

Seema Sharma And Others vs State Of Punjab And Others on 10 January, 2025

Bench: Sureshwar Thakur, Vikas Suri

Neutral Citation No:=2025:PHHC:002956-DB

CWP No.388 of 2025(O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(123)

CWP-388-2025(O&M)

Date of Decision: 10.01.2025

Seema Sharma and others

.....Petitioners

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Chetan Mittal, Senior Advocate with
Mr. Kunal Mulwani, Advocate,
Mr. Harneet Singh Oberoi, Advocate and
Mr. Ritvik Garg, Advocate for the petitioners.

Mr. Maninder Singh, Senior DAG, Punjab.

SURESHWAR THAKUR, J. (Oral)

1. In the instant petition, the petitioners espouse for the hereinafter reliefs:-

"to issue a writ in the nature of certiorari for setting aside the order/notice dated 07.01.2025 (Annexure P-7), and all the proceeding arising therefrom with regard to conducting of the elections for the seat/position of Mayor, Senior Deputy Mayor and Deputy Mayor for Municipal Corporation, Patiala, which is to being held as on 10.01.2025, despite of the fact that the elections of 7 Municipal Councilors is yet to be conducted and admittedly the quorum is not complete and the entire process of election of Mayor, Senior Deputy Mayor and Deputy Mayor is being done in utter derogation of Punjab Municipal Corporation Act. Further it is an admitted position

that the election of 71 of 72 Neutral Citation No:=2025:PHHC:002956-DB wards of Municipal Corporation Patiala was deferred/withdrawn by the ruling government in the light of statement given by State in COCP No.5302 of 2024 vide order dated 20.12.2024 (Annexure P-5).

And In the meantime, the operation of order/notice dated 07.01.2025 (Annexure P-7), and all the proceeding arising therefrom, whereby elections to the post of Mayor, Senior Deputy Mayor and Deputy Mayor, for Municipal Corporation, Patiala is to be held on 10.01.2025, may kindly be stayed during the pendency of the present writ petition And Any other writ, order or direction as this Hon'ble Court in the facts and circumstances may deem fit and proper, be also passed."

2. The genesis of the instant petition becomes borrowed from the declaration of the election programme by the State of Punjab, as became made through the issuance of a notification dated 04.10.2023. The said notification is embodied in Annexure P-7, annexure whereof, is appended with CWP No.23649 of 2023, whereby, the election programme became notified for conducting elections to the various local self-governments located within the territory of the State of Punjab.

3. In the writ petition supra, a challenge was made to the issuance of the said notification. The ground taken in the said writ petition related to an untenable delimitation of wards being made in respect of the areas falling within the respective domains of the Municipal Corporations of Ludhiana, 2 of 72 Neutral Citation No:=2025:PHHC:002956-DB Amritsar and Jalandhar. However, the supra ground taken therein became rejected through a decision becoming made, thus, on the supra writ petition along with connected therewith writ petitions (on 13.12.2024). The relevant paragraphs of the said judgment becomes extracted hereinbefore:-

"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 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

3 of 72 Neutral Citation No:=2025:PHHC:002956-DB 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 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 (I), shall make its final 4 of 72 Neutral Citation No:=2025:PHHC:002956-DB 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 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;

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(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 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 6 of 72 Neutral Citation No:=2025:PHHC:002956-DB 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. xxxx 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 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 7 of 72 Neutral Citation No:=2025:PHHC:002956-DB 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.

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 8 of 72 Neutral Citation No:=2025:PHHC:002956-DB 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 (1978) 1 Supreme Court Cases 405. The relevant paragraphs as occur in the verdicts (supra) are extracted 9 of 72 Neutral Citation No:=2025:PHHC:002956-DB 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 10 of 72 Neutral Citation No:=2025:PHHC:002956-DB difference only that the article is preceded by the words "notwithstanding anything in this Constitution". I think that those words are quite 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. Neutral Citation No.:2025:PHHC:002956-DB

xxxx xxxx '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 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 12 of 72 Neutral Citation No:=2025:PHHC:002956-DB remedy to challenge the declaration of result, before a special Tribunal by means of an election petition being filed and ;

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), wherebys 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 13 of 72 Neutral Citation No:=2025:PHHC:002956-DB election petition before the Election Tribunal concerned. Consequently, the said expostulation of law is not required to be derogated from.

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 14 of 72 Neutral Citation No:=2025:PHHC:002956-DB 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 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 thereby all the voters, who acquire the apposite eligibility, do become empowered to exercise their franchise. The effect thereof, would be that thereby 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 15 of 72 Neutral Citation No:=2025:PHHC:002956-DB 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 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).

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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-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 17 of 72 Neutral Citation No:=2025:PHHC:002956-DB 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 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, their 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 18 of 72 Neutral Citation No:=2025:PHHC:002956-DB 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 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 19 of 72 Neutral Citation No:=2025:PHHC:002956-DB 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.

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.

20 of 72 Neutral Citation No:=2025:PHHC:002956-DB 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 Prithivi 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.

36. Therefore, it appears that though therein 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

21 of 72 Neutral Citation No:=2025:PHHC:002956-DB 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 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 22 of 72 Neutral Citation No:=2025:PHHC:002956-DB earlier notification became issued, whereby, 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.

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 23 of 72 Neutral Citation No:=2025:PHHC:002956-DB 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 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 24 of 72 Neutral Citation No:=2025:PHHC:002956-DB 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 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 25 of 72 Neutral Citation No:=2025:PHHC:002956-DB 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 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 26 of 72 Neutral Citation No:=2025:PHHC:002956-DB 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 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."

4. Moreover, in another writ petition bearing No.26745 of 2024, thus, a challenge was made to the apposite notification whereby the election programme was notified for the conducting of elections to the various gram sabhas concerned. The said challenge became grooved in the premise, that there was an arbitrary rejection of the nomination papers by the Returning Officer concerned. However, through a decision made on the said writ petition 27 of 72 Neutral Citation No:=2025:PHHC:002956-DB bearing CWP No.26745 of 2024, the said writ petition was dismissed. The grounds for dismissing the said writ petition are extracted hereinafter:-

"Reasons for rejecting the submissions of the counsel for the petitioner(s).

23. However, to the considered mind of this Court, the expostulations of law, as carried in the relevant paragraphs of the verdicts pronounced in case N.P.Ponnuswami Vs. Union of India and Others (supra), in case Mohinder Singh Gill and Anr. Vs. The Chief Election Commissioner and Others (supra) and in case 'West Bengal, State Election Commission and Ors. (supra), when do candidly, make an expostulation of law, to the extent that the constitutional bar, created in the relevant constitutional provision (supra), rather against the makings of any interferences in the announced election programme, when also but embraces the entire gamut of the election process, commencing from the filing of the nomination papers and lasting upto the declaration of results, whereupons, the all encompassed therein election processes', thus require no interference therewiths being made rather at any stage by the Courts of law. Apparently, the said trite expostulations of law as carried therein, when do cover the subject at hand, therefore, the asked for mandamus cannot be passed by this Court.

24. Conspicuously for the reason that in paragraph No. 34, of the verdict rendered by the Apex Court in case titled as 'West Bengal State Election Commission Vs. Communist Party of India (Marxist) (supra), para whereof is extracted hereinafter,

28 of 72 Neutral Citation No:=2025:PHHC:002956-DB the Apex Court, thus had discountenanced the passing of a mandamus by the Calcutta High Court, whereby a direction was made upon the respondent concerned, to re-draw the election programme. Therefore, the asked for mandamus is never passable, as prima facie, appears to be done by the Co- ordinate Bench of this Court nor is passable by this Court nor the interim relief granted by the Co-ordinate Bench of this Court can be made absolute nor the election petition(s) are maintainable.

34. For the reasons indicated earlier, we allow the appeals and set aside the impugned judgment and order of the Calcutta High Court directing the acceptance of nominations in the electronic form. Pending applications, if any, are also disposed of. There shall be no order as to costs.

25. The judgment delivered by the Apex Court in case Union Territory of Ladakh & Others Vs. Jammu and Kashmir National Conference and Another (supra) also is clearly distinguishable, on two counts:

1) Allotments of election symbol being made therein, thus to facilitate the candidate therein to participate in a democratically held election.

2) The decisions respectively passed by the Single Bench of the Jammu and Kashmir High Court and the affirming thereto decision passed by the Division Bench of that High Court, were apparently drawn much, before the completion of the election schedule, thereby, there was no breach to the trite canon of law declared in verdict titled as N.P.Ponnuswami Vs. Union of India and Others (supra), in case titled as Mohinder Singh 29 of 72 Neutral Citation No:=2025:PHHC:002956-DB Gill and Anr. Vs. The Chief Election Commissioner and Others (supra) besides in case titled as 'West Bengal, State Election Commission and Ors. (supra), whereby, there is a complete interdiction against the High Courts, to in the exercisings of writ jurisdiction, thus to make an interference with the electoral process or to make any tinkering with the announced election programme.

