

(2025) 12 SHI CK 0050

Himachal Pradesh HC

Case No: Civil Writ Petition No 13810 Of 2025

Devinder Singh Negi

APPELLANT

Vs

State of Himachal Pradesh & Ors

RESPONDENT

Date of Decision: Dec. 5, 2025

Acts Referred:

- Constitution Of India, 1950-Article 14, 16, 226, 243, 243B, 243(2), 243C, 243D, 243k, 243O, 243ZA, 243ZG, 327, 328, 329, 329(A)
- Himachal Pradesh Panchayati Raj (Election) Rules, 1994-Rule 9, 9(2), 10
- Himachal Pradesh Panchayati Raj Act, 1994-Section 3, 3(1), 4, 8, 9, 10(1), 10(2), 78, 89, 89(2), 182, 183, 186, 186(3), 189
- Delhi Special Police Establishment Act, 1946-Section 6A
- Disaster Management Act, 2005-Section 24(e)

Hon'ble Judges: Vivek Singh Thakur, J; Romesh Verma, J

Bench: Division Bench

Advocate: Shrawan Dogra, Tejasvi Dogra, Anup Rattan, Yashwardhan Chauhan, Ramakant Sharma

Final Decision: Disposed Of

Judgement

Vivek Singh Thakur, J

1. 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 amendment of Rule 9(2) of the Election Rules notified on 08.01.2025 (Annexure P-4) and final notification of the amended Election Rules as published in Rajpatra (E-Gazette) on 15.02.2025, notification dated 01.05.2025 (Annexure P-6), notification dated 17.05.2025 (Annexure P-7), notification dated 31.05.2025 (Annexure P-9) may be quashed and set aside;

(ii) That the impugned order dated 24.06.2025 (Annexure P-12) passed by respondent No.4 in appeal may also be quashed and set aside;

(iii) That the respondents may be directed to hold elections for Zila Parishad Shimla on the basis of delimitation of constituencies already existing before the above amendment of Election Rules, and to comply with the mandate of the Constitution withing the time frame;”

2. Vide notification dated 08.01.2025 (Annexure P-4), objections/suggestions were invited by publishing proposed amendment in Himachal Pradesh Panchayati Raj (Election) Rules, 1994 (in short ‘Election Rules’), including proposal for amendment in Rule 9(2) of Election Rules. Proposed amendment in Election Rules was notified vide Notification dated 11.02.2025 (Annexure P-5). All amendments made in the Election Rules, except amendment in Rule 9(2) of Election Rules, were enforced from 15.02.2025, however, amendment in Rule 9(2) of Election Rules was given effect w.e.f. 1. 05.2025 vide Notification dated 01.05.2025 (Annexure P-6).

3. Vide Notification dated 17.05.2025 (Annexure P-7), draft of delimitation of territorial constituencies (Wards) of Zila Parishad, Shimla, was notified, inviting objections on or before 23.05.2025, if any, from public at large.

4. Petitioner preferred objections (Annexure P-8) on 22. 05.2025 to Notifications dated 28.01.2025, 11.02.2025, 21.02.2025, 03.05.2025 and 17.05.2025 issued regarding delimitation of Wards of Zila Parishad in District Shimla.

5. Respondent No.3-Deputy Commissioner, Shimla, vide Notification dated 31.05.2025 (Annexure P-9), notified the final delimitation of territorial constituencies (Wards) of Zila Parishad, Shimla, with observation that said finalization was done after taking into consideration objections and suggestions received after publication of draft Notification dated 17.05.2025 (Annexure P-7).

6. On 06.06.2025, by submitting an application (Annexure P-10) to District Panchayat Office , Shimla, petitioner requested to supply copy of order passed by Deputy Commissioner, Shimla, with respect to the objections filed by the petitioner and to supply the copy of final Notification.

7. Superintendent Grade-II of office of District Panchayat Officer, Shimla, in response to the application filed by the petitioner, supplied a copy of the final Notification with observation that, however, no speaking order in this regard had been passed as per office record.

8. On 12.06.2025, petitioner instituted an appeal (Annexure P-11) before Divisional Commissioner, Shimla, under Rule 10 of the Election Rules against Notification dated 31.05.2025 (Annexure P-9).

