



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. 11710 of 2026

Decided on: August 06, 2026

Ankush Indoria ...Petitioner

Versus

State Election Commission & Ors. ...Respondents

Coram:

Ms. Justice Jyotsna Rewal Dua, Judge

Whether approved for reporting? Yes.

For the petitioner : Mr. Ankush Dass Sood, Senior Advocate, with
Mr. Nand Lal Thakur and Mr. Ajay Sipahiya,
Advocates.

For the respondents : Mr. Surender Kumar Sharma, Senior Advocate
with Mr. Neeraj Sharma, Advocate, for
respondent No. 1- State Election Commission.

Mr. Anup Rattan, Advocate General with Mr.
L.N.Sharma, Addl. A.G. for respondents No. 2
& 3-State.

Jyotsna Rewal Dua, Judge

Elections to the State Panchayati Raj Institutions were recently conducted by the respondents in May, 2026. Polling for electing the Members of Panchayat Samiti, Indora, District Kangra was also conducted. The counting of votes was completed on 31.05.2026. A total of twenty-six Members were declared elected to

the Panchayat Samiti, Indora. Petitioner is one of them. The Prescribed Authority – Respondent No. 3/Sub-Divisional Officer (Civil), Indora, District Kangra [in short 'SDO(C)] issued a notice under Rules 85/86 of the Himachal Pradesh Panchayati Raj (Election) Rules, 1994 (in short the 'Rules') on 03.06.2026 conveying having scheduled meeting of Panchayat Samiti on 08.06.2026 under Section 79 of the Himachal Pradesh Panchayati Raj Act, 1994 (in short the 'Act') for administering oath/affirmation of allegiance to the elected members of the Panchayat Samiti. On the scheduled date all twenty-six elected Members attended the meeting and took oath.

Petitioner has filed this writ petition with the grievance that election of Chairman and Vice-Chairman of Panchayat Samiti, Indora has not been conducted till date; No date for conducting election has been notified by respondent No. 3. Petitioner seeks judicial review of inaction of the respondents and issuance of appropriate directions for completion of statutory election process, in accordance with law.

2. Notice of this writ petition was issued on 15.07.2026 when grievance of the petitioner was noticed as under: -

"Notice. Mr. Sidhant Negi, learned counsel and Mr. Rajat Choudhry, learned Assistant Advocate General, appear and waive

service of notice on behalf of respondent No.1 and respondents No.2 & 3, respectively. Petitioner's grievance is that the respondents, in particular respondent No.3, is not discharging its statutory duties in terms of the Himachal Pradesh Panchayati Raj Act, 1994 and the Rules framed thereunder for conducting the elections to the offices of Chairperson and Vice-Chairperson of Panchayat Samiti Indora, District Kangra. That under the Rules, a specific timeline has been prescribed for convening the elections to the aforesaid offices.

Let the needful be carried out by the respondents in accordance with law by the next date.

Reply, if any, be also filed in the meanwhile.

List on 21.07.2026."

The matter was adjourned on 21.07.2026 at the request of the respondents-State. On the next date i.e. 31.07.2026, respondent No. 3 filed reply.

Respondent No. 3 in his reply has primarily taken twofold defence for having not convened meeting of the elected Members of the Panchayat Samiti for election of Chairman and Vice-Chairman viz. (i) Timeline of one week provided under Rule 85(1)(a) of the Rules for holding election of Chairman and Vice-Chairman of the Panchayat Samiti has been omitted by notification dated 18.04.2026; and (ii) Respondent No. 3 had received verbal and written complaint concerning allegations of illegal monetary inducements and attempt to influence election process to be conducted for electing Chairman and Vice-Chairman. Reply pleads that respondent No. 3 took immediate action upon the complaint in

