



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. 2906 of 2025
Decided on : 18.12.2025

Bal Krishan & others

...Petitioners.

Versus

State of Himachal Pradesh & others

...Respondents.

Coram

Hon'ble Mr. Justice Vivek Singh Thakur, Judge.

Hon'ble Mr. Justice Romesh Verma, Judge.

Whether approved for reporting?¹ Yes

For the petitioners : Mr. Ashok Kumar, Advocate.

For the respondents : Mr. Anup Rattan, Advocate General with
 Mr. Ramakant Sharma, Additional Advocate General.

Vivek Singh Thakur, Judge (Oral)

Petitioner, by invoking jurisdiction of this Court under Article 226 of Constitution of India, has filed present petition seeking following substantive reliefs:-

- “(i) That the impugned notification contained in Annexure P-2 dated 23.11.2024 may kindly be quashed and set-aside qua the Panchayats of the petitioners and their Panchayats may not be included in the newly formed Nagar Panchayat Swarghat, District Bilaspur, H.P. in the interest of justice.
- “(ii) That the respondents may kindly be directed to consider and decide the objections raised by the petitioners and other residents of Gram Panchayats Kuthela and Manjhed, within time bound period.

2. Though prayer has been made to quash the Notification

¹*Whether the reporters of the local papers may be allowed to see the Judgment? Yes*

dated 23.11.2024, Annexure P-2, however, from the pleadings of the parties, it is found that the relevant final Notification is dated 20.12.2024, which has been placed on record as Annexures R-IX/R-6 with the replies filed on behalf of respondent No. 1 as well as respondents No. 3 and 4.

3. From perusal of the reply filed to the petition and also instructions dated 12.12.2025 placed on record on behalf of the respondents/State during pendency of the petition, alongwith the documents, it is apparent that, as a matter of fact, the objections, preferred by the residents, were though recorded in the proceedings as well as the chart prepared for proposal of creation of Nagar Panchayat, Swarghat, District Bilaspur, H.P., however, concerned Competent Authority i.e. Secretary (Urban Development) to the Government of H.P. has not passed any reasoned and speaking order at any point of time, rather had submitted the objections alongwith other documents for consideration of Council of Ministers, purporting the same as decided in the memorandum to be placed before the Council of Ministers.

4. On perusal of material placed before Council of Ministers, it appears that an impression was created that objection had been considered and decided by the Competent Authority and on the basis of the said information, the proposal placed before the

Council of Ministers for issuance of final notification, was approved.

5. As the foundation, on the basis of which Council of Ministers had approved the proposal of issuance of final notification, was incorrect and contrary to the record, therefore, we are of the considered opinion that matter requires reconsideration by the Competent Authority i.e. Secretary (Urban Development) to the Government of Himachal Pradesh, for passing a reasoned and speaking order, dealing with the objections raised by the residents of the area proposed to be merged/ included in the Nagar Panchayat, Swarghat, District Bilaspur, H.P. based on the recommendations of the Field Staff including the concerned Deputy Commissioner.

6. Today, under instructions, learned Advocate General has submitted that in view of issuance of final Notification dated 20.12.2024, it would not be possible for the concerned authority to recall or withdraw the notification *suo moto* and unless Notification dated 20.12.2024, Annexures R-6 & R-IX, are quashed and set-aside by the Court, it is not possible for the concerned authority to consider or reconsider the objections of the petitioner, despite the fact that these objections were preferred well within time.

7. Recent pronouncement of the Apex Court in ***Kishorchandra Chhanganlal Rathod vs. Union of India & Ors., (2024) 13 SCC 237***, is relevant to be referred to deal with the

objections raised by the respondents, wherein after taking into consideration earlier judgments of the Apex Court titled as ***Dravida Munnetra Kazhagam (DMK) vs. Secretary, Governor's Secretariat & Ors., (2020) 6 SCC 548*** and ***State of Goa and Anr. vs. Fouziya Imtiaz Shaikh & Anr., (2021) 8 SCC 401***, it has been held as under:-

“5. We, however, do not approve the view taken by the High Court that the order of delimitation of constituencies, issued in exercise of statutory powers under the Delimitation Act, is entirely insusceptible to the powers of judicial review exercisable under Article 226 of the Constitution. Although Article 329 undeniably restricts the scope of judicial scrutiny re: validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, it cannot be construed to have imposed for every action of delimitation exercise. If judicial intervention is deemed completely barred, citizens would not have any forum to plead their grievances, leaving them solely at the mercy of the Delimitation Commission. As a constitutional court and guardian of public interest, permitting such a scenario would be contrary to the Court's duties and the principle of separation of powers.

6. This understanding is supported by a three-judge bench decision of this Court in *Dravida Munnetra Kazhagam v. State of T.N.*, (2020) 6 SCC 548, para 14, where the Court was called upon to interpret Articles 243O and 243ZG of the Constitution, which mirror the aforementioned Article 329. Rejecting the contention that these provisions place a complete bar on judicial intervention, it was noted that a constitutional Court can intervene for facilitating the elections or when a case for mala fide or arbitrary exercise of power is made out. Using this, the Court directed delimitation to be conducted for nine new districts. Recently, a three-judge bench of this Court in *State of Goa v. Fouziya Imtiaz Shaikh*, (2021) 8 SCC 401, para 67, affirmed the ratio of the above-cited decision while discussing principles on Article 329(a), and rejected the contention which sought to prove it as per *incuriam*.