9. The appeal preferred by the petitioner was dismissed by Divisional Commissioner vide order dated 24.06.2025 (Annexure P-12), with observation that she had gone through the record of authority below minutely and had gone thoroughly through the rival arguments advanced by the parties and by returning finding that Deputy Commissioner, Shimla, had rejected the objections received from the petitioner after passing a speaking order, based on actual positions.

10. It was further observed by the Divisional Commissioner that Notifications dated 11.02.2025 and 21.02.2025 were related to the delimitation of Zila Parishad (Wards) and constitution of new Ward Kavar and the objections with regard to these Notifications should have been raised by filing appeal against these notifications before appropriate authority.

11. In aforesaid backdrop, petitioner has approached this Court with prayers as recorded supra.

12. Petitioner has also placed on record a proposal, by way of memorandum for the consideration of the Council of Ministers, along with draft notification of the proposed amendment (Annexure P-13), for further amendment to provisions of Rule 9(2) of the Election Rules by adding proviso to Rule 9(2). It has been submitted therein, to the Government, that the amended Rule 9(2) of the Election Rules was causing practical difficulties in the delimitation of Wards, particularly in maintaining the ratio of population in various Wards of the Zila Parishad. Accordingly, a proviso was proposed to be added to Rule 9(2) of the Election Rules, 1994, providing power to the Deputy Commissioner to consider objections and suggestions with respect to draft proposal of territorial constituencies of Zila Parishad on the basis of substantial variations in population among such constituencies, and to transgress the boundaries of Panchayat Samitis or the purpose of delimitation of Wards of Zila Parishad, in order to adjust the population by keeping in view the geographical conditions and administrative convenience.

13. Approval of aforesaid proposal, for further amendment in Rule 9(2) of Election Rules, by Council of Ministers on 28.06.2025, is evident from document dated 30.06.2025 (Annexure P-14).

14. Petitioner has also placed on record proposal of amendment in Election Rules, 1994, submitted to Secretary (Panchayati Raj), Government of Himachal Pradesh by Secretary, State Election Commission, Himachal Pradesh, vide communication dated 17.08.2023 (Annexure P-1), memorandum of consideration of Council of Ministers in this regard dated 14.11.2024 (Annexure P-2) and communication dated 20.11.2024 (Annexure P-3) regarding approval of the Council of Ministers for amendment on 16.11.2024.

15. By referring various provisions of Part IX (The Panchayats) of the Constitution of India, especially Articles 243C & 243D, provisions of Himachal Pradesh Panchayati Raj Act, 1994 (in short 'PR Act') and Election Rules, 1994 framed thereunder, especially Section 89(2) of PR Act and Rule 9 of Election Rules, 1994, it has been contended that the amendment in Rule 9(2) of Election Rules vide notification dated 08.01.2025 (Annexure P-4), is in conflict with the relevant provisions of the Constitution of India as well as the Act enacted by the State Government in furtherance thereof, and in delimitation of Wards of Zila Parishad, Constitutional mandate and Act framed thereunder has been flagrantly violated and amendment in Rule 9(2) and subsequent decisions taken in furtherance thereto, are violating the express provisions of the Act as well as the Constitution.

16. Further, that spirit of the Constitutional scheme has been defeated, because the amendment in Rule 9(2) has been carried out not for betterment or benefit of the public at large, but on the basis of so called administrative inconvenience being faced by the concerned authorities and

officers in compiling the result of Members to be elected to the Wards of Zila Parishads.

17. It has been contended from the further proposal for adding proviso to Rule 9(2), which has also been duly approved by Council of Ministers, also substantiates the plea of the petitioner that Rule 9(2) is causing results which are in conflict with the provisions of the Constitution as well as the Act.

18. Learned counsel for the petitioner has also referred the difficulties arising on account of amended Rule 9(2), as indicated in the proposal for further amendment to add proviso to Rule 9(2), and also the substantial difference in the ratio of population of various Wards of Zila Parishad, Shimla, ranging from 6,372 to 37,899, as the respondents have created Wards of Zila Parishad, Shimla, namely Ward Kavar with population of 6372 in Block Chhohara, Ward Kalbog with population 37899 in Block Kotkhai and Ward Badhal (Baral) with population of 36551 in Block Jbbal. It has been also referred that Block Chhohara has been divided into three constituencies, namely Kavar with population of 6372 and for remaining population of that Block two Wards, namely Jangla with population 21,894 and Khashdhar with population 20870, have been created, whereas almost with same population, i.e. 36,551 and 37,899, Block Jubbal and Kotkhai, have not been divided into two Wards, instead single Ward each has been constituted for entire population of these Blocks, whereas Block Rampur has been divided into three Wards, and other Blocks have also been divided into more than one or two Wards, but the same principle has not been applied to the Block Jubbal and Kotkhai. Thus, it has been contended that not only Rule 9(2) is unconstitutional, but implementation thereof, is also reflecting arbitrary, irrational and unreasonable delimitation of Wards of Zila Parishad. Thus, it has been prayed that amendment in Rule 9(2) and subsequent action based thereon, deserves to be quashed and set aside.