order to safeguard the integrity of the election process as also to ensure that election is conducted in a free, fair and transparent manner; The written complaint was pending inquiry before the Sub Divisional Police Officer, Indora (in short 'SDPO, Indora'). During pendency of the inquiry, respondent No. 3 did not deem it appropriate to convene meeting of the elected Members of the Panchayat Samiti for electing Chairman & Vice-Chairman. As per reply *"the matter is presently under inquiry before the SDPO Indora. The action of the replying respondents has been bona fide, in accordance with law, and aimed at safeguarding the integrity of the democratic process". "The replying respondents shall conduct the election of the Chairman and Vice-Chairman in accordance with law and the directions, immediately after the report is received from SDPO Indora or order, if any, issued by this Hon'ble Court. It is, emphatically denied that there has been any deliberate, arbitrary and illegal inaction or unexplained postponement on the part of respondent No. 3. The deferment of the election of Chairman and Vice-Chairman is based on bona fide in the backdrop of serious and widely publicized allegations of horse trading, use of money power and attempts to influence the elected Panchayat Samiti members, which required immediate attention and preliminary fact finding*

before proceeding with the election, in order to safeguard the integrity of the process”.

In view of the stand of respondent No. 3, vide order dated 31.07.2026, respondent No. 3 was directed to specify the authority of law in exercise of which the meeting for election of Chairman and Vice-Chairman had not been convened till date during pendency of the inquiry statedly being conducted by SDOP, Indora. The matter thereafter has been heard on the aforesaid legal question.

3. During hearing of the case, learned Advocate General placed on record office instructions dated 03.08.2026 issued from the office of respondent No. 3 which *inter alia* convey that inquiry was concluded by the SDPO and report was made available on 22.07.2026; Meeting of elected Members of the Panchayat Samiti has now been fixed on 13.08.2026 for electing Chairman and Vice-Chairman of Panchayat Samiti.

I have heard learned Senior Counsel for the petitioner, learned Senior Counsel for the State Election Commission as also learned Advocate General for the respondents-State on the limited issue of competency of Authorized Officer-Respondent No. 3 in not convening the meeting of elected Members of Panchayat Samiti for electing its Chairman and Vice-Chairman on account of alleged written complaint which was statedly pending inquiry before SDPO, Indora.

Learned Advocate General has defended the inaction of respondent No. 3 for having not convened meeting of elected Members of the Panchayat Samiti for electing Chairman and Vice-Chairman of the Panchayat Samiti with the submissions that respondent No. 3 is an Executive Magistrate; He has powers under Section 14 of Bharatiya Nagrik Suraksha Sanhita, 2023 (in short 'BNSS'); Respondent No. 3 has general executive magistracy powers at sub divisional level; A complaint (appended as Annexure R-III with reply which as per inquiry report is dated 15.07.2026) had been preferred by one Sh. Vajinder Pathania before SDPO, Indora; A copy thereof was endorsed to the State Election Commission, Deputy Commissioner, Kangra as also SDO(C) Indora-respondent No.3; The complainant had alleged attempts being made to influence election process through illegal monetary inducements and corrupt practices; Respondent No. 3 acted bonafidely and in good faith. He took into consideration the seriousness of the allegations. Such allegations of the complainant – Sh. Vajinder Pathania if found to be ultimately true would have had the potential to adversely affect the sanctity, fairness and transparency of the electoral process. Respondent No. 3 as the Executive Magistrate, empowered as such by Section 14 of BNSS felt necessity of appropriate inquiry as also verification of factual

position to ensure that election process was conducted in a free, fair and transparent manner. Learned Advocate General defended respondent No. 3's decision of not convening meeting of elected Members of the Panchayat Samiti for electing its Chairman and Vice-Chairman in view of Sections 31 to 34 of the BNSS which are as under:-

“31. Public when to assist Magistrates and police. – Every person is bound to assist a Magistrate or police officer reasonably demanding his aid—

- (a) in the taking or preventing the escape of any other person whom such Magistrate or police officer is authorised to arrest; or
- (b) in the prevention or suppression of a breach of the peace; or
- (c) in the prevention of any injury attempted to be committed to any public property.

32. Aid of person, other than police officer, executing warrant.- When a warrant is directed to a person other than a police officer, any other person may aid in the execution of such warrant, if the person to whom the warrant is directed be near at hand and acting in the execution of the warrant.