3) A circumspect reading of paragraph No. 31, as carried in the verdict (supra), does clearly bring forth a crystal clear underlining, that the verdicts challenged before the Apex Court, were passed so as to not make any interference with the notified election schedule. Furthermore, it has also specifically underlined therein, that the appellant before the Apex Court, yet chose to not comply with the said well made orders. Resultantly the appellants were declared to become estopped to plead that any interference at the belated stage is barred to be made. Tritely, when there was no interference as such, in the announced election programme, rather with the appellant in the said case despite palpably omitting to comply with the well timed orders passed by the learned Single Judge of Jammu and Kashmir High Court and by the Division Bench of the said High Court, yet proceeding to make a challenge thereto, thereby thus, the Hon'ble Apex Court after dismissing the SLP (supra) passed directions upon the appellant to allot the election symbol to the candidate concerned. Moreover, therein there were no irregularities relating to the nomination papers but only 30 of 72 Neutral Citation No:=2025:PHHC:002956-DB when the nomination papers therein being found in order, yet the election symbols remaining untenably unallotted, whereas, the allotment of election symbol to the candidate concerned after acceptance of his nomination papers, rather was a statutory necessity for enabling the candidate concerned, to exercise his right to contest a democratically held election. In sequel, the Apex Court on account of the omission (supra) by the appellant in the SLP (supra), to not comply with the well timed orders passed by the Jammu and Kashmir High Court, thus proceeded to direct the appellants to allot the election symbol to the candidate concerned.

26. Since in the instant cases there is no dispute with respect of non allotment of election symbols to the candidate concerned, after acceptance of the nomination papers. Contrarily, when the subject dispute relates to improper rejection of the nomination papers. As such, in view of the supra principles of law, as become culled out by this Court, from the verdicts (supra) rendered by the Hon'ble Apex Court, therebys, vis-a-vis the subject in dispute, thus no iota of jurisdiction becomes bestowed upon this Court, to tinker with the already announced election programme.

Arguments with regard to the observation(s) made in para No. 21 of the order passed by the Co-ordinate Bench of this Court that a candidature should not be rejected without affording an opportunity of hearing and even an opportunity to make correction in an error shall be provided at the time of scrutiny.

27. The learned State counsel has argued that the Court has 31 of 72 Neutral Citation No:=2025:PHHC:002956-DB misread the statutory provisions as occur in Section 41 of the 'Act of 1994'. As per Section 41 (7) of the 'Act of 1994', the Returning Officer is duty bound to affix it on the notice board of his office, the list of the validly nominated candidates and not of the rejected candidates.

28. That infact the judgment passed by the Apex Court in case titled as "N.P. Ponnuswami vs Union of India and Others (supra), thus covering the same proposition i.e., qua a challenge relating to the rejection of nomination papers of the candidate, wherein the Hon'ble Apex Court after discussing the scope of Article 329(b) of the Constitution of India, had ultimately concluded that therebys there is exclusion of power to be exercised by the High Courts under Article 226 of the Constitution of India. As such, the said argument is liable to be rejected.

29. Furthermore, since though provisions of Section 41 of the 'Act of 1994' and Rule 11 of the Punjab Panchayat Election Rules, 1994, do make an injunction upon the Returning Officer to endorse on each nomination papers his decision relating to either accepting or rejecting the same besides encumbers upon him a statutory duty to record brief statement of reasons in case the nomination papers are rejected. The said provisions are extracted hereinafter.

41. Scrutiny of nominations.--

(1) On the date fixed for the scrutiny of nominations under section 35, the candidates, their election agents, one proposer of each candidate and one other person duly authorised in writing by each candidate, but no other 32 of 72 Neutral Citation No:=2025:PHHC:002956-DB person, may attend at such time and place as the Returning Officer may appoint, and the Returning Officer shall give them all reasonable facilities for examining the nomination papers of all candidates which have been delivered within the time and in the manner laid down in section 38. (2) The Returning Officer shall then examine the nomination papers and shall decide all objections which may be made to any nomination and may, either on such objection or on his own motion, after such summary inquiry, if any, as he thinks necessary, reject the nomination on any of the following grounds, namely:-- (a) that on the date fixed for the scrutiny of nominations, the candidate either is not qualified or is disqualified for being chosen to fill the seat under this Act; or (b) that there has been a failure to

comply with any of the provisions of section 38 or section 39. (3) Nothing contained in clause (b) of sub-section (2) shall be deemed to authorise the rejection of the nomination of any candidate on the ground of any irregularity in respect of a nomination paper, if the candidate has been duly nominated by means of another nomination paper in respect of which no irregularity has been committed (4) The Returning Officer shall not reject any nomination paper on the ground of any defect which is not of a substantial character. (5) The Returning Officer shall endorse on each nomination paper his decision accepting or rejecting the same and, if the nomination paper is rejected, shall record in writing a brief statement of his reasons for such rejection.

(6) For the purposes of this section, a certified copy of an entry in the electoral roll for the time being in force of the constituency shall be conclusive evidence of the fact that the person referred to in that entry is an elector for that constituency, unless it is proved that he is subject to a disqualification specified under this Act.

(7) Immediately after all the nomination papers have been scrutinised and decisions accepting or rejecting the same have been recorded, the Returning Officer shall prepare a list of validly nominated candidates, that is to say, candidates whose nominations have been found valid, and affix it to the notice board of his office.

(Rule 11 of the Election Rules, 1994)

11. Scrutiny of nomination papers and decision of objections (Section

41) (1) The Returning Officer shall examine the nomination papers at the time appointed in this behalf, hear objections, if any, presented by the objectors in person as to the eligibility of any candidate and determine these objections after such enquiry as he may consider necessary. The decision 33 of 72 Neutral Citation No:=2025:PHHC:002956-DB rejecting or accepting a nomination paper and brief statement of reasons thereof shall be endorsed on the nomination paper and signed by the Returning Officer.

Provided that the Returning Officer may--

(a) permit any clerical error in the nomination paper in regard to names or numbers to be corrected in order to bring them in conformity with the corresponding entries in the electoral rolls: and

(b) where necessary, direct that any clerical or printing error in the said entries shall be overlooked.

(2) The person objecting under sub-rule (1) must be a candidate of the concerned Panchayat or Sabha Area, as the case may be.

30. However, though as revealed by Annexure P-4 (in CWP- 27163-2024) for instance, Annexure whereof is extracted hereinafter, that there is but an ex facie breach caused to the statutory mandate (supra) to the extent that no detailed order for rejection has been recorded.

Name of Village/Panchayat - Randhawa Colony Sr. No. Candidate Ward No. Sarpanch/Panch
Nomination accepted or rejected

1. Randeep Kaur Sarpanch Rejected
2. Kuldeep Kaur Sarpanch Rejected
3. Surinder Singh W1 Panch Accepted
4. Amarjot Singh W2 Panch Rejected
5. Amrik Singh W3 Panch Accepted xxxx xxxx xxxx xxxx

31. However, if any breach has been done to the above, yet the relief to mitigate the said breach thus cannot be agitated at this stage before this Court. The reason being that therebys this Court would be transgressing the clear expressions (supra) rendered by the Hon'ble Apex Court, whereby there is a complete bar against the High Court, to in the exercise of the writ jurisdiction, thus make any tinkering with the announced 34 of 72 Neutral Citation No:=2025:PHHC:002956-DB election programme, even on the touchstone of their being improper rejection of the nomination papers, besides the said nomination papers being rejected without adherence rather being made by the Returning Officer concerned, qua the necessity (supra). Contrarily, if therebys the election process is vitiated, yet the purported therebys vitiation caused to the election process, is redressable not at this stage, but only through an election petition becoming filed.

32. Fortifying strength to the above inference becomes drawn from the provision carried in Sub Section (1)(c) of Section 89 of the 'Act of 1994', whereby one amongst the various grounds as set forth therein, to challenge an election, thus is the ground relating to the improper rejection of nomination papers, be it on the ground(s), thus also covering the premise that there being gross transgression qua the statutory duties cast upon the Returning Officer concerned, rather arising from cryptic non speaking order of rejection being passed by the Returning Officer concerned. Even otherwise the said is a disputed question of fact and cannot be decided in the instant petition rather the said fact can be clinchingly decided only in an election petition, as therein, on the contested pleadings, the issues are to be formulated besides evidence has to be adduced on the said formulated issues. However, the said exercise for clinchingly resting any disputed question of fact, thus cannot be undertaken in the instant writ proceedings.

Further submissions of the learned counsel for the 35 of 72 Neutral Citation No:=2025:PHHC:002956-DB petitioner(s).

33. The learned counsel for the petitioner(s) have further vehemently argued that the schedule of the elections, did not provide sufficient time to the candidates concerned, to file nomination papers. Resultantly, they contend that the democratic right of the candidate(s) concerned, to participate in the elections rather has been truncated. However, the said argument becomes rudderless in the face of the provisions of Section 35 of the 'Act of 1994', provisions whereof become extracted hereinafter.