19. It has been submitted by the petitioner that mandate of the Constitution is that the ratio between the population of each constituency and the number of seats allotted, shall be the same throughout the Panchayat area, and Section 89(2) of the PR Act provides that there shall be one Member for every 25,000 population or part thereof, whereas respondents have ignored the aforesaid mandate and have notified delimitation of Wards with population ranging from 6,000 to 37,000 and such huge difference is not permissible under the provisions of Section 89 of the PR Act, enacted in furtherance to mandate of the Constitution. It has been submitted that minor variation may be permissible, however, creation of Zila Parishad Wards with so high difference in the population is not permissible, which is the result of the amendment carried out in Rule 9(2), and thus, amended Rule 9(2) is not sustainable and deserves to be quashed.

20. In response, it has been contended on behalf of respondents that amendment to Rule 9(2) of Election Rules and consequential delimitation of Zila Parishad constituencies has been carried out strictly in accordance with provisions of law, following due process in larger public interest.

21. Further that State Election Commission vide letter dated 14.08.2023, highlighted practical difficulty, which was creating administrative hurdles in smooth conduct of elections and, therefore, to resolve this issue, recommendation made by Election Commission, to substitute words 'Sabha Area' with 'Panchayat Samiti Area' in Rule (2) of Election Rules with further proposal to

incorporate that for delimitation of Wards of Zila Parishad boundaries of Panchayat Samiti shall not be transgressed, was accepted, but after inviting objections from the public at large, however, no objections or suggestions were received and ultimately, amendment was carried out.

22. It has also been contended by learned Advocate General that State Government, after due regard to geographical location, lack of means of communication, administrative convenience and backwardness, had amended the PR Act by inserting proviso to Section 89(2) of the PR Act by providing that competent authority may notify a territorial constituency of a Zila Parishad with a population less than 25,000 and, accordingly, in peculiar facts and circumstances, five backward Gram Panchayats in Sub-Division Dodra Kwar were notified as separate Zila Parishad constituency with population of 6372 vide notification dated 21.02.2025 (Annexure R-2/II), as this area was situated in an extremely difficult terrain with poor connectivity.

23. It has been further contended that vide notification dated 12. 07.2000 (Annexure R-2/III) issued under Section 189 of PR Act, the Deputy Commissioners have been delegated power to notify the delimitation of the constituencies of Zila Parishad in a District and the delimitation of the Wards has been notified by taking regard of Article 243(2) of the Constitution of India, which provides that ratio of population with reference to the territorial constituencies of Zila Parishad are to be maintained 'so far as practicable' and the respondents have maintained the ratio of population per constituency as is feasible. It has been contended that delimitation is essentially a legislative and policy decision, and no individual has vested right to demand personal hearing in such matters, with further plea that petitioner's grievance regarding absence of speaking order, is misplaced, whereas notes reveal that objections received were examined at competent level but, since the objections did not raise any sustainable ground, the same were separately dealt with in writing.

24. Lastly, it has been contended that provisions of Article 243-O of the Constitution read with Section 182 of PR Act, 1994, expressly bar interference of the Court in matters relating to delimitation of constituencies or reservation of seats, whereas in present petition, direct challenge has been laid to the process of delimitation carried out under statutory authority, which is barred by law and thus, petition is not maintainable. It has been contended that plea of arbitrariness, raised by the petitioner, is without foundation. It has also been contended that as the delimitation and matter connected thereto fall primarily within legislative and executive domain, the scope of judicial interference is too limited, and in present case, there is no violation of constitutional or statutory provisions, and petitioner has preferred this petition as an attempt to obstruct the lawful conduct of election of Panchayati Raj institutions.