7. Therefore, while the Courts shall always be guided by the settled principles regarding scope, ambit and limitations on the exercise of judicial review in delimitation matters, there is nothing that precludes them to check the validity of orders passed by Delimitation Commission on the touchstone of the Constitution. If the order is found to be manifestly arbitrary and irreconcilable to the constitutional values, the Court can grant the appropriate remedy to rectify the situation.

8. In order to prove that any kind of judicial intervention is fully prohibited, the respondents relied upon a Constitution Bench decision of this Court in *Meghraj Kothari vs. Delimitation*

Commission and others, 1966 SCC Online SC 12. A closer examination of the aforementioned case, however, would show that the Court in that case restricted judicial intervention when the same would unnecessarily delay the election process. This is writ large from the following paragraph, where the Court explicated the reason behind adopting the hands-off approach:

"20. In our view, therefore, the objection to the delimitation of constituencies could only be entertained by the Commission before the date specified. Once the orders made by the Commission under Sections 8 and 9 were published in the Gazette of India and in the Official Gazettes of the States concerned, these matters could no longer be reagitated in a court of law. There seems to be very good reason behind such a provision. If the orders made under Sections 8 and 9 were not to be treated as final, the effect would be that any voter, if he so wished, could hold up an election indefinitely by questioning the delimitation of the constituencies from court to court. Section 10(2) of the Act clearly demonstrates the intention of the Legislature that the orders under Sections 8 and 9 published under Section 10(1) were to be treated as law which was not to be questioned in any court."

[emphasis supplied]

9. Hence, the aforementioned judgement does not support the respondents' contention regarding complete restriction on judicial review. A constitutional court can undertake the exercise of judicial review within the limited sphere at an appropriate stage.

10. Consequently, the appeal is allowed in part, and para 3 of the impugned judgment—to the extent it held that there is a bar to challenge the order of delimitation of constituencies is set aside. The appellant, if so advised, may approach the High Court keeping in view the subsequent events. However, at present, no ground has been made out to interfere with the exercise of delimitation of constituencies and consequential reservation thereof, which was undertaken in the year 2006."

8. In present case, though Election Commission of Himachal Pradesh vide notification dated 17.11.2025 in exercise of powers vested in it under Articles 243K and 243ZA of the Constitution read with enabling Sections of Panchayati Raj Act, Himachal Pradesh Municipal Act and Himachal Pradesh Municipal Corporation Act read with first proviso of Clause 2(1) of Himachal Pradesh Panchayat and

Municipal Model Code of Conduct, 2020, has enforced Clause 12(1) of Model Code of Conduct, 2020, throughout the State of Himachal Pradesh, whereby structure, classification and area of Panchayats and Municipalities has been prohibited to be altered after issuance of the notification till the election process is over, however, from the notification dated 28.11.2025 issued by Department of Rural Development of the Government of Himachal Pradesh, it is apparent that delimitation of Panchayats has not been finalized yet, and is, rather going on as vide this notification State of Himachal Pradesh has reorganized Development Block Bamson and Hamirpur by transferring/receiving Gram Panchayats in District Hamirpur, despite issuance of notification dated 17.11.2025 by the State Election Commission. It is apt to record that Development Block is a unit for which a Panchayat Samiti is constituted. A tug of war is going on between State Election Commission and the Government, as it is claimed by the Government that for enforcement of order dated 08.10.2025 issued by Government of Himachal Pradesh through Chief Secretary-cum-Chairman, State Executive Committee, SDMA, H.P., in exercise of power conferred under Section 24(e) of Disaster Management Act, 2005, whereby it has been ordered that elections to the Panchayati Raj Institutions will be held only after restoration of proper connectivity throughout the State, so that no inconvenience is

caused to the general public as well as the polling personnel, and further no voter loses his right to vote because of road connectivity issues. The State Election Commission cannot thrust upon its decision by issuing notification dated 17.11.2025.

9. Ratio laid down in aforesaid judgment of the Apex Court is also applicable to the present case. From the pronouncements referred *supra* and the status of delimitation and other ground realities referred *supra*, the objections with regard to prohibition under Article 243ZG of the Constitution, are not sustainable and accordingly rejected.

10. Accordingly, in the aforesaid facts and circumstances Notification dated 20.12.2024, Annexures R-6 & R-IX are quashed and set-aside.

11. Accordingly, respondents, especially, Secretary Urban Development is directed to consider the objections of the petitioner and to take appropriate decision in accordance with law, as expeditiously as possible, preferably on or before **10.01.2026** by passing a reasoned and speaking order, after providing personal hearing to the petitioner before himself or through Director Urban Development, if desired so.

12. Needless to say that personal hearing shall be provided one or two representatives of joint objectors.

13. Thereafter, the process shall be taken to its logical ends as expeditiously as possible as per law applicable.

14. The petition is disposed of in above terms, so also the pending application(s), if any.

(Vivek Singh Thakur)
Judge

(Romesh Verma)
Judge.

18th December, 2025
(Nisha)

High Court