35. Appointment of dates for nominations, etc.-- As soon as the notification calling upon a constituency to elect a member or members is issued, the Election Commission shall, by notification in the Official Gazette, appoint --

(a) the last date for making nominations, which shall be the Third day after the date of publication of the first mentioned notification, or, if that day is a public holiday, the next succeeding day which is not a public holiday;

(b) the date for the scrutiny of nominations, which shall be the day immediately following the last date for making nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday;

(c) the last date for the withdrawal of candidatures, which shall be the First day after the date for the scrutiny of nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday;

(d) the date or dates on which a poll shall, if necessary, be taken, which or the first of which shall be a date not earlier than the Seventh day but not later than the Tenth day after the last date for the withdrawal of the candidatures; and

(e) the date before which the election shall be completed.

34. In terms of the said provisions, the State Election Commission, Punjab has published notification dated 27.09.2024, notification whereof is extracted hereinafter. A 36 of 72 Neutral Citation No:=2025:PHHC:002956-DB reading of the said notification would reveal, that the said schedule/programme, was made in conformity with the provisions (supra), thereby, the argument raised by the counsel for the petitioner(s) has no force and is rejected.

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NOTIFICATION The 27th September, 2024 No. SEC-PE-SA/2024/08.-Whereas, the Department of Rural Development and Panchayats, Punjab has issued Notification no. S.O.48/P.A.9/1994/S.209/2024 dated 19.09.2024 stating that the General Elections to elect members of the Gram Panchayats shall be held by 20.10.2024.

2. Now, therefore, in pursuance of the provisions contained in Section 35 of the Punjab State Election Commission Act, 1994, the State Election Commission, hereby appoints the following dates for General Elections of Gram Panchayats in the State of Punjab, with 27.09.2024 (Friday) as date of Notification.

PROGRAMME

(a) 27.09.2024 (Friday) First date for filing of Nominations (between 11 a.m. to 3 p.m.)

(a) 04.10.2024 (Friday) (upto 3 p.m.) as the last date for filing Nominations.

(b) 05.10.2024 (Saturday) as the date for Scrutiny of Nominations.

(c) 07.10.2024 (Monday) as the last date for withdrawal of candidatures, if any (upto 3 p.m.)

(e) 15.10.2024 (Tuesday) as the date on which a poll shall, if necessary, be taken,

(f) 16.10.2024 (Wednesday) as the date by which the election shall be completed.

NOTE: - No nomination will be received on 28.09.2024 (Saturday) being public holiday for the purposes of Negotiable Instrument Act.

1. Counting of votes will take place at the polling stations immediately after the close of poll itself.

1. In pursuance of the provisions of Section 57 of the Punjab State Election Commission Act, 1994, the Election Commission hereby fixes poll hours 37 of 72 Neutral Citation No:=2025:PHHC:002956-DB from 8.00 a.m. to 04.00 p.m. during the poll on 15th October, 2024.

2. Model Code of Conduct for Gram Panchayats has come into force from the date of announcement of elections i.e. 25.09.2024 within the revenue jurisdiction of the Gram Panchayats, till the completion of the poll.

(Raj Kamal Chaudhuri) State Election Commissioner, Punjab"

Further arguments of the learned counsel for the petitioners.

35. The learned for the petitioner(s) have also relied upon a judgment rendered by the Division Bench of this Court in case titled as Jagdev Singh and Others Vs. State of Punjab and Others, to which CWP No. 12348 of 2015 became assigned, whereby they contend that yet there is a bestowment of jurisdiction in this Court, to even at this stage make an interference with the announced election schedule.

36. However, the said argument is rejected, as in the judgment (supra), the ground shown for rejection of the nomination papers was that 'the voter number of candidate, proposer and seconder do not tally with voter list'. Moreover, the said petition became allowed only in view of the provisions of Section 38 (4) of the 'Act of 1994' and Rule 11 (1) (a) of the Election Rules, 1994, provision whereof are extracted hereinafter, whereby, there is permissibility in the Returning Officer to enable the makings of corrections of any bona fide or clerical errors.

37. Since none of the petitioner(s) either averred nor prima facie, proved that any statutorily curable clerical error existed in the rejected nomination papers and yet no opportunity in terms of the provisions (supra) becoming granted to redress the said error.

38 of 72 Neutral Citation No:=2025:PHHC:002956-DB Consequently, no leverage can be drawn either from the verdict (supra) nor from the hereafter extracted statutory provisions as embodied in Rule 11 of the Election Rules, 1994.

38. Presentation of nomination paper and requirements for a valid nomination.-

(1) xxxx (2) xxxx (3) xxxx (4) On the presentation of nomination paper, the Returning Officer shall satisfy himself that the names and electoral roll numbers of the candidates and his proposer as entered in the nomination paper are the same as those entered in the electoral rolls.

Provided that no misnomer or inaccurate description or clerical or technical or printing error in regard to the name of the candidate or his proposer or any other person, or in regard to any place, mentioned in the electoral roll or the nomination paper and no clerical or technical or printing error in regard to the electoral rolls numbers of any such person in the electoral roll or the nomination paper, shall affect the full operation of the electoral roll or the nomination paper with respect to such person or place in any case where the description in regard to the name of the person or place is such as to be commonly understood; and the Returning Officer shall permit any such misnomer or inaccurate description or clerical or technical or printing error to be corrected and where necessary direct that any such misnomer, inaccurate description, clerical or technical or printing error in the electoral roll or in the nomination paper shall be overlooked.

(Rule 11 of the Election Rules, 1994)

11. Scrutiny of nomination papers and decision of objections (1) xxxx Provided that the Returning Officer may -

(a) permit any clerical error in the nomination paper in regard to names or numbers to be corrected in order to bring them in conformity with the corresponding entries in the electoral rolls ; and

(b) where necessary, direct that any clerical or printing error in the said entries shall be overlooked.

38. Assumingly, if there is any such clerical error which is as such curable, thereby, if the said has vitiated the election(s), yet the remedy to the aggrieved is to file an election petition before the Election Tribunal concerned.

39 of 72 Neutral Citation No:=2025:PHHC:002956-DB Arguments with regard to exercise of NOTA option (none of the above).

39. It has been argued by the learned counsel for the petitioner(s) that even if only one candidate is left in the fray, yet the respondents were required to hold the elections between that candidate and NOTA. In this regard, the learned State counsel has referred to a judgment rendered by the High Court of Andhra Pradesh in case titled as A.V.Badra Naga Seshayya Vs. State of Andhra Pradesh, to which Writ Petition (PIL) No. 131 of 2020 became assigned. The relevant paragraph as occur in the said verdict is extracted hereinafter.

As per the said Rules, in case of Postal Ballot Papers used for conduct of poll at polling stations with Ballot Boxes or Electronic Voting Machines (EVMs), provision is required to be made for 'None of the Above' (NOTA). In cases where candidates have been declared uncontested, NOTA do not apply, looking to the legislative intent, because option may be permitted to be exercised on contest of election. During deliberations, while discussing on the nomenclature of NOTA, it clearly reflects that this contingency applies in case where there is contest of election and as per the language set up in Rule 35-A of the Rules also, it reflects that, when there is an election through Ballot Boxes or EVMs., only then, the said option can be exercised. Looking to the said legislative intent and amendment of the word NOTA, the relief as prayed for cannot be granted; however, the petitioner is at liberty to approach the State Government or the Central Government to do the needful for the cause espoused in this public interest litigation.

In view of the aforesaid, we are not inclined to interfere in this writ petition and the same is accordingly dismissed. No order as to costs.

40. The learned State counsel has further alluded to Section 54 of the 'Act of 1994', provisions whereof become extracted hereinafter.

54. Procedure in contested and uncontested elections.-- (1) If the number of contesting candidates is more than the number of seats to be filled, a poll shall be taken.

(2) If the number of such candidates is equal to the number of seats to be filled, the Returning Officer shall forthwith declare all such candidates to be duly elected to fill those seats.

