



112+113+219+225

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of Decision : 15.05.2026

- 112

1. CWP-15457-2026

SARABJIT SINGH AND ANOTHER
V/S
STATE OF PUNJAB AND OTHERS

.....Petitioners
.....Respondents
- 113

2. CWP-15485-2026

RASHI VASUDEVA
V/S
STATE OF PUNJAB

.....Petitioner
.....Respondent
- 219

3. CWP-15247-2026

JASPAL SINGH AND OTHERS
V/S
STATE OF PUNJAB AND OTHERS

.....Petitioners
.....Respondents
- 225

4. CWP-15260-2026

GURPAL SINGH
V/S
STATE OF PUNJAB AND OTHERS

.....Petitioner
.....Respondents

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

Present: Mr. Harsh Chopra, Advocate
For the petitioners in CWP No.15457 of 2026.

Mr. Mohit Garg, Advocate
For the petitioner in CWP No.15485 of 2026.

Mr. A.D.S Jattana, Advocate
for the petitioners in CWP No.15247 of 2026.

Mr. K.B.S Mann, Advocate
For the petitioner in CWP No.15260 of 2026.

Mr. Maninderjit Singh Bedi, Advocate General, Punjab with
Mr. Jastej Singh, Addl. A.G., Punjab.

Mr. Sarbuland Singh Mann, Advocate
for respondent No.5 in CWP No.15485 of 2026 and
CWP No.15260 of 2026.

Mr. D.S Randhawa, Advocate
for respondent No.6 in CWP No.15247 of 2026 and
for respondent No.6 in CWP No.15457 of 2026.

HARSIMRAN SINGH SETHI, J. (Oral)

1. Present bunch of four writ petitions, the details of which are mentioned in the heading, involve common point of law and common set of facts, hence, they are being dealt together. For the sake of convenience, the facts are being taken from CWP No.15457 of 2026.
2. In the present bunch of petitions, the challenge is to the Final Notification dated 11.05.2026 (Annexure P-2) issued by Department of Local Government, Punjab by which certain Wards of the Municipal Councils, which are going for elections scheduled for 26.05.2026, have been reserved for Scheduled Castes and Backward Classes.
3. Learned counsel for the petitioner(s) have argued before this Court that for reservation of Wards in favour of the reserved categories of Scheduled Castes and Backward Classes, a notification was issued by the Department of Local Government of the State reserving the Wards in various Municipal Councils vide Notification dated 16.04.2026, but the same has now been superseded wherever required, by Notification dated 11.05.2026 while deciding certain representations received by the Government objecting to such reservation made vide Notification dated 16.04.2026.
4. Learned counsel for the petitioner(s) argue that after the issuance of the Notification dated 11.05.2026, the net result is that the Wards

which were reserved for the Scheduled Castes/Backward Classes in the previous elections have been reserved again, rather than reservation being rotated to other wards, which is contrary to the mandate of the Rules and, therefore, the respondents are liable to be directed to withdraw the Notification dated 11.05.2026 and to implement the reservation of Wards of the various Municipal Councils as done vide Notification dated 16.04.2026.

5. Reliance is being placed upon Rule 6(c), (d) and (e) of the Delimitation of Wards of Municipalities Rules, 1972 (hereinafter referred to as “1972 Rules”) by the learned counsel for the petitioners to contend that rotation of the reserved Wards after an election is conducted based upon such reservation, is compulsory in view of the word used “shall”, and therefore, reserving the same Ward for the reserved categories of Backward Classes and Scheduled Castes, which was reserved in the last elections, is contrary to the 1972 Rules and therefore the Notification dated 11.05.2026 cannot be sustained. Hence, the Notification dated 11.05.2026 may kindly be set aside and the forthcoming elections of the Municipal Councils should be conducted on the basis of reservation of wards already notified on 16.04.2026.

