



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**

S.B. Civil Writ Petition No. 20557/2026

CNR: RJHC010869952026 | URN: CW / 35018U / 2026

Harish Kumar S/o Deva Ram Neharu, Aged About 43 Years, R/o
Colony Sanchore, Sanchore Jalore Rajasthan.

-----Petitioner

Versus

1. State Of Rajasthan, Through Secretary, Department Of
Local Self Government Rajasthan.
2. District Election Officer Cum Collector, Jalore Rajasthan.
3. Municipal Board, Sanchore District Jalore.

-----Respondents

Connected with

S.B. Civil Writ Petition No. 20725/2026

CNR: RJHC010875802026 | URN: CW / 35350U / 2026

1. Ganpat Lal S/o Poona Ram, Aged About 40 Years, R/o
Ward No. 35 Bilara Tehsil Bilara Dist. Jodhpur Raj.
2. Narayan Ram Mulewa S/o Daularam, Aged About 66
Years, R/o Ward No. 35 Bilara Tehsil Bilara Dist. Jodhpur
Raj.
3. Poona Ram S/o Poora Ram, Aged About 68 Years, R/o
Ward No. 35 Bilara Tehsil Bilara Dist. Jodhpur Raj.
4. Babulal S/o Purkha Ram, Aged About 57 Years, R/o
Ward No. 35 Bilara Tehsil Bilara Dist. Jodhpur Raj.

-----Petitioners

Versus

1. State Of Rajasthan, Through Principal Secretary Local
Self Govt. And Local Bodies Dept. Govt. Of Raj.
Secretariate Jaipur
2. Director, Local Self Govt. And Local Bodies Dept. Govt.
Of Raj. Jaipur
3. District Colelctor Cum Chief Electoral Officer, Jodhpur
4. Municipal Board, Bilara Through Its Executive Officer
Cum Authorized Officer Election
5. The Commissioner, State Election Commission Raj.
Jaipur

-----Respondents

S.B. Civil Writ Petition No. 20576/2026





CNR: RJHC010868792026 | URN: CW / 35054U / 2026

Bhagwan Singh Mertiya S/o Shri Bhanwar Singh Rathore, Aged About 40 Years, Resident Of 1012, Pratap Singh Ji Badi, Near Karni Sewa Sansthan, Indra Colony, District Bikaner (Rajasthan)-334001.

-----Petitioner

Versus

1. The State Of Rajasthan, Through Its Principal Secretary, Department Of Local Self Government, Government Secretariat, Jaipur, Rajasthan.
2. The State Election Commission, Rajasthan, Through Its Secretary, Government Of Rajasthan, Jaipur, Rajasthan.
3. The District Election Officer Cum District Collector, Bikaner, District Collectorate, Bikaner, Rajasthan.
4. The Commissioner, Municipal Corporation/municipality, Bikaner, Rajasthan.

-----Respondents

For Petitioner(s) : Mr. Moti Singh
Mr. Shyam Sunder Pareek
Mr. V.R. Choudhary
For Respondent(s) : Mr. Rajesh Panwar, Sr. Adv.-cum-AAG
assisted by Mr. Monal Chugh

JUSTICE ANOOP KUMAR DHAND
Order

21/08/2026
Reportable

1. Since a common question of law and facts is involved in all these writ petitions, which pertain to the lottery process initiated by the respondents for the purpose of reservation of seats in the forthcoming Rajasthan Municipal Elections, with the consent of learned counsel for the parties, the arguments in both the writ petitions were heard together and the same are being decided by this common order. For the sake of convenience, the facts relating to **S.B. Civil Writ Petition No. 20557/2026** are being taken





into consideration, which has been preferred with the following prayer:

"It is therefore most humbly prayed that this writ petition may kindly be allowed :

- a) That by an Order, Writ or Direction may kindly be issued for quashing and setting aside the impugned Letter dated 17.08.2026 and relevant part of the draw of re-lottery (Annexure-9) Colly. Issued by the District Election Officer cum District Collector, Jalore.
- b) That by an Order, Writ or Direction may kindly be issued for quashing and setting aside the impugned Letter dated 17.08.2026 (Annexure-10) as issued by the District Election Officer cum District Collector, Jalore.
- c) Any other Order or direction, which this Hon'ble Court deems just and proper may also be granted in favour of the petitioner."

2. Learned counsel appearing for the petitioners submits that, as per the provisions contained in the Rajasthan Municipalities Election Rules, a list was prepared and lotteries were drawn for the purpose of category-wise reservation of seats in the municipalities. Learned counsel submits that, all of a sudden, without any notice to the petitioners, a fresh exercise was undertaken and the earlier order was changed.

