



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

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CWP No.13312 of 2026 (O&M)

Date of Decision: 15.05.2026

JAGDEV SINGH BHATOA

.....Petitioner

Versus

STATE OF PUNJAB AND OTHERS

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Nikhil Ghai, Advocate,
for the petitioner.

Mr. Rahul Rampal, Addl. A.G., Punjab and
Mr. Yatin Bunker, AAG, Punjab.

HARSIMRAN SINGH SETHI, J. (Oral)

1. The present petition has been filed with a prayer that as the post of Vice President was filled on 25.11.2022 hence, the tenure of the municipality which is of 05 years is to be counted from the said date, and keeping in view the said fact, as of now, the municipality has not completed said 05 years term, but still, the respondents have already issued a notification dated 11.05.2026 for holding the elections to the Municipal Council, Morinda, which are now scheduled to be held on 26.05.2026. Learned counsel prays that the elections so announced for Municipal Council, Morinda be declared as void till, 05 years term is completed starting from November, 2022 onwards, which will be November, 2027.

2. Certain facts and provisions relating to the duration of the municipality needs to be noted for the correct appreciation of the issue in hand.



3. The elections of the Municipal Council, Morinda were held by the State on 14.02.2021 and upon completion of the process of elections, the required number of Municipal Councillors were elected. After election process got concluded, the Municipal Councillors are to be administered oath of an office and on the same day the elections to the post of President/Vice President are to be undertaken as per Punjab Municipal (President and Vice President) Election Rules, 1994 (for short, the 1994 Rules) which have been framed under the Punjab Municipal Act, 1911 (for short, 'the Act of 1911').

4. In the present case, keeping in view the fact that a writ petition filed before this Court being CWP-8185-2021, wherein an interim order was passed for not holding the election to the post of President of the Municipal Council, Morinda, notice was issued for holding the first meeting for the purpose of administering the oath to the newly elected Municipal Councillors, which was done on 04.05.2021.

5. The petitioner along with other Municipal Councillors took oath and constituted the municipality. Thereafter, as an interim order was passed restraining the conducting of the election for the post of President, an opinion was sought whether, the post of Vice President can be filled up or not and after getting the due opinion from the required corners, election to the post of Vice President was conducted on 25.11.2022.

6. The Municipal Council, Morinda continued its operation till, the State of Punjab issued a notification on 11.05.2026 directing that the next election qua Municipal Council, Morinda, will be held on 26.05.2026 on the ground that the said municipality has already completed its term of 05 years as envisaged under the law on 04.05.2026.

7. Feeling aggrieved against the said notification dated 11.05.2026,



the petitioner has approached this Court by placing reliance upon the provisions of law that the tenure of 05 years is to be seen from the date when meeting for the election to the post of President or Vice President is held and as in the present case, such meeting was only held in November, 2022, said period of 05 years is to be counted from the said date, which tenure is yet to be completed and therefore, the assertion of the State that the Municipal Council, Morinda has already completed its term by taking the date of first meeting as 04.05.2021 is incorrect and contrary to the provisions of the Punjab Municipal Act, 1911.

8. Learned counsel for the petitioner submits that notification dated 11.05.2026 so far as it concerns holding of an election of Municipal Council, may kindly be set aside on this ground that municipality is to continue till November, 2027.

9. Notice of motion was issued. The respondents have filed the reply wherein, it has been mentioned that as per the law, after election of newly elected councillors is concluded, a first meeting is to be held and in said meeting, oath is to be administered to newly elected councillors and election is to be held for the post of President and Vice President but as in the present case, there was a restraining order passed in CWP-8185-2021 for holding the election to the post of President, the meeting was only called for administering oath so as to comply with the directions given by the competent Court of law. As per the respondents, said meeting to administer the oath was held on 04.05.2021 and the petitioner along with the other elected Municipal Councillors were administered the oath and they formed the municipality as envisaged under Section 12 of the Act of 1911 on the same date. Learned counsel for the respondents submits that 05 years term of the Councillor/Municipality has already come to an end, keeping in view the



