setting aside of order dated 13.03.2026 whereby Registrar General, Haryana has dismissed their appeal against order dated 09.04.2025 passed by State Registrar. They are further seeking setting aside of order dated 17.12.2024 whereby District Registrar, Rewari dismissed their representation. They are also seeking setting aside of order dated 09.01.2026 whereby Adhoc Committee has been appointed by Deputy Registrar; and direction to respondents to appoint an independent Administrator under Section 39 of Haryana Registration and Regulation of Societies Act, 2012 (for short '2012 Act').

2. The respondent No.6-Gaurika Education Society is a society registered under 2012 Act. It was registered on 10.03.2016. Tenure of the

governing body which was elected on 11.01.2019 expired on 10.01.2022. The respondent conducted elections on 01.12.2022. The society on 21.03.2023 filed list of elected office bearers before District Registrar, Rewari who approved list of elected office bearers on 22.03.2023. The petitioners filed representation before District Registrar, Rewari assailing act and conduct of society/governing body. They also alleged misappropriation and embezzlement of funds. The District Registrar, Rewari by impugned order dated 17.12.2024 dismissed their complaint. They preferred an appeal before State Registrar who vide order dated 09.04.2025 dismissed their appeal. They further preferred appeal before Registrar General who vide order dated 13.03.2026 dismissed their appeal. The District Registrar, Rewari vide order dated 09.01.2026 appointed an Adhoc Committee to hold elections. The Said committee has started election process.

3. Learned counsel for the petitioners submits that a society is required to file list of elected office bearers within 30 days from the date of elections. The Deputy Registrar as per Section 75 of 2012 Act can condone delay of not more than 30 days. The governing body elected in 2019 ceased to exist on 10.01.2022, thus, could not conduct elections in December' 2022. On 01.12.2022, election of the governing body was conducted and list of elected members was filed with District Registrar after 110 days. As per Section 33(2) read with Section 75 of 2012 Act, list of elected members could not be approved beyond 60 days. As District Registrar approved list of members after 60 days, approval of list of selected candidates was invalid. As election of office bearers was illegally approved by District Registrar, Rewari beyond 60 days, existence of

governing body was bad in the eye of law. The governing body had no power to function. The respondent has appointed Adhoc Committee which is going to conduct election on the basis of disputed list of members. There is need of appointment of an independent Administrator to conduct election after verifying genuineness of list of members.

4. Learned counsel for respondent No.6 submits that Adhoc Committee appointed by District Registrar has already conducted election. The election was conducted on 15.03.2026 and list of selected candidates was filed with Registrar on 18.03.2026. The District Registrar has approved list of elected governing body on 20.03.2026.

5. Learned State counsel supports averments of learned counsel for respondent No.6.

6. Heard the arguments and perused the record.

7. From the perusal of record and arguments of both sides, it comes out that petitioners are claiming that election on 01.12.2022 was conducted by a non-existing governing body. They are further claiming that list of elected members was required to be approved within 60 days by District Registrar whereas it was approved after 110 days. The approval was contrary to mandate of Section 33 read with Section 75 of 2012 Act. As approval of elected governing body was bad in the eye of law, all the proceedings conducted by governing body during 2022-2025 were bad in the eye of law. The respondent has appointed Adhoc Committee to conduct elections whereas an Administrator should be appointed to conduct elections.

8. Issues raised by petitioners revolve around Sections 33, 39, 72 and 75 of 2012 Act. All these Sections for the ready reference are reproduced as below:

“33. Governing Body- (1) *The members of the General Body or the Collegium, as the case may be, shall elect the Governing Body (by whatever name called), consisting of not less than three and not exceeding 21 members. The office-bearers shall comprise of the President, Secretary and Treasurer as a minimum, and other office-bearers, as prescribed under the Bye-laws.*

(2) The Society shall file the list of the elected office-bearers with the District Registrar within a period of thirty days of holding of the elections for the Governing Body in the manner, as prescribed.

(3) The tenure of the Governing Body shall not exceed three years. The matters pertaining to re-election of any office-bearer shall be regulated in accordance with the Bye-laws.

(4) Every Society shall maintain a register showing the names, addresses and occupation of the persons appointed or elected as office-bearers and shall file with the District Registrar, -

(i) a copy of the register within a period of thirty days from the date of appointment or election of the office-bearers;

(ii) a notice of every change in the office-bearer within a period of thirty days, from the date of such change; and

(iii) the details of the office-bearers alongwith the annual return in the manner, as prescribed under the rules.

(5) The constitution of the Governing Body, appointed or elected for the first time or thereafter, shall be valid only upon approval thereof by the District Registrar and its tenure shall commence from the date of its approval.

