



CWP-256-2023 and connected cases

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2024:PHHC:170466-DB



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

Reserved on : 19.11.2024

Pronounced on : 19.12.2024

1. CWP-256-2023

Jai Naraiyan and Another

.....Petitioners

Versus

State of Punjab and Others

.....Respondents

Argued by: Mr. Ankur Mittal, Advocate ;
Mr. Lalit Singla, Advocate ;
Ms. Kushaldeep Kaur, Advocate ;
Mr. Siddharth Arora, Advocate ;
Ms. Saanvi Singla, Advocate
Ms. Varsha Sharma, Advocate
for the petitioner(s).

Mr. Navdeep Chhabra, Sr. DAG, Punjab
for respondents No. 1 to 5.

Ms. Anu Chatrath, Sr. Advocate with
Mr. Ratik Kapur, Advocate and
Mr. Nishant Maini, Advocate
for respondent No. 6.

2. CWP-634-2023

Rajat Kansal and Others

.....Petitioners

Versus

State of Punjab and others

.....Respondents

Argued by: Mr. Ankur Mittal, Advocate ;
Mr. Lalit Singla, Advocate ;
Ms. Kushaldeep Kaur, Advocate ;
Mr. Siddharth Arora, Advocate ;
Ms. Saanvi Singla, Advocate
Ms. Varsha Sharma, Advocate



CWP-256-2023 and connected cases

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for the petitioner.

Mr. Navdeep Chhabra, Sr. DAG, Punjab
for respondents No. 1 to 5.

Ms. Anu Chatrath, Sr. Advocate with
Mr. Ratik Kapur, Advocate and
Mr. Nishan Maini, Advocate
for respondent No. 6.

3. CWP-1383-2023 (O & M)

Sunil Kumar

.....Petitioner

Versus

State of Punjab and others

.....Respondents

Argued by: Mr. Sukhdeep Singh Bhinder, Advocate
Ms. Indira, Advocate and
Mr. K.M.Garg, Advocate
for the petitioner.

Mr. Navdeep Chhabra, Sr. DAG, Punjab
for respondents No. 1 to 5.

Ms. Monika Chhibber Sharma, Advocate
for respondent No. 6 (through video conferencing).

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

SURESHWAR THAKUR, J.

1. Since all the writ petition(s) (supra) involve common questions of facts and law, therefore, they are amenable to be decided through a common verdict.

2. For the sake of convenience, the facts of **CWP-256-2023** are taken here for deciding the instant controversy.

3. Through the instant writ petition, the petitioner(s) herein pray for the hereinafter extracted reliefs:



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*Civil Writ Petition Under Article 226/227 of the Constitution of India praying for issuance of a writ, order or direction especially in the nature of Certiorari for quashing of notification dated 23.12.2022 (Annexure P- 1) vide which the respondent Department of Local Government Punjab has made publication of limits of ward boundaries of 13 wards of Nagar Panchayat Khanauri, District Sangrur and reservation made for SC/SC Women/Women and BC category in those wards and has reserved ward no.8 for Backward Class Category, which is in violation of the law laid down by the Hon'ble Supreme Court of India in **K. Krishna Murthy (supra)**, **Vikas Kishanrao Gawali (supra)** and **Suresh Mahajan**, that the Allahabad High Court has relied upon in **Vaibhav Pandey (supra)**, as per which the State/Union Territory concerned is to fulfill the triple test conditions laid down by the Hon'ble Supreme Court of India for providing reservation to Backward Class/OBC Category in local body elections, which State of Punjab has not complied with and further considering the fact that the ward no.8 has been reserved for Backward Class category in 1994 and 2005 previously and any further reservation in that ward for BC category would be in violation of Section 8 of The Punjab Municipality Act 1911, which provides that such reservation is to be made on rotation basis to different constituencies (wards), in the interest of justice.*

AND

*Further for issuance of a Writ of Mandamus directing the respondents to declare open the seat of ward no.8 Nagar Panchayat Khanauri for general category keeping in view the law laid down by the Hon'ble Supreme Court of India in **K. Krishna Murthy (supra)**, **Vikas Kishanrao Gawali (supra)** and **Suresh Mahajan (supra)**, that the Allahabad High Court has relied upon in **Vaibhav Pandey (supra)** and the fact that the ward no.8 has been reserved for Backward Class category in 1994 and 2005 previously and any further reservation in that ward for BC category would be in violation of Section 8 of The Punjab Municipality Act 1911.*

AND

Further prayed that the respondents may kindly be restrained from finalizing draft notification dated 23.12.2022 and issuing the notification for commencing process for conducting elections of Nagar Panchayat Khanauri, District Sangrur during the pendency of



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present writ petition before this Hon'ble Court, in the interest of justice.