6. Notice of motion.

7. Mr. Jastej Singh, Addl. A.G., Punjab accepts notice on behalf of the respondent-State. Mr. Sarbuland Singh Mann, Advocate in CWP No.15485 of 2026 and CWP No.15260 of 2026 accepts notice on behalf of respondent No.5 and Mr. D.S Randhawa, Advocate in CWP No.15457 of 2026 accepts for respondent No.6 by filing his memo of appearance. The same is taken on record.

8. Learned counsel for the respondent(s) submits that there is no dispute with the factual aspect that the Wards which were reserved in the previous elections for the reserved categories of Scheduled Castes and Backward Classes have again been reserved vide Notification dated 11.05.2026 by amending the Notification dated 16.04.2026 wherever required keeping in view the representations received. However, the Notification dated 16.04.2026 has been amended vide Notification dated 11.05.2026 keeping in view various representations received from different quarters of residents of various Municipal Councils, wherein it has been pointed out that in the Wards reserved as per Notification dated 16.04.2026, the population of the reserved categories is comparatively very low as compared to the other Wards which have now been reserved vide Notification dated 11.05.2026.

9. Learned counsel for the respondent(s) further submits that though it is a conceded fact that under the 1972 Rules, particularly Rule 6(c), (d) and (e), the word used is “shall” qua rotation of reserved Wards, while interpreting the said Rules, Article 243T of the Constitution of India as well as Section 8 of the Punjab Municipal Act, 1911 (“hereinafter referred to as “1911 Act”), cannot be ignored, according to which rotation of reserved wards for Scheduled Castes/Backward Classes, is discretionary and not mandatory.

10. Learned counsel for the respondent(s) submits that under Article 243T of the Constitution of India, qua rotation of reserved Wards for Scheduled Castes/Backward Classes, discretion has been conferred upon the State Government. The said discretion has been adopted by the Government

while enacting the 1911 Act, as Section 8 of the 1911 Act also vests discretion with the Government qua rotation of reserved wards for Scheduled Castes/Backward Classes in subsequent elections. Therefore, it is submitted that it is within the discretion of the Government either to rotate the Wards reserved for Scheduled Castes or Backward Classes in the previous elections in the subsequent elections or to continue with the same wards being reserved, keeping in view the sentiments of the people and the actual data of population belonging to the reserved category in case there is no fresh delimitation of wards and the policy decision was taken by the Government in this regard while issuing Notification dated 11.05.2026.

11. Learned counsel for the respondent-State submits that a written statement has been filed in CWP No. 15247 of 2026, which be taken as a reply in the other connected petitions as well, involving the same question of law, as the factual aspects are not disputed and only the question of law is required to be answered whether rotation of wards reserved for Scheduled Castes/Backward Classes is at the discretion of the Government or whether the Government is bound to rotate the wards reserved for Scheduled Castes/Backward Classes in the previous election in case, in the subsequent elections in case, there is no change in the delimitation of the wards.

12. We have heard learned counsel for the parties and have gone through the records of the present case with their able assistance.

13. The question which has been posed before this Court is not on the factual aspect but on the law whether any ward which has been reserved for the reserved categories of Scheduled Castes or Backward Classes in previous elections can be reserved again in this subsequent election in the

absence of any fresh delimitation after the last election.

14. For the said purpose, the jurisdiction which has been given to the Government under the Constitution of India and 1911 Act framed on the basis of the said power as well as 1972 Rules framed thereunder, are required to be examined.

15. It is a conceded position between the parties that under Article 243T of the Constitution of India, discretion is vested in the Government either to rotate the reservation to different wards or to continue with the same reservation in same wards in subsequent elections as well qua Wards reserved for Scheduled Castes/Backward Classes, where no delimitation has taken place after the last elections, because the word used in Article 243T of the Constitution of India is “may” and not “shall”.

16. Once the said discretion given under Article 243T of the Constitution of India has been continued by the Government of Punjab while enacting the Punjab Municipal Act, 1911, Section 8 of the 1911 Act dealing with reservation of wards and rotation of reserved wards for Scheduled Castes and Backward Classes in subsequent elections uses the word “may” and not “shall”.