“Provided that the District Registrar shall take a decision regarding the approval or rejection of the constitution of the Governing Body within a period of thirty days of filing the list of elected office bearers as specified under sub-section (2), failing which the constitution of the Governing Body of the Society shall be deemed to have been approved. In case of rejection, the District Registrar shall record the reasons for doing so and pass an order in this regard.”.

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39. Elections and settlement of disputed - *(1) Elections shall be first held for the constitution of the Collegium from within the electoral colleges determined therefor, wherever applicable, and thereafter for the Governing Body by the Collegium.*

(2) The process of elections of the Collegium of a Society shall be commenced, in so far as possible, three months prior to the due date so that the newly elected Governing Body is in place on or before the due date.

(3) On the day the elections of a Society are notified, the Governing Body or the adhoc body or the Administrator, as the case may be, shall publish the list of members entitled to vote. Such list of members shall be made available to a member on demand, on payment of such fee, as may be prescribed by the Society in its Bye-laws.

(4) Any person or group of persons, if aggrieved with the list of members published under sub-section (3) above on account of non-inclusion or wrongful inclusion of any member, may file a petition with the District Registrar stating the specific grounds of challenge within a period of fifteen days of publication of the list of members. The District Registrar may, where the number of members is very large and for reasons to be recorded, accept the petition within an extended period of seven days.

(5) The District Registrar may, if he has reasons to suspect the bonafides of any such petition, require the petitioners

to deposit such amount, as prescribed, as a surety against any abuse of sub-section (4) above. The amount deposited by the petitioners shall be refunded forthwith if the petition succeeds but shall be liable to be forfeited, if such petition is found to have been made without any merits.

(6) Where a petition is filed before the District Registrar under sub-section (4) above, the District Registrar shall, after fulfillment of the condition specified under sub-section (5), immediately hold the election process in abeyance and proceed to conduct an inquiry by himself or by an officer appointed by him, in this behalf, for determining the list of eligible members.

(7) The District Registrar may, for the purpose of his inquiry, refer to the annual return of members filed by the Governing Body in his office and consult any or all the relevant records of the Society. The District Registrar shall enjoy all the powers vested in him under Chapter XII of the Act for holding the inquiry. Any such inquiry shall be conducted in the open and completed in a summary manner.

(8) Upon completion of the inquiry under sub-section (6) above, the District Registrar shall determine the list of members eligible to vote, make it public and set the process of election in motion. Where the initial list of members published under sub-section (3) above is found to be defective during the inquiry, the election of the Collegium or the Governing Body, as the case may be, shall be conducted by the District Registrar under his direct supervision and control after settling the dispute as per the provisions of the Act.

(9) Where elections of the Governing Body are held by the members of the General Body, without requirement of a Collegium, any challenge to the list of members of the General Body shall be settled by the District Registrar in the same manner, as specified above.

(10) Where the elections of the Governing Body are not held by the due date, for whatsoever reasons, the District Registrar may constitute an ad hoc Committee or appoint an Administrator to manage the affairs of the Society, immediately upon the expiry of the due date, for the intervening period and for conducting the elections of the Governing Body.

(11) A Society may approach the District Registrar for appointment of the returning officer and/or an observer for conducting the elections of the Collegium or the Governing Body, as the case may be, whereupon the District Registrar shall order the appointment of the returning officer and/or an observer within seven working days of the receipt of such request from the Governing Body or the adhoc Committee or the Administrator, as the case may be.

(12) The returning officer appointed by the District Registrar shall ensure a minimum notice of fifteen days to all the members, served individually where possible, or through a public notice, at the expense of the Society, for the information of the members.

(13) The returning officer and/or the observer, wherever appointed, shall complete the process of elections, and submit a report thereof to the District Registrar, whereupon the duly elected Governing Body shall be placed in charge of the affairs of the Society and the appointment of any adhoc Committee or the Administrator shall cease to continue forthwith.

(14) The District Registrar may fix the remuneration or honorarium for the person appointed as the Administrator, the returning officer, the observer or member of adhoc Committee in the manner and at the rates prescribed from time to time.

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“72. Penalties for non-compliance. - If a Society fails to comply with any of the requirements of the Act or

contravenes any of the provisions thereof, then the Society in default shall be punishable with fine, as may be prescribed, which may extend to two thousand rupees, and in case of a continuing default or contravention, with fine which may extend to one hundred rupees for every day during which the default or contravention continues.

