



RAJASTHAN HIGH COURT

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

सत्यमेव जयते

S.B. Civil Writ Petition No.19284/2026
CNR: RJHC020932542026 | URN: CW / 40121U / 2026

Anil Mittal Son Of Shri Mahaveer Prasad Mittal, Aged About 49 Years, Resident Of Ward No.17, Sardar Bazar, Kekri, District Ajmer.



-----Petitioner

Versus

1. State of Rajasthan, Through Chief Secretary, Government of Rajasthan, Secretariat, Jaipur, Rajasthan.
2. The Director General of Police, Rajasthan, Jaipur.
3. The Chief Election Commissioner, Rajasthan Election Commission, Jaipur.
4. The District Collector Cum District Election Officer, Ajmer
5. The Returning Officer, (Sub Divisional Officer Cum Sub Divisional Magistrate) Nagar Palika, Kekri, District Ajmer.

-----Respondents

For Petitioner(s)	:	Mr. R.P. Singh, Sr. Adv. assisted by Mr. Praveen Kumar Jain
For Respondent(s)	:	Mr. Rajendra Prasad, Advocate General assisted by Ms. Dhriti Laddha

JUSTICE ANOOP KUMAR DHAND

Order

21/09/2026

1. Today, it is holiday on account of Baba Ramdev Jayanti and looking to the urgency shown by the petitioner, the instant writ petition has been listed today before this Court by the orders passed by the Hon'ble Chief Justice. The Courts are not prevented from functioning even on holidays when it comes to protecting the rights of citizens, as the doors of the temple of justice never remain closed.



2. It is a well-settled principle of law that the Courts are empowered and indeed duty-bound to function even on holidays, including Sundays and public holidays, where the exigency so demands, particularly for the protection and preservation of the fundamental and legal rights of the citizens. The administration of justice cannot be fettered by the concept of holidays, for the cause of justice brooks no delay when the liberty, life and rights of a citizen are at stake. It is often said that the doors of the temple of justice are never closed and remain open for all, at all times. The Courts being the sentinel on the *qui vive* for the protection of the rights of the citizens, cannot shut its eyes or close its doors when a citizen approaches it for redressal of his grievance, even on a holiday.

3. The instant writ petition has been submitted by the petitioner with the following prayer:-

"In view of the facts and circumstances stated hereinabove, it is most respectfully prayed that this Hon'ble Court may graciously be pleased to:-

(i) issue an appropriate writ, order or direction, in the nature thereof, the respondents may be directed not to postpone the election of the Chairman, Nagar Palika, Kekri, District Ajmer, which is scheduled to be held on 21.9.2026 at 10 am and further direct the respondents not to disqualify the petitioner from contesting the election of Chairman, Nagar Palika, Kekri, District Ajmer on the basis of alleged complaint (Annexure-7) or any other reason and to conduct the election in an fair and impartial manner and respondents may be further ensure to provide security to all the voters (40) who will cast their vote in the upcoming election of Chairman, Nagar Palika, Kekri, District Ajmer.

(ii) issue an appropriate writ, order or direction, in the nature thereof, the respondents may be directed not to take any coercive action against the petitioner including his arrest and detention and protect his life and liberty;



(iii) pass any other order/orders, direction/directions, as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case, in the interest of justice;
(iv) award costs of the present writ petition in favour of the petitioner and against the respondents."



4. By way of filing the instant writ petition, multiple prayers have been made i.e. to issue direction to the respondents not to postpone the election process scheduled today i.e. 21.09.2026 at 10:00 AM on the post of Chairman, Municipal Board, Kekri, District Ajmer (for short 'the Board'); not to disqualify the petitioner from contesting the above election of Chairman of the Board, scheduled today; and not to take any coercive action against him by way of arrest depriving him from participating in today's election process.

5. Mr. R.P. Singh, Senior Counsel appearing for the petitioner submits that the petitioner has been elected as Member of the Board and has been declared as a Qualified Member of the Board by the Returning Officer. Learned Senior Counsel further submits that today the election for the post of Chairman of the Board is scheduled to be held at 10:00 AM and the petitioner is one of the candidates for contesting the election on the post of Chairman. He further submits that in the midnight of 20.09.2026 and 21.09.2026, a complaint was filed by one of the Ward Members i.e. Rajendra Kumar Choudhary to the District Election Officer, Ajmer, alleging therein that the petitioner is offering certain gratification to the Members of the Board for casting their votes in his favour. Ld. Senior Counsel further submits that in the complaint, the said complainant has requested for the arrest of the petitioner in order to declare the petitioner as disqualified from contesting the election of the Chairman. He further submits that the complaint has been lodged only with the oblique motive to declare the petitioner as disqualified from contesting the



election of Chairman. He further submits that the Police has been ordered to be posted at the residence of the petitioner in order to apprehend him and deprive him from participating in the election process of Chairman. Hence, under these circumstances, the petitioner has approached this Court seeking appropriate directions.