17. Keeping in view the jurisdiction given under 1911 Act, the State of Punjab chose to frame the 1972 Rules and provided that while rotating the wards reserved, there is compulsory rotation in subsequent elections by using the word “shall”.

18. For the purpose of this order, Article 243T of the Constitution of India, Section 8 of the Punjab Municipal Act, 1911 and Rule 6 of the 1972 Rules, which are under consideration, are reproduced as under:-

1. Article 243T - Reservation of Seats

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

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

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

4. The offices of Chairpersons in the Municipalities shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide.

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

6. Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Municipality or offices of Chairpersons in the Municipalities in favour of backward class of citizens.

2. Section 8 of the Punjab Municipal Act, 1911 — Reservation of Seats

1. In every Municipality, out of the total number of elected members determined under sub-section (3) of section 12, the State Government shall, by notification, reserve—

(a) such number of seats for the Scheduled Castes as may be determined by the State Government, subject to the condition that the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Municipality, as the population of the Scheduled Castes in the Municipal area bears to the total population of that area, and such seats may be allotted by rotation to different constituencies to be known as wards in the Municipality;

(b) one seat for the Backward Classes, and such a seat may be allotted by rotation to different constituencies to be known as wards in the Municipality.

2. One half of the total number of seats reserved under clause (a) of sub-section (1) shall be reserved for women belonging to the

Scheduled Castes:

Provided that a fraction of a seat shall not be treated as a seat for the purpose of reservation.

3. One half (including the number of seats reserved for women belonging to the Scheduled Castes) of the total number of seats to be filled by direct election in every Municipality shall be reserved for women and such seats may be allotted by rotation to different constituencies to be known as wards in the Municipality:

Provided that a fraction of a seat shall not be treated as a seat for the purpose of reservation.

3. Rule 6 of the Delimitation of Wards of Municipalities Rules, 1972

The following principles shall be observed by the Board in the delimitation of wards of a Municipality, namely:-

(a) All wards shall as far as practicable, be geographically compact areas, and in delimiting them due regard shall be had to physical features, existing boundaries of administrative units, if any, facilities of communication and public convenience;

(b) Each Municipality shall be divided into wards in such manner that the population of each ward, as far as practicable, is the same throughout the Municipality, with a variation upto ten per-cent, above or below the average population figures;

(c) 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 Municipality is the largest and such seats shall be allocated by rotation to different wards in the Municipality;

(d) Seats reserved for women (including number of seats reserved for women, if any, belonging to Scheduled Castes) by Government, shall be kept reserved for women and such seats shall be allotted by rotation to different wards in the Municipality; and

(e) One seat reserved for Backward Classes by Government, shall be kept reserved for the Backward Classes which shall be located where their population in the Municipality is the largest and such seat shall be allotted by rotation to different wards in the Municipality.

(f) In every municipality, the Delimitation Board, while drafting the scheme for Delimitation of Wards, shall allot number to all wards having due regard to the principle of constitution.”

19. The net result which emerges is that under Article 243T of the

Constitution of India as well as vide Section 8 of the 1911 Act, discretion is conferred upon the Government to rotate the wards reserved for Scheduled Castes/Backward Classes or not in the subsequent elections, which discretion is not reflected in the 1972 Rules.

20. Now, the question that arises is whether the 1972 Rules will prevail or the Constitution of India and the 1911 Act will prevail, especially when the 1972 Rules have been framed under the Punjab Municipal Act, 1911, which is clear from Rule 2(a) of the 1972 Rules.