(3) If the number of such candidates is less than the number of seats to 40 of 72 Neutral Citation No:=2025:PHHC:002956-DB be filled, the Returning Officer shall forthwith declare all such candidates to be elected and the Election Commission shall, by notification in the Official Gazette, call upon the constituency or the elected members, to elect a person or persons to fill the remaining seat or seats, as the case may be:

Provided that where the constituency or the elected members having already been called upon under this sub-section, has or have failed to elect a person or the requisite number of persons, as the case may be, to fill the vacancy or vacancies, the Election Commission shall not be bound to call again upon the constituency, or such members to elect a person or persons until it is satisfied that if called upon again, there will be no such failure on the part of the constituency of such members "

41. Since Sub Section (3) of Section 54 of the 'Act of 1994' makes a candid expression, that when the number of candidates contesting against a particular seat, is less than the number of seats to be filled, and/or wherebys the implication, is that, in case only a single candidate is left in the fray, therebys, a statutory injunction is made upon the Returning Officer, to forthwith declare elected thus as unopposed, hence the singular candidate left in the fray. Consequently, when no elections became held to the seat concerned, nor also when there was any necessity for the electorate through theirs entering the polling booth concerned, to thus exercise NOTA. Resultantly, the non assigning of any right of NOTA to the electorate concerned, rather is completely irrelevant. The said exercising of NOTA by the Electorate would arise only, if there was a contest amongst at least two candidates. Contrarily, when there is no contest, especially, also when even Sub Section (3) of Section 54 of the 'Act of 1994' makes a statutory injunction upon the Returning Officer, to thus declare elected as unopposed, thus even the 41 of 72 Neutral Citation No:=2025:PHHC:002956-DB singular candidate who is left in the fray. As such, when there is no breach made to the statutory provision (supra). Resultantly the non assigning of an opportunity to the electorate to exercise NOTA, but also therebys becomes reiteratedly inconsequential."

5. Though, the decision made on the writ petition supra, covered the issue relating to the conducting of elections to the various gram sabhas concerned, but the necessity of making an allusion to the supra paragraphs which exist therein, but arises from the fact that the exposition of law as made therein, to the extent that once an election programme becomes notified, therebys it is unamenable for being tinkered with, rather in the exercise of extra-ordinary writ jurisdiction by this Court, wherebys thus, the supra exposition of law made in supra judgment rendered by this Court in case supra, is also equally applicable to the issue at hand.

6. The issue at hand relates to the challenge made to the notified election programme for conducting elections for the seat/position of Mayor, Senior Deputy Mayor and Deputy Mayor of Municipal Corporation, Patiala, though, the direct elections to the other local self-bodies within the territory of the State of Punjab become effectively concluded.

7. However, though the said direct elections became conducted and also became concluded in terms of the supra decisions becoming made by this Court, yet it appears that one of the purported contestants to the ward(s) falling within the domain of Municipal Corporation, Patiala, made a representation before the Returning Officer concerned. The said representation is extracted hereinafter:-

42 of 72 Neutral Citation No:=2025:PHHC:002956-DB "To The State Election
Commissioner Punjab, Sector 17, Chandigarh.

Subject: For issue instructions to the RO's & SSP of Patiala not to harass the BJP Candidates of Municipal Corporation Elections. As the officials of the Patiala region are working on the instance of ruling party, they are not allowing the candidates to enter in the office to file Nomination papers and threatening them to face dire consequences if they contest the election.

Respected Sir, I am writing to bring to your immediate attention a matter of grave concern that undermines the sanctity of free and fair elections, that today is the last day of filing the Nomination form for the Municipal Corporation elections, it has come to the notice that the police officials & administration officers of the Patiala region including the SHO, DSP, SSP, SDM's and at various places bad elements of the area are harassing the candidates of the BJP Party, on the instance of the ruling AAP Party and not allowing them to fill the Nomination forms, at Ghanaur 11 candidates are standing outside the office of RO, but they are not allowing to enter in the office. Earlier also the complaint was moved as the SHO of Police Station, Ghanaur namely Sahab Singh threatening BJP candidates namely Gautam Sood and taken him in illegal custody, but despite of moving specific complaint no action was taken against him.

That these threats, aimed at discouraging the participation of BJP candidates, are in blatant violation of constitutional principles, the Representation of the People Act, 1951 (RPA 43 of 72 Neutral Citation No:=2025:PHHC:002956-DB Act), and the established norms of free and fair elections. Such actions not only infringe upon the rights of the candidates but also tarnish the democratic ethos of our country.

It is, therefore, you are requested to issue instructions to the Ro's SSP to take strict action against the said officials and not to harass the BJP Candidates.

Regards
Suneel Dutt Bhardwaj,
Office Secretary,
BJP Punjab Office, Sector 37."

Dated: 12.12.2024

8. Since no action was taken on the said representation, therefore, a writ petition bearing CWP No.33633 of 2024 became filed before this Court, thus, claiming the passing of a mandamus upon the respondent concerned to make a lawful decision thereons. On the said writ petition, the hereinafter extracted mandamus did becomes so passed:-

"1. Disposed of with liberty to avail the necessary remedies but at the appropriate stage.

2. However, the respondent No.2 is directed to lawfully decide the representation (dated 12.12.2024) filed by the petitioners, today itself. The respondents concerned are also directed, that as and when municipal elections are conducted to the Municipal Corporation concerned, thereupon the respondents concerned, shall ensure that complete compliance is made to guidelines issued by the State Election Commission, Punjab, relating to Videography of the nomination process till its withdrawal.

3. Chief Secretary, Government of Punjab, is directed to circulate this order to all the Returning Officers concerned."

9. It appears that the said order was passed on 12.12.2024, which was the last date for the filing of nomination papers. Though, it is not 44 of 72 Neutral Citation No:=2025:PHHC:002956-DB specifically stated in the said representation, that the nomination papers which the petitioners in supra writ petitions, were carrying, rather for theirs becoming filed before the Returning Officer concerned, thus becoming torn. Nonetheless, it appears that subsequently the said ground was taken as a ground before the learned Contempt Bench of this Court. Further, imperatively also since it is not disputed amongst the counsel(s) appearing today before this Court, that the date when the said order was passed, rather was the last date for the filing of the nomination papers. Therefore, it appears qua given the deficit of time available with the Returning Officer concerned to pass a well-reasoned order, on the apposite representation, but only after making compliance to the principles of natural justice, that no such order became passed on the said representation. Moreover, obviously when in view of the supra expositions of law as made in judgments supra, there is but a grave impermissibility against interference being made with the election programme. Moreover, when it has also been expostulated in judgments supra that in case there are any deep pervasive vitiations seeping in the process of undertaking the exercise of conducting elections. Therebys but on the declaration of results, the remedy available to the aggrieved, is none other than the filing of an election petition before the Election Tribunal concerned. Therefore, therebys also the non-passing of a speaking order in terms of the supra mandamus, thus on the supra representation, but cannot be construed to be tantamounting to restrain the Returning Officer concerned to proceed to ensure the conducting of elections.

10. Be that as it may, an incisive reading of the supra order, makes graphic underlinings that therebys apart from a decision being ordered to be made upon the representation supra, which however, for reasons supra could 45 of 72 Neutral Citation No:=2025:PHHC:002956-DB not be made, rather a direction was also passed upon the Returning Officers concerned, to ensure that complete compliance is made to the guidelines issued by the State Election Commissioner, Punjab, as relates to videography being done of the nomination process commencing from the date of filing of the nomination papers and till the withdrawals thereof, thus, taking place.

11. Moreover, the representation supra related to some miscreants pre-empting the aspirants concerned to file nomination papers, but since a reading of the election programme, as declared in the apposite notification, rather made detailings, that the process of filing nomination papers, thus commenced from 09.12.2024 and lasted upto 12.12.2024. Therefore, if as a matter of fact, there was some veracity in the representation supra, therebys the petitioners concerned, than filing the supra writ petition, thus, wherein they asked for a decision being made on the representation, when did also become endowed, with the privilege to access the police authorities or when also became endowed with a privilege to file complaints before the jurisdictional Magistrate concerned, with relief therein, that FIRs be registered against the miscreants concerned. However, none of the supra recourses remained adopted. In consequence, the non-adoption of the supra recourses at the instance of the aggrieved, but leads to the drawing of a, prima facie, inference by this Court, that the representation supra, wherein the supra echoings occur, rather prima facie, was maneuvered to somehow or the other, thus, cause with-holdings or pausings in the conducting of elections, whereas, if the said purported deterrence was caused by certain miscreants, the remedy to the aggrieved was to file an election petition before the Election Tribunal concerned but only after the

declaration of 46 of 72 Neutral Citation No:=2025:PHHC:002956-DB results taking place.

12. In the face of the supra backdrop, which patently reveals, that the said representation was not amenable to be decided, yet the petitioners who received the supra mandamus from this Court, rather merely on account of no decision being made thereons, rather proceeded to prefer Contempt Petition bearing No.5302 of 2024 before this Court. The contents of the said Contempt Petition are extracted hereinafter:-

1. That the petitioner filed the above said civil writ petition in this Hon'ble court in the nature of mandamus directing the respondent No.1 to 3 to conduct videography of the entire nomination process till the completion of the withdrawal process to maintain transparency and fairness in the Municipal Election Scheduled for 21.12.2024 and further for issuance of a writ in the nature of mandamus directing the respondent No.1 to 3 to ensure that the candidates are not stopped from filing the nomination paper by deployment of security force and ensure that forms of the candidates are not rejected on unnecessary grounds in view of the section 38 & 41 of the Punjab State Election Commission Act, 1994 and an opportunity to rectify the mistake if any be given and for issuance of a writ in the nature of Certiorari seeking quashing of the corrigendum bearing no. SEC/ME/SAM/2024 (Anx.P-3) issued in the evening of 11.12.2024 by resp. no. 2 vide which the last date for submitting the form 1 & 2 for election symbols has been propone to 12.12.2024 from 14.12.2024, thus, causing a great hardship to the candidates.

