



**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**

**CWPIL No.115 of 2025**  
**Reserved on : 07.01.2026**  
**Decided on : 09.01.2026**

Dikken Kumar Thakur & Anr. ...Petitioners.

Versus

The State of Himachal Pradesh & Ors. ...Respondents.

Coram

***Hon'ble Mr. Justice Vivek Singh Thakur, Judge.***

***Hon'ble Mr. Justice Romesh Verma, Judge.***

*Whether approved for reporting?*<sup>1</sup> Yes.

For the petitioners : Mr. Ankush Dass Sood, Senior Advocate with Mr. Nand Lal Thakur, Mr. Mandeep Chandel, Mr. Ajay Dhiman, Mr. Khem Raj, Mr. Kiran Kumar, Mr. Ajay Sipahiya, Mr. Tarun Mehta, Mr. Udit Shaurya Kaushik, Mr. Aditya Kaushal, Mr. Vishal Verma, Mr. Vinod Kumar and Mr. Sanjeev Pathania, Advocates.

For the respondent(s) : Mr. Shrawan Dogra, Senior Advocate with Mr. Tejasvi Dogra and Mr. Mohit Sharma, Advocates, for respondents No. 1 and 4.

: Mr. Anup Rattan, Advocate General with Ms. Swati Draik, Deputy Advocate General and Mr. Shalabh Thakur, Assistant Advocate General, for respondent-State.

: Mr. Surinder Sharma, Advocate, for respondent-State Election Commission.

**Vivek Singh Thakur, Judge**

Petitioners have approached this Court in public interest for issuance of directions to the respondents to conduct elections and

<sup>1</sup> *Whether the reporters of the local papers may be allowed to see the Judgment? Yes*

complete the election process before expiry of term of Panchayati Raj Institutions in the State of Himachal Pradesh, as provided under Article 243E of the Constitution of India, seeking the following substantive reliefs: -

- “1. Issue a writ of mandamus or any other appropriate writ, order or direction, directing the Respondents to ensure that the elections to the Panchayati Raj Institutions in the State of Himachal Pradesh are conducted before the expiry of their five-year term, as mandated under Article 243-E of the Constitution of India; and/or
2. Direct the State Election Commission to forthwith notify the election schedule and take all consequential steps for holding free and fair elections to the Panchayati Raj Institutions without further delay; and/or
3. Declare that any attempt to continue the existing Panchayati Raj Institutions beyond their term of five years is unconstitutional and void ab initio; and/or”

2. Vide Notification dated 17.11.2025 (Annexure R-2/12) by By invoking powers conferred under Article 243K(1) and 243ZA(1) of the Constitution of India, Section 161 of the Himachal Pradesh Panchayati Raj Act, 1994 (in short '**PR Act**'), Section 281(1) the Himachal Pradesh Municipal Act, 1994 (in short '**MC Act**'), Section 9(1) of the Himachal Pradesh Municipal Corporation Act, 1994 (in short '**Corporation Act**') read with first proviso of Clause 2.1 of the Himachal Pradesh Panchayats and Municipalities Model Code of Conduct, 2020, Clause 12.1 of Model Code of Conduct, 2020, was enforced with immediate effect throughout the State of Himachal Pradesh by State Election Commission which reads as under:-

- “12.1 The structure, classification or area of the Panchayats and Municipalities shall not be altered after the issue of Notification by the State Election Commission enforcing this clause, till the election process is over.”

3. It is undisputed that terms of Panchayati Raj Institutions in Himachal Pradesh are going to expire on 31.01.2026, as also evident from Notification dated 17.11.2025 (Annexure R-2/12). It has been further notified in this notification that delimitation of Panchayati Raj Institutions in respect of 3577 Gram Panchayats, 90 Panchayat Samitis, 11 Zila Parishads and 71 Urban Local Bodies, has been completed and stands finally notified with further declaration that electoral rolls of 3548 Gram Panchayats and 70 Urban Local Bodies ('ULBs') have been finally prepared after following due process of law and, electoral rolls of 29 Gram Panchayats and one ULB is scheduled to be finalized on 01.12.2025 and 07.12.2025, respectively.

4. It has been further notified that term of 50 Urban Local Bodies, 4 Municipal Corporations (Dharamshala, Palampur, Mandi & Solan) and 5 Nagar Panchayats (Amb, Chirgaon, Kandaghat, Nerwa and Nirmand) are due to expire on 18.01.2026, 13.04.2026 and 16.04.2026, respectively.

5. From the material on record, it is apparent that to ensure conduct of election of Panchayati Raj Institutions before expiry of tenure of Panchayati Raj Institutions, Director, Panchayati Raj Department, vide communication dated 14.11.2024, had submitted tentative time schedule for carrying out various activities, whereby it was suggested that report to the State Election Commission along with

copy of delimitation order would be submitted during 7<sup>th</sup> July to 10<sup>th</sup> July, 2025, after completing all formalities and necessary steps, including re-organization; bifurcation of existing Panchayats; inviting creation of new Panchayats; inviting proposals for re-organization, bifurcation and creation of new Panchayats; submission of proposal to the Government; publication of proposal for inviting objections and suggestions; time to decide the objections and suggestions; communication of final proposal by Deputy Commissioner to Directorate; final notification of re-organization, bifurcation and creation of new Panchayats; letter to start process of delimitation of constituencies of PRIs; delimitation proposals and publication for inviting objections; final notification after consideration of objections and suggestion; submission of report to State Election Commission along with copy of delimitation order; undertaking exercise of reservation of seats and offices in the PRIs; and with proposal of issuance of final notification of reservation between 16<sup>th</sup> July to 21<sup>st</sup> September, 2025.

6. Vide communication dated 02.12.2024, the State Election Commission had communicated to the Director-cum-Special Secretary, Department of Panchayati Raj, to complete the entire exercise latest by 30.09.2025 to enable the Commission to start election process in accordance with order passed by the Apex Court in **Special Leave to Appeal (C) No.26468-26469 of 2024** titled as **The State of Punjab &**

**Ors. Vs. Beant Kumar & Anr. along with connected matters** vide order dated 11.11.2024.

7. Vide communication dated 01.05.2025, Director-cum-Special Secretary (Panchayati Raj) had asked all the Deputy Commissioners, Himachal Pradesh, to start delimitation process under the PR Act and the Himachal Pradesh Panchayati Raj (Election) Rules, 1994 (in short '**PR Election Rules**') and to publish the same finally on or before 31.05.2025.

8. Vide communication dated 28.02.2025, the Principal Secretary (Urban Development) to Government of Himachal Pradesh, requested the State Election Commission to extend the timeline for one more month to finalize all proposals by submitting that there are several proposals still under consideration and yet to reach final stage. In response, Secretary, State Election Commission vide letter dated 22.05.2025 had communicated that no further extension will be considered by the State Election Commission after 15.04.2025.

9. Vide communication dated 01.08.2025, preparation of electoral rolls of PRIs and Municipalities was initiated with direction to complete the draft by 27.09.2025.