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75. Power of District Registrar to condone delay in certain cases.- *The District Registrar may, upon an application in writing by any Society and on sufficient cause being shown, allow further time to such Society to comply with any of the provisions of the Act on payment of such late fees, as may be prescribed:*

Provided that the extended period so allowed shall not be more than the time permissible under the Act or the rules made thereunder for any such compliance.”

[Emphasis supplied]

9. The petitioners are relying upon Section 33(2) of 2012 Act which provides that society shall file list of selected office bearers within 30 days of holding election. Expression ‘shall’ has been used in Section 33(2) of 2012 Act, however, consequences are not prescribed either in said Section or in any other Section. In the absence of consequences, whether it can be concluded that if list of members is submitted beyond 30 days, the election would become invalid. There are judicial precedents on the issue involved which need to be noticed.

10. A three judge bench of Hon'ble Supreme Court in ***P.T. Rajan v. T.P.M. Sahir (2003) 8 SCC 498*** has laid down principles to determine whether a provision is mandatory or not. Key issue involved before the Court was whether an election can be set aside based on an invalid electoral roll after the process has been concluded. The Court ruled that electoral rolls cannot be challenged after the election process

has commenced and that strict compliance with Election Commission directives is not required for the election itself to be declared void. While interpreting the usage of words “shall” or “may” the Court held that statute as is well known must be read in the text and context thereof. Whether a statute is directory or mandatory would not be dependent on the use of the word "shall" or "may". Such a question must be posed and answered having regard to the purpose and object it seeks to achieve. If the statute specifies a time for publication of the electoral roll, the same by itself could not have been held to be mandatory. Such a provision would be directory in nature. Where a statutory functionary is asked to perform a statutory duty within the time prescribed therefor, the same would be directory and not mandatory. A provision in a statute which is procedural in nature although employs the word "shall" may not be held to be mandatory if thereby no prejudice is caused.

11. A Two Judge Bench of Apex Court while adverting to mandatory nature of Section 44A inserted by Haryana Legislature in Punjab Town Improvement Act, 1922 in ***Administrator, Municipal Committee Charkhi Dadri v. Ramji Lal Bagla, (1995) 5 SCC 272*** has held that merely use of expression 'shall' does not make any provision mandatory unless consequences of its non-compliance are not provided. Section 44-A cannot be held to be mandatory in the sense that non-compliance with it leads to nullification of the acquisition which has already become final. Such non-compliance cannot result in divesting of title of the trust nor is there any obligation to restore the unutilized portion(s) of land to its erstwhile owners/persons interested. The section while using the expression 'shall' does not provide the consequence of

non-compliance with its requirement. One of the well-accepted tests for determining whether a provision is directory or mandatory is to see whether the enactment provides for the consequence flowing from non-compliance with the requirement prescribed.

12. Section 14B of erstwhile PGST Act, 1948 used to provide that an officer shall complete adjudication within 14 days from the date of detention of goods in transit. A Division Bench of this Court while dealing with aforesaid provision in ***‘M/s Stelco Strips Ltd. Vs. State of Punjab and others’***, 2008 SCC OnLine P&H 1058 has held that period of 14 days prescribed for the completion of adjudication process is not a mandatory provision. The court has held:

“23. Keeping in view the various judgments referred to above, it needs to be examined whether the time limit of 14 years contemplated for the Officer to complete the quasi judicial proceedings can be said to be mandatory

24. Section 14-B (6) of the State Act contemplates for release of the goods and vehicle within 72 hours. The said provision has been enacted so as not to hinder the movement of the goods and the vehicle even if there is allegation of evasion of tax. Once there is a provision for release of the goods and the vehicle, the conclusion of enquiry proceedings within 15 days is to impose a duty on the enquiry officer to complete the proceedings expeditiously but it does not follow that any departure from it shall taint the proceedings with fatal blemish. The provision is more by way of procedure to achieve the object of speedy disposal of such disputes. It is an expression of desirability in strong terms. But it falls short of creating any kind of substantive right in favour of the petitioner so as resulting into adjudicating proceedings pertaining to evasion of tax as abated.

25. The provisions of Section 14-B have been enacted for avoiding evasion of tax during the course of movement of goods from one State to another. For facility of movement, the provision of releasing of the goods and the vehicle ensures the release of the goods and the vehicle within 72 hours but the adjudication process of evasion of tax is dependent upon number of factors including cooperation of consignor or consignee, as the case may be. The principles of natural justice are also required to be complied with. The officer entrusted with the duty of adjudication may have certain limitations to decide such cases of evasion of tax within 14 days either on account of large number of cases or otherwise. Keeping in view the tests laid down in P.T. Rajan's (supra) and number of judgments referred above, the adjudication process is a public duty cast on a public officer for a public good. The purpose is to check evasion of tax. Failure to complete the adjudication process within 14 days will only give premium to the action of the tax evader.