33. Public to give information of certain offences. - (1) Every person, aware of the commission of, or of the intention of any other person to commit, any offence punishable under any of the following sections of the Bharatiya Nyaya Sanhita, 2023, namely:—

- (i) sections 103 to 105 (both inclusive);
- (ii) sections 111 to 113 (both inclusive);
- (iii) sections 140 to 144 (both inclusive);
- (iv) sections 147 to 154 (both inclusive) and section 158;
- (v) sections 178 to 182 (both inclusive);
- (vi) sections 189 and 191;
- (vii) sections 274 to 280 (both inclusive);

- (viii) section 307;
- (ix) sections 309 to 312 (both inclusive);
- (x) sub-section (5) of section 316;
- (xi) sections 326 to 328 (both inclusive); and
- (xii) sections 331 and 332,

Shall, in the absence of any reasonable excuse, the burden of proving which excuse shall lie upon the person so aware, forthwith give information to the nearest Magistrate or police officer of such commission or intention.

(2) For the purposes of this section, the term "offence" includes any act committed at any place out of India which would constitute an offence if committed in India.

34. Duty of officers employed in connection with affairs of a village to make certain report. - (1) Every officer employed in connection with the affairs of a village and every person residing in a village shall forthwith communicate to the nearest Magistrate or to the officer in charge of the nearest police station, whichever is nearer, any information which he may possess respecting—

(a) the permanent or temporary residence of any notorious receiver or vendor of stolen property in or near such village;

(b) the resort to any place within, or the passage through, such village of any person whom he knows, or reasonably suspects, to be a robber, escaped convict or proclaimed offender;

(c) the commission of, or intention to commit, in or near such village any non-bailable offence or any offence punishable under section 189 and section 191 of the Bharatiya Nyaya Sanhita, 2023;

(d) the occurrence in or near such village of any sudden or unnatural death or of any death under suspicious circumstances or the discovery in or near such village of any corpse or part of a corpse, in circumstances which lead to a reasonable suspicion that such a death has occurred or the disappearance from such village of any person in circumstances which lead to a reasonable suspicion

that a non-bailable offence has been committed in respect of such person;

(e) the commission of, or intention to commit, at any place out of India near such village any act which, if committed in India, would be an offence punishable under any of the following sections of the Bharatiya Nyaya Sanhita, 2023, namely, 103, 105, 111, 112, 113, 178 to 181 (both inclusive), 305, 307, 309 to 312 (both inclusive), clauses (f) and (g) of section 326, 331 or 332;

(f) any matter likely to affect the maintenance of order or the prevention of crime or the safety of person or property respecting which the District Magistrate, by general or special order made with the previous sanction of the State Government, has directed him to communicate information.

(2) In this section,—

(i) “village” includes village lands;

(ii) the expression “proclaimed offender” includes any person proclaimed as an offender by any Court or authority in any territory in India to which this Sanhita does not extend, in respect of any act which if committed in the territories to which this Sanhita extends, would be an offence punishable under any of the offence punishable with imprisonment for ten years or more or with imprisonment for life or with death under the Bharatiya Nyaya Sanhita, 2023;

(iii) the words “officer employed in connection with the affairs of the village” means a member of the panchayat of the village and includes the headman and every officer or other person appointed to perform any function connected with the administration of the village.”

In the instructions dated 03.08.2026 placed on record by respondent No. 3, apart from highlighting the above facts concerning written complaint having been received by SDO(C),

Indora from one Sh. Vajinder Pathania and the inquiry being conducted into the aforesaid complaint by SDPO, Indora and for that reason having not convened till date the meeting of elected Members of the Panchayat Samiti for electing its Chairman and Vice-Chairman, purportedly in order to ensure holding of election process in free, fair and transparent manner, has submitted that the deferment of election was not intended to defeat or frustrate the democratic process. It was administrative decision taken in exceptional circumstances to preserve the integrity of the election process. The office instructions also convey that inquiry conducted by the SDPO, Indora was completed on 22.07.2026. In terms of the inquiry report, no material evidence or facts were found to substantiate allegations regarding horse trading, use of money power or illegal inducement, in connection with the election of Chairman and Vice-Chairman of Panchayat Samiti, Indora. No cognizable offence was found to have been committed. The allegations contained in the complaint were not substantiated. The office instructions, as noticed earlier, convey that prescribed authority has now fixed 13.08.2026 as the date for holding elections of Chairman and Vice-Chairman of Panchayat Samiti, Indora.