10. Giving reference, regarding conducting of Census-2027 in two phases, vide communication dated 10.07.2025, Principal Secretary (Urban Development), issued a letter to all Deputy Commissioners,

Himachal Pradesh, except Lahaul & Spiti and Kinnaur, to postpone implementation/finalization of issuance of reservation roster of ULBs election till availability of latest census data.

11. Vide communication dated 11.07.2025, State Election Commission had declared the aforesaid communication dated 10.07.2025 *void ab initio* with further direction to complete the reservation process in respect of all Nagar Panchayats, Municipal Councils and Municipal Corporations, and immediately to depute staff with State Election Commission subject to supervision and control of State Election Commission so as to do all necessary acts for conducting the elections.

12. Vide order dated 08.10.2025, Chief Secretary to Government of Himachal Pradesh, as Chairman, State Executive Committee, SDMA, Himachal Pradesh, had issued order, citing the large-scale damages and losses during different heavy spells of rains, i.e. 26<sup>th</sup> June, 2025 in Dharamshala and Kullu; 30<sup>th</sup> June, 2025 and 1<sup>st</sup> July, 2025 in various parts of the Mandi district; 5-6 August, 2025 and 13-14 August, 2025, across the State; and 24-26<sup>th</sup> August, 2025 in Chamba, Kullu and Lahaul & Spiti districts, on account of 47 cloudbursts, 98 flash floods, 148 major landslides reported from different parts of the State and loss of 270 lives, full damage of 1817 houses and partial damages of 8323 houses causing total damage to

the tune of Rs.5,426/- Crores during Monsoon of 2025, to the following effect:-

“NOW THEREFORE, keeping in view the adverse situation of the damaged roads and public and private property, the undersigned as Chief Secretary-cum-Chairman of the State Executive Committee constituted under the Disaster Management Act 20025, in exercise of the powers conferred on me under **sub section (e) of Section 24 of the Act** ibid order that elections to the Panchayati Raj Institutions will be held only after restoration of proper connectivity throughout the State so that no inconvenience is caused to the general public as well as the polling personnel, and further no voter loses his right to vote because of road connectivity issues.”

13. The said order was issued exercising the powers conferred under the Disaster Manager Act, 2025 (in short '**DM Act**').

14. Respondent-State Election Commission on 10.11.2025 issued directions to all District Election Officers (Panchayat)-cum-Deputy Commissioners, Additional Deputy Commissioner, Spiti at Kaza, District Lahaul & Spiti and all the Assistant District Election Officers-cum-District Panchayat Officers, to depute responsible officers to collect various types of election material and ballot papers, required to conduct elections of Panchayati Raj Institutions, as notified on different dates for all districts (Annexure P-32).

15. On 14.11.2025, the State Election Commission issued a Press Note (Annexure P-35) inviting data for addition in the voters' list on or before 01.10.2025, including all persons who had completed 18 years of age on or before 01.10.2025, in the electoral roll .

16. In response to direction to depute the officers/officials for collecting election materials and ballot papers, officers/officials were deputed by respective District Election Officers-cum-Deputy Commissioners and they attended the office of State Election Commission, however, before collecting election material, these officers were directed by the respective Deputy Commissioners to not collect the material till further orders.

17. The State has also issued notification dated 19.11.2025 (Annexure P-37) amending the Himachal Pradesh Panchayati Raj (Election) Rules, 1994.

18. For adjudication of present petition, following provisions of Constitution of India, the Himachal Pradesh Panchayati Raj Act, 1994, the Himachal Pradesh Panchayati Raj (Election) Rules, 1994, the Disaster Manager Act, 2025 (in short '**DM Act**') and the Census Act, 1948, referred in arguments shall be relevant to be considered, which read as under:-

**A. "CONSTITUTION OF INDIA**

**243B. Constitution of Panchayats.**—(1) There shall be constituted in every State, Panchayats at the village, intermediate and district levels in accordance with the provisions of this Part.

**243D. Reservation of seats.**—(1) Seats shall be reserved for—

- (a) the Scheduled Castes; and
- (b) the Scheduled Tribes,

in every Panchayat and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Panchayat as the population of the Scheduled Castes in that Panchayat area or of the Scheduled

Tribes in that Panchayat area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Panchayat.

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

(6) Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Panchayat or offices of Chairpersons in the Panchayats at any level in favour of backward class of citizens.

**243E. Duration of Panchayats, etc.—**(1) Every Panchayat, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer.

(2) No amendment of any law for the time being in force shall have the effect of causing dissolution of a Panchayat 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 Panchayat 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 Panchayat would have continued is less than six months, it shall not be necessary to hold any election under this clause for constituting the Panchayat for such period.

(4) A Panchayat constituted upon the dissolution of a Panchayat before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Panchayat would have continued under clause (1) had it not been so dissolved.

## **B. THE HIMACHAL PRADESH PANCHAYATI RAJ ACT, 1994**

**120. Duration of Panchayats.-** (1) Every Panchayat shall continue for five years from the date appointed for its first meeting and no longer unless sooner dissolved under this Act.

(2) An election to constitute a Panchayat shall be completed-  
(a) before the expiry of its duration specified in sub-section (1); and  
(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 Panchayat would have continued is less than six months it shall not be necessary to hold any election under this clause for constituting the Panchayat for such period.

(3) A Panchayat constituted upon the dissolution of a Panchayat before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Panchayats, would have continued under sub-section (1) had it not been so dissolved.

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**128. First meeting and term of office.-** (1) First meeting of Panchayat shall be held on such date as the State Government may fix by a general or special order.

(2) Unless otherwise provided in the Act the office bearers of Panchayat shall hold office for five years from the date of the first meeting and no longer.

(3) If before the expiry of the period prescribed in sub-section (2), the Panchayat is not re-constituted, it shall stand dissolved on the expiry of the said period and the provisions of section 140 shall apply thereto for a period not exceeding six months within which the Panchayat shall be reconstituted in accordance with the provisions of this Act.

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**140. Power of State Government to dissolve Panchayats for default, abuse of power, etc.-**

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(3) On dissolution of Panchayat under sub-section (1), the following consequences shall ensue, namely:-

- (a) all the office-bearers, shall vacate their offices with effect from the date of such order;
- (b) all powers and duties of the Panchayat shall, until the Panchayat is reconstituted, be exercised and performed by such person or committee of persons as the State Government or the prescribed authority may appoint in this behalf and where a committee of persons is so appointed, the State Government or the prescribed authority shall also appoint a head of such committee; and
- (c) where a committee is appointed under clause (b), any member of such committee duly authorised by it may issue or institute or defend any action at law on behalf of or against the Panchayat.

(4) Any person appointed to exercise and perform the powers and duties of a Panchayat during the period of dissolution may receive from the Fund of the Panchayat concerned such payment for his service as the State Government may, by order, determine.

(5) A Panchayat dissolved under sub-section (1) shall be reconstituted in accordance with the provisions of this Act within six months of its dissolution. Such reconstituted Panchayat shall function for the remaining term of the Panchayat:

Provided that if the unexpired period is less than six months the reconstitution of the Panchayat shall not be done for this period.