26. Therefore, we are of the opinion that the provisions of Section 14-B (7) (ii) and (iii) of the State Act are directory in nature and consequently failure to decide such proceedings within the time prescribed will not result into abatement of proceedings.”

13. A conspectus of above referred judgments reveals that a provision is mandatory if its non-compliance ensues consequences e.g. in case of non-filing of police report within 60/90 days from the date of remand, an accused in terms of Section 167(2) of Cr.P.C. becomes entitled to bail; as per Section 110 of the Customs Act, in the absence of show cause notice within 6 months from the date of seizure, a person becomes entitled to release of seized goods. In the absence of consequences emanating on account of strict non-compliance of a

provision, it is directory in nature. The use of word 'shall' though is generally taken in a mandatory sense yet it does not necessarily mean that in every case it shall have that effect. Courts are supposed to look at intent of the legislature as well as scheme and reference in which expression 'shall' has been used.

14. In the case in hand, there was lapse on the part of society in submitting list of elected members within 30 days from the date of election. The society submitted list of elected members after 110 days of the election and District Registrar without any objection approved the same. There was no objection by any member, officer bearer or authority. The petitioners are relying upon Section 75 of 2012 Act to contend that District Registrar could condone delay maximum of 30 days, thus, approval of list beyond condonable period was bad in the eye of law. Section 75 of 2012 Act falls under Chapter XV which deals with fines and penalties. As per Section 72 of 2012 Act, if a society fails to comply with any of the requirements of the Act or contravenes any of the provisions thereof, shall be punished with fine which may extend to Rs.2,000/-. In case of continuing default, fine may extend to one hundred rupees for every day during which default continues.

15. From the conjoint reading of quoted Sections, it is evident that in case of violation of any provision of the Act, society is liable to pay fine which may extend to Rs.2,000/-. In case of continuing default, fine may extend to Rs.100/- per day. The District Registrar is empowered to condone delay in compliance of provision of any act. In case delay is not condoned, Section 72 of 2012 Act comes into play and society becomes liable to pay fine. These provisions do not provide that approval

of elections beyond 30 days would be void. In Section 33 of 2012 Act, consequences are not prescribed and Section 72 of 2012 Act provides for fine, thus, authorities, at the most, in case of delay can impose fine, however, elections do not become bad in the eye of law.

16. As per petitioners, validity of approval can be challenged at any stage. Argument of petitioners is misconceived and deserves to be rejected. The governing body was elected on 01.12.2022 and its election was approved by Registrar on 22.03.2023. The maximum tenure of governing body was till 21.03.2026. The said period has already expired. In view of expiry of tenure of governing body, there seems no reason to disturb approval of list of elected members by District Registrar. A thing which does not exist cannot be set aside.

17. There is another aspect of the matter. The governing body which was elected on 01.12.2022 completed its tenure on 21.03.2026. At the first instance, approval granted by District Registrar was not challenged. As per Section 40 of 2012 Act, it could be challenged within 30 days. The petitioners did not challenge election within 30 days and filed first complaint in the year 2024 wherein too question of validity of approval of list of governing body was not raised. Thus, challenge to elections at this belated stage is meaningless and authorities have rightly rejected their claim.

18. The petitioners are further claiming that respondent has wrongly appointed Adhoc Committee whereas an Administrator should be appointed to conduct election. The District Registrar vide order dated 09.01.2026 appointed an Adhoc Committee comprising three members of the society. As per Section 39(10) of 2012 Act, District Registrar may

constitute an Adhoc Committee or appoint an Administrator to manage affairs of the society as well as conduct elections of the governing body. It is discretion of the District Registrar. He may either constitute Adhoc Committee or appoint an Administrator. The petitioners are claiming that Adhoc Committee has not conducted elections and Administrator should be appointed. The respondent has placed on record documents obtained from the office of District Registrar, Rewari disclosing that District Registrar has already approved elected governing body under Section 33 of 2012 Act read with Rules made thereunder. From the perusal of Form 17, it is evident that election was conducted on 15.03.2026 and office bearers were elected. The District Registrar has approved election on 20.03.2026, thus, prayer of the petitioners that an Administrator instead of Adhoc Committee should have appointed cease to exist. The petitioners as per 2012 Act, may avail remedy against approval of elections, however, prayer made in the present petition cannot be countenanced.

19. In the wake of aforesaid discussion and findings, the petition deserves to be dismissed and accordingly *dismissed*.

20. Pending application(s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

01.04.2026
Prince Chawla

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No