first meeting when oath was administered, hence, the assertion that keeping in view the first meeting held for election to the post of Vice President in November, 2022, the said tenure of 05 years is to start from the said date is incorrect as, the grant of said prayer will violate the other provisions of law including Article 243 (U) of the Constitution of India that the term of the Municipal Councillor cannot be more than 05 years. As per the respondents, as the term started from 04.05.2021 onwards, salary to the elected Municipal Councillors is being paid starting from 04.05.2021 and in case, the argument raised by the learned counsel for the petitioner is accepted, they will remain councillors for a period of more than 05 years and will be paid salary for more than 07 years though, under law governing over said aspect they cannot hold the post of Municipal Councillors for a period of more than 05 years and hence, if prayer of petitioner is accepted, same would lead to violation of other provisions of law, in case harmonious consideration to the rules is not given keeping in view the peculiar facts of the present case.

10. We have heard the learned counsel for the parties and have gone through the record with their able assistance.

11. The rules which govern the issue with regard to the tenure of the municipality needs to be looked into. As per Section 12 which deals with the composition of municipality, Section 12 (3) of the Act of 1911 is as under:--

“12. Composition of Municipalities.

(3) The Nagar Panchayat or the Municipal Council constituted under sub- section (1) shall consist of the following members, namely :-

(i) such number of elected members as may be determined from time to time by the State Government in accordance with the prescribed principles; and

(ii) all members of the Legislative Assembly of the State representing constituencies comprising wholly or partly



the Municipal area."

12. The municipal council shall consist of elected members as well as the member of the legislative assembly of the area under which said Municipal Councillor falls. Section 13 of the Act of 1911 which deals with the duration of the municipality, the same is as under:

*"13. **Duration of Municipalities.** (1) Every Municipality save as otherwise provided in this Act, shall continue for five years from the date appointed for its first meeting and no longer.*

Explanation :- In this section "first meeting" means the meeting of the newly constituted Municipality held for the election of its President and Vice- President under section 20 of this Act.

(2) All Municipalities existing immediately before the commencement of the Constitution (Seventy-Fourth) Amendment Act, 1992, shall continue till the expiration of their duration unless sooner dissolved by a resolution passed to that effect by the State Legislature.

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

(a) before the expiry of its duration specified in sub-section (1);

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

Provided that when 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 clause (b) for constituting the municipality for such period.

(4) The first election to a Municipality constituted under this Act after the commencement of the Punjab Municipal (Amendment) Act 1994, shall be held within a period of six months of its being notified as such.

(5) Elections to the Municipalities where no elected body



exists immediately before the commencement of Punjab Municipal (Amendment) Act 1994, shall be held within a period of six months from the date of such commencement.

6. 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 sub-section (1) had it not been so dissolved.”

13. A bare perusal of the above would show that term of every municipality is to continue for a period of 05 years from the date of first meeting and no longer, and what will be construed as first meeting has been explained to mean the meeting held for election of the President and Vice President under Section 20 of the Act of 1911.

14. It may be noticed that under Section 20 of the Act of 1911, every municipality has to elect from its elected members as a President and Vice President as the case may be but, there is no date fixed for election of such member.

15. Further, under Section 24 of the Act of 1911, no elected member can enter the office till an oath is administered and even the election to the post of President/Vice President could not be undertaken till, the oath is administered.

16. In order to streamline the oath of newly elected member and the elections to the post of President, the Government in its wisdom, by exercising the jurisdiction under the Act of 1911, has framed the Punjab Municipal (President and Vice President) Election Rules, 1994. Section 3 of the 1994 Rules is as under:-

“Rule - 3. Manner of election.

(1) The Deputy Commissioner or any other officer authorised by him in this behalf (here-in-after referred to as



the Convener) shall, within a period of [fourteen] days of the publication of the notification of the election of members of a newly constituted Municipality, fix, by giving not less than forty-eight hours notice to be served at the ordinary place of residence of all the elected members, a date for convening the first meeting of the elected members of such Municipality by stating in the notice that at such meeting, the oath of allegiance will be administered to the members present and also stating that the President and Vice-President or Vice-Presidents as the case may, be shall be elected :

[Provided that all subsequent meetings to fill casual vacancies of the offices of President and Vice-President of Vice-Presidents as the case may be, shall be convened by the Convener.]

(2) If due to any reason, the elected member is unable or refused to take oath of allegiance as required by sub-rule (1) within the stipulated period, then he will be allowed to take such oath of allegiance in the subsequent meeting unless he is debarred from taking the same by the Government for any reason. In case any such member does not take the oath of allegiance as aforesaid, then a fresh election to the constituency to which that member represents, shall be held.”