4. The learned counsel for the petitioner(s) submit, that the impugned draft notification dated 23.12.2022 (Annexure P-1) whereby, reservation has been made in ward No. 8 out of 13 wards of Nagar Panchayat Khanauri, District Sangrur for backward class category, is in violation of the principles set forth in the judgments passed by the Hon'ble Supreme Court of India, in case titled as **K. Krishna Murthy and Others Vs. Union of India and Another**, reported in **(2010) 7 SCC 202**; in case titled as **Vikas Kishanrao Gawali Vs. State of Maharashtra and Others**, reported in **(2021) 6 SCC 733** and in case titled as **Suresh Mahajan Vs. State of Madhya Pradesh and Another**, reported in **2022 SCC Online (SC) 589**. Therefore, they pray that the said reserved seats for the backward class category be declared to fall to the un-reserved category of candidates.

5. The relevant paragraphs as occur in the verdicts (supra) are extracted hereinafter.

K. Krishna Murthy and Others Vs. Union of India and Another

82. *In view of the above, our conclusions are:-*

(i) The nature and purpose of reservations in the context of local self-government is considerably different from that of higher education and public employment. In this sense, Articles 243-D and Article 243-T form a distinct and independent constitutional basis for affirmative action and the principles that have been evolved in relation to the reservation policies enabled by Articles 15(4) and 16(4) cannot be readily applied in the context of local self-government. Even when made, they need not be for a period corresponding to the period of reservation for purposes of Articles 15(4) and 16(4), but can be much shorter.



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(ii) Article 243-D(6) and Article 243-T(6) are constitutionally valid since they are in the nature of provisions which merely enable State Legislatures to reserve seats and chairperson posts in favour of backward classes. Concerns about disproportionate reservations should be raised by way of specific challenges against the State Legislations.

(iii) We are not in a position to examine the claims about overbreadth in the quantum of reservations provided for OBCs under the impugned State Legislations since there is no contemporaneous empirical data. The onus is on the executive to conduct a rigorous investigation into the patterns of backwardness that act as barriers to political participation which are indeed quite different from the patterns of disadvantages in the matter of access to education and employment. **As we have considered and decided only the constitutional validity of Articles 243-D(6) and 243-T(6), it will be open to the petitioners or any aggrieved party to challenge any State legislation enacted in pursuance of the said constitutional provisions before the High Court. We are of the view that the identification of 'backward classes' under Art. 243-D(6) and Art. 243-T(6) should be distinct from the identification of SEBCs for the purpose of Art. 15(4) and that of backward classes for the purpose of Art. 16(4).**

(iv) **The upper ceiling of 50% vertical reservations in favour of SC/ST/OBCs should not be breached in the context of local self-government. Exceptions can only be made in order to safeguard the interests of Scheduled Tribes in the matter of their representation in panchayats located in the Scheduled Areas.**

(v) **The reservation of chairperson posts in the manner contemplated by Article 243-D(4) and 243-T(4) is constitutionally valid. These chairperson posts cannot be equated with solitary posts in the context of public employment.**

Vikas Kishanrao Gawali Vs. State of Maharashtra and Others

13. Be that as it may, it is indisputable that the triple test/conditions required to be complied with by the State before reserving seats in the local bodies for OBCs has not been done so far. To wit, (1) to set up a dedicated Commission to conduct



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contemporaneous rigorous empirical inquiry into the nature and implications of the backwardness qua local bodies, within the State; (2) to specify the proportion of reservation required to be provisioned local body wise in light of recommendations of the Commission, so as not to fall foul of overbreadth; and (3) in any case such reservation shall not exceed aggregate of 50 per cent of the total seats reserved in favour of SCs/STs/OBCs taken together. In a given local body, the space for providing such reservation in favour of OBCs may be available at the time of issuing election programme (notifications). However, that could be notified only upon fulfilling the aforementioned pre-conditions. Admittedly, the first step of establishing dedicated Commission to undertake rigorous empirical inquiry itself remains a mirage. To put it differently, it will not be open to respondents to justify the reservation for OBCs without fulfilling the triple test, referred to above.