3. It is further submitted that now the reservation policy has not been applied in proportion to the population, as per the census of the concerned area. Hence, there is no justification for such unequal distribution of reservation amongst the municipalities. Learned counsel submits that, till date, the election process has not been initiated and only a Model Code of Conduct has been issued by way of a press note. It is, therefore, submitted that this Court can interfere with the impugned arbitrary action of the respondents.

4. Learned counsel submits that unless and until a notification is issued by the State Election Commission, it cannot be presumed





that the election process has commenced so as to bar the judicial interference. Hence, in the facts and circumstances of the case, it is contended that this Court would be justified in exercising its jurisdiction and interfering with the impugned action of the respondent.

5. Learned counsel for the petitioners further submits that, in terms of Rule 10 of the relevant Election Rules, the election process commences from the date of issuance of the notification and not from the date of declaration of the election programme.

6. Per contra, learned counsel appearing for the respondent-State opposes the prayer and taken a preliminary objection about the maintainability of the petition, in terms of the mandate contained under Article 243-ZG of the Constitution of India. He submits that after initiation of the election process, this Court has no jurisdiction to interfere with the election process.

7. Learned counsel submits that the Rajasthan State Election Commission, Rajasthan, has already declared the election programme vide order dated 19.08.2026 for conducting municipal elections in 309 different municipalities of the State of Rajasthan. It is submitted that the declaration of the date of result by the State Election Commission amounts to initiation of the election process and, in terms of the bar contained under Article 243-ZG of the Constitution of India, interference by this Court in the election process is not warranted.

8. In support of his contention, learned counsel has placed reliance upon the judgment of the Hon'ble Supreme Court in the case of **N.P. Ponnuswami v. Returning Officer, Namakkal Constituency and Ors.** reported in **(1952) 1 SCC 94**,





Mohinder Singh Gill vs. Chief Election Commissioner, New Delhi, reported in **(1978) 1 SCC 405** and the judgment of the Division Bench of the Punjab and Haryana High Court in **Harish Rai Dhanda vs. State of Punjab & Others, CWP No. 23649/2023**.

9. Learned counsel further submits that in terms of the judgment passed by the Division Bench of this Court at the Jaipur Bench, the respondents are proceeding with the election process of municipalities date wise, as scheduled and declared by the State Election Commission.

10. In rebuttal the learned counsel for the petitioners submit that the judgment rendered by the Hon'ble Supreme Court in the case of in **N.P. Ponnuswami** (supra) has subsequently been considered by the Hon'ble Supreme Court in the case of **Union Territory of Ladakh v. Jammu and Kashmir National Conference**, reported in **2023 LiveLaw (SC) 749**. He submits that, in view of the latest judgment of the Hon'ble Supreme Court, interference by this Court is warranted, particularly where the action of the respondents is alleged to be arbitrary and contrary to the provisions of law.

11. Heard learned counsel for the parties and perused the material available on record.

12. A perusal of the order dated 19.08.2026 issued by the Rajasthan State Election Commission indicates that the dates for conducting municipal elections in the State of Rajasthan have been declared and the election programme has been notified. The programme indicates that the last date for filing nominations is 31.08.2026, while the dates for withdrawal of nominations, polling





and declaration of results have also been prescribed, with the election process being scheduled to be completed between 27.08.2026 till 29.09.2026.

13. The Hon'ble Supreme Court, in the case of **N.P. Ponnuswami (supra)** has held that once the election process has initiated, upon issuance of the election programme by the Election Commission, there can be no interference by the Court in the election schedule. The five-Judge Constitution Bench of the Hon'ble Supreme Court in this case has dealt with the identical issue in para Nos. 15, 20, 24 and 25, which read as under :-

"15. The question now arises whether the law of elections in this country contemplates that there should be two attacks on matters connected with election proceedings, one while they are going on by invoking the extraordinary jurisdiction of the High Court under Article 226 of the Constitution (the ordinary jurisdiction of the courts having been expressly excluded), and another after they have been completed by means of an election petition. In my opinion, to affirm such a position would be contrary to the scheme of Part XV of the Constitution and the Representation of the People Act, which, as I shall point out latter, seems to be that any matter which has the effect of vitiating an election should be brought up only at the appropriate stage in an appropriate manner before a special tribunal and should not be brought up at an intermediate stage before any court. It seems to me that under the election law, the only significance which the rejection of a nomination paper has consists in the fact that it can be used as a ground to call the election in question. Article 329(b) was apparently enacted to prescribe the manner in which and the stage at which this ground, and other grounds which may be raised under the law to call the election in question could be urged. I think it follows by necessary implication from the language of this provision that those grounds cannot be urged in any other manner, at any other stage and before any other court. If the grounds on which an election can be called in question could be raised at an earlier stage and errors, if any, are rectified, there will be no meaning in enacting a provision like Article 329(b) and in setting up a special tribunal. Any other meaning ascribed to the words used in the article would lead to anomalies,





which the Constitution could not have contemplated, one of them being that conflicting view may be expressed by the High Court at the pre-polling stage and by the election tribunal, which is to be an independent body, at the stage when the matter is brought up before it.