17. A bare perusal of the above would show that the Deputy Commissioner has been authorized to call the first meeting after conclusion of the election in order to administer oath to the newly elected Councillors and to conduct the election for the post of President and Vice President in the said meeting.

18. It may be noticed that after promulgation of 1994 Rules, there is no ambiguity qua the first meeting to be held as the same is the first meeting for administration of oath and for conducting election for the post of



President and Vice President to be called under Section 3 of 1994 Rules. Hence, the explanation given under Section 13 qua first meeting has to be read harmoniously with Section 3 of the 1994 rules, which rule describes the first meeting of the Municipal Council.

19. It may be noticed that under Section 13 of the Act of 1911, the primary emphasis is on the first meeting so as to mean the initiation of tenure of the municipality. In the absence of any first meeting fixed under the Act of 1911, the explanation was added to Section 13 of the Act of 1911 so as to construe the first meeting. Hence, for all intent and purposes, it is a conceded position that the duration of the municipality was to start from the date “first meeting” is to be held. Hence, once Rule 3 of 1994 Rules, clearly define the first meeting as when the oath is to be administered to the newly elected councillors and election to the post of President and Vice President is to be held, the same is to be treated as first meeting so as to constitute the municipality and to start its tenure.

20. Even if, in the first meeting the oath is administered to councillors but no election to posts of President and Vice President takes place for any reason, it cannot be said that the municipality has not been constituted so as to start its tenure by placing reliance upon the explanation given to Section 13 of the Act of 1911. The explanation, is to be read with the subsequent Rule 3 of 1994 rules, which clarifies beyond doubt that the first meeting when it is called for administering the oath and the election to the post of President and Vice President takes place. Hence, even if the oath is administered in the said first meeting but no election to the post of President or Vice President takes place for any reason, the said meeting is to be treated as first meeting from which date the tenure of the municipal council is to be counted for a period of 05 years and not beyond that.



21. As per Section 3 of the 1994 Rules, upon conclusion of elections, such first meeting is to be called by the Deputy Commissioner concerned for administering the oath to the councillors elected and for holding the election to the post of President and Vice President on the same date. A bare perusal of the above reproduction would show that it has been made mandatory to hold the election to the post of President and Vice President on the first date itself when the oath is given so that there is no conflict between Section 12, Section 13 of the Act of 1911 and the explanation given therein that the term of the municipality is for a period of 05 years and the said term will commence from the date the meeting for election to the post of President and Vice President is called for.

22. While applying the provisions of Act of 1911 and the 1994 rules in the present case, it may be noticed that upon conclusion of election in Municipal Council, Morinda, the first meeting was called on 04.05.2021 for administering the oath. Though, as per 1994 rules governing even the elections are to be held for the post of President and Vice President on the same day the oath is to be administered but, keeping in view the restraining order passed by this Court in CWP-8185-2021, said election to the post of President could not be held. Hence, the question which arises for consideration is whether, such first meeting which was fixed for administering the oath to be elected councillors on 04.05.2021 cannot be treated as first meeting in terms of Section 13 of the Act of 1911 so as to complete 05 years term even if the elections to the post of President and Vice President could not be held due to an interim order passed by the Court. Once, the first meeting is held for administration of oath but is not to be treated as the first meeting i.e., the appointed date for counting the duration of the term of municipality, it will create a disparity qua the other provisions



of law. Once, a councillor is administered oath and is a part of a municipality under Section 12 (3) of the Act of 1911 and is also receiving a salary starting from the said date, in case the said date, which is 04.05.2021 in the present case, is not taken as the date of the first meeting for purpose of counting duration of term, such councillor will continue to be on said post for a period of more than 05 years, which is contrary to the fixed duration of the municipality which is for a period of 05 years. Not only this, the same will be contrary to Article 243 (U) of the Constitution of India also which provides that the duration of term of municipality councillor will be of a period of 05 years and “No Longer”. Hence, for all intents and purposes, even if in the present case, due to an interim order passed by the competent Court of law for restraining the holding of the election to the post of President on the first meeting called where councillors were administered oath on 04.05.2021 whereby they became the part of the municipality, the period of 05 years will start from the said date and not from the date when actual elections to the post of Vice President were held in November, 2022.