2. That in pursuance to above mentioned grievance raised before this Hon'ble court, the Hon'ble court after considering above mentioned prayer clause was pleased to pass following orders:-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH 47 of 72 Neutral Citation No:=2025:PHHC:002956-DB (135) CWP-33633-2024 (O&M) Date of Decision: 12.12.2024 VIJAY KUMAR AND OTHERS .. Petitioners Versus STATE OF PUNJAB AND OTHERS .Respondents CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR HON'BLE MS. JUSTICE KIRTI SINGH Present:- Mr. Ankush Verma, Advocate & Mr. N.K. Verma, Advocate for the petitioners.

Mr. Maninder Singh, Sr. DAG, Punjab.

SURESHWAR THAKUR, J. (Oral)

1. Disposed of with liberty to avail the necessary remedies but at the appropriate stage.

2. However, the respondent No.2 directed to lawfully is decide the representation (dated 12.12.2024) filed by the petitioners, today itself. The respondents concerned are also directed, that as and when municipal elections are conducted to the Municipal Corporation concerned, thereupon the respondents concerned, shall ensure that complete compliance is made to the guidelines issued by

the State Election Commission, Punjab, relating to Videography of the nomination process till its withdrawal.

3. Chief Secretary, Government of Punjab, is directed to circulate this order to all the Returning Officers concerned.

(SURESHWAR THAKUR) JUDGE (KIRTI SINGH) JUDGE December 12, 2024"

Copy of order dated 12.12.2024 is annexed herewith as Annexure P-1.

3. That on mere reading of the above mentioned direction that it is very clear that this Hon'ble High court specifically directed the respondents alongwith the Chief Secretary, Government of Punjab to comply with guidelines 48 of 72 Neutral Citation No:=2025:PHHC:002956-DB issued by State Election Commission, Punjab relating to the Videography of nomination paper till its withdrawal, whereas, the directions were issued only to assure and clarify specifically with regard to transparency and non-violation of democratic rights of participants/aspirants in the municipal corporation elections.

4. That this Hon'ble High court also considered that the representation, which was moved before authorized considered by the present petitioner dated 12.12.2024 was not decided as the supports and opposite candidate of Aam Adami party alongwith the government officials destroyed nomination paper of the present petitioner an illegal, arbitrary manner. It is also pertinent to mention here that the said representation before the was submitted concerned SSP, who intentionally did not decided the same as he clearly wants to facilitate the ruling government and its supports. It is also pertinent to mention here that not just the respondent in the writ petition have willfully/intentionally violated the Hon'ble High court Directions by not complying with the above narrated order dated 12.12.2024. it is also worthwhile to mention here that till date no FIR of theft and grievance injury has been lodged by said accused persons namely Harman Sandhu, Simar Sandhu, Sandeep Kumar and Ashwani Kumar. The copy of complaint dated 12.12.2024 moved by the present petitioner before the authorizes concerned about the alleged occurrence is annexed herewith as Annexure P-2.

Therefore, in the light of the above mentioned submissions that it is just necessary that acts of the SSP Patiala also fall under section 10 and 12 of Contempt of Court as by intentionally delaying the legal process, he has violated the directions passed by Hon'ble Punjab and Haryana High court and in connivance with respondent NO.3, they have declared accused namely Sh. Harman Singh Sandhu as un-contested Municipal Councilor from ward NO.50. 5. That it is also 49 of 72 Neutral Citation No:=2025:PHHC:002956-DB pertinent to mention here that the present petitioner, whose nomination form was illegally destroyed again after filing CWP NO. 33633 of 2024 submitted his nomination paper before the respondent NO.2, whereas, respondent NO.2 under influence of authorities concerned, which include Deputy Commissioner, Municipal Corporation Patiala namely Dr. Rajat Oberoi, PCS, illegally cancelled the nomination of present petitioner in complete non compliance of directions passed by Hon'ble High court, which was specifically with regard to

guidelines issued by State Election Commission, Punjab. It is pertinent to mention here that the respondent NO.2 cancellation the nomination paper vide communication dated 13.12.2024, whereas, a specific reply in pursuance to quarries raised by respondent No.2 was submitted before the authorized concerned but the respondent NO.2 in order to facilitate Harman Sandhu opposite candidate from Aam Adami Party illegally cancelled the nomination paper of the present petitioner and violated directions passed by the Hon'ble High court. The copy of reply to the objections submitted by the present petitioner alongwith receipt of Tax paid till date and copy of sale deed are annexed herewith as Annexure P-3. The copy of objections raised by Harman Sandhu, which were facilitated by respondent NO.2 are annexed herewith as Annexure P-4. The copy of order dated 13.12.2024 passed by respondent NO.2 cancelling the nomination paper of the present petitioner in an illegal, arbitrary and perverse manner is annexed herewith as Annexure P-5.

6. That in the light of above mentioned facts the conduct of all the three respondent including their accomplices namely Sh. Nanak Singh SSP, Patiala and Deputy Commissioner, Municipal Corporation Sh. Rajat Oberoi falls under section 10 and 12 of Contempt Act.

7. That the conduct of SSP Patiala during the Municipal Corporation Election can be easily seen from a free hand given to supports of Aam Adami Party during the 50 of 72 Neutral Citation No:=2025:PHHC:002956-DB nomination paper as they were openly snatching nomination paper of the candidate and destroying the same. The video recording of above mentioned acts are annexed herewith as Annexure P-6.

8. That in pursuance of above mentioned illicit act of facilitation done by administration in order to support their political goons, the result is very clear that they illegally declared 15 un- opposed elected candidates from Municipal Corporation, Patiala. The copy of media report vide which 15 wards from where Aam Adami party won election un-opposed is annexed herewith as Annexure P-7.

9. That the officials respondents including the aids namely Sh. Nanak Singh SSP, Patiala in criminal conspiracy with local SHO, Civil, Patiala namely Sh. Amritpal Singh tried to kidnap the present petitioner early in the morning at 05 O'clock as on 11.12.2024. The video recording of Sh. Amritpal Singh badly knocking doors of house of the present petitioner early morning at 05 O'clock as on 11.12.2024 in order to illegally kidnapped him and to stop him from filing nomination paper is annexed herewith as Annexure P-8.

10. That it is just necessary the way, respondent No.2 intentionally cancelled nomination paper of petitioner in pursuance the to present direction passed by this Hon'ble court shows their malafide intentional that initially by using police force at early morning 05.00am as on 11.12.2024, which is the date of nomination, when the authorities were unsuccessful, they in connivance with opposite candidate of Aam Admi Party from Ward NO.50 namely Sh. Harman Sandhu initially destroyed first nomination paper filed by the present petitioner before respondent No.2, whereas, in pursuance the same present writ petition was filed, this Hon'ble High court after considering grievance of the present petitioner was pleased to pass order dated 12.12.2024. The respondent authorities in pursuance to considering direction passed by this Hon'ble court did not paid 51 of 72 Neutral Citation No:=2025:PHHC:002956-DB any heed and intentionally violating all democratic

petitioner, right of the present cancelled simply the nomination paper on frivolous grounds, as the order passed by authority concerned is malafide and against the law as the property narrated by the authorities concerned in their order dated 13.12.2024 is frivolous and nowhere concerned with the present petitioner. This Hon'ble court at the time of passing directions very well narrated that the nomination process should be video recording only to check out the transparency, whereas, when the authorities concerned could not do any illicit act, they by one way or the other raised frivolous objections just to violate direction passed by this Hon'ble court in order to facilitating the ruling government.

11. That it is just necessary such in situation, when this Hon'ble court has stood as a custodian of legal and democratic rights of the petitioner, the compliance of order dated 12.12.2024 may kindly be made as concerned legally if the authorities scrutinized the nomination paper, the petitioner who is a strong candidate in Ward NO.50, democratic right his has intentionally violated in order to declare Harman Sandhu candidate of Aam Adami Party as unopposed Municipal Councilor from Ward NO.50, the act and conduct of respondents authorities is in complete violation and they deserves to be prosecuted in accordance with law.

12. That the present petitioner approached the respondent authorities and tried to give his representation but the respondent authorities by using their muscle power did not considered the same and when it was communicated to them that their act and conduct falls under contempt of courts act, they were well stated that their legal team will deal the same.

13. That on mere reading of above mentioned facts, it is very clear from the authorities concerned were only focused to stop the present petitioner from filing nomination or contest election from Ward NO.50. it is also worthwhile to mentioned 52 of 72 Neutral Citation No:=2025:PHHC:002956-DB here that the petitioner has previously contested Corporation, election from Municipal Patiala of more than 3 occasions, whereas, the petitioner have previously served as municipal councilor in last term from 2018 till 2023. It is also worthwhile to mention here that the present election have been declared in a well known legal prolong legal battle contested till Hon'ble Supreme Court by various aggrieved persons. The ruling government through officials respondents by high jacking the democratic process have shown their colors that they are nowhere concerned in transparent elections and their prime objective is to facilitate their supports by violating and democratic rights of parties/ citizens/ aspirants. opposite

14. That it is pertinent to mention here that the way illegally nomination paper of the present petitioner has been rejected.