20. It was argued that since the Representation of the People Act was enacted subject to the provisions of the Constitution, it cannot bar the jurisdiction of the High Court to issue writ under Article 226 of the Constitution. This argument however is completely shut out by reading the Act along with Article 329(b). It will be noticed that the language used in that article and in section 80 of the Act is almost identical, with this difference only that the article is preceded by the words 'notwithstanding anything in this Constitution.' I think that those words are quite apt to exclude the jurisdiction of the High Court to deal with any matter which may arise while the elections are in the progress.

24. It may be pointed out that Article 329(b) must be read as complimentary to clause (a) of that article. Clause (a) bars the jurisdiction of the courts with regard to such law as may be made under articles 327 and 328 relating to the delimitation of constituencies or the allotment of seats to such constituencies. It was conceded before us that Article 329(b) ousts the jurisdiction of the courts with regard to matters arising between the commencement of the polling and the final selection. The question which has to be asked is what conceivable reason the legislature could have had to leave only matters connected with nominations subject to the jurisdiction of the High Court under article 226 of the Constitution. If part XV of the constitution is a code by itself, i.e. it creates rights and provides for their enforcement by a special tribunal to the exclusion of all courts including the High Court, there can be no reason for assuming that the Constitution left one small part of the election process to be made the subject matter of contest before the High Courts and thereby upset the time schedule of the elections. The more reasonable view seems to be that article 329 covers all "electoral matters".

25. The conclusions which I have arrived at may be summed up briefly as follows :-

(1) Having regard to the important functions which the legislature have to perform in democratic countries, it has always been recognized to be a matter of first importance that elections should be concluded as early as possible according to time schedule and all controversial matters and all disputes arising out of elections should be postponed till after the elections are over, so that the election proceedings may not be unduly retarded or protracted.





(2) In conformity with this principle, the scheme of the election law in this country as well as in England is that no significance should be attached to anything which does not affect the "election :" and if any irregularities are committed while it is in progress and they belong to the category or class which, under the law by which elections are governed, would have the effect of vitiating the "election " and enable the person affected to call it in question, they should be brought up before a special tribunal by means of an election petition and not be made the subject of a dispute before any court while the election is in progress."

14. The relevant observations of the Hon'ble Supreme Court are extracted hereinbelow:

"Having regard to the important functions which the legislature have to perform in democratic countries, it has always been recognized to be a matter of first importance that elections should be concluded as early as possible according to time schedule and all controversial matters and all disputes arising out of elections should be postponed till after the elections are over, so that the election proceedings may not be unduly retarded or protracted."

15. Similar observations have been made by the Hon'ble Supreme Court in the case of Mohinder Singh Gill (supra) wherein the above principal has also been reiterated, particularly in paragraph 29, which reads as under :-

"29. Thus, there are two types of decisions, two types of challenges. The first relates to proceedings which interfere with the progress of the election. The second accelerates the completion of the election and acts in furtherance of an election. So, the short question before us, in the light of the illumination derived from Ponnuswami, is as to whether the order for re-poll of the Chief Election Commissioner is 'anything done towards the completion of the election proceeding' and whether the proceedings before the High Court facilitated the election process or halted its progress. The question immediately arises as to whether the relief sought in, the writ petition by the present appellant amounted to calling in question the election. This, in turn, revolves round the point as to whether the cancellation of the poll and the reordering of fresh poll is 'part of election' and challenging it is 'calling it in question'."

16. Considering the aforesaid settled proposition of law laid down by the Hon'ble Supreme Court, this Court is of the considered view that, upon declaration of the election programme





by the Rajasthan State Election Commission, the election process has been initiated and the bar contained under Article 243-ZG of the Constitution of India comes into operation.