21. It is a settled principle of law that where any Rule is framed in exercise of power derived from an Act and if any of such Rule is contrary to the provisions of the main Act, the Act will prevail and not the Rule, as has been observed by the Hon'ble Supreme Court of India in AIR 1984 SC 192 titled ***"Babaji Kondaji Garad etc. vs. The Nasik Merchants Co-operative Bank Ltd."*** decided on 31.10.1983. The relevant paragraph of the said judgement is reproduced hereunder as:-

"XXXX. Section 73B provides a legislative mandate. Rule 61 has a status of subsidiary legislation or delegated legislation. By-law of a co-operative society can at best have the status of an Article of Association of a company governed by the Companies Act, 1956 and as held by this Court in Co-operative Central Bank Ltd. and others vs. Additional Industrial Tribunal, Andhra Pradesh and others the bye-laws of a co-operative society framed in pursuance of the provision of the relevant Act cannot be held to be law or to have the force of law. They are neither statutory in character nor they have statutory flavour so as to be raised to the status of law. Now if there is any conflict between a statute and the subordinate legislation, it does not require elaborate reasoning to firmly state that the statute prevails over subordinate legislation and the bye-law has to be ignored. The statutory provision has precedence and must be complied with. The statutory provision has precedence and must be complied with. XXX"

22. Further, even in the judgment of the Hon'ble Supreme Court of

India in Civil Appeal No.7868 of 1995 titled “***ITW Signode India Ltd. Vs. Collector of Central Excise***” decided on 19.11.2003, the same principle has been reiterated. The relevant paragraph of the said judgment is as under:-

“XXX. It is a well-settled principle of law that in case of a conflict between a substantive act and delegated legislation, the former shall prevail inasmuch as delegated legislation must be read in the context of the primary/legislative act and not the vice-versa. XXX”

23. A bare perusal of the above would show that the Act will prevail and not the subordinate legislation that is the 1972 Rules made under the 1911 Act in the present case. Hence, reliance being placed upon the 1972 Rules to challenge the Notification dated 11.05.2026, cannot be accepted in view of the Section 8 of the 1911 Act and Article 243T of the Constitution of India.

24. Even as discussed earlier that in case of any inconsistency between the Act and the Rules, the Act will prevail over the Rules and in the present case, the 1972 Rules providing for mandatory rotation, if so interpreted, would not only be contrary to the discretion qua Section 8 of the Punjab Municipal Act, 1911 but also to the Article 243T of the Constitution of India, and hence Section 8 of the 1911 Act and Article 243T of the Constitution of India will prevail over the Rule 6 of the 1972 Rules, which have been framed under 1911 Act.

25. Further, the 1911 Act under which the 1972 Rules have been framed derives its authority from the Constitution of India, and Section 8 of the Punjab Municipal Act, 1911 is in consonance with Article 243T of the Constitution of India. Hence, once the Constitution, which is supreme, and the 1911 Act under which the 1972 Rules have been framed confer

discretion upon the Government either to rotate wards or to maintain the reservation in the same wards in subsequent elections as well, the power vests with the Government to decide so as to reserve the same wards in the subsequent elections for the reserved category of Scheduled Castes/Backward Classes again in order to achieve the purpose which will be in consonance of Article 243T of the Constitution of India and Section 8 of the Punjab Municipal Act.

26. The purpose of reservation of wards in election for the reserved category of Scheduled Castes/Backward Classes is that the reserved category should be given adequate representation, and such representation should be ensured in wards having the maximum population of such reserved category.

27. Even otherwise, as per the settled principle of law keeping in view the facts and circumstances, where the word “shall” and “may” have been used, the Courts can interpret the same whether, the word “shall” can be interpreted as “may”.