25. Relevant extracts of amended Rule 9 of Election Rules reads as under:-

“9. Delimitation of constituencies of a Zila Parishad.- (1) The Deputy Commissioner shall divide the Zila Parishad area into as many single member territorial constituencies as the number of members are required to be elected under sub-section (2) of section 89.

(2) While delimiting the constituencies of Zila Parishad, Sabha area shall be a unit. The constituencies shall be delimited from the map of the Zila Parishad area starting from North towards East and ending towards South to West and every constituency shall be assigned serial number and the name. The name of constituency may be assigned on the name of a Gram Sabha having the largest population in that constituency.

26. Relevant extract of amended Rule 9(2) of Election Rules reads as under:-

“(2) While delimiting the constituencies of Zila Parishad, Panchayat Samiti area shall be a unit. The Zila Parishad ward(s) shall not transgress the boundaries of panchayat Samiti. The constituencies shall be delimited from the map of the Zila Parishad area starting from North towards East and ending towards South to West and every constituency shall be assigned serial number and the name. The name of constituency may be assigned on the name of a Gram Sabha having the largest population in that constituency.”

27. Relevant portion of Part IX (The Panchayats) of the Constitution of India deals with Panchayats, wherein Article 243, relevant for adjudication of present petition, reads as under:-

“243. Definitions.-In this Part, unless the context otherwise requires,-

(a) xx xx xx;

(b) “Gram Sabha” means a body consisting of persons registered in the electoral rolls relating to a village comprised within the area of Panchayat at the village level;

(c) xx xx xx;

(d) “Panchayat” means an institution (by whatever name called) of self-government constituted under article 243B, for the rural areas;

(e) “Panchayat area” means the territorial area of a Panchayat;

(f) xx xx xx;

(g) xx xx xx;

243A. xx xx xx

243B. Constitution of Panchayats.-(1) There shall be constituted in every State, Panchayats at the village, intermediate and district levels in accordance with the provisions of this Part.

(2) xx xx xx;

243C. Composition of Panchayats.-(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.”

28. From the reading of aforesaid provisions, it is apparent that Panchayats have been constituted at Village, Intermediate and District levels and thus, ‘Zila Parishad’ is a ‘District Panchayat’ and ‘Panchayat area’ for Zila Parishad means ‘District’ and ratio between population of territorial area of a Panchayat at any level and number of seats of such Panchayat to be filled by elections, shall, so far as practicable, be the same throughout the State.

29. Relevant provisions of Section 89 of PR Act along with amendment carried out by State of Himachal Pradesh reads as under:-

“ 89. Constitution of Zila Parishad.-

(1) xx xx xx

(2) The number of elected members of a Zila Parishad under clause (a) of sub-section (1) shall consist of persons elected from the territorial constituencies in the district as may be notified from time to time by the Government at the rate of one member for every twenty five thousand population or part thereof:

Provided that in a district having population of not exceeding two lakhs and fifty thousand, there shall be minimum of ten elected members in a Zila Parishad:

Provided further that the Government may irrespective of the population of the district, declare, by a notification, that the provisions of this section shall apply to a Zila Parishad in a scheduled area, subject to such exceptions and modifications as may be specified by it in such a notification.

Provided also that the State Government may, after having due regard to the geographical location, lack of means of transportation and communication, and for administrative convenience, notify a territorial constituency for the Backward Gram Panchayats, having a population less than twenty-five thousand ” [Added vide Himachal Pradesh Panchayati Raj(Amendment) Act, 2024]

30. Other relevant provisions of PR Act read as under: -

“2. Definitions.- In this Act, unless the context otherwise requires,-

(1) xx xx xx

XX XX XX

(16) "Gram Sabha" or "Sabha" means a Gram Sabha established under section 4 of this Act and 'Sabha area' means an area declared to be a 'Sabha area' under section 3 of this Act;

XX XX XX

XX XX XX

(26) "panchayat" means a Gram Panchayat, a Panchayat Samiti or a Zila Parishad, as the case may be;

XX XX XX

XX XX XX

(28) "Panchayat Samiti" means a Panchayat Samiti constituted under section 78 of this Act and having jurisdiction over the block area;

XX XX XX

(48) "Zila Parishad" means a Zila Parishad constituted under section 89 of this Act.