Suresh Mahajan Vs. State of Madhya Pradesh and Another

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.

6. The relevant constitutional provisions, as occur in the verdicts (supra) are extracted hereinafter.

243T. Reservation of seats

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

(2) Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for women



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belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.

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

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

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

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

7. It has been averred by the petitioners, that a notification was issued publishing delimitation boundaries of wards of Nagar Panchayat Khanauri, District Sangrur, thus for the information of general public and for the filing of objections by them within seven days. The area of Nagar Panchayat Khanauri has been divided into 13 wards and out of those 13 wards, ward No. 8 has been reserved for Backward Class Category. The petitioners gave objections as regards wrongful reservation of ward No.8 for Backward Class, the same being in violation of the directions passed by the Apex Court in the verdicts (supra).

8. Further, it has been averred that the State of Punjab has not complied with the directions as made by the Apex Court in the verdicts (supra), thereby the reservation made for the Backward Class category candidate in ward No. 8, Nagar Panchayat Khanauri, for the upcoming Municipal Elections, is legally impermissible.



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Common submissions of the learned counsels for the petitioner.

9. (i) The learned counsels for the petitioner(s) submits, that the State of Punjab has not set up the dedicated commission to conduct a rigorous inquiry into the nature and implication of backwardness and thus has not specified the proportion of reservation required to be provided to backward class category candidates, thus in the forthcoming elections to the local bodies.

(ii) The triple test laid down in the case of **Vikas Kishan Rao Gawali (supra)** and in the case of **Suresh Mahajan (supra)** has not been fulfilled and thus, no backward class reservation could be provided.

(iii) The seat (Ward No. 8) which was declared reserved for backward class in the upcoming election but was also reserved for the said category in the year 1994 and in the year 2005, thereby, the **principle of rotation** has been violated while reserving the said seat(s).

10. Further, the learned counsel for the petitioner(s) relied upon a judgment rendered by the Allahabad High Court in case titled as **Vaibhav Pandey Vs. State of U.P.**, to which **PIL No. 878 of 2022** becomes assigned, whereby, owing to non-compliance vis-a-vis the supra triple test, the State Government was directed to conduct the local body elections without reservations for OBC's.

Submissions of the learned Counsel for the respondents.

11. On the other hand, the learned counsel for the respondents in terms of the reply filed in CWP-256-2023 submit that :



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(i) the petitioners herein have not challenged any of the provisions of the State Legislation nor the rules made thereunders. Therefore, until and unless the provisions of the State Legislation and the Rules framed thereunders, thus are successfully challenged, therebys, the impugned notification cannot be set aside.

(ii) the State of Punjab in the light of provisions made in Section 8 of the Punjab Municipal Act, 1911 besides in compliance with the relevant provisions, has made the statue nomenclatured as '*the Delimitation of Wards of Municipality Rules, 1972*, wherebys, the triple test, as mandated in the judgments (supra) has been completely complied with.

Inferences of this Court.

12. For the reasons to be assigned hereinafter, the instant petitions deserve dismissal and as such are dismissed.

(i) **The judgment rendered by the Apex Court in K. Krishna Murthy's case (supra), though declared the constitutional mandate as occurs in Article 243-D (6) and 243-T (6) as intra vires, wherebys the State Legislatures concerned have been enabled to make provisions for reservations of seats in Municipality(ies) or to the office(s) of Chair person(s) in Municipalities, thus in favour of the Backward Classes. Tritely, the apposite legislation in terms of the said enabling constitutional provisions, has been enacted by the Punjab State Legislative Assembly, inasmuch as, the Punjab Municipal Act, 1911, becomes enacted, whereunders, the Delimitation of Wards of Municipalities Rules, 1972, do become also**



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framed. Resultantly, the principal Act and the supra thereunders made Rules, do envisage the principles for the makings delimitation of the wards, to thus bestow reverence to the apposite demographic increases, and, to also subsequently in commensurations thereof, rather create a reservation roster for therebys reservations becoming bestowed respectively to the scheduled castes, scheduled tribes, OBCs and to the backward classes. Resultantly, all supra especially the supra enacted parent Act, and, the thereunders supra framed Rules, are deemed to be made in pursuance to the supra constitutional provisions, thus enabling the Punjab State Legislative Assembly to enact all supra. In sequel, all supra become infused with a completest legislative competence.