[(6) Notwithstanding anything contained in this section, when on account of the reason that the whole of the Sabha area of the Gram

Panchayat ceases to be the Sabha area either due to its declaration as Municipal area or its inclusion in the existing Municipal area for providing better facilities to the public of the said area and also in the public interest, the State Government shall, by an order published in the Official Gazette, dissolve the Gram Panchayat from a date specified in the order.

C. THE HIMACHAL PRADESH PANCHAYATI RAJ (ELECTION) RULES, 1994

2. Definitions.- (1) In these rules, unless, there is anything repugnant in the subject or context-

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- (b) "Constituency" means a territorial constituency of a Gram Sabha, Panchayat Samiti or Zila Parishad, as the case may, for the representation of which a member is to be elected or has been elected and in relation to Pradhan or Up-Pradhan of a Gram Panchayat, shall mean the whole of Gram Sabha area;

D. THE DISASTER MANAGEMENT ACT, 2005

2. Definitions.—In this Act, unless the context otherwise requires,—

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- (d) "disaster" means a catastrophe, mishap, calamity or grave occurrence in any area, arising from natural or man made causes, or by accident or negligence which results in substantial loss of life or human suffering or damage to, and destruction of, property, or damage to, or degradation of, environment, and is of such a nature or magnitude as to be beyond the coping capacity of the community of the affected area;

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14. Establishment of State Disaster Management Authority.—(1) Every State Government shall, as soon as may be after the issue of the notification under sub-section (1) of section 3, by notification in the Official Gazette, establish a State Disaster Management Authority for the State with such name as may be specified in the notification of the State Government.

(2) A State Authority shall consist of the Chairperson and such number of other members, not exceeding nine, as may be prescribed by the State Government and, unless the rules otherwise provide, the State Authority shall consist of the following members, namely:—

- (a) the Chief Minister of the State, who shall be Chairperson, ex officio;
- (b) other members, not exceeding eight, to be nominated by the Chairperson of the State Authority;

- (c) the Chairperson of the State Executive Committee, ex officio.
- (3) The Chairperson of the State Authority may designate one of the members nominated under clause (b) of sub-section (2) to be the Vice-Chairperson of the State Authority.
- (4) The Chairperson of the State Executive Committee shall be the Chief Executive Officer of the State Authority, ex officio:

Provided that in the case of a Union territory having Legislative Assembly, except the Union territory of Delhi, the Chief Minister shall be the Chairperson of the Authority established under this section and in case of other Union territories, the Lieutenant Governor or the Administrator shall be the Chairperson of that Authority: Provided further that the Lieutenant Governor of the Union territory of Delhi shall be the Chairperson and the Chief Minister thereof shall be the Vice-Chairperson of the State Authority.

- (5) The term of office and conditions of service of members of the State Authority shall be such as may be prescribed.

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**20. Constitution of State Executive Committee.**—(1) The State Government shall, immediately after issue of notification under sub-section (1) of section 14, constitute a State Executive Committee to assist the State Authority in the performance of its functions and to coordinate action in accordance with the guidelines laid down by the State Authority and ensure the compliance of directions issued by the State Government under this Act.

- (2) The State Executive Committee shall consist of the following members, namely:—
- (a) the Chief Secretary to the State Government, who shall be Chairperson, ex officio;
- (b) four Secretaries to the Government of the State of such departments as the State Government may think fit, ex officio.

- (3) The Chairperson of the State Executive Committee shall exercise such powers and perform such functions as may be prescribed by the State Government and such other powers and functions as may be delegated to him by the State Authority.
- (4) The procedure to be followed by the State Executive Committee in exercise of its powers and discharge of its functions shall be such as may be prescribed by the State Government.

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**22. Functions of the State Executive Committee.**—(1) The State Executive Committee shall have the responsibility for implementing the National Plan and State Plan and act as the coordinating and monitoring body for management of disaster in the State.

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- (2) Without prejudice to the generality of the provisions of sub-section (1), the State Executive Committee may—

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(a) coordinate and monitor the implementation of the National Policy, the National Plan and the State Plan;

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(h) give directions to any Department of the Government of the State or any other authority or body in the State regarding actions to be taken in response to any threatening disaster situation or disaster;

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**24. Powers and functions of State Executive Committee in the event of threatening disaster situation.**—For the purpose of, assisting and protecting the community affected by disaster or providing relief to such community or, preventing or combating disruption or dealing with the effects of any threatening disaster situation, the State Executive Committee may—

(a) control and restrict, vehicular traffic to, from or within, the vulnerable or affected area;

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(e) give direction to the concerned Department of the Government of the State, any District Authority or other authority, within the local limits of the State to take such measure or steps for rescue, evacuation or providing immediate relief saving lives or property, as may be necessary in its opinion;

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(l) take such steps as the Central Government or the State Government may direct in this regard or take such other steps as are required or warranted by the form of any threatening disaster situation or disaster.

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**CHAPTER X  
OFFENCES AND PENALTIES**

**51. Punishment for obstruction, etc.**—Whoever, without reasonable cause—

- (a) obstructs any officer or employee of the Central Government or the State Government, or a person authorised by the National Authority or State Authority or District Authority in the discharge of his functions under this Act; or
- (b) refuses to comply with any direction given by or on behalf of the Central Government or the State Government or the National Executive Committee or the State Executive Committee or the District Authority under this Act,

shall on conviction be punishable with imprisonment for a term which may extend to one year or with fine, or with both, and if such

obstruction or refusal to comply with directions results in loss of lives or imminent danger thereof, shall on conviction be punishable with imprisonment for a term which may extend to two years.

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**55. Offences by Departments of the Government.**—(1) Where an offence under this Act has been committed by any Department of the Government, the head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Department of the Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any officer, other than the head of the Department, such officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

**E. THE CENSUS ACT, 1948**

**4. Appointment of census staff.**—(1) The Central Government may appoint a Census Commissioner to supervise the taking of the census throughout the area in which the census is intended to be taken, and 6 [Directors of Census Operations] to supervise the taking of the census within the several States.

(2) The State Government may appoint persons as census-officers 7 [with such designations as that Government may deem necessary] to take, or aid in or supervise the taking of, the census within any specified local area and such persons, when so appointed, shall be bound to serve accordingly.

(3) A declaration in writing, signed by any authority authorised by the State Government in this behalf, that any person has been duly appointed a census-officer for any local area shall be conclusive proof of such appointment.

(4) The State Government may delegate to such authority as it thinks fit the power of appointing census-officers conferred by sub-section (2).

**[4A. Staff of every local authority to be made available for taking census.**—Every local authority in a State shall, when so directed by a written order by the Central Government or by an authority appointed by that Government in this behalf, make available to any Director of Census Operations such staff as may be necessary for the performance of any duties in connection with the taking of census.]

**Apart from above, following Rules have also been referred:-**

(a). Rule 4 of H.P. Election Rules provides limit of constituencies of the Gram Sabha; Rule 5 provides proposal open for inspection in the office of the Gram Panchayat, Panchat Samiti within the territorial jurisdiction by affixing a copy of the same at two conspicuous places within such Sabha area for inviting public objections thereon within 7 days.

(b). Rule 6 provides disposal of objections and passing of final order within 7 days.

(c). Rule 8 provides delimitation of constituencies of a Panchayat Samiti, proposal of de-limitation, inviting objections and deciding the objections by the Deputy Commissioner in the same manner like Gram Sabha.