Learned Senior Counsel for the petitioner vehemently contended that respondent No. 3 had no power under the Act or the

applicable Rules to defer elections of Chairman and Vice-Chairman of Panchayat Samiti on the ground of a written complaint by Sh. Vajinder Pathania having been received alleging corrupt practices and pending inquiry of the foresaid complaint. Learned Senior Counsel referred to the relevant provisions of the Act, Rules as also the Constitution of India in support of his submissions.

4. Consideration

Since the legal question involved is the jurisdiction/authority of respondent No. 3/prescribed officer to defer elections of Chairman and Vice-Chairman of Panchayat Samiti that too on professed ground of written apprehension of corrupt practices that might be adopted in such elections of a complainant who himself is not a Member of the Panchayat Samiti, it is imperative to trace the legal framework.

4(i) Constitution of India

Part-IX of the Constitution of India is with the heading "The Panchayats". Article 243(d) defines 'Panchayat' as an institution (by whatever name called) of self-government constituted under Article 243B for rural areas.

- In terms of Article 243B (Constitution of Panchayats) "there shall be constituted in every State, Panchayats at the village,

intermediate and district levels in accordance with the provisions of this Part”.

- Article 243C (Composition of Panchayats) enables legislature of a State to make provisions with regard to composition of Panchayats as under:-

“243C. Composition of Panchayat.

(1) Subject to the provisions of this Part, the Legislature of a State may, by law, make provisions with respect to the composition of Panchayats:

Provided that the ratio between the population of the territorial area of a Panchayat at any level and the number of seats in such Panchayat to be filled by election shall, so far as practicable, be the same throughout the State.

(2) All the seats in a Panchayat shall be filled by persons chosen by direct election from territorial constituencies in the Panchayat area and, for this purpose, each Panchayat area shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it shall, so far as practicable, be the same throughout the Panchayat area.

(3) The Legislature of a State may, by law, provide for the representation—

- of the Chairpersons of the Panchayats at the village level, in the Panchayats at the intermediate level or, in the case of a State not having Panchayats at the intermediate level, in the Panchayats at the district level;
- of the Chairpersons of the Panchayats at the intermediate level, in the Panchayats at the district level;
- of the members of the House of the People and the members of the Legislative Assembly of the State representing constituencies which comprise wholly or

partly a Panchayat area at a level other than the village level, in such Panchayat;

(d) of the members of the Council of States and the members of the Legislative Council of the State, where they are registered as electors within—

- (i) a Panchayat area at the intermediate level, in Panchayat at the intermediate level;
- (ii) a Panchayat area at the district level, in Panchayat at the district level.

(4) The Chairperson of a Panchayat and other members of a Panchayat whether or not chosen by direct election from territorial constituencies in the Panchayat area shall have the right to vote in the meetings of the Panchayats.

(5) The Chairperson of—

- (a) a panchayat at the village level shall be elected in such manner as the Legislature of a State may, by law, provide; and
- (b) a Panchayat at the intermediate level or district level shall be elected by, and from amongst, the elected members thereof.”

- Article 243-O bars interference by Courts in electoral matters as under:-

“243-O Bar to interference by courts in electoral matters. – Notwithstanding anything in this Constitution—

- (a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 243K, shall not be called in question in any court;
- (b) no election to any Panchayat shall be called in question except by an election petition presented to such authority

and in such manner as is provided for by or under any law made by the Legislature of a State.”

4(ii) Himachal Pradesh Panchayati Raj Act, 1994 & Himachal Pradesh Panchayat Raj (Election) Rules, 1994

To determine as to whether respondent No. 3 had power/ jurisdiction to defer the elections of Chairman and Vice-Chairman of Panchayat Samiti awaiting outcome of the inquiry into a written complaint; As to whether respondent No. 3 was authorized not to convene meeting of elected Members of the Panchayat Samiti for electing Chairman and Vice-Chairman on the cited ground of seriousness of allegations levelled in the written complaint filed by Sh. Vajinder Pathania, awaiting outcome of the inquiry being conducted by SDPO, Indora, to ensure the sanctity, fairness of the electoral process – apart from above Constitutional provisions, it would be in place to refer to the relevant provisions of the Himachal Pradesh Panchayati Raj Act, 1994 as also the Himachal Pradesh Panchayat Raj (Election) Rules, 1994.