(ii) Needless, to say that the said reservation roster which also covers candidates belonging to the category of BCs, is to conform, to the expostulations of law carried in verdict (supra), wherein, it becomes expostulated qua the quantitative limit of 50 % of vertical reservations to be made in favour of SCs, STs, OBCs, but does not become breached, thus when a roster for reserving seats is created for therebys ensuring representations in local self bodies vis-a-vis the backward class category of candidates. In essence, therebys, the creation of a reservation roster in favour of backward class category candidates, is to be in addition to the collective quantitative limit of 50 % of vertical reservations, as created in favour of SCs, STs and OBCs.



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13. Moreover, the reliance placed by the learned counsel for the petitioner upon the judgment rendered by the Allahabad High Court in Vaibhav Pandey's case (supra) is a mis-placed reliance thereons. The reason being that the directions passed by the Allahabad High Court in the said case were stayed by the Hon'ble Apex Court, on an SLP becoming filed thereagainst by the State of Uttar Pradesh. The relevant paragraphs of the verdict rendered by the Apex Court are extracted hereinafter.

6. *The High Court, by its impugned judgment dated 27 December 2022, has directed (in operative direction (C)) that:*

“(C) It is further directed that until the triple test/conditions as mandated by Hon’ble Supreme Court in K. Krishna Murthy (supra) and Vikas Kishanrao Gawali (supra) is completed in all respects by the State Government, no reservation for Backward Class of citizens shall be provided and since the term of Municipalities has either ended or shall be coming to an end by 31.01.2023 and the process of completion of triple test/conditions being arduous, is likely to take considerable time, it is directed that the State Government/State Election Commission shall notify the elections immediately. While notifying the elections the seats and offices of Chairpersons, except those to be reserved for Scheduled Castes and Scheduled Tribes, shall be notified as for general/open category.

The notification to be issued for elections shall include the reservation for women in terms of the constitutional provisions.” 3 “Commission”

7. *The above direction of the High Court, which mandates the holding of elections to local bodies in Uttar Pradesh without reserving seats for Backward Classes of citizens will result in a violation of the constitutional and statutory requirements of reservation for the OBCs. Democratization of municipalities under Article 243T and the duty to provide representation are not at competing values. Prima facie, the high court is not correct in prioritising one over the other and directing the holding of elections without the provision of representation for the Backward Classes. Democratising the*



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municipalities and true representation in the composition of the municipalities under Article 243T are both constitutional mandates. When a constitutional court is called upon to review the decisions of the State in this context, it must ensure that both these values are given full effect so that truly representative and vibrant local bodies contemplated under Part IXA of the Constitution are realised.

8 Hence, the direction needs to be stayed. Pending further orders of this Court, the operation of the above direction namely Direction (C) shall remain stayed.

14. It appears on a reading of the said expostulation of law that in the making of reservation(s) of the backward class category of candidates for the municipal bodies concerned, there was breach of the quantitative ceiling limit of 50 % reservation vis-a-vis SCs, STs and OBCs, inasmuch as, the backward class reservation becoming included with the said limit. Moreover, it also appears that the supra expostulation of law was made on the ground that the triple test supra as indicated in K. Krishna Murthy's case (supra) became not satiated.

15. Initially, since the verdict rendered by the Allahabad High Court in Vaibhav Pandey's case (supra) has been stayed by the Hon'ble Apex Court, whereby, it holds no force. Therefore, besides when in the instant case, there is no intrusion into the quantitative ceiling limit of 50 % reservation in the local self bodies, qua SCs, STs and OBCs, through within that limit, rather reservations being made for the backward class candidates. In sequel, on the said inter-se distinctive facts in Vaibhav Pandey's case (supra) thus with



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the facts at hand, therefore, the said verdict is not applicable to the instant case.

16. Tritely, in the instant case, in terms of the supra enabling constitutional provisions, the Punjab State Legislative Assembly has enacted the parent Act (supra) and also the supra thereunder rules have been formulated, whereas, it is not known whether in terms of the supra enabling constitutional provisions, thus the Uttar Pradesh State Legislative Assembly but has also enacted a law rather creating reservations in favour of the backward class candidates in the local bodies. Contrarily, when it *prima facie*, thus appears that only through an executive fiat, the apposite reservations become created in the local self bodies, thus excluding the backward class candidates, rather for want of adherence being made to the triple test as indicated in K.Krishna Murthy's case (supra). The supra exclusion was declared in supra paragraphs to thus not beget democratization of the local bodies. Moreover, thereby the directions made in the impugned verdict, qua in the notified schedule for the holding of elections, excepting the seats reserved for OBCs, SCs and STs, the remainders but without reservations being made to the backward class candidates, rather being reserved for the open category candidates, but thus also became discountenanced by the Hon'ble Apex Court.