23. Learned counsel for the petitioner has argued that the term is for municipality, which is different than the term fixed for Municipal Councillor and hence, the councillors so elected cannot be treated as a part of the municipality and therefore, they can continue as councillors even beyond period of 05 years. It may be noticed that Section 12 of the Act of 1911 has already been reproduced hereinbefore and the definition of term “municipality” includes elected councillors, hence, the argument that the councillors are different entity than municipality is incorrect and cannot be accepted. Constitution of municipality as per Section 12 of the Act of 1911 clearly includes Municipal Councillor, hence, the term of the councillor and municipality is correlated and same is for 05 years which duration is to be



counted from the date the councillors take the oath so as to treat the same as first meeting. Further, the explanation to Section 13 of the Act of 1911 is being relied upon by the learned counsel for the petitioner to contend that the first meeting as mentioned in Section 13 of the Act of 1911 is to be the meeting in which the election of the President is held. The said explanation is again reproduced as under:-

“13. Duration of Municipalities.

xxx xxxx

Explanation :- In this section "first meeting" means the meeting of the newly constituted Municipality held for the election of its President and Vice- President under section 20 of this Act.

xxx xxx”

24. In case, said explanation given to Section 13 of the Act of 1911 is to be read giving a meaning so that it does not override the substantive provisions of Act of 1911 and 1994 Rules. This substantive provision i.e. Section 13 of the Act of 1911 provided that duration is to start from ‘first meeting’. Therefore, the interpretation which has to be given qua first meeting is by harmonious reading of Article 243 (U) of the Constitution of India, Section 13 of the Act of 1911 and Section 3 of 1994 Rules and same has to mean that when first meeting is held for administering the oath to Councillors, in which meeting, even the election to the post of President and Vice President is to be held, if election of President is beyond the control of the Deputy Commissioner so as to conduct the same as the date oath is administered, the non-holding of such elections will not extend the tenure of municipality and the first meeting will be the date when said meeting to administer oath to the newly elected councillors is held even if elections are not held on the said date.



25. The said issue had also been raised before this Court on an earlier occasion also. In ***LPA-1369-2013 titled as Davinder Kapoor and others Versus State of Punjab and others, decided on 05.08.2013***, a coordinate Bench of this Court held that the first meeting which has been held for administering the oath to councillor elected is to be treated as the relevant date for the purpose of counting the duration of 05 years even if, the elections to the post of President are not held on the said date. The similar view was again taken in ***CWP-25404-2014 titled as Rajinder Kumar and others Versus State of Punjab and others, decided on 17.12.2014***. The view, which was taken on an earlier occasion twice, was reiterated by another co-ordinate Bench of this Court while deciding ***CWP-18262-2020, titled as Gurmukh Singh Sohal and others Versus State of Punjab and others, decided on 02.02.2021***.

26. Learned counsel for the petitioner submits that though, the said view is correct but, cannot be made applicable in the present case as, while calling the first meeting in the present case, there was no notice for holding the election which is the differentiating fact in the present case.

27. It may be noticed that in the present case, the meeting for holding the election of President and Vice President to the Municipal Council, Morinda on the first date when the oath was to be administered could not be held as there was a litigation pending where an undertaking was given by department concerned that the election for the post of President would not be held, that being so, calling the meeting for electing the President on the day when the oath was administered on 04.05.2021 would have been contemptuous on the part of the State and hence, the said meeting has to be treated as the valid meeting to be treated as first meeting for counting the duration of the term of Municipal Council as per Section 13 of the Act of



1911 for all intents and purposes.

28. If the first meeting dated 04.05.2025 on which the oath was given is taken as the first meeting, the duration of 05 years of said municipality has already been completed.

29. As of now, the election schedule has already been published and even the nominations have already been filled for the elections to be conducted on 26.05.2026. Even otherwise, at this stage, once the elections are already in process, no relief can be granted to the petitioner.

30. Keeping in view the totality of the circumstances, no case is made out for the grant of relief as prayed for by the petitioner and the present writ petition is accordingly dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

15.05.2026
Sandeep

Whether Speaking/Reasoned : Yes
Whether Reportable : Yes