4(ii)(a) Section 77 of the Act provides for establishment of Panchayat Samiti for each Block. Section 78 provides for constitution of Panchayat Samiti. Section 79 pertains to election of Chairman and Vice-Chairman of Panchayat Samiti. Being relevant Section 79 of the Act is extracted hereinafter:-

“79. Election of Chairman and Vice-Chairman of Panchayat Samiti.-

(1) After the declaration of result of election of the elected members of the Panchayat Samiti in the prescribed manner, the Deputy Commissioner concerned or any Gazetted Officer appointed by him in this behalf shall as soon as possible but not later than one week of such declaration call under his Presidentship a meeting of all elected members for the purpose of oath, or the affirmation of allegiance under section 127.

(2) **Immediately after oath or affirmation of allegiance under section 127 is administered or made**, the elected members of a Panchayat Samiti shall, in the prescribed manner, elect one of its members to be the Chairman and another member to be the Vice-Chairman of the Panchayat Samiti:

Provided that if the office of the Chairman or Vice-Chairman, as the case may be, is vacated or falls vacant during the tenure on account of death, resignation or no-confidence motion, a fresh election within a period of two months from the date of occurrence of vacancy shall be held from the same category, in the prescribed manner.”

As per Section 79, immediately after oath or affirmation of allegiance is administered, the elected Members of a Panchayat Samiti are to elect in the prescribed manner one of its Members to be the Chairman and another as Vice-Chairman of the Panchayat Samiti.

4(ii)(b) Chapter-IX of the Rules pertains to election of Chairman and Vice-Chairman of Panchayat Samiti. Rule 85 thereof falling under Chapter-IX is regarding ‘meeting for election’ and reads as under (relevant portion only):-

“85. Meeting for election.-

(1) After the declaration of results of the elected members of the Panchayat Samiti, the Deputy Commissioner concerned or any other officer authorised by him in this behalf except Block Development and Panchayat Officer shall fix a date of meeting under his presidentship (hereinafter referred to as Presiding Officer) for the purposes of oath or the affirmation of allegiance under section 127 of the Act 3 as soon as possible, but not later than one week of the declaration of results as per section 79 of the Act.

(1-A) After oath or affirmation of allegiance under sub-rule (1) is administered or made, the Deputy Commissioner concerned or any other officer authorized by him in this behalf except Block Development Officer shall call under his Presidentship a meeting of all elected members to elect one of its members to be the Chairman and another member to be the Vice-Chairman of the Panchayat Samiti: Provided that separate notices shall be issued for calling the meeting for oath of allegiance and the meeting for the election of Chairman or the Vice Chairman.

(1-B) As soon as possible but not later than seven days after the declaration of occurrence of the casual vacancy in the office of the Chairman or the Vice-Chairman or both, as the case may be, the Deputy Commissioner concerned or any other officer, except the Secretary of the Panchayat Samiti, authorised by him in this behalf shall call under his presidentship a meeting of all elected members to elect the Chairman or the Vice-Chairman or both, as the case may be:

Provided that if, owing to a natural calamity of great severity or a grave situation of law and order or a war or aggression by another country against India affecting the relevant area in Himachal Pradesh or any other cause

beyond human control, it is not possible to hold such meeting within seven days, the government may allow such meetings to be held after seven days, but not later than thirty days after the occurrence of the vacancy in question.