28. The Hon’ble Supreme Court of India while deciding Civil Appeal No.14697 of 2015 titled as ***“State of Gujarat and others vs. Utility Users’ Welfare Association and ors.”*** decided on 12.04.2018 has held that keeping in view the facts and circumstances of the case at hand, the Courts can interpret the conflicting terms of “may” and “shall” wherever required to achieve the purpose. The relevant paragraph Nos.76 to 79 of the said judgment is reproduced as under:-

76. The proviso only respects and maintains the accepted position that in appointment of persons, who have been holding such senior judicial office, consultation with the judicial head, being the Chief Justice, should be mandatory. The question which thus arises, is whether sub-section (2) of Section 84 is facilitative in character for

the purposes of appointment of a retired or current Judge of the High Court as a Chairperson, or is the said provision mandatory in character. Both the golden rule and the literal rule of statutory construction are well established that a statute must be read as it is framed by the legislature. It is not the function of the Court to supplant or read into the statute something which is not provided. This is not to say that there have not been judicial views taken qua the interchangeability of the expression “may” and “shall” in certain provisions. Thus, the use of the word “shall” raises a presumption that a particular provision is imperative. However, it has been construed as merely directory in certain cases if the context or intention of the legislature demands otherwise. The Courts may ascertain the real intention of the legislature by carefully attending to the whole scope of the statute (Sainik Motors v. State of Rajasthan³² and State of U.P. v. Babu Ram³³). We are, however, faced with a converse situation as to whether “may” can be read as “shall”. In this behalf we may take recourse to the judicial opinion that where in the same section the word ‘may’ has been used at one place and ‘shall’ at another place, it would strengthen the inference that the words have been used in the primary sense (Chairman Canara Bank, Bangalore v. M.S. Jasra³⁴).

77. A reference to Maxwell on The Interpretation of Statutes (Twelfth Edition), more specifically the chapter on “Exceptional Construction” would show that the modification of the language of a statute is the tool used only if, in its ordinary meaning and grammatical 32 (1962) 1 SCR 517 33 (1961) 2 SCR 679 34 AIR 1992 SC 1341 construction, there is a manifest contradiction of the apparent purpose of the enactment, or some inconvenience or absurdity which could hardly have been intended. It has been observed that in ordinary usage, “may” is permissive and “must” is imperative and that the word “may” used in a statute would not generally be held to be mandatory. However, in some cases where “may” is used in the context of a compulsory force, the meaning has been so modified by judicial exposition. The heading of the Chapter itself shows what is intended: “Modification of the language to meet the intention”.

78. It is well-nigh impossible to lay down a general rule for determining whether a provision is imperative or directory. We extract the relevant portion as under: ““No universal rule,” said Lord Campbell L.C., “can be laid down for the construction of statutes, as to whether mandatory enactments shall be considered directory only or obligatory with an implied nullification for disobedience. It is the duty of Courts of Justice to try to get at the real intention of the Legislature by carefully attending to the whole scope of the statute to be construed.”³⁵ And Lord Penzance said: “I believe, Indian Kanoon - <http://indiankanoon.org/doc/7885178/> 24State Of Gujarat vs Utility Users Welfare Association ... on 12 April, 2018 as far as any rule is concerned, you cannot safely go further than that, in each case you must look to the subject-matter; consider the

*importance of the provision that has been disregarded, and the relation of that provision to the general object intended to be secured by the Act; and upon a review of the case in that aspect decide whether the matter is what is called imperative or only directory.”*³⁶ *35 Liverpool Borough bank v. Turner (1860) 2 De G.F. & J. 502 at pp.507, 508. 36 Howard v. Bodington (1877) 2 P.D. 203, at p. 211.*

79. If we turn back to the provisions of Section 84 of the said Act, we find that the expression “shall” is used in sub-section (1) both in the context of the requirement of ability, integrity and standing as also in the context of adequate knowledge and capacity in dealing with problems relating to engineering, finance, commerce, economics, law or management. On the other hand, in sub-section (2) while dealing with the possibility of appointment of a Chairperson from the pool of sitting or retired Judges, the expression used is “may” indicating it to be a discretionary power.”

29. When applying the said judgment in the present case, it may be noticed that the substantive provision is to provide for reservation in favour of the Scheduled Castes/Backward Classes by reserving a ward where, the population of Scheduled Castes/Backward Classes as the case may be, is the highest.

30. The basic purpose is to reserve the municipal ward having highest population of Scheduled Castes/Backward Classes as the case may be.