(d). Similarly Rule 9 provides de-limitation of constituencies, publication of de-limitation of Constituencies of Zila Parishad and deciding of objections in same manner.

(e). Rule 10 provides appeal from order of the Deputy Commissioner to the Divisional Commissioner within 10 days which shall be decided after giving opportunity of being heard to appellant within 15 days and final publication of de-limitation under Rule 11.

(f). Rule 28 provides procedure for reservation of seats in the Panchayats.

19. Referring provisions of Article 243E of the Constitution, it has been contended on behalf of the petitioners that allowing to continue the existing Panchayati Raj Institutions ('PRIs') beyond their term of 5 years, is unconstitutional and *void ab initio*.

20. Learned counsel for the petitioners to substantiate the plea has relied upon directions passed by Apex Court in ***Special Leave to Appeal (C) No.26468-26469 of 2024*** titled as ***The State of Punjab & Ors. Vs. Beant Kumar & Anr. along with connected matters*** vide order dated 11.11.2024, whereby taking into consideration the Constitutional Scheme mandates, directions passed by a Division Bench of Punjab and Haryana High Court to State of Punjab to notify the election programmes in respect of all Municipal Corporations, Municipalities and Nagar Panchayats in a time-bound manner, was upheld, and State Election Commission, Punjab and State of Punjab was directed to commence the election process within two weeks and to complete the same within eight weeks thereafter, with rider that no further extension shall be granted.

21. Reliance has also been placed on behalf of the petitioners on the judgment passed in Constitutional Bench of the Apex Court in ***Kishansing Tomar vs. Municipal Corporation of the City of Ahmedabad & Ors.***, reported in ***(2006) 8 SCC 352***, ***Suresh Mahajan vs. State of Madhya Pradesh & Anr.***, reported in ***(2022) 12 SCC 770***

and **Rahul Ramesh Wagh vs. State of Maharashtra & Ors.**, reported in **(2022) 12 SCC 798**.

22. Following paragraphs of *Kishansing Tomar (supra)* are relevant to be referred:-

“21. It is true that there may be certain man-made calamities, such as rioting or breakdown of law and order, or natural calamities which could distract the authorities from holding elections to the Municipality, but they are exceptional circumstances and under no circumstance the Election Commission would be justified in delaying the process of election after consulting the State Govt. and other authorities. But that should be an exceptional circumstance and shall not be a regular feature to extend the duration of the Municipality. Going by the provisions contained in Article 243-U, it is clear that the period of five years fixed thereunder to constitute the Municipality is mandatory in nature and has to be followed in all respects. It is only when the Municipality is dissolved for any other reason and 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 elections for constituting the Municipality for such period.

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25. From the reading of the said provisions it is clear that the powers of the State Election Commission in respect of conduct of elections is no less than that of the Election Commission of India in their respective domains. These powers are, of course, subject to the law made by Parliament or by State Legislatures provided the same do not encroach upon the plenary powers of the said Election Commissions.

26. The State Election Commissions are to function independent of the concerned State Governments in the matter of their powers of superintendence, direction and control of all elections and preparation of electoral rolls for, and the conduct of, all elections to the Panchayats and Municipalities.

27. Article 243 K (3) also recognizes the independent status of the State Election Commission. It states that upon a request made in that behalf the Governor shall make available to the State Election Commission "such staff as may be necessary for the discharge of the functions conferred on the State Election Commission by clause (1). It is accordingly to be noted that in the matter of the conduct of elections, the concerned government shall have to render full assistance and co-operation to the State Election Commission and respect the latter's assessment of the needs in order to ensure that free and fair elections are conducted.

28. Also, for the independent and effective functioning of the State Election Commission, where it feels that it is not receiving the cooperation of the concerned State Government in discharging its constitutional obligation of holding the elections to the Panchayats or Municipalities within the time mandated in the Constitution, it will be open to the State Election Commission to approach the High Courts, in the first instance, and thereafter the Supreme Court for a writ of mandamus or such other appropriate writ directing the concerned State Government to provide all necessary cooperation and assistance to the State Election Commission to enable the latter to fulfil the constitutional mandate.”

23. Following paragraphs of *Suresh Mahajan (supra)* are also relevant to be referred:-

“9. Despite such constitutional mandate, the reality in the State of Madhya Pradesh as of now, is that, more than 23,263 local bodies are functioning without the elected representatives for last over two years and more. This is bordering on break down of rule of law and more so, palpable infraction of the constitutional mandate qua the existence and functioning of such local self-government, which cannot be countenanced.

10. The fact that the State legislature has effected amendments in the concerned enactment(s) authorizing the State Government to determine the number and extent of wards to be constituted in the local bodies within the State also cannot be a tangible or legitimate ground to not notify the election programme within the time-frame specified by the Constitution and the law made by the Legislature in that regard.

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.

12. Therefore, we direct the State Election Commission by way of interim order, to issue election programme without any further delay on the basis of the wards as per the delimitation done in the

concerned local bodies when the elections had become due consequent to expiry of 5 (five) years term of the outgoing elected body or before coming into force of the impugned Amendment Act(s) whichever is later. On that notional basis, the State Election Commission ought to proceed without any exception in respect of concerned local bodies where elections are due or likely to be due in the near future without waiting even for the compliance of triple test by the State Government for providing reservation to Other Backward Classes. We have no manner of doubt that only such direction would meet the ends of justice and larger public interests consistent with the constitutional mandate that the local self-government must be governed by the duly elected representatives uninterrupted except in case of its dissolution before expiry of the term on permissible grounds.

13. For, until the triple test formality is completed "in all respects" by the State Government, no reservation for Other Backward Classes can be provisioned; and if that exercise cannot be completed before the issue of election programme by the State Election Commission, the seats (except reserved for the Scheduled Castes and Scheduled Tribes which is a constitutional requirement), the rest of the seats must be notified as for the General Category.

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19. In view of the above, we have no hesitation in directing the Madhya Pradesh State Election Commission to proceed on notional basis and issue election programme in respect of concerned local body by reckoning the delimitation/formation of wards thereof as on the date when the election of the concerned local body had "in fact" become due or before coming into force of the (impugned) Amendment Act, which is under-challenge before this Court in the present proceedings, whichever is later.

20. The State election Commission must do so not later than two weeks from today. The State Government shall extend adequate logistical support to the State Election Commission for accomplishing the task in terms of this order."

24. Following paragraphs of *Rahul Ramesh Wagh (supra)* are also relevant to be referred: -

"6. However, we called upon the learned counsel for the Maharashtra State Election Commission to explain as to why the elections in large number of local bodies (around 2486) across the State of Maharashtra, though overdue, and in some cases even overdue for two years, have not been taken forward despite the peremptory direction given by this Court vide successive orders, including dated 03.03.2022<sup>2</sup>. The response of the State Election

<sup>2</sup> Vikas Kishanrao Gawali v. State of Maharashtra, (2022) 12 SCC 795

Commission was that it had taken steps in right earnest until the Amendment Act(s) came into force; and further until the delimitation is done by the State Government under the stated Amendment Act(s), it was not possible for it to proceed in the matter.