- (2) The Presiding Officer shall issue a notice to all the members entitled to take part in the proceedings in Form-40.
- (3) A copy of such notice shall be exhibited on the notice board of the Panchayat Samiti Office.
- (4) The Notice shall be dispatched at least five days before the date of meeting at their permanent address and shall contain the date, time, place and purpose of the meeting.
- (5) No quorum shall be required for the meeting for the purpose of oath or affirmation of allegiance under sub-rule (1). Quorum for the meeting for the purpose of election of Chairman or Vice Chairman or both, as the case may be, shall be two-third of the total elected members. If within two hours after the time appointed for the meeting, the quorum is not present, the meeting shall be adjourned. In the event of adjournment of the first meeting for want of quorum, the second meeting shall be convened and if the second meeting is also adjourned for want of quorum, the subsequent meetings shall be convened and action under clause (b) of sub-section (1) of section 146 of the Act shall be taken against those members who will not attend subsequent meetings for which specific mention shall be made in the notices of such meetings. Quorum for the second and subsequent meetings shall be the simple majority of the total elected members."

Under the un-amended Rule 85(1-A) the authorized officer was to convene the meeting of elected Members to elect Chairman and Vice-Chairman "as soon as possible but not later than seven days".

The words “as soon as possible but not later than seven days” have been omitted vide notification dated 18.04.2026.

Learned Senior Counsel for the respondent-State Election Commission submitted that the State Election Commission had tendered its view to the respondent-State for incorporating some reasonable timeline for convening the meeting of elected Members for electing Chairman and Vice-Chairman; That the timeline should not be left to uncertainty, however, its view was not reflected in the notification issued by the State on 18.04.2026. Be that as it may, there is no challenge to notification dated 18.04.2026 in this petition. The fact remains that under Section 79 of the Act [reproduced in para 4(ii)(a)], the mandate given to the authorized officer is to “immediately after oath or affirmation of allegiance” hold meeting of elected Members of the Panchayat Samiti to enable them to elect its Chairman and Vice-Chairman. It appears that respondent No. 3 lost sight of the aforesaid statutory duty he was to discharge. The words ‘immediately after oath or affirmation of allegiance’ in the parent statute have been completely discarded by respondent No. 3 in his overzeal over interpretation of notification dated 18.04.2026 amending the Election Rules. The notification did not amend the Statute.

4(ii)(c). The justification given by respondent No. 3-authorized officer for not convening the meeting of elected Members to elect Chairman and Vice-Chairman of Panchayat Samiti is wholly misconceived. Respondent No. 3 had no such power vested in him to defer the meeting of the elected Members of the Panchayat Samiti awaiting outcome of the inquiry into allegations of apprehension of corrupt practices levelled by Sh. Vajinder Pathania in his complaint. It has not been disputed that complainant was not elected Member of the Panchayat Samiti. It is also not in dispute that none of the elected members of the Panchayat Samiti had submitted any complaint whatsoever regarding alleged corrupt practices. Giving unnecessary & undue weightage to a complaint of a person who had no direct locus on the subject matter, in the given facts & circumstances cannot be comprehended. Further, assuming that there were allegations of apprehension of corrupt practices then also it was not for respondent No. 3 to defer convening meeting of the elected Members of the Panchayat Samiti as:-

- (i) Under Section 162 of the Act (Election petition) **“No election under this Act** shall be called in question except by an election petition presented in accordance with the provisions of this chapter”.

(ii) Under Section 161 of the Act (Officers authorized to hear election petitions) “The election petitions under this Act shall be heard in the case of Gram Panchayats and Panchayat Samities, by the Sub-Divisional Officer”; and

(iii) Section 163 of the Act provides manner of presentation of petition. Any elector of a Panchayat may on furnishing the prescribed security in the prescribed manner, present within thirty days of the publication of the result, on one or more of the grounds specified in sub-section (1) of section 175, to the authorized officer an election petition in writing against the election of any person under this Act.

(iv) Section 175 delineates grounds for declaring elections to be void. Adoption of corrupt practice by the elected person or his agent or by any other person with the consent of the elected person or his agent is one of the grounds for declaring the elections as void. The provision read as under:-

“175. Grounds for declaring election to be void.-

(1) If the authorized officer is of the opinion-

(a) that on the date of his election the elected person was not qualified, or was disqualified to be elected under this Act; or

- (b) that any corrupt practice has been committed by the elected person or his agent or by any other person with the consent of the elected person or his agent; or
- (c) that any nomination has been improperly rejected; or
- (d) that the result of the election, in so far as it concerns the elected person, has been materially affected-
 - (i) by the improper acceptance of any nomination, or
 - (ii) by the improper reception, refusal or rejection of any vote or the reception of any vote which is void, or
 - (iii) by any non-compliance with the provisions of this Act or of any rule made under this Act, the authorized officer shall declare the election of the elected persons to be void.