17. Needless to say that, the above situation is not existing in the instant case. As such, the verdict passed by the Allahabad High Court in Vaibhav Pandey's case (supra), whose operation has



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been stayed by the Hon'ble Supreme Court, thus is completely inapplicable to the facts at hand. Contrarily the derivation of the supra inferences rather does oust, the argument of the learned counsel for the petitioner(s), that since certain seats became repeatedly untenably reserved for the Backward class category of candidates, therebys, the said reserved seats vis-a-vis the backward class candidates, be notified to become open for being contested by the un-reserved category of candidates.

18. Be that as it may, the dispute at hand is not in respect of the illegitimacy of reservations being created, through the reservation roster system vis-à-vis the OBCs, SC/ST categories, whereupons, whom the vertical reservations only to the extent of the quantitative ceiling limit of 50 % is to be bestowed nor the dispute relates to the said quantitative limit being breached. Contrarily the dispute in the instant case relates to the fact that despite their being no adherence to the Triple Test (supra), inasmuch as, no dedicated commission being set up to make a rigorous empirical data about the nature and implication of the backwardness qua representation to the backward class category candidates qua local bodies in the State besides also the present dispute relates to the principles of proportion of reservation required to be provisioned therein to the supra category, rather purportedly being not borne in mind.

19. However, since as stated (supra) the Apex Court in verdict (supra) after declaring intra vires the constitutional provision carried in Article 243-D (6) and in Article 243-T(6),



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whereunders, there is permissibility to endow the benefit of reservations in local bodies vis-à-vis the Backward Class category of candidates, but yet when in the supra constitutional provisions, the State Legislature also become enabled to draw legislations for therebys creating a roster reservation system in favour of the backward class category candidates. Therefore, when in terms of the said enabling constitutional provision, the Punjab State Legislative Assembly, thus has passed the supra parent Act and also the supra thereunder Rules also become enacted.

20. Therefore, when in terms of all supra, but after a de-limitation exercise becoming conducted, thus, the present impugned roster reservation system becomes evolved, whereunders, reservations have been created not only vis-à-vis those who are entitled to the supra vertical quantitative scale of reservation, but also when thereunders reservations have been created in favour of the backward class category candidates, thus in the forthcoming elections. Resultantly, when it is also been declared in the underlined portion of the judgment (supra), that when in pursuance to the supra enabling constitutional provision, thus bestowing a right upon the State Legislative Assembly to pass a legislation, thus creating reservations vis-a-vis the backward class category of candidates. Moreover, when the legislation (supra) becomes passed and also in pursuance thereto the supra rules become enacted. Therefore, when it is also been declared in the hereinabove underlined paragraph (supra), that if the de-limitation exercise has



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been completed whereafter reservations have been created in terms of the special legislation besides in terms of the Rules (supra), wherebys, yet if any grievance is brought to any party, thereupons, the remedy to the aggrieved is to challenge the State legislation concerned.

21. However, though the instant challenge has been made (in CWP-634-2023) wherebys, the roster reservation system as created through the thereunders formulated Rules (supra), but only after the undertakings of the de-limitation exercise, thus becomes alleged to become faulted, as there is repetitiveness of the impugned reservations in the relevant wards. However, the said challenge yet fails on the ground that the legislation (supra) is deemed to be done with a profound and insightful wisdom, besides is deemed to be made after consideration being made to the backwardness of the relevant category in the areas concerned. Resultantly therebys, the triple test is deemed to be complied with.

22. Conspicuously and reiteratedly when in terms of the hereinabove underlined expostulations of law, as carried in the verdict made by the Apex Court in K. Krishna Murthy's case (supra), though a challenge has been made to the parent Act (supra) besides to the thereunders enacted Rules (supra), but when the said challenge is ideally made without becoming founded upon any empirical data, disclosing therein that the legislation (supra) and the thereunders made rules, dis-regard all the parameters relating to the backwardness of the category qua whom seats became



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reserved in the forthcoming elections. Resultantly since only on the furnishing of the said data and the same becoming proven to be, prima facie, credible, qua therebys alone, the actions taking in pursuance theretos becoming amenable to become declared to become ingrained with the vices of theirs purportedly breaching the triple test (supra). Since the said data is not available, therebys, this Court is of the firm view that the impugned legislation, does not suffer from any fallibility, besides the thereunders formulated rules also cannot be declared to suffer from any fallibility.

