



CWP-PIL-275-2024

Bhisham Kinger

Vs.

State of Punjab and others

Present : Mr. Bhisham Kinger – Petitioner in person.

Mr. J.S. Gill, Addl. Advocate General, Punjab.

Mr. H.S. Oberoi, Advocate,
for respondent No.2.

* * *

Affidavit of the State Election Commissioner, Punjab, filed by respondent No.2 in compliance with the order dated 14.01.2025 passed by this Court, is taken on record.

This is second round of litigation in respect of the same subject matter of non-holding of elections to the Municipal Councils of Talwara, Tarn Taran and Dera Baba Nanak in the State of Punjab. In the first round, which culminated into passing of order dated 14.10.2024 (Annexure P-1), this Court held that non-completion of exercise of delimitation of wards cannot come in way of holding elections to the Municipal Councils.

It is informed that tenure of Municipal Council Talwara expired on 08.09.2024, whereas that of Municipal Councils Tarn Taran and Dera Baba Nanak expired on 08.03.2020.

The said decision of this Court, rendered on 14.10.2024, was assailed before the Apex Court by the State of Punjab by way of Petition(s) for Special Leave to Appeal (C) No. 26468-26469/2024, whereby the Apex Court, vide order dated 11.11.2024 (Annexure P-2) affirmed the decision of this Court and extended further time to the State Election Commission, Punjab as well as the State of Punjab, by directing thus :

“7. Taking into consideration all the attending circumstances, we direct the State Election Commission,

Punjab and the State of Punjab to commence the election process within two weeks and complete the same within eight weeks thereafter. No further extension shall be granted.

8. *In view of the time extended by us, the petitioners shall be at liberty to apprise the High Court of the same and may accordingly seek deferment of the contempt proceedings.*

9. *The special leave petitions are disposed of in above terms.”*

This petition in the shape of Public Interest Litigation (PIL) has yet again been filed by the petitioner claiming the following reliefs :

- (i) *Issuance of an appropriate writ in the nature of MANDAMUS with a prayer for issuing directions to Respondent No.2 to immediately issue a fresh notification with the scheduled timing for conducting of Municipal Council/Committee Election in the Municipality area of Talwara, Dera Baba Nanak, and Tarn Taran as per notification dated 22.11.2024 issued by the Department of Local Government i.e., Respondent no.3 (Annexure P-3) which is to be held by end of December 2024, in the interest of justice as well as in view of the facts and circumstances mentioned in the present petition.*
- (ii) *It is further to issuance of an appropriate writ in the nature of MANDAMUS with a prayer for issuing directions to Respondent to immediately issue notification with scheduled timing for conducting of Municipal Council/Committee Election in the Municipality area of Talwara, Dera Baba Nanak, and Tarn Taran, in the interest of justice as well as in view of the facts and circumstances mentioned in the present petition.”*

After hearing learned counsel for the rival parties, it is observed that there is dispute as regards whether the time line prescribed by the Apex

Court vide order dated 11.11.2024 for completion of elections to the Municipal Councils should be counted from 22.11.2024, i.e. the date of issuance of notification under Section 13-A of the Punjab Municipal Act, 1994 (annexed with affidavit filed by respondent No.2 as Annexure R-2), or to be calculated from the date of publication of election programme. If it is calculated from the date of publication of election programme, then certainly the State Election Commission, Punjab, and the State of Punjab are in contempt of the directions of the Apex Court in terms of the time line prescribed by the Apex Court on 11.11.2024.

The petitioner is always free to invoke the appropriate jurisdiction of the Apex Court for that purpose.

Be that as it may, since *bonafides* have been shown by the State of Punjab by issuing notification under Section 13-A of the Punjab Municipal Act, 1911, on 22.11.2024, it would be appropriate to await State Election Commission, Punjab and the State of Punjab to take further steps.

It is unfortunate to note that the State of Punjab has not filed any application before the Apex Court seeking extension of time line prescribed vide order dated 11.11.2024 (Annexure P-2).

Let the State Election Commission, Punjab, inform this Court through affidavit about the steps taken pursuant to the notification dated 22.11.2024 (Annexure R-2) issued by the State of Punjab.

List on 27.01.2025.

(SHEEL NAGU)
CHIEF JUSTICE

(SUDHIR SINGH)
JUDGE

January 17, 2025
narotam