7. In the background of this submission, we observe and hold that the process of delimitation being a continuous exercise may be continued by the State of Maharashtra, subject to the outcome of these petitions, but that would be relevant only for future elections after such exercise is completed. For that, the elections of local bodies (around 2486) which had become due on expiry of five years term and required to be conducted before expiry of such term in terms of Article 243-E and 243-U of the Constitution of India, including Sections 6 and 6(B) read with Section 452A(2) of the Maharashtra Municipal Corporation Act and related provisions in other enactments governing elections of local bodies, the conduct of elections of such local bodies cannot brook any delay. This mandate is expounded by the Constitution Bench of this Court in *Kishansing Tomar v. Ahmedabad Municipal Corpn.*<sup>3</sup>, SCC paras 12 to 14 and 22 to 28, in particular.

8. Accordingly, the election programme of such local bodies must proceed and the State Election Commission is obliged to notify the election programme within two weeks from today in respect of such local bodies including to continue with the process from the stage as on 10.3.2022, on the basis of the delimitation done prior to coming into force of the Amendment Act(s) w.e.f. 11.03.2022. In other words, the delimitation as it existed prior to 11.03.2022 in respect of concerned local bodies be taken as notional delimitation for the conduct of overdue elections and to conduct the same on that basis in respect of each of such local bodies.

9. Insofar as providing reservation for scheduled castes and scheduled tribes, the mandate of the Constitution and statutory provision must be followed; and in so far as other backward classes, compliance of triple test as predicated by this Court in *Vikas Kishanrao Gawali v. State of Maharashtra*<sup>4</sup> must be adhered to. Absent such compliance, no reservation can be provided in the local bodies for that category which may go for elections with immediate effect in terms of this order.”

25. In response to petition by the State of Himachal Pradesh, referring destructions in natural calamities during Monsoon in 2025 stated, in order dated 08.10.2025 issued by Chairman, SDMA, Himachal Pradesh (Chief Secretary to Govt. of H.P.), it has been

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<sup>3</sup> (2006) 8 SCC 352

<sup>4</sup> (2021) 6 SCC 73

contended that reliance placed upon by the petitioners on Article 243E of the Constitution is narrow and isolated and it cannot override a Central Statute (DM Act) enacted specifically to address emergent situations involving public safety with further submission that State is also on verge of entering harsh winter season having severe effect in some District, like Lahaul & Spiti, Kinnaur, Kullu, Chamba, Shimla and upper regions of Mandi. It was further submitted that decision of SDMA does not extend the term of Panchayati Raj Institutions indefinitely and State is committed for holding elections at earliest feasible date.

26. It has been further contended that order dated 08.10.2025 issued by Chairman, SDMA, H.P., is legal and valid, and the Chairman was competent to issue the said order in view of provisions of Section 2(d), 14, 20, 22(h), 24(e), 24(l) as well Section 72 of the DM Act, with further submission that Section 72 of the DM Act clearly provides that provisions of the Act shall have overriding effect over any other law in force and the said statutory supremacy has neither been assailed by the petitioners nor taken into account at the time of filing the petition.

27. It has been also contended that in view of Section 51 and 55 of DM Act, officers of the State as well as State Election Commission are constrained to abide by the orders passed by the SDMA to avoid punishment provided for violation of notification/orders issued/passed under the DM Act.

28. It has been contended that, on account of destruction caused by natural calamities, even in *Kishansing Tomar's case* (supra), the Apex Court recognized the justification for delay in election process in exceptional circumstances, such as those prevailing in Himachal Pradesh.

29. It has been further contended on behalf of the respondent-State that necessary exercise of re-organization and delimitation of Panchayats under the P.R. Act has already been undertaken for all districts. However, the same remains pending in respect of Panchayat Samiti Fatehpur, Panchayat Samiti Bamson, and one Zila Parishad seat in Hamirpur due to specific legal and administrative reasons, and that the delay in conducting the elections is not intentional.

30. Judgment dated 05.12.2025 passed by this Division Bench in **CWP No.13810 of 2025** titled as **Devinder Singh Negi vs. State of Himachal Pradesh & Ors.** has also been cited as cause of delay to finalize the delimitation of Zila Parishads for quashing of amendment in Rule 9(2) of PR Election Rules and setting aside notification dated 31.05.2025, notifying the delimitation of constituencies of Zila Parishad, Shimla.

31. By referring para 63 of judgment in *Devinder Singh Negi's case* (supra), it has been contended this Division Bench has observed that State Election Commission cannot thrust upon its decision by

issuing notification dated 17.11.2025 in view of order dated 08.10.2025 issued by Chairman, SDMA.

32. It has been further contended that in view of order dated 19.11.2025 passed in CWP No.6074 of 2025, delimitation notification of Nagar Panchayat Nagrota Surian has also been set aside with direction to the State to consider the objection of the people of the area within specified time.

33. It has been further contended that there are several other decisions of the Court in various writ petitions, whereby constitution of Municipal Corporation Baddi, re-organization of Nagar Panchayat Swarghat, Nagar Panchayat Kunihar, Nagar Panchayat Jwala Ji etc. has been set aside with direction to the State to consider the objections by the habitants of the area in a time-bound manner. Therefore, delay has been justified.

34. Reliance has also been placed on judgment passed by Coordinate Division Bench on 06.01.2021 passed in **CWP No.5987 of 2020 along with connected matters** titled as **Manish Dharmaik vs. State of Himachal Pradesh & Ors.**, whereby it has been directed that notification reserving offices in the Gram Panchayats in the State for various categories in elections to Panchayati Raj Institutions required to be published and placed in public domain on the website of State Election Commission at least three months prior to the commencement

of election process to enable timely adjudication of disputes pertaining to application/rotation of election reservation roster, and therefore, it has been contended that it would not be possible to complete the entire process of elections of Panchayati Raj Institutions before expiry of term of Panchayati Raj Institutions.

35. Referring provisions of Sections 120, 128 and 140(3) to (6) of the PR Act, it has been contended that situation like present one has already been contemplated in the PR Act and combined reading of the Sections provide that in case election of Panchayati Raj Institutions is not conducted before expiry of its term/duration, then such election has to be conducted within six months after expiry of term/duration and for intervening period, the respondent-State is competent to appoint a person or Committee of persons to exercise and perform the duties of such Panchayati Raj Institutions.

36. It has been further submitted that immediately after passing of judgment in *Devinder Singh Negi's case (supra)*, vide communication dated 20.12.2025, all Deputy Commissioners have been directed to start fresh delimitation, which shall be completed within a timeframe provided in the PR Act.