XX XX XX

XX XX XX

3. Declaration of Sabha area.- (1) The Government may, by notification, declare any village or group of contiguous villages with a population of not less than one thousand and not more than five thousand to constitute one or more Sabha areas for the purposes of this act and also specify its headquarter:

Provided that in a Scheduled area the Government may by order declare any village or group of contiguous villages with a population of less than one thousand to constitute a Sabha area:

Provided further that the Government may, after having due regard of the geographical location, lack of means of transport and communication and administrative convenience, declare an area comprising a village or group of contiguous villages having a population either less than one thousand or more than five thousand to constitute a Sabha area.

XX XX XX

XX XX XX

183. Power to make rules for conduct of elections.- The State Government may, by notification in the Official Gazette and in consultation with the State Election Commission, make rules for the composition of Panchayats, conducting the election, issue of symbols and all matters

relating to or in connection with elections to the Panchayats.

xx xx xx

xx xx xx

186. Power to make rules.- (1) *The State Government may make rules for carrying out the purposes of this Act.*

(2) *In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the matters which under any provisions of this Act, are required to be prescribed or to be provided for by rules.*

(3) *All rules shall be subject to the condition of previous publication.*

(4) *All rules shall be laid on the Table of Legislative Assembly.*

(5) *In making any rule, the State Government may direct that a breach thereof shall be punishable with fine which may extend to two hundred and fifty rupees and in the case of continuing breach with a further fine which may extend to five rupees for every day during which the breach continues after the first conviction.”*

31. From the aforesaid provisions of the PR Act read with provisions of Constitution of India, it is apparent that ‘Sabha area’ means an area declared to be a sub-area under Section 3(1) of the Act, which is a basic unit for constitution of Gram Sabha and Panchayat at village level, whereas ‘Panchayat’ for the purpose of present petition means a Zila Parishad at District level constituted under Section 89 of the PR Act. Definition of basic unit ‘Gram Sabha’ remains the same for all levels of Panchayats, i.e. Village level, intermediation level and District level.

32. Provisions of Section 89(2) provides that territorial constituencies for Zila Parishad shall be at the rate of one Member for every 25,000 population or part thereof with further rider that where population of a District is less than 2,50,000, there shall be minimum 10 elected Members of Zila Parishad, meaning thereby that, in any eventuality, there shall be at least 10 elected Members in a Zila Parishad and for population of 25,000 or part thereof, there shall be one elected Member, meaning thereby a territorial constituency of Zila Parishad can have population less than 25,000, but it has to be taken into consideration that there shall not be substantial difference in ratio of population of territorial constituencies in the District. No doubt, the phrase ‘so far as practicable’ has been used in the Constitution, but it does not mean that it permits the State to create territorial constituencies of Zila Parishad with huge difference in ratio of population, like in present case.

33. Mandate of Section 89(2) of the Act is that there shall be one Member for every 25,000 population, but with enforcement of amended Rule 9(2), as apparent from the material placed on record, and also from the experience of concerned Authority in delimitation carried out post-amendment, which has been elaborated in memorandum of consideration of Council of

Ministers (Annexure P-13), the Competent Authorities are finding it difficult to maintain the ratio of population of territorial constituencies of Zila Parishad in consonance with provisions of Section 89(2) of the PR Act.

34. It can be easily construed from the material on record that, after the amendment, the delimitation of the territorial constituencies of the Zila Parishad has to be carried out by taking the Panchayat Samiti as a unit, which is a Panchayat at intermediate level, whereas the smallest unit in Panchayati Raj institutions is village level Panchayat, which is constituted for each Gram Sabha with Sabha area notified under the provisions of PR Act. The amendment also creates bar for transgressing the Panchayat Samiti area for the purpose of delimitation of Wards of Zila Parishad.

35. State Government is empowered to make rules for carrying out the purpose of the Act as provided under Section 186 of the PR Act. Section 183 empowers the State to make rules for conducting elections in consultation with State Election Commission. Section 183 is a special provision with respect to power to make rules for conduct of elections. However, Chapter XIII of the PR Act, deals with 'Rules and Byelaws', therefore, provisions of Section 186 shall be applicable to all rule-making powers of the State, including the power to make rules under Section 183 of the Act.