31. In case, the ward having the highest population is reserved for Backward Classes/Scheduled Castes as the case may be in a particular election, and in the other wards, the population of such reserved category residents is very minimum, then reserving such wards in the subsequent elections for those categories would be contrary to the purpose for which wards are being reserved hence, under such a situation, the discretion is given by the Hon’ble Supreme Court of India in Article 243T of the Constitution of India as well as under Section 8 of the Punjab Municipal

Act, 1911.

32. In case, the word “shall” is to be construed as “shall” so as to retain such wards, it might be a possibility that a ward having minimum population of the reserved category is reserved in the subsequent elections, which will defeat the purpose for which the reservation has been made for the reserved category of Scheduled Castes/Backward Classes hence, in order to achieve the intention behind, which the reservation of ward to be made in favour of the reserved category of Scheduled Castes/Backward Classes in subsequent elections, the word “shall” in the 1972 Rules has to be interpreted as “may” in order to achieve the purpose of the Act so that a ward having maximum population of reserved category is available.

33. However, it may be noticed that the same can only be done in case, there are no other wards having substantial population of the reserved category. In case, population of reserved category is also substantial in other wards, then by applying the rotation rule, the reservation can be done by the Government in its discretion in such other wards having substantial population of the said category in order to fulfil the requirement of the enactment to give benefit to the reserved category residents.

34 It may be noticed that as a caveat, though such discretion is with the Government but the same is to be applied keeping in view the facts of each case.

35 In case, the population of the reserved category is substantial in a ward other than the one which was reserved in the last elections, all efforts will be made to reserve such ward in the subsequent elections. In the facts and circumstances of the present case, there are valid reasons for not

reserving the same so as to exercise discretion, bona fide. Any such discretion can be the subject matter of the scrutiny of the Court, in case the same is found having not been exercised in a bona fide manner.

36. Hence, in the present case, as nothing has been brought to the notice of this Court that the reservation of the wards for Scheduled Castes/Backward Classes vide Notification dated 11.05.2026 has been done while ignoring the other wards having substantial population of the same reserved category so as to not to rotate them and to misuse the discretion by the Government while issuing notification dated 11.05.2026.

37. The respondents have reserved only those wards which have the maximum population of the reserved category while issuing Notification dated 11.05.2026 even though same wards were reserved in the previous elections as well hence, the purpose behind enactment of Section 8 of the 1911 Act and the source of power, i.e. Article 243T of the Constitution of India, is achieved, unless and until the decision so taken is shown to be mala fide in law.

38. Once the said decision is bona fide and not mala fide, the Courts would be the last to interfere, especially when elections have already been notified to be held on 26.05.2026.

39. The further question that arises is as to why, once such discretion qua reservation of wards for Scheduled Castes/Backward Classes was exercised while issuing Notification dated 16.04.2026 so as to rotate the wards, the said decision was again altered to revert to the previously reserved wards while issuing Notification dated 11.05.2026.

40. Had the Government taken the said decision dated 11.05.2026

suo motu, there would have been a question so as to assess any mala fide but once Notification dated 11.05.2026 is issued after considering the objections raised by the residents of the areas concerned, and the said grievance was raised before this Court by filing a Writ Petition and the Government was given discretion to decide the said issue, any such decision taken bona fide will have to be adhered to rather than being objected to. Hence, the Notification dated 11.05.2026, which has not only been issued with full jurisdiction but also, no such malicious action has been proved, there arises no ground for any interference by this Court.

41. Order is dictated in the open court in the presence of the counsels. No other argument is raised.

42. Keeping in view the totality of the circumstances, no ground is made out for any interference by this Court in the facts and circumstances of the present bunch of cases and accordingly, the present bunch of petitions stand dismissed.

43. Pending miscellaneous application(s), if any, shall stand disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

15-05-2026
Sapna Goyal

(DEEPAK MANCHANDA)
JUDGE

NOTE: Whether speaking/ reasoned: YES
Whether reportable: YES