37. With aforesaid submission, following tentative time schedule, for delimitation and reservation, has been projected by respondent-State as under: -

| Activity                                                          | Date                                                            |
|-------------------------------------------------------------------|-----------------------------------------------------------------|
| Letter to DCs for delimitation of constituencies/wards of PRIs    | 20.12.2025                                                      |
| Period required for DCs for publication of delimitation proposals | Approximately upto 10.01.2026                                   |
| Period for filing objections                                      | 7 days from date of publication – Approximately upto 17.01.2026 |
| Period required to inquire and consider objections by DCs         | 7 days after the last date of inviting objections – 24.01.2026  |
| For filing appeal before Div. Comm.                               | 10 days upto 04.02.2026                                         |
| Period to hear and decide the Appeal by Divisional Commissioner   | 15 days 19.02.2026                                              |
| Final publication                                                 | 5 days 24.02.2026                                               |
| Time period required for reservation                              | 30 days by 24.03.2026                                           |

38. In response to petition, the State Election Commission has also placed on record various documents, communication and orders to indicate that the State Election Commission has taken all necessary steps well within time to ensure conduct of elections of Panchayati Raj Institutions before expiry of term of Panchayati Raj Institutions.

39. Learned counsel for respondent No.2-State Election Commission, apart from the steps taken by the State Election Commission for conducting the elections within the time provided under the Constitution, has submitted that he has instructions to communicate that 100 days' time to be taken for conducting elections, after final publication of the Electoral Rolls on Form-15 and Form-17 by submitting two plans 'A' and 'B', which reads as under:-

**“A.** Time line for conduct of general elections to PRIs as per delimitation completed in accordance with directions issued by Panchayati Raj Department vide letter dated 01.05.2025:

| Sr. No. | Exercise to be undertaken                                   | Days required             |
|---------|-------------------------------------------------------------|---------------------------|
| 1       | Final publication of electoral rolls on Form-15 and Form-17 | 1 day                     |
| 2       | Downloading of electoral rolls of 22000 wards of PRIs/ULBs  | 10-15 days                |
| 3       | Printing/stitching/transportation of Voter List             | 25-30 days                |
| 4       | Notice for Election Programme                               | 7 days                    |
| 5       | Election Process                                            | 3-35 days                 |
| 6       | Counting of PS/ZP election and notification of results      | 3-5 days                  |
| 7       | Total time required                                         | 76-93 days (Say 100 days) |

- \* HP School Education Board conducts exams for Matriculation and +2 in the month of February and March.
- \* School premises and teaching staff will be required for the conduct of elections.
- \* HP Assembly Session usually takes place in the month of March and District administration and fileed officers have to remain present in the offices to deal with assembly business.
- \* The PRIs institutions wherein delimitation is not finalized, the Commission may be allowed to conduct the elections of these institutions as per earlier finally notified delimitation.
- \* Therefore, as per proposal **A** the commission will be in a position to conduct the elections in April, 2026 in respect of all PRIs and Municipal bodies.

**B.** Time line for conduct of general elections to PRIs if delimitation is undertaken afresh as per schedule given by the Department of Panchayati Raj in its reply to CWP.

| Sr. No. | Exercise to be undertaken                                  | Days required                     |
|---------|------------------------------------------------------------|-----------------------------------|
| 1       | Delimitation and Reservation of Wards                      | Upto 24 <sup>th</sup> March, 2025 |
| 2       | Verification of Electors                                   | 15 days                           |
| 3       | Mapping/Shifting of elector                                | 10 days                           |
| 4       | Updation of Voter List                                     | 40 days                           |
| 5       | Downloading of electoral rolls of 22000 wards of PRIs/ULBs | 10-15 days                        |
| 6       | Printing of Voter List                                     | 25-30 days                        |
| 7       | Notice for Election Programme                              | 7 days                            |
| 8       | Election Process                                           | 30-35 days                        |
| 9       | Counting of PS/ZP election                                 | 3-5 days                          |

|    |                     |                                                                |
|----|---------------------|----------------------------------------------------------------|
| 10 | Total time required | 140-157 days (Say 160 days) after 24 <sup>th</sup> March, 2026 |
|----|---------------------|----------------------------------------------------------------|

- \* As per proposal **B** the commission will be in a position to conduct the elections in August, 2026
- \* In view of monsoon season in Himachal Pradesh and disasters the Commission will have to take all precautionary measures in respect to safety and security of voters and polling personnel etc.
- \* Besides, the Census Department will start census operation from 01.05.2026 in Himachal Pradesh. Since field machinery for conduct to census and elections are the same, therefore, it will be difficult for the State Election Commission to conduct elections during this period.”

40. It is apparent from the submission and information placed on record by learned counsel for the State Election Commission that in case electoral rolls are published today and roster of the constituencies of Panchayats is also published, immediately then it would take about 100 days to complete the election process and, in such manner, election would be conducted in the month of March, 2026. It is also noticeable that in the month of March, normally Legislature Assembly Session is scheduled and Board examinations for Matriculation and +2 are to be conducted in the months of February and March. Therefore, it would be difficult to conduct the elections in the months of February and March, 2026. Thus, elections may be conducted in April, 2026.

41. According to State Election Commission, in case delimitation is taken afresh, as per schedule given by Department of Panchayati Raj in its reply filed to the writ petition, delimitation and reservation of Wards shall be completed by 24.03.2025 and thereafter, about 160 days would be required for conducting elections and in such

eventuality, elections for Panchayati Raj Institutions can be conducted in August, 2026. However, it has also been pointed out that in August 2026 it would again be monsoon season in Himachal Pradesh, and census operation is also scheduled to commence from 01.05.2026 in the State. Since the field machinery for conducting elections and census is the same, therefore, it would be difficult to conduct elections in May or thereafter.

42. It has been also contended on behalf of respondent that in view of provisions of Section 4 and 4A of the Census Act, 1948, the State is empowered to take, aid for census by appointing any person, apart from the Government official or officer and, therefore, initiation of census from 01.05.2026, shall not cause any hinderance in conducting the election during the months of May and June 2026, as proposed by the respondent-State, in aforesaid facts and circumstances, i.e. within six months period after expiry of tenure of Panchayati Raj Institutions, as provided under the PR Act.

43. Learned counsel for the petitioners in rebuttal has submitted that statutory order, cannot overrule the constitutional machinery, and therefore, order passed by Chief Secretary in the capacity of Chairman. SDMA, cannot supersede the decision/direction of the State Election Commission to proceed further to conduct the elections, particularly when there is no material to justify the order passed by the SDMA, whereas after the disasters, public life has

achieved normalcy and Government functions with huge gathering, like 3-year celebration, in the most affected District Mandi, are being organized without any problem of road connectivity and transport facility.

44. It has been further submitted that after normalcy in the life, fairs, marriage ceremonies and other social gatherings are also being celebrated by the public at large throughout Himachal Pradesh, including area badly affected by calamity.

45. Learned counsel for the petitioners has also submitted that Election Commission is ready with its material and voters list, but Government machinery has failed to cooperate and to provide proper assistance to the Election Commission to conduct election of Panchayati Raj Institutions, before expiry of duration, despite the fact that disaster is not continuing and connectivity has been completely restored.

46. It has been further submitted on behalf of petitioners that judgement passed in *Devinder Singh Negi's case (supra)* is being used as a shield by the respondents for justifying the delay, whereas even before passing of the said judgement, State machinery was acting in a manner, so as to cause delay in conduct of election of Panchayati Raj Institutions, as evident from the action of Director, Panchayati Raj as

well as Director, Urban Department, and also order dated 08.10.2025 issued by the Chief Secretary (Chairman, SDMA).