15. That the act and conduct of the officials respondents including respondent NO.1, who is the main conspirator and decider of illicit act which are to be done as and when the ruling government direct the officials respondents to accommodate them is very clear that it is also very clear they are going to hijack the election booth in upcoming election, which are to be conducted on 21.12.2024.

16. That the act of the respondent in not complying the order dated 12.12.2024 is amounts to contempt and liable to be punished under the Contempt of Courts Act, 1971.

17. That the non compliance of the order dated 23.02.2024 passed by this Hon'ble court, by the respondent amounts to contempt of court and therefore, respondent are liable to be punished accordingly.

18. That no such or similar contempt petition has earlier been filed by the petitioners either in this Hon'ble Court or before the Hon'ble Supreme Court of India.

It is, therefore, respectfully prayed that present petition 53 of 72 Neutral Citation No:=2025:PHHC:002956-DB may kindly be allowed and the respondents may kindly be punished for willfully, deliberately and intentionally disobeying the order dated 12.12.2024 (Annexure P-1) passed by this Hon'ble court in CWP NO.33633 of 2024 in case titled "Vijay Kumar and others Vs. State of Punjab and others", by the respondents, in the interest of justice.

It is further prayed that petitioner be exempted from filing the certified/true typed copies of Annexures, in the interest of justice.

13. A keen perusal of paragraphs No.6 to 9 of the Contempt Petition, unveils, that therein occur attributions of purported indulgences of contumacious conducts, rather by the police agencies, but yet the supra extracted mandamus was made in terms of the supra representation, which however, became addressed to the Election Commissioner concerned. As such, the echoings which occur in paragraphs No.6 to 9 of the Contempt Petition, when do graphically make such attributions which are beyond the domain of the supra representation. Therefore, any attribution of any purported ill-indulgences of contumacious conduct, thus, by the officers named in paragraphs No.6 to 9, but reiteratedly was not only beyond the domain of the representation but also was beyond the domain of the supra mandamus as became passed by this Court in Civil Writ Petition bearing CWP No.33633 of 2024, which however, could not be obeyed, thus for all the supra stated reasons.

14. Moreover, since as stated supra, even if there was some dereliction on the part of the officers named in paragraphs No.6 to 9 of the Contempt Petition, yet since there was facilitation to the petitioners to file nomination papers commencing from 09.12.2024 till 12.12.2024. However, 54 of 72 Neutral Citation No:=2025:PHHC:002956-DB significantly yet the making of the supra representation occurred on 12.12.2024, which was the last date for the filing of the nomination papers. The above fact leads to an inference, that therebys a belated representation became filed but merely to stall the conducting of the direct elections to the wards concerned.

15. However, assumingly if the said pre-emptions were, as a matter of fact, employed by some miscreants, therebys if some actions before the police agencies became drawn, besides if the said drawn actions against the miscreants before the police agencies also remained unactioned, therebys the aggrieved were bestowed with a privilege to make a motion before the jurisdictionally empowered Courts, to make a direction upon the police authorities to register an FIR against the errant miscreants/officers concerned. However, for supra evident omissions on the part of the aggrieved, after no action being taken by the police authorities on the relevant motions, thus, to access the jurisdictionally competent Magistrate Courts, thereby garners a prima facie, inference that both the representations supra and also the pursuant thereto, but for reasons supra a pretextual

allegation, being made against the errant miscreants/officers concerned, vis- a-vis, theirs taking no action on the complaints as became made before them by the aggrieved concerned. The effect of supra pretextual allegations being made leads to further inferences that they were ill-maneuvered to attempt to ill-forestall the conducting of the direct elections concerned.

16. Though, the supra mandamus made by this Court, for all supra stated reasons, was not required to be resulting in the drawing of contempt actions against the errant officers, but yet it appears that through the making of the hereinafter extracted supra consensual order, that therebys, prima 55 of 72 Neutral Citation No:=2025:PHHC:002956-DB facie, there has occurred the ill-stalling of the election process for direct elections to the 7 wards of Municipal Corporation, Patiala. Moreover, it also appears that though therein i.e. in the representation supra, there are no detailings about the tearings of the nomination forms, at the instance of the rival candidates concerned or by the agents of the rival candidates concerned. If so, the supra decision as became rendered by the learned Contempt Bench of this Court appears to, prima facie, create a ground in favour of the aggrieved which was however, not as such detailed in the representation. Even the said created ground but was not required to be resulting in the hereinafter consensual order being made, resultantly therebys prima facie, the said passing of the consensual order, thus prima facie, breaches the supra expostulated principles of law made in the verdict supra.

17. Conspicuously also the fact whether the aggrieved carrying nomination papers, at the relevant time, or were carrying some other papers, besides the fact whether, as a matter of fact, the nomination papers were torn or some other papers were torn, but was contentious fact which may have materially affected the election results. Therebys, the prejudice ensuing, if any, to the aggrieved therefroms and/or therebys, the election result becoming materially affected, but was a grievance which was to be ventilated only through an election petition becoming filed before the Election Tribunal concerned, yet only after the pronouncement of election results and not earlier thereto as has been ill-done through the passing of the hereinafter extracted order:-

"In COCP-5302-2024, reply dated 20.12.2024 filed on behalf of the respondents is taken on record. Copy thereof has been supplied to counsel opposite.

56 of 72 Neutral Citation No:=2025:PHHC:002956-DB Registry to tag the same at appropriate place. At the outset, learned Advocate General, Punjab, on instructions, submits that a decision has been taken by the State to defer the elections pertaining to the following Wards:-

MUNICIPAL CORPORATION, PATIALA:

1. Ward No.1
2. Ward No.32
3. Ward No.33

4. Ward No.36

5. Ward No.41

6. Ward No.48

7. Ward No.50 MUNICIPAL COUNCIL, DHARAMKOT, DISTRICT MOGA:

1. Ward No.1

2. Ward No.2

3. Ward No.3

4. Ward No.4

5. Ward No.9

6. Ward No.10

7. Ward No.11

8. Ward No.13 It has also been assured by learned Advocate General, Punjab, that proceedings in accordance with law shall be initiated against the erring officials/ private individuals, those who are visible in the videos appended by the petitioner(s) along with the present contempt petitions, at the earliest.

List on 15.01.2025.

A photocopy of this order be placed on the file of connected case(s)."

18. Therefore, prima facie, by the aforesaid submission and assurance before the learned Contempt Bench of this Court, purportedly 57 of 72 Neutral Citation No:=2025:PHHC:002956-DB urging to exceed its jurisdiction, has created a piquant situation before this Court, to the extent that therebys the same evidently travelled, beyond the countours of the supra expositions of law made in the judgments referred to in the supra extracted portion, of the decision made by this Court in CWP No.23649 of 2023 on 13.12.2024.

19. Though preeminently, the relevance of this Court making the above, prima facie, observations, thus, to a substantial extent fortifies the hereinafter extracted inferences, whereby this Court has rejected the submissions addressed before this Court by the learned counsel for the petitioners, that the instantly announced election programme, thus for conducting indirect elections to the respective offices of the Mayor, Senior Deputy Mayor and Deputy Mayor, thus is required to be quashed and set aside. The relevant submissions addressed before this Court by the learned counsel for the

petitioners are referred to hereafter:-

I. Learned Senior Counsel for the petitioners submits that since the strength of the electoral college for electing the Mayor, Senior Deputy Mayor and Deputy Mayor of Municipal Corporation, Patiala, thus, is 60. Therefore, he submits that since on account of the supra order passed by the learned Contempt Bench of this Court, the entire composition of the electoral college is not complete, thereby he submits that till the entire composition of the electoral college to, thus, elect the Mayor, Senior Deputy Mayor and Deputy Mayor of Municipal Corporation, Patiala, thus, is complete rather thereuptos the impugned election programme is required to be quashed and set aside.

58 of 72 Neutral Citation No:=2025:PHHC:002956-DB II. He further submits that the apposite strength of the electoral college would be complete only when the election programme is announced for conducting direct elections to the 7 wards of the Municipal Corporation, Patiala. Since uncontrovertedly the election programme has not been announced for conducting elections to the 7 wards, nor when any apposite declaration of result in respect of such, elected councillors, has been made, thus qua the 7 wards of Municipal Corporation. Therefore, he alludes to Section 56 of The Punjab Municipal Corporation Act, 1976 (hereinafter in short referred to as 'the Act of 1976'), provisions whereof are extracted hereinafter:-

"56. First meeting of Corporation after general elections. - The first meeting of the Corporation after a general election shall be held as early as possible after the publication of the results of the election of the councillors under section 17 and shall be convened by the Divisional Commissioner."