(2) Subject to the provisions of section 175-A, when an election of an elected person has been declared to be void under sub-section (1), a fresh election shall be held under the provisions of this Act and the rules made thereunder."

- (v) As per Section 180 of the Act following shall be deemed as corrupt practices:-

"180. Corrupt practices.- The following shall be deemed to be corrupt practices for the purposes of this Chapter-

- (1) Bribery, that is to say-

(A) any gift, offer or promise by candidate or his agent or by any other person with the consent of a candidate or his agent of any gratification, to any person whomsoever, with the object, directly or indirectly of inducing-

(a) a person to stand or not to stand as, or to withdraw from being a candidate at an election; or

(b) a elector of the Panchayat area to vote or refrain from voting at an election; or as a reward to-

(i) a person for having so stood or not stood, or for having withdrawn his candidature; or

- (ii) an elector of the Panchayat area for having voted or refrained from voting;
- (B) the receipt of or agreement to receive any gratification, whether as a motive or a reward-

- (a) by a person for standing or not standing as, or for withdrawing from being, a candidate; or

- (b) by any person whomsoever for himself or any other person for voting or refraining from voting, or inducing or attempting to induce an elector of the Panchayat area to vote or refrain from voting, or any candidate to withdraw his candidature.

Explanation:- For the purposes of this clause, the term "gratification" is not restricted to pecuniary gratification or gratifications estimable in money and it includes all forms of entertainment and all forms of employment for reward but it does not include the payment of any expenses bonafide incurred at, or, for the purpose of, any election.

- (2) Under influence, that is to say, any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any other person with the consent of the candidate or his agent, with the free exercise of any electoral right:

Provided that-

- (a) without prejudice to the generality of the provisions of this clause, any such person as is referred to therein who-

- (i) threatens any candidate or a member of the Sabha, or any person in whom a candidate or such member is interested, with injury of any kind including social ostracism and excommunication or expulsion from any caste or community; or

- (ii) induces or attempts to induce a candidate of an elector of the Panchayat area to believe that he, or any person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure;

shall be deemed to interfere with the free exercise of the electoral right of such candidate or an elector of the Panchayat area within the meaning of this clause; 

(b) a declaration of public policy, or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this clause.

(3) The appeal by a candidate or his agent or by any other person with the consent of a candidate or his agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community or language or the use of, or appeal to religious symbols or the use of, or appeal to, national symbols, such as the national flag or the national emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.

(4) The promotion of or attempt to promote, feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community or language, by a candidate or his agent or any other person with the consent of a candidate or his agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.

(5) The publication by a candidate or his agent or by any other person, with the consent of a candidate or his agent, of any statement of fact which is false and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, or in relation to the candidature or, withdrawal, of any candidate, being a statement, reasonably, calculated to prejudice the prospects of the candidates election.

(6) The hiring or procuring, whether on payment or otherwise, of any vehicle by a candidate or his agent or by any other person with the consent of a candidate or his agent, for the conveyance of an elector of the Panchayat area (other than

the candidate himself, the members of his family or his agent) to or from any polling station or a place fixed for the poll.

Explanation.- In this clause, the expression 'vehicle' means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise and whether used for drawing other vehicles or otherwise.

(6-A) The incurring or authorising of expenditure in contravention of section 121-A.

(7) The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent, or by any other person with the consent of a candidate or his agent, any assistance (other than the giving of vote) for the furtherance of the prospects of that candidate's election, from any person in the service of the Government, the Government of India or the Government of any other State or a local authority."