47. It has been further contended that, in case, delay is being caused because of the judgement passed in *Devinder Singh Negi (supra)*, then petitioners would be praying to recall the said judgement and to issue direction the respondents to conduct the election immediately.

48. After taking into consideration the provisions of the Constitution and the pronouncement of Apex Court referred *supra* and also issue involved in *Devinder Singh Negi's case (supra)*, we are of the opinion that observation made by this Division Bench in *Devender Negi's case* that State Election Commission cannot thrust upon its decision by issuing notification dated 17.11.2025 is *obiter dicta* and requires to be ignored. Further, in the said judgment, it is nowhere directed by the Court to conduct election after fresh delimitation of the Wards of the Zila Parishad. It is noticeable that present delimitation conducted by the respondents is based upon census of 2011. Delimitation of wards for past election conducted in 2020 was also on the basis of Census 2011, and therefore, for setting aside and quashing of delimitation notification dated 31.05.2026, the election can easily be conducted on the basis of past delimitation. Hence, there is no reason for delaying with elections of Panchayati Raj Institutions by referring judgment passed in *Devinder Singh Negi's case (supra)*.

49. In fact, none of the component of the State, including the State Election Commission has to thrust its decision upon others, but all limbs of the system involved in governance, should act harmoniously in consultation with each other by taking decisions after due consolidation and consideration of facts and circumstances, instead of deciding unilaterally causing tug-of-war between them, hampering the interest of larger public and violation of Constitutional mandate.

50. It is also noteworthy that judgement was passed on 05.12.2025, whereas Government through Deputy Commissioners, in November 2025, had caused termination of process being continued by the State Election Commission by directing the Deputy Commissioners to depute officials to collect elections material and ballot papers as the officials deputed to collect the said material were directed, at the last moment, not to collect the election material, despite the fact that officials so deputed had reached the destination to collect the material.

51. In the judgement passed in *Devinder Singh Negi's case* (*supra*), it has nowhere been stated to conduct the election or delay the election for re-delimitation of Zila Parishads in Himachal Pradesh in view of quashing of Rule 9(2) of PR Election Rules, but the authorities have been directed to do needful, as expeditiously as possible, which includes not only steps for the re-delimitation of Zila Parishads Wards, but also option of conducting election on the basis of past delimitation

of Zila Parishads Wards, because delimitation in previous election was on the basis of Census of 2011 and present delimitation is also based on Census of 2011 and thus, the data for delimitation would remain the same.

52. Even otherwise, orders passed by the Court in certain matters, delimitation and creation of Municipal Corporation Baddi, Nagar Panchayats Kunihar, Swarghat, Jhadhutta, Jwala Ji, Nagrota Surian and Panchayat Sumiti, Fatehpur, Nargota Surian as well as delimitation of Wards of Zila Parishad, cannot be used as a shield to justify inaction on the part of State, because the aforesaid cases, not more than dozen, cannot be said to have caused delay in finalizing the roster point of reservation in Panchayati Raj Institutions throughout Himachal Pradesh, because it is itself the case of respondents that the delimitation of Panchayati Raj Institutions had been completed on 31.05.2025. Even if period of natural calamity from July and August, 2025, is excluded, then also there was sufficient time to continue and complete the exercise of determining reservation roster to ensure election of Panchayati Raj Institutions before expiry of duration of Panchayats.

53. Plea of the respondent-State that it intends to act in compliance of direction issued in *Manish Dharmaik's case (supra)* to publish the reservation roster at least three months prior to commencement of election process, also does not appear to be *bona*

*fide*, because in case respondent-State was so keen to follow the said directions, the reservation roster had to be notified and published in the month of September 2025, but the material on record reflects that firstly, Director, Urban Development, in July, 2025, tried to hamper the preparation and publication of rosters by issuing letter dated 10.07.2025, and thereafter, despite objection of the State Election Commission to this letter and continuous requests made to all concerned, no steps were taken for finalizing the reservation roster in September 2025. To cover-up the inaction of the State, office order dated 08.10.2025 is appears to have been issued and further, the delay is not because of any judgement passed by the Court, but because of the attitude and intention of the officers of the State, reflecting the intention of the Government.

54. Section 120 of PR Act mandates that Panchayat shall continue for 5 years, but no longer thereafter, which indicate that no Panchayat can continue after completion of 5 years from the date appointed for its first meeting. It also provides that election to constitute a Panchayat shall be completed before the expiry of specified duration as well as before expiration of period of six months from the date of its dissolution.

55. Section 128(3) of the PR Act provides that in case Panchayat is not reconstituted, before expiry of the prescribe period, it shall stand dissolved on expiry of the said period and provisions of

Section 140 of PR Act shall apply thereto, but for a period not exceeding six months within which Panchayat shall be reconstituted in accordance with provisions of this Act.

56. In regard to aforesaid provisions, Section 140(3) to Section 140(6) of the PR Act would be relevant, in which Section 140(3)(b) provides that until reconstitution of the Panchayat, all powers and duties of Panchayat shall be exercised and performed by a person or Committee of persons appointed by State Government or prescribed authority in this behalf and Panchayat dissolved shall be reconstituted within six months of its dissolution.

57. It is apparent from the aforesaid provisions of PR Act that on expiry of duration Panchayati Raj Institutions shall be deemed to have been dissolved, because it is specifically provided that Panchayat shall continue no longer after 5 year from the date appointed for its first meeting. These provisions also indicates that from the date of dissolution, including the deemed dissolution on expiry of term, the reconstitution of Panchayat shall be completed before expiry of period of 6 months from the date of dissolution. Thus, the Rule is to conduct election/reconstitution of Panchayati Raj Institutions before expiry of tenure of 5 years and the reconstitution of Gram Panchayat after expiry of duration, but within six months thereafter, is an exception. It cannot be claimed as a matter of right, by the Government to decide to reconstitute the Panchayat after the expiry of duration, but within six

months thereafter. Therefore, the claim of the respondent-State that it has a right and authority to defer reconstitution of election for one or other reason within six months after expiry of duration, is not legal, justified, and sustainable.

58. Though, the DM Act is special Statute enacted to deal with emergent situations for disaster management, as evident from the provision of the Act, however, it is a Statute enacted by Legislation on the basis of power flowing from the Constitution. A statutory provision and order passed thereunder cannot override or supersede the constitutional provisions as well as constitutional machinery like Election Commission. Status of Election Commission is well recognized and in case of conflict between the statutory provisions/order and the constitutional provisions and orders passed by constitutional machinery, the Constitutional provisions and order passed by Constitutional Machinery shall prevail and, therefore, observations in this regard made in *Devinder Singh Negi's case (supra)* are to be read accordingly and therefore, the same cannot be used for undermining the status of Election Commission, and therefore, order passed by the Chairman, SDMA, shall not have overriding impact upon the functioning of the Election Commission. Thus, Election Commission can proceed further ignoring the order dated 08.10.2025, but definitely taking into consideration the factual matrix and the situation prevailing in the State of Himachal Pradesh. It is apt to record that nothing has been placed

on record by the respondent-State to justify the observations made in the order dated 08.10.2025 so as to reflect that the after-effects of the calamities existing as on date with such gravity and magnitude that it would not be possible to conduct elections to the Panchayati Raj Institutions in Himachal Pradesh.

