

CHIEF JUSTICE AND N S SANJAY GOWDA	04/08/2021	The learned senior counsel appearing for the State Election Commission states that a meeting was convened by the State Election Commission on 28th July, 2021 and a decision shall be shortly taken on the question of issuing the calendar of events. In the case of Municipal Corporations at Belagavi, Hubballi-Dharwad and Kalaburagi and the Municipal Councils at Doddaballapur and Tarikere, the elections are overdue and there is also a breach of the constitutional mandate incorporated in sub-clause (b) of clause (3) of Article 243U of the Constitution of India. 2. After considering the decision in the case of KISHAN SINGH TOMAR .v. MUNICIPAL CORPORATION OF THE CITY OF AHMEDABAD AND OTHERS , in paragraph 4 of the order dated 17th December, 2020, this Court held thus: 4. The term of the Corporations constituted under the said Act of 1976 and the Municipal Councils constituted under the said Act of 1964 is of five years consistent with clause (1) of Article 243U of the Constitution. The Apex Court has held in the aforesaid decision that elections to the Municipalities must be held within the time specified in clause (3) of Article 243U of the Constitution and under no circumstance (barring exceptional and extraordinary circumstances like natural calamity, etc.), the elections shall be delayed. The mandate of the Constitution is that the elections must be held before the expiry of the duration of a Municipality specified in clause (1) of Article 243U." (underline supplied) 3. The learned Additional Government Advocate has placed on record a decision taken by the Cabinet on 17th May, 2021 which records that a request be made to the State Election Commission to postpone the elections of Municipal Corporations/Municipal Councils till the end of December 2021. Prima facie, we find that the State Election Commission will not be bound by the said recommendation of the State Government. Moreover, after 17th May, 2021, there is a considerable improvement in the situation created by the second wave of COVID-19. As far as the State of Karnataka is concerned, most of the restrictions on account of COVID-19 have been relaxed and even places of worship, shopping malls, etc. have been permitted to be opened. Therefore, the State Government will have to justify the decision taken in the Cabinet on 17th May, 2021 suggesting postponement of the elections of all the local bodies till December 2021. The State Government shall do so by filing an affidavit. We direct the State Election Commission to immediately take an appropriate decision regarding issuing of calendar of events in relation to Municipal Corporations and Municipal Councils referred in the order dated 19th July, 2021. List the petition on 13th August, 2021.
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