36. Section 186(3) provides that all rules shall be subject to condition of previous publication and shall be laid on table of Legislative Assembly. In present case, there is previous publication of draft of proposed amendment, but nothing has been placed on record that these amendments in Rules were ever laid on the table of Legislative Assembly. Power to amend the rules is derived from the power to make the rules. The condition precedent required to be followed for framing the Rules shall also be applicable to amendment in the Rules. For want of laying the amendment on the table of Legislative Assembly, the amendment carried out in Rule 9(2) cannot be enforced.

37. The basis for which Rule 9(2) has been amended has been narrated in amendment proposal of Panchayat Raj (Election) Rules, 1994 (Annexure P-1), which reads as under:-

	Sr. No.	Rule	Subject	Amendment required	Justification
	1.	XX	XX	XX	XX
	2.	9(2)	Delimitation of constituencies of Panchayat Samiti	The words "Sabha area" should be substituted with the words "Panchayat Samiti".	At present many wards of Zila Parishads are created in such a manner that these are spread over more than one Department Block. This situation creates problem in the conduct of elections as there is confusion regarding RO/ARO in the mind of

				<p>contesting candidates. Thereafter while declaring of result counting is conducted at more than one place and then counting sheet is forwarded to Deputy Commissioner. Thereafter these are complied at District Headquarter and then result is declared by the Deputy Commissioner. If the proposed amendment is carried out, none of the wards of Zila Parishad will transgress the boundary of a Dev. Block. Hence conduct of election counting and declaration of result will be done only at the level of Block Hqr. in a smooth manner.</p>
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38. Reason for second amendment in Rule 9(2) by adding proviso thereto has been stated in memorandum of consideration for Council of Ministers (Annexure P-13), relevant portion whereof reads as under: -

“2. The delimitation process undertaken under the provisions of amended rules will facilitate smooth election process as well as proper coordination of elected Zila Parishad members with the block authorities. But population size of the Zila Parishad Constituencies is not the same throughout the Panchayat area as far as practicable. For instance, population size of Zila Parishad constituency in district Bilaspur during the election of 2020 varies from minimum 23390 persons to maximum 28761. The delimitation of Zila Parishad constituencies carried out for the forthcoming Panchayat election indicate that the population size of the constituency in district Bilaspur varies from minimum 19986 persons to maximum 35141 persons. In district Shimla during the 2020 election minimum size of the constituency was 18520 persons and maximum was 32647 and for the forthcoming Panchayat elections minimum size of the constituency is 6371 (new constituency for Dodra Kwar area and excluding it minimum population size is 18520 persons and maximum is 37899 persons. Similarly in district Hamirpur minimum population size of Zila Parishad Constituency was 19785 persons and maximum was 28424 persons in the previous election and for the forthcoming election minimum size of constituency is 18461 persons and maximum is 35786 persons. The district wise detail is given at "Annexure-A". This variation has occurred due to the reason that as per amended provision of the rules the constituency cannot transgress the boundaries of Block/Panchayat Samiti. This issue of variation of the population size of Zila Parishad Constituencies has been brought to the notice of Hon'ble Chief Minister by some public representatives. The Hon'ble Chief Minister has directed to sort out this issue so as to ensure equal population size of the Zila Parishad constituencies as far as practicable.”

39. The proviso proposed to be added in Rule 9(2) reads as under:-

“Provided that where substantial variations exist in the population among the territorial constituencies of the Zila Parishad as determined under this sub-rule and published in accordance with sub-rule (4), and where objections or suggestions regarding the draft proposal are received by the Deputy Commissioner, the Deputy Commissioner may, after considering such objections and suggestions, transgress the boundaries of the Panchayat Samities. Such transgressions to adjust the population shall be made with regard to geographical conditions and administrative convenience to address population variations among constituencies, subject to the condition that the total number of territorial constituencies shall not exceed the number determined under Section 89(2) of the Himachal Pradesh Panchayati Raj Act, 1994.”

40. As apparent from the record that reasons stated for amendment of Rule 9(2) clearly depict that amendment had not been proposed for maintaining the ratio of population in different Wards or in order to facilitate the population or any difficulty being faced by the Zila Parishad or its Members in functioning, but for the difficulty being faced by the Returning Officers ('RO') and Assistant Returning Officers ('ARO') in compiling the counting-sheets for declaration of result at District Headquarter. The difficulty was that RO and ARO had to collect/receive the counter-sheets from different Development Blocks, which was considered by Election Department, a hinderance in conducting the election in smooth manner.