III. The further submission which he rests on the supra extracted provision, is that, since it is mandated therein, that the first meeting of the Corporation after the holding of the general elections, thus, is to be held as early as possible, but yet only after the declaration of the results being made in terms of Section 7-A read with Section 2 (14) of the Act of 1976, provisions whereof becomes 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 59 of 72 Neutral Citation No:=2025:PHHC:002956-DB 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.

2. Definitions.- In this Act, unless the context otherwise requires xx xx xx xx (14) "election" means and includes the entire election process commencing on and from the date of notification calling for election of Councillors and ending with the date of declaration and notification of results thereof."

IV. Therebys, he submits that the scheduled meeting for the conducting of indirect elections to the respective office of the Mayor, Senior Deputy Mayor and Deputy Mayor, is required to be deferred till the apposite declaration of results are made in terms of Section 7-A read with Section 2 (14) of the Act of 1976, whereas, since the apposite declaration of results to the supra 7 wards of the Municipal Corporation, Patiala, rather has not been made. Consequently, he submits that in case yet the appositely announced election programme is yet permitted to continue, therebys a pervasive breach would be caused to the supra statutory provisions.

REASONS FOR REJECTING THE SAID SUBMISSIONS

20. The reasons for rejecting the said submissions are inter alia founded upon the hereinafter premises:-

60 of 72 Neutral Citation No:=2025:PHHC:002956-DB I. On a combined reading being made of the supra provisions embodied respectively in Section 56 and Section 7-A of the Act of 1976, though gives arousal to the inference, that the first meeting of the Corporation after the holding of the general elections is to take place as early as possible. However, the taking place of the said meeting, is to happen only after the publication of results of the elections of the Councillors, who are so elected in terms of Section 7-A of the Act of 1976.

Moreover, though the elections to the 7 wards have not taken place, but the non-conducting of elections theretos nor any declaration of apposite result in respect thereof, rather cannot lead to an inference that there can be any deferment of the announced election programme, thus, for conducting indirect elections to the respective offices of the Mayor, Senior Deputy Mayor and Deputy Mayor of the Municipal Corporation, Patiala.

II. Though Section 7-A of the Act of 1976 speaks about the conducting of general elections or the conducting of elections to fill up the casual vacancies of the Councillors in the Corporation. However, if this Court concludes, that till the said apposite elections, as become generated through passing of the supra order by the learned Contempt Bench of this Court, thus, are held, rather thereupto, no meeting is amenable to be held, thus for therebys, indirect elections to the respective offices of the Mayor, Senior Deputy Mayor and Deputy Mayor, being conducted. Resultantly, therebys this Court would be untenably 61 of 72 Neutral Citation No:=2025:PHHC:002956-DB interdicting the transaction of business of the Corporation, which is to take place in the Corporation meetings, and in respect whereof, the procedure so established is the one embodied in Chapter V of the Act of 1976. Moreover, if the said done, therebys this Court would be derogating from the supra inferences, wherebys this Court has, prima facie, concluded that the supra deferment made vis-a-vis the direct elections to the 7 wards of Municipal Corporation, Patiala, but was in transgression of the supra established norms in the supra detailed verdicts.

III. The engraftment of the supra Chapter in the Act of 1976, is with a purposive legislative intent, to ensure that the business of the Corporation becomes conducted by the supra respectively indirectly elected Mayor, Senior Deputy Mayor and Deputy Mayor. Since the precursor to the conducting of the transaction of the Corporation stems from the elections to the offices of the Mayor, Senior Deputy Mayor and Deputy Mayor, becoming successfully concluded. Therefore, for ensuring that the transaction of the business of the Corporation becomes not withheld, merely on account of this Court accepting the supra submissions addressed before this Court by the learned counsel for the petitioners, thereupon the hereinafter ill-consequences would ensue:-

(a) The democratic functioning of the affairs of the Municipal Corporation, thus becoming severely affected, whereby but damage would be caused to the democratic

62 of 72 Neutral Citation No:=2025:PHHC:002956-DB functioning of democratic institutions, which are established both under the Constitution and the makings of enactment supra.

(b) The said constitutional purpose besides the supra statutory purpose, is required to be furthered, than becoming stalled, which would so happen in case this Court accepts the supra ill-submissions addressed before this Court by the learned counsel for the petitioners.

IV. A detailed reading of the provisions as embodied in Sections 55, 57, 58, 59 and 60, provisions whereof are extracted hereinafter:

"55. Transaction of business by the Corporation meetings. - (1) The Corporation shall ordinarily hold at least one meeting in every month for the transaction of business.

(2) The Mayor or in his absence the Senior Deputy Mayor, and in the absence of both, the Deputy Mayor may, whenever he thinks fit, and shall upon a requisition in writing by not less than one-fourth of the total number of councillors, convene a special meeting of the Corporation.

(3) Any meeting may be adjourned until the next or any subsequent date, and an adjourned meeting may be further adjourned in like manner.

57. Notice of meetings and business. - A list of the business to be transacted at every meeting except at an adjourned meeting shall be sent to the registered address of each councillor at least seventy-two hours before the time fixed for such meeting and no business shall be brought before or transacted at, any meeting other than 63 of 72 Neutral Citation No:=2025:PHHC:002956-DB the business of which a notice has been so given:

Provided that any councillor may send or deliver to the Corporation Secretary notice of any resolution going beyond the matters mentioned in the notice given of such meeting so as to reach him at least forty-eight hours before the date fixed for the meeting and the Corporation Secretary shall with all possible despatch take steps to circulate such resolution to every councillor in such manner as he may think fit.

Explanation. - In this section 'registered address' means the address for the time being entered in the register of addresses of councillors maintained in this behalf by the Corporation Secretary.

58. Quorum. - (1) The quorum necessary for the transaction of business at a meeting of the Corporation shall be one-third of the total number of members.

(2) If at any time during a meeting of the Corporation there is no quorum it shall be the duty of the Mayor or the person presiding over such meeting either to adjourn the meeting or to suspend the meeting until there is a quorum. (3) Where a meeting has been adjourned under sub- section (2), the business which would have been brought before the original meeting if there had been a quorum present thereat, shall be brought before, and may be transacted at an adjourned meeting, whether there is quorum present or not.

59. Presiding Officer. - (1) The Mayor or in his absence, the Senior Deputy Mayor, and in the absence of the both, the Deputy Mayor shall preside at every meeting of the Corporation.

(2) In the absence of the Mayor and both the Deputy Mayors from the meeting, the members present shall elect one from among their own number to preside.

(3) The Mayor or the person presiding over a meeting 64 of 72 Neutral Citation No:=2025:PHHC:002956-DB shall have and exercise a second or a casting vote in all cases of equality of votes.

60. Meeting for election of Mayor. - Notwithstanding anything contained in section 59 -

(a) meeting for the election of a Mayor shall be convened by the Divisional Commissioner who shall also nominate a council who is not a candidate for such election to preside over the meeting;

(b) if during the election of Mayor it appears that there is any equality of votes between any candidates at such election and that the addition of a vote would entitle any of those candidates to be elected as Mayor, then the person presiding over the meeting shall decide between them by lot to be drawn in the presence of the candidates and in such manner as he may determine, and the candidate on whom the lot falls shall be deemed to have received an additional vote."

21. Does beget the hereinafter extracted inferences:-

(i). A reading of Section 58 as relates to the requisite quorum, for the effective transaction of the apposite business, thus taking place at a meeting of the Corporation, when makes plain speakings, that the requisite quorum, is to become comprised to the extent of at least one-third of the total number of members making their participation in the convened meeting.

However, to the considered mind of this Court, the requisite quorum supra, is necessary only for transacting the business of the Corporation, but only after the indirect elections qua the respective offices supra, becoming conducted. Therefore therebys, there cannot be any ill-stalling vis-a-vis the 65 of 72 Neutral Citation No:=2025:PHHC:002956-DB transactions of the business of the Corporation, thus, through any restraint being made against the respondents to make any pauses, in the appositely notified election programme, thus till the announcement of results takes place in respect of the 7 wards of the Municipal Corporation, Patiala.

(ii). The further reasons for stating so becomes also garnered, from the factum, that the subsequent thereto provision embodied in Section 59 of the Act of 1976, when declare that the said meetings are to be presided over by a Mayor or in his absence, by the Senior Deputy Mayor, and in the absence of the both, by the Deputy Mayor. Therefore, the quorum prescribed in Section 58 of the Act of 1976, is only meant for transacting the business of the Corporation. The transaction of the business of the Corporation, as reiteratedly as stated supra would occur only when the directly elected Councillors concerned, thus, become respectively elected as Mayor, Senior Deputy Mayor and Deputy Mayor, hence by the electoral college concerned.