23. Imperatively, therebys in the profound insightful view of this Court, though the triple test envisaged in the verdict (supra) requires complete adoptions thereof, but only when in terms of the supra constitutional enabling provisions endowing a constitutional privilege to the State legislatures, to pass a legislation creating thereunders reservations in favour of the backward class category candidates, rather is not passed nor also become enacted the permissible thereunders Rules, thus for all the relevant purposes. The supra triple test thus, in the contemplated wisdom of this Court was not applicable to the facts at hand, as in the instant case, the State of Punjab has passed the (supra) Act and has also passed the delegated legislations (supra), vires of both whereof, though have been challenged, but when for reasons supra, this Court has repelled the said challenge. As such, the envisaged triple test in verdict supra, is deemed to be satisfied through the passing of the legislation (supra) and the thereunders formulated rules.



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24. Moreover, when in terms thereof, the roster reservation system has been created, thus reserving seats in favour of the backward class category candidates. In addition, if the legislation has suffered discussion in the legislative assembly, thereby, the makings of discussion thereons, whereafters, the introduced therein bill, became successfully passed by the Punjab Legislative Assembly, and, whereafters also became successfully assented to, but gives sufficient room to draw an inference, that all the supra parameters relating to the makings of reservations in favour of the backward class candidates, thus becoming well contemplated besides becoming also made with a profound legislative wisdom. Therefore, since the aggrieved from the said profundity of legislative wisdom infusing the legislation (supra) and also thereunders framed Rules (supra), have failed to successfully challenge the supra. Moreover, when the challenge as has been made, is an ideally made challenge, therefore, to the considered view of this Court, the breach, if any, to the triple test is not a potent arguable point nor is required to be decided in favour of the petitioners.

25. Now the further fact which restrains this Court to interfere with the election process, which has now commenced arises from the factum that the Division bench of this Court, while pronouncing a verdict in case titled as **Beant Kumar alias Beant Kinger Vs. State of Punjab and Others**, to which **CWP-PIL-142 of 2024** becomes assigned rather has permitted the holding of elections to the local bodies



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concerned, but in terms of the already made de-limitation exercise. Therebys, and also when the said verdict 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, whereons, the hereinafter extracted order has been passed.

*2. In our considered view, the Division Bench of the High Court has correctly understood the mandate contained in Articles 243E and 243U of the Constitution of India along with the interpretation of these provisions as explained by this Court in (i) Kishan Singh Tomar vs. Municipal Corporation of CPF, Ahmedabad, (2006) 8 SCC 352; and (ii) Suresh Mahajan vs. State of Madhya Pradesh & Anr., (2022) 12 SCC 770. **The effect of these two decisions is that the proposal to undertake fresh delimitation is not a valid ground to defer the elections of the Municipalities/Nagar Panchayats if the prescribed term of five years has already expired.***

3. It goes without saying that the Constitutional Scheme mandates that the election process must commence six months before the expiry of the term of five years contemplated under Articles 243E(1) and 243U(1) of the Constitution of India. The High Court, in Paragraph 1.3, has taken note of the fact that out of 47 Municipal Corporations and Municipalities, the terms of some of such bodies expired way back in the year 2020, and in any case, the term of all other bodies had expired by March, 2023, except three Municipalities which are newly constituted.

4. That being so, the justification assigned by the petitioner State for deferring the elections on the



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ground that a fresh exercise of delimitation is required to be undertaken, is legally untenable.”

26. Resultantly this Court does not deem it fit and appropriate, to, on the above purported premise, restrain the conducting of the elections, as therebys this Court would be making contempt of the orders (supra) as passed by the Apex Court.

Final Order of this Court.

27. In aftermath, this Court finds no merit in the writ petition(s) (supra) and with the observation(s) aforesaid, the same are dismissed.

28. Since the main case itself has been decided, thus, all the pending application(s), if any, are disposed of as such.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

19.12.2024

kavneet singh

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No