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

CWP-10924-2026 (O&M)**Date of decision: 21.04.2026**

SANDEEP JAKHAR AND OTHERS

....Petitioners

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

**CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE ROHIT KAPOOR**

Present: Mr. S.P.S. Tinna, Advocate and
Mr. Akash Patyal, Advocate
for the petitioners.

Mr. Rahul Rampal, Addl. Advocate General, Punjab.

ASHWANI KUMAR MISHRA, J. (Oral)

1. This petition has been filed challenging the election of Chairman and Vice-Chairman of the Panchayat Samiti Khuian Sarwar at Abohar, Tehsil Abohar, District Fazilka on 30.03.2026 primarily on the ground that the holding of election is not in accordance with the Punjab Panchayati Raj Act, 1994 (for short '1994 Act').

2. At the outset, learned State counsel raises an objection to the maintainability of the writ petition on the ground that the appropriate remedy for the petitioners is to file an election petition. It is also stated that in somewhat similar circumstances, writ petition No.CWP-8557-2026 titled as '*Roop Singh and others vs. The State of Punjab and others*', has been disposed of, relegating the petitioners therein to avail the remedy of filing an election petition.

3. Learned counsel for the petitioners, on the other hand, contends that



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the election petition would not maintainable in the present case, as the election of Chairman/Vice-Chairman is not conducted under the authority of the State Election Commission, and that the statute since requires such meeting of election to be convened by the Deputy Commissioner, as such, the remedy of filing election petition before the Deputy Commissioner is otherwise not available.

4. Though the issue has been examined in similar circumstances in the case of ***Roop Singh and others*** (supra), yet we propose to dwell upon the contentions advanced on behalf of the petitioners relying upon the provisions of the 1994 Act itself.

5. Learned counsel for the petitioner has placed reliance upon the provisions contained in Section 105 of the 1994 Act, which read as under:-

“105. Elections of Chairman and Vice-Chairman and term of office. The Deputy Commissioner concerned, or any officer appointed by him in this behalf, not below the rank of an Extra Assistant Commissioner, shall call the first meeting of the Panchayat Samiti in the manner prescribed, as soon as the election of all members of the Panchayat Samiti is notified, to elect the Chairman and Vice-Chairman from amongst the elected members.”

6. Relying upon the above provision, it is stated that since the Deputy Commissioner or an officer appointed by him in this behalf, not below the rank of Extra Assistant Commissioner, is to call the first meeting of the Panchayat Samiti to elect the Chairman and Vice-Chairman from amongst the elected members, as such the State Election Commission gets no jurisdiction to determine election disputes arising out of the election of Chairman/Vice-Chairman.

7. The argument advanced on behalf of the petitioners cannot be



sustained as we find such contention to be in teeth of the statutory provisions applicable in the present case. We may indicate that the Panchayats have been constituted under the provisions of the 1994 Act keeping in view the 73rd and 74th constitutional amendments. The Legislature has also enacted the Punjab State Election Commission Act, 1994, which is a body constituted for vesting the superintendence, direction and control of electoral rolls and for conduct of all elections to the Panchayats and municipalities in the State of Punjab. The object underlying the said Act, as enumerated in the statute, which reads as under:-

“An Act to provide for the constitution of the State Election Commission and for vesting the superintendence, direction and control of the preparation of electoral rolls for, and the conduct of all elections to the Panchayats and Municipalities in the State of Punjab, in the State Election Commission, and to provide for all matters relating to, or ancillary or in connection with the elections to the Panchayats and Municipalities in terms of the provisions of Parts IX and IX-A of the Constitution of India.”

8. Section 74 of the State Election Commission Act provides that no election shall be called in question except by an election petition presented in accordance with the provisions of the Chapter. Section 74 reads as under:-

“74. No election shall be called in question except by an election petition presented in accordance with the provisions of this Chapter.”

9. We may also refer to section 210 of the 1994 Act, which reads as under:-

“210. Election Commission to conduct Panchayat. The superintendence, direction and control of the preparation of electoral rolls



for and conduct of, all elections to the Panchayats, shall be vested in the Election Commissioner.”

10. It is undisputed that the election of Chairman and Vice-Chairman of the Panchayat in terms of section 105 is an election under the provisions of the 1994 Act. Once that be the position, the overall superintendence, direction and control of the Election Commission in respect of all elections of Panchayat cannot be disputed. The mere fact that after the Election Commission convenes the election of the General Body consisting of members of Panchayat, the Deputy Commissioner or the officer authorized by him in terms of Section 105 of the 1994 Act calls for the first meeting of Panchayat Samiti, would not mean that the election conducted of Chairman and Vice-Chairman would cease to be an election by the State Election Commission or would be treated to be an election held by the Deputy Commissioner. The argument of the petitioners in this regard is utterly misconceived.

11. The other submission advanced that the Deputy Commissioner since is the Election Tribunal and he conducts the meeting, as such, he cannot himself be the judge in his own cause, is also misconceived argument which deserves only to be rejected.

12. The proceedings of the election conducted on 30.03.2026 would indicate that the meeting was called under the chairmanship of Sub-Divisional Magistrate, Abohar. We fail to understand as to how the meeting could be said to have been conducted by the Deputy Commissioner himself. We otherwise find no pleading in the writ petition to indicate that holding of election is by the Deputy Commissioner.

13. Even otherwise, law with regard to holding of election is settled by



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the Supreme Court in the case of *Harnek Singh vs. Charanjit Singh and others, 2005(8) SCC 383*, which has been relied upon by the Coordinate Bench to dismiss a similar challenge vide judgment dated 07.04.2026 in the case of *Roop Singh and others* (supra).

14. In that view of the matter, we are of the considered view that the remedy available to the petitioners to challenge the election is before the Election Tribunal, and the filing of the writ petition is therefore misconceived.

15. Petition is dismissed accordingly.

16. Pending applications, if any, shall stand disposed of.

(ASHWANI KUMAR MISHRA)
JUDGE

APRIL 21, 2026
mohit goyal

(ROHIT KAPOOR)
JUDGE

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