17. It is a settled proposition of law that, whenever conflicting views are expressed by different Benches of the Court, the law laid down by a Bench of larger strength is binding on a subsequent Bench of lesser or equal strength. In this regard, the Hon'ble Supreme Court, in **Central Board of Dawoodi Bohra Community & Anr. v. State of Maharashtra & Anr.**, reported in **(2005) 2 SCC 673**, has laid down the following principles:

5. In Bharat Petroleum Corporation Ltd's case (supra) the Constitution Bench has ruled that a decision of a Constitution Bench of this Court binds a Bench of two learned Judges of this Court and that judicial discipline obliges them to follow it, regardless of their doubts about its correctness. At the most, they could have ordered that the matter be heard by a Bench of three learned Judges. Following this view of the law what has been declared by this Court in Pradip Chandra Parija & Ors.'s case (supra) clinches the issue. The facts in the case were that a Bench of two learned Judges expressed dissent with another judgment of three learned Judges and directed the matter to be placed before a larger Bench of five Judges. The Constitution Bench considered the rule of 'judicial discipline and propriety' as also the theory of precedents and held that it is only a Bench of the same quorum which can question the correctness of the decision by another Bench of the co-ordinate strength in which case the matter may be placed for consideration by a Bench of larger quorum. In other words, a Bench of lesser quorum cannot express disagreement with, or question the correctness of, the view taken by a Bench of larger quorum. A view of the law taken by a Bench of three judges is binding on a Bench of two judges and in case the Bench of two judges feels not inclined to follow the earlier three-Judge Bench decision then it is not proper for it to express such disagreement; it can only request the Chief Justice for the matter being placed for hearing before a three-Judge Bench which may agree or disagree with the view of the law taken earlier by the three-Judge Bench. As already noted this view has been followed and reiterated by





at least three subsequent Constitution Benches referred to hereinabove.

12. Having carefully considered the submissions made by the learned senior counsel for the parties and having examined the law laid down by the Constitution Benches in the abovesaid decisions, we would like to sum up the legal position in the following terms :-

(1) The law laid down by this Court in a decision delivered by a Bench of larger strength is binding on any subsequent Bench of lesser or co-equal strength.

(2) A Bench of lesser quorum cannot doubt the correctness of the view of the law taken by a Bench of larger quorum. In case of doubt all that the Bench of lesser quorum can do is to invite the attention of the Chief Justice and request for the matter being placed for hearing before a Bench of larger quorum than the Bench whose decision has come up for consideration. It will be open only for a Bench of co-

equal strength to express an opinion doubting the correctness of the view taken by the earlier Bench of co- equal strength, whereupon the matter may be placed for hearing before a Bench consisting of a quorum larger than the one which pronounced the decision laying down the law the correctness of which is doubted.

(3) The above rules are subject to two exceptions :
(i) The abovesaid rules do not bind the discretion of the Chief Justice in whom vests the power of framing the roster and who can direct any particular matter to be placed for hearing before any particular Bench of any strength; and

(ii) In spite of the rules laid down hereinabove, if the matter has already come up for hearing before a Bench of larger quorum and that Bench itself feels that the view of the law taken by a Bench of lesser quorum, which view is in doubt, needs correction or reconsideration then by way of exception (and not as a rule) and for reasons it may proceed to hear the case and examine the correctness of the previous decision in question dispensing with the need of a specific reference or the order of Chief Justice constituting the Bench and such listing. Such was the situation in Raghubir Singh & Ors. and Hansoli Devi & Ors. (supra)."

18. Thus the judgment rendered by a Bench of larger strength is binding. The Hon'ble Apex Court has held that in such circumstances, the strength of the Bench which rendered the





judgment is of great significance. If a judgment has been rendered by a Bench of lesser strength and in another matter, a judgment has been rendered by a Bench of higher strength, the judgment rendered by the Bench of Higher strength or the Larger Bench is binding. In view of the aforesaid settled proposition of law, as laid down in the above-noted case, this Court finds that view taken by the Constitution Bench of the Hon'ble Supreme Court in the case of *N.P. Ponnuswami (supra)* is binding.

19. In the case of *Union Territory of Ladakh (supra)*, the judgment was rendered by a two-Judge Bench of the Hon'ble Supreme Court, whereas the judgment in *N.P. Ponnuswami (supra)* was rendered by a Constitution Bench of six Hon'ble Judges. Therefore, in view of the law laid down by the Hon'ble Supreme Court in *Central Board of Dawoodi Bohra Community (supra)*, the judgment rendered by the Constitution Bench in *N.P. Ponnuswami (supra)*, being a judgment of a Bench of larger strength, would prevail and would be applicable to the facts and circumstances of the present cases.

20. Hence, this Court cannot interfere with the election process after its declaration and publication in terms of the bar contained under Article 243-ZG of the Constitution of India

21. Accordingly, the present petitions stand dismissed.

22. The stay applications as well as all pending applications (if any) also stand dismissed.

(ANOOP KUMAR DHAND),J

347-349/Arun/-