41. No doubt, function of Legislature is to legislate, and Rules under an enactment are also to be framed either by Legislature or the competent Authority empowered with such power by way of delegation and the Courts are not expected to substitute the provisions of the Act and the Rules with their view. However, at the same time, the Court has jurisdiction and power of judicial review to assess and evaluate the legality of provisions of the Act and the Rules, and to quash and set aside provisions of legislation, in case the same are arbitrary, irrational, unreasonable, violative of constitutional mandate and manifestly defeating the object and purpose of the enactment.

42. Following observation of the Apex Court in *Bombay Dyeing & Mfg. Co. Ltd. Vs. Bombay Environmental Action Group & Ors.*, (2006) 3 SCC 434, are relevant to adjudicate present petition:-

*“205. Arbitrariness on the part of the legislature so as to make the legislation violative of Article 14 of the Constitution should ordinarily be manifest arbitrariness. What would be arbitrary exercise of legislative power would depend upon the provisions of the statute vis-à-vis the purpose and object thereof. [See *Sharma Transport v. Government of Andhra Pradesh*, (2002) 2 SCC 188, para 25, *Khoday Distillery v. State of Karnataka*, (1996) 10 SCC 304 and *Otis Elevator Employees' Union S. Reg. and Others v. Union of India*, (2003) 12 SCC 68, para 17].*

207. In *Secy., Ministry of Chemical & Fertilizers vs. Cipla Ltd.* (2003) 7 SCC 1, this Court in relation to a legislation while interpreting the statutory provisions on the touchstone of Article 14 of the Constitution of India, was of the opinion: (SCC p. 9, para 4.1)

“[T]he Government exercising its delegated legislative power should make a real and earnest attempt to apply the criteria laid down by itself. The delegated legislation that follows the policy formulation should be broadly and substantially in conformity with that policy, otherwise it would be vulnerable to attack on the ground of arbitrariness resulting in violation of Article 14.”

It was further opined: (SCC p.10, para 4.3)

“Broadly, the subordinate law-making authority is guided by the policy and objectives of the primary legislation disclosed by the preamble and other provisions. The delegated legislation need not be modelled on a set pattern prefixed guidelines. However, where the delegate goes a step further, draws up and announces a final policy in keeping with the purposes of the enabling legislation and even lays down specific criteria to promote the policy, the criteria so evolved become the guideposts for its legislative action. In that sense, its freedom of classification will be regulated by the self-evolved criteria and there should be demonstrable justification for deviating therefrom.”

43. Observation of the Apex Court in *Andhra Pradesh Dairy Development Corporation Federation vs. B. Nrasimha Reddy and Others*, (2011) 9 SCC 286, are also relevant to refer, which reads as under: -

*“29. It is a settled legal proposition that Article 14 of the Constitution strikes at arbitrariness because an action that is arbitrary, must necessarily involve negation of equality. This doctrine of arbitrariness is not restricted only to executive actions, but also applies to legislature. Thus, a party has to satisfy that the action was reasonable, not done in unreasonable manner or capriciously or at pleasure without adequate determining principle, rational, and has been done according to reason or judgment, and certainly does not depend on the will alone. However, the action of legislature, violative of Article 14 of the Constitution, should ordinarily be manifestly arbitrary. There must be a case of substantive unreasonableness in the statute itself for declaring the act ultra vires of Article 14 of the Constitution. [Vide: *Ajay Hasia etc. v. Khalid Mujib Sehravardi*, (1981) 1 SCC 722; *Reliance Airport Developers (P) Ltd. v. Airports Authority of India*, (2006) 10 SCC 1; *Bidhannagar (Salt Lake) Welfare Assn. v. Central Valuation Board*, (2007) 6 SCC 668; *Grand Kakatiya Sheraton Hotel and Towers Employees and Workers Union v. Srinivasa Resorts Ltd.*, (2009) 5 SCC 342; and *State of TN & Ors. v. K. Shyam Sunder*, (2011) 8 SCC 737).”*

44. In *Shayara Bano vs. Union of India & Ors*, (2017) 9 SCC 1, the Apex Court has observed that arbitrariness doctrine contained in Article 14 of the Constitution would apply to negate Legislation and Subordinate Legislation with following further observations:-

*“95. On a reading of his judgment in *Natural Resources Allocation, In re, Special Reference No