59. It is also relevant to observe that it is apparent from the record that State Election Commission, consisting of State Election Commissioner is appointed by the Governor in terms of Article 243K of the Constitution to give effect the constitutional mandate of the Constitution, which includes conducting elections for reconstitution of Panchayati Raj Institutions, whereas State Disaster Management Authority is the creation of the Act and the Secretaries and Directors of the Panchayati, Raj and Urban Development are representing Executive and elected Government is representing the Legislature.

60. We the people of India have adopted a system, wherein neither Legislature nor Executive or Judiciary is supreme, but it is the Constitution and only the Constitution, which has to prevail in all eventualities. Constitutional mandate is that for the purpose of conducting elections to the Panchayat, everyone has to act in superintendence and control of Election Commission, as directed by it in pursuance to the power vested by the Constitution in the Election Commission. Therefore, action of the Director, Urban Development, Director, Panchayati Raj, Deputy Commissioners of the State, as well

as the Chief Secretary, acting as Chairman of SDMA, is contrary to the Constitutional Scheme. No doubt, for taking a decision, Election Commission has to consult other components of the State, and also has to consider all relevant factors, including the natural calamities and other problems to be faced by the stakeholders, involved in conducting the election, but the fact remains that with respect to the conduct of elections, decision of Election Commission, unless manifestly arbitrary, irrational, unconstitutional or *mala fide*, has to be abide by all.

61. The election of Panchayati Raj Institutions cannot be deferred on account of pendency of creation or re-organization of Panchayats as well as Urban Local Bodies in small pockets, in two or three Districts, i.e. Solan, Bilaspur and Kangra. Connectivity problem can also not be a reason to defer the election in entire State. The election in rest of the Himachal Pradesh can be and should have been conducted before expiry of the duration, and now at the earliest.

62. The entire material on the record creates doubt about the conduct of the officials and officers of respondent-State, giving an impression that Government is not keen to conduct the election well in time, but rather intending to defer the same for indefinite period for reasons known to them.

63. It is true that in *Beant Kumar's case (supra)* and *Kishansingh Tomar's case (supra)*, the reconstitution of Panchayati Raj

Institutions/Urban Local Bodies was pending for 2 or more than 2 years, but it cannot be claimed that, in present case, for expression of intention of the respondent-State to reconstitute the Panchayati Raj Institutions within six months after expiry of the duration, no direction to reconstitute Panchayati Raj elections, as prayed in present petition, is required to be passed. For the material on record, we are of the considered opinion, that unless appropriate direction is not passed, there is every possibility of deferring the conduct of election for further period.

64. The aforesaid impression is also fortified from the fact that respondent-State has given Proposals in the reply to complete action on its part with respect to reconstitution of Panchayati Raj Institutions by end of March 2026, whereas Election Commission is claiming that election process can be completed thereafter in the month of August 2026 only but again with certain reservations with regard to completion of election process by August 2026, because of initiation of census in month of May and apprehending heavy rains in the monsoon season.

65. It has been also stated that it is not possible to reconstitute the Panchayati Raj Institutions by conducting elections from January to March, 2026, as delimitation, creation and re-organization process of certain institutions, which will have bearing on determination of roster point, on the basis of areas and population to be included in various Wards, is pending completion after issuance of direction dated 22.12.2025 to Deputy Commissioners to initiate and complete the

delimitation process in the light of judgment passed in *Devinder Singh Negi's case (supra)*. Another reason for difficulty to conduct election in March is that there would be Board examination in the month of March.

66. Though it has been asserted on behalf of respondent-State that election would be conducted before the expiry of six months after dissolution of Panchayati Raj Institutions, but in the material on record, it appears that elections would be possible in the month of March and April 2026. It would also be apt to observe here that it is not necessary to involve teachers only in conducting the elections process, rather employees of other departments, who have no role in conducting the examination of students in schools or educational institutions, can be deputed as a major group of employees to be deployed for conducting the elections.

67. In present case, neither Secretary nor Director concern or Chief Secretary, ever consulted the Election Commission, but they took decisions, issued letters, past orders, unilaterally.

68. In order dated 08.10.2025 issued by SDMA, no factual matrix has been reflected, except the numerical detail of affected persons, families, villages and houses, at the time of natural calamity, but without verifying or discussing their condition at the time of issuance of the order. The State Election Commission, instead of calling all stakeholders on one table for discussing and deciding the issue of

reconstitution of Panchayati Raj Institutions, has issued letters declaring the letters and orders of the Executive as null and void. For duty cast upon Election Commission under the provisions of the Constitution, the Election Commission should have acted as elder brother and other limbs of the State should have cooperated with the Election Commission in order to take appropriate decision for conducting the elections. All of them should have functioned harmoniously without involving in tug-of-war. It has hampered the public interest in violation of Constitutional mandate.

69. In the schedule placed on record by the respondent-State, it has been depicted that for completion of role on its part for reconstitution of Panchayati Raj Institutions, final publication of the delimitation of Wards shall be completed by 24.02.2026, and thereafter, 30 days' time has been shown to be taken for determining reservation roster. In fact, apart from the certain Panchayati Raj Institutions, Nagar Panchayats, one Municipal Corporation and delimitation of 12 Zila Parishads, entire exercise has been completed by the State as well as State Election Commission. Electoral role is also ready for publication to invite objections and for applications to include the name of left out voters. Therefore, the exercise to determine the reservation roster in all other areas, where delimitation is already complete and has not to be undertaken afresh, respondent-State should carry on exercise of determination of reservation roster and publication therefor

simultaneously. The final re-publication of delimitation is also not to be made in the entire Himachal Pradesh, but with respect to the above referred Panchayati Raj Institutions and ULBs and thus, the reservation roster with respect to such small number of institutions can be determined in a short period, to say within less than a week, and therefore, it would be easily possible to publish reservation roster on or before 28.02.2026.

70. Similarly, time to be taken by the Election Commission, about 90 to 140 days, as reflected in Proposal A and B referred supra is also exaggerated for the same reason, as exercise pending completion is with respect to small pockets, whereas for the rest of the State, the said exercise has already been done and the election after publication of reservation roster can be conducted and completed by the Election Commission within about eight weeks.

71. In view of above discussion, State Election Commission, Panchayati Raj Department, Urban Development Department and SDMA, are directed sit together, decide together and march together, harmoniously to act in consonance with constitutional mandate for reconstitution of Panchayati Raj Institutions and ULBs by completing all process by the respondent-State's Departments by 28.02.2026 and thereafter, conduct of elections within eight weeks thereafter, i.e. or or before 30.04.2026. In this exercise, State Election Commission, through State Election Commissioner, shall perform duty of elder

brother and all others shall act in aid of Election Commission to conduct the elections in compliance of aforesaid directions and in consonance with Constitutional mandate.

72. The petition is disposed of in above terms, so also the pending application(s), if any.

**(Vivek Singh Thakur)**  
**Judge**

**(Romesh Verma)**  
**Judge.**

**9<sup>th</sup> January, 2026**  
**(Pardeep)**