4(ii)(d) A conjoint reading of the above provisions leaves no manner of doubt that election of Chairman and Vice-Chairman of Panchayat Samiti should be held immediately after oath or affirmation of allegiance of the elected Members of the Panchayat Samiti and the same should not be delayed. Respondent No. 3-authorized officer has no power to defer convening the meeting of elected Members of the Panchayat Samiti for electing its Chairman and Vice-Chairman more so on the ground of there being a written complaint with allegations of apprehension of corrupt practices that might be adopted in such election, from a person who was not the elected Member. Such allegations are in fact the grounds for declaring elections as void and are to be raised in the election

petition for questioning the election. Under the Act 'any election' inclusive of election of Chairman and Vice-Chairman of Panchayat Samiti can be challenged only by means of preferring an election petition. It would also be in place to refer to Chapter-XII of the Rules that deals with 'Election Disputes and Appeals'. Rule 93 thereof clearly provides that 'disputes relating to elections to Panchayats shall be disposed of in accordance with the provisions of Chapter-XI of the Act'. Sections 159 to 183, relevant provisions whereof have already been adverted to, fall under Chapter-XI of the Act.

4(iii) The submissions of learned Advocate General that Sections 14 and 31 to 33 of BNSS vest power in the authorized officer – respondent No. 3 to defer the elections of Chairman and Vice-Chairman of the Panchayat Samiti are absolutely misplaced. These provisions are neither attracted to the fact situation nor they confer power on respondent No. 3-authorized officer to sit over the mandate of specific statute i.e. Himachal Pradesh Panchayati Raj Act, 1994 and Himachal Pradesh Panchayati Raj (Election) Rules, 1994 framed there under as also the Constitutional embargo placed under Article 243-O that debars even Courts from interfering in electoral matters. The inaction of respondent No. 3 in not convening meeting of elected Members of Panchayat Samiti, Indora for electing its Chairman and Vice-Chairman virtually amounts to an

action for thwarting the functioning of a democratically elected institution by not letting the electors of Panchayat Samiti Indora to elect its Chairman and Vice-Chairman. Respondent No. 3 has defeated the statutory object & purpose by not ordering convening of meeting of elected Members immediately after their oath for electing Chairman and Vice-Chairman. Respondent No.3's action is virtually antithetical to the democratic set up of the local self governance. Executive powers of respondent No. 3 is subservient to the Constitution of India, the Himachal Pradesh Panchayati Raj Act, 1994 and the Himachal Pradesh Panchayati Raj (Election) Rules, 1994 framed there under.

5. Respondent No. 3/Sub Divisional Magistrate's action in the professed capacity of Executive Magistrate, to halt the election of Chairman and Vice-Chairman of the Panchayat Samiti, Indora on the ground of alleged apprehensions of electoral irregularities or malpractices being inquired into by the concerned Sub Divisional Police Officer is wholly untenable, manifestly illegal and contrary to rule of law. Such action lacks statutory backing. It exceeds the power conferred upon him as an Executive Magistrate and transgresses the constitutional mandate. In a democratic set up, such executive interference in the electoral process cannot be countenanced. Preventing holding of elections of Chairman and

Vice-Chairman not only impedes functioning of Panchayat Samiti but also undermines the will of the electorate. Acts of this nature cloaked with executive authority carry the imprint of authoritarianism and are antithetical to the spirit of democracy. The democratic ethos enshrined in the Constitution demand that elected institutions be allowed to function without unwarranted executive obstruction and respect for mandate of the people. In a case where a complaint concerning electoral irregularities arises and the governing law itself provides specific remedial framework as also the procedure for adjudication, it is mandatory to address grievances relating to the conduct or validity of elections through prescribed statutory mechanism and not through executive fiat.

Taking note of the fact that during the pendency of the writ petition, respondent No. 3 has now scheduled meeting of the elected Members of the Panchayat Samiti, Indora on 13.08.2026 for electing its Chairman and Vice-Chairman, the matter is left at that. Let this meeting be convened in accordance with law. Office of learned Advocate General is directed to circulate copy of this order through the office of Chief Secretary to all concerned authorized officers dealing with elections to the Panchayati Raj Institutions forthwith.

Petition stands disposed of with the aforesaid observations. Pending miscellaneous application(s), if any, to also stand disposed of.

**Jyotsna Rewal Dua,
Judge**

August 06, 2026 (PK)

High Court of HP