6. *Per contra*, Ld. Advocate General appearing on behalf of the State opposes the arguments raised by Ld. Senior Counsel for the petitioner and submits that the instant writ petition is highly misconceived and only on the basis of an apprehension, a premature writ petition has been submitted by the petitioner. He further submits that he is not aware as to whether any complaint has been received by the District Election Officer or not; or whether any FIR has been registered against the petitioner or not, as no substantial material has been placed on the record by the counsel for the petitioner to substantiate his arguments. He further submits that a Writ of Mandamus cannot be issued by this Court merely on the basis of sheer apprehension of the petitioner unless concrete evidence is produced on record by him. Learned counsel submits that once the election process is commenced and initiated, interference of this Court is prohibited in terms of the judgment passed by the Hon'ble Apex Court in the case of **N.P. Ponnuswami Vs. Returning Officer, Namakkal Constituency & Ors.** reported in **(1952) 1 SCC 94**, **Mohinder Singh Gill Vs. Chief Election Commissioner, New Delhi** reported in **(1978) 1 SCC 405** and the order dated 03.09.2026 passed by this Court in the case of **Kuldeep Kumar Vs. State of Rajasthan & Ors.** while deciding **S.B. Civil Writ Petition No. 17875/2026**. Learned counsel further submits that even there is no allegation of malice against the





District Election Officer raised by the petitioner. Hence, the instant writ petition being highly misconceived is not maintainable and the same is liable to be rejected.

7. Heard and considered the submissions made at the Bar and perused the material available on the record.

8. Perusal of the record indicates that the petitioner has been declared as Ward Member of the Board by the Returning Officer. The record reveals that the petitioner is a candidate for contesting the election of Chairman, Municipal Board, Kekri, District Ajmer. The document (Annexure-7) annexed with the writ petition indicates that a complaint has been filed against the petitioner by one of the ward members of ward No.34, Municipal Board, Kekri wherein several allegations have been levelled against the petitioner, including offering of gratification to certain candidates for casting their votes in his favour. This fact is not in dispute that no copy of any FIR, if any, lodged against the petitioner has been placed on record by the petitioner along with the writ petition but it has been apprised at Bar by the Ld. Senior Counsel that police officials have been posted outside the residence of the petitioner to apprehend him, depriving him to participate in the election process scheduled to be held today for the post of Chairman.

9. The Hon'ble Apex Court in the case of **N.P. Ponnuswami** (supra) has held that once the election process has been initiated upon issuance of election program by the Election Commission, there can be no interference by the Court in the election schedule. The six Judges Constitutional Bench of the Apex Court in this case has dealt with identical issue in para Nos.15, 20, 24 and 25, which reads 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 later, 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."





10. The relevant observations of the Hon'ble Apex 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."

11. Similar observations have been made by the Hon'ble Apex Court in the case of **Mohinder Singh Gill** (supra), wherein above principle has been reiterated, particularly in para number 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.'"

12. So far as the complaint (Annexure-7) submitted to the Returning Officer is concerned, the Returning Officer is at liberty to act upon the same in accordance with law.

13. As regards apprehension of the petitioner of his arrest is concerned, the legal framework provides mechanism to protect an individual from arbitrary arrest, ensuring that the power of the State



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is balanced against the rights of the citizen. Article 21 of the Constitution of India provides for right to life and personal liberty and under the ambit of fundamental rights, any threat to him amounts to violation of the same. Though, in the instant case, no FIR has been registered against the petitioner as yet, as stated at Bar by Ld.Senior Counsel appearing on behalf of the petitioner and the State.

14. However, this Court taking note of the fact that a complaint has been made in the intervening night of 20th and 21st September, 2026 to the District Election Officer and the election for the post of Chairman of the Board is going to be held on 10:00 A.M. till 2:00 P.M. so also in view of the argument raised by Ld. Senior Counsel for the petitioner that Police officials have been posted at the residence of the petitioner and there are every chances that the petitioner may be arrested and deprived to participate in the election process, deems it just and proper to direct the respondents, by way of interim measure, not to take any coercive action against the petitioner i.e. arrest of the petitioner, till next date.

15. List on 07.10.2026. In the meantime, counsel for the petitioner may remove the defects, as pointed out by the Office and counsel for the respondents may file reply to the writ petition with an advance copy to counsel for the petitioner.

(ANOOP KUMAR DHAND),J

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