(iii). Tritely, the provisions of Section 58 of the Act of 1976, do not appertain to the said quorum being also satisfied when meetings are held for electing a Mayor, Senior Deputy Mayor and Deputy Mayor. Therefore, the provisions embodied in Section 60 of the Act of 1976 rather is the one which is relevant for deciding whether the instantly convened meeting, thus, was ordered to be convened in terms thereof. Though, the said provision states only about the convened meeting relating to the election of a Mayor. Nonetheless, the provisions relating 66 of 72 Neutral Citation No:=2025:PHHC:002956-DB to the convening of the meeting, thus, for electing the Mayor, Senior Deputy Mayor and the Deputy Mayor, becomes embodied in Section 38 of the Act of 1976, provisions whereof become extracted hereinafter:-

"38. Election of Mayor, Senior Deputy Mayor, Deputy Mayor and their term of office.

- (1) The Corporation shall, in the prescribed manner, elect one of its members to be the Mayor and other two members to be the Senior Deputy Mayor and the Deputy Mayor of the Corporation.

(2) The election under sub-section (1) shall be conducted at a meeting of the Corporation to be convened immediately after the meeting held for making and subscribing oath or affirmation by the councillors under section 35 but not later than one month from the date on which election of the councillors is notified under section 17.

(2-A) The term of office of a Mayor, Senior Deputy Mayor and Deputy Mayor shall be co-terminus with their term as councillors.

(3) On the occurrence of any casual vacancy in the office of the Mayor, Senior, Deputy Mayor or Deputy Mayor, the Corporation shall within one month of the occurrence of such vacancy elect one of its members as Mayor or Senior Deputy Mayor or Deputy Mayor, as the case may be, and every

person so elected shall hold office for the remainder of his predecessor's term of office.

(4) The Mayor or the Senior Deputy Mayor or the Deputy Mayor shall hold office from the time of his election until the election of his successor in office, unless in the meantime he resigns his office as Mayor or Senior Deputy Mayor or Deputy Mayor or his term of office as a member of the Corporation terminates in any manner or unless in the case of any of the Deputy Mayors he is elected as Mayor. They shall be eligible for re-election.

67 of 72 Neutral Citation No:=2025:PHHC:002956-DB (5) The Mayor shall be entitled to the payment of such honorarium and may be given such facilities in respect of residential accommodation, telephone, conveyance and the like as may be prescribed.

(6) The Mayor shall have access to the record of the Corporation and may issue directions to the Commissioner or call for reports from him with a view to ensuring proper implementation of the decision of the Corporation."

22. Though Section 38 of the Act of 1976 also speaks about the elections being held for electing Mayor, Senior Deputy Mayor and Deputy Mayor of the Corporation, but yet when Section 60 of the Act of 1976, also speaks about the conducting of elections to the office of the Mayor. Therefore, prima facie, though it appears that two statutory provisions with an alike purpose have been created in the Act of 1976. Resultantly, this Court is required to be discovering the legislative intent behind the incorporation of Section 38(1) in the Act of 1976 and also a similar thereto provision which exists in Section 60 of the Act of 1976, which specifically relates to the convening of a meeting for electing a Mayor.

23. In the said endeavor, this Court finds that the fine nuance qua the purpose or the intent of the legislature, to make two supra provisions, is that, qua therebys the legislature did not intend to create any apposite inter se conflict. Contrarily, the intent of the legislature appears to be well nuanced to the extent, that unless in terms of sub-Section (2) of Section 38 of the Act of 1976 and also in terms of Section 35 of the Act of 1976, provisions whereof are extracted hereinafter, rather thus, the meeting is convened, but with the condition precedent that the oath or affirmation in terms of Section 35 of the Act of 1976, thus, becoming subscribed by the 68 of 72 Neutral Citation No:=2025:PHHC:002956-DB elected Councillors concerned, that thereupons alone Section 60 of the Act of 1976 would come into play and not earlier.:-

"35. Oath or affirmation by councillors.-(1) Every councillor other than an associate councillor, shall, before taking his seat, make and subscribe at a meeting of the Corporation an oath or affirmation according to the following form namely:-

"I, A, B., having been elected [-]1 as councillor of the Municipal Corporation of ----- do swear in the name of God solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established and that I will faithfully discharge the duty upon which I am about to enter."

(2) If a person sits or votes as a councillor before he has complied with the requirements of sub-section (1), he shall be liable in respect of each day on which he so sits or votes to a penalty of three hundred rupees to be recovered as an arrear of tax under this Act."

As such, Section 60 of the Act of 1976 is not got to be read in isolation from the prior thereto supra provisions, but has to be blended therewith besides is to be read harmoniously along with the provisions as embodied in Sections 38 and 35 of the Act of 1976.

24. On making a harmonious reading of all supra statutory provisions, thereby this Court draws an inference that since in terms of sub- Section (2) of Section 38 of the Act of 1976, an imperative statutory obligation becomes cast upon the authorities concerned to:-

(a) notify a meeting for the conducting of elections to the office of the Mayor, Senior Deputy Mayor and Deputy Mayor.

(b) Thus with a condition precedent that the convening of the 69 of 72 Neutral Citation No:=2025:PHHC:002956-DB meeting for the purpose supra is to take place not later than one month from the date on which the elections of the Councillors, is notified under Section 7-A of the Act of 1976.

(c) Thus with further condition precedent that the elected Councillors in terms of Section 35 of the Act of 1976 subscribe to the oath of office.

25. Now, since it is fairly stated at the bar by the counsels concerned, that more than one month has elapsed, inter se, the apposite declaration of results and the making of the impugned notification. Moreover, when it is also fairly stated at the bar by the contesting counsels concerned, that the elected Councillors, in terms of Section 35 of the Act of 1976, have subscribed to the oath of office. Resultantly, when the provisions embodied in sub-Section (2) of Section 38 of the Act of 1976, are couched in a mandatory phraseology, whereupons there becomes cast a dire statutory obligation upon the authorities concerned, to upon the supra conditions precedent, rather becoming satisfied to, thus, proceed to draw an election programme for conducting elections to the offices of the Mayor, Senior Deputy Mayor and Deputy Mayor. Resultantly, the said announced election programme, thus, cannot be interfered, at this stage, by this Court, as thereby, gross pervasive breaches would be caused to the supra mandatory statutory provisions.

26. Now the further question which is to be answered by this Court relates to the fact that since election to supra wards, has been deferred and also when the members to the supra wards have not been elected, therefore, whether thereby the provisions supra embodied in Section 7-A of the Act of 1976 are yet required to be galvanized.

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27. The answer to the above question, is that, the supra statutory provisions, are yet to be galvanized, irrespective of the fact that the elections have not been conducted to the deferred 7

wards nor also the lack of declaration of result in respect of the said wards, which fall within the domain of the Municipal Corporation, Patiala, does materially affect, the instantly announced election programme. The reasons for so stating, is borrowed from the fact, that sub-Section (2) of Section 38 of the Act of 1976, makes trite speakings, whereby becomes enjoined a statutory obligation, upon the authority concerned, to ensure the convening of the apposite meeting, thus immediately within one month since the apposite declarations of results being made. Since the factual matrix available on record suggests that with the declaration of result being made on 21.12.2024, whereby the announced election programme becomes concluded on 24.12.2024. Therefore, within the domain of sub-Section (2) of Section 38 of the Act of 1976, the notified election programme has been ably notified, besides when the elected Councillors in terms of Section 35 of the Act of 1976, have also subscribed to the oath of office, whereupon with the apposite supra conditions precedent, thus becoming satiated. Resultantly, reiteratedly therebys, thereupon no breach can be caused to the supra mandatory statutory provisions.

28. Further, the consequent effect of the above inferences, but is that, there was no necessity to await the outcome of the results of the elections to be held to the seven remaining wards of the Municipal Corporation. The reasons for making the supra inference ensues from the fact that though Section 7-A of the Act of 1976, thus, permits the holding of election to a casual vacancy, which occurs to any of the democratically 71 of 72 Neutral Citation No:=2025:PHHC:002956-DB elected offices concerned but yet when in Chapter V, there is endowment of a latitude to the Corporation to yet transact business. Therefore, with the said statutory endowment as bestowed to the Corporation, to conduct business, even in the absence of remaining unfilled vacancies vis-a-vis the offices of the Councillors. As but a natural corollary thereto, on the same analogy, even without awaiting the results of the elections of the seven remaining wards, thus, the meeting scheduled for conducting the instant elections, thus, cannot be restrained from being so conducted. Additionally since the provisions of Section 58 of the Act of 1976 relates to the quorum only for transacting corporation business, but when the stated supra does not cover the instant aspect relating to the conducting of indirect elections to the supra offices, which, however, are to be conducted in terms of Section 38 of the Act of 1976, especially also when for the reasons supra, the conditions stated therein are evidently satisfied, therefore, at this stage, the said provision is irrelevant.

29. With the following observations, the instant writ petition stands dismissed and accordingly stands disposed of.

(SURESHWAR THAKUR)
JUDGE

JANUARY 10, 2025
d.gulati

(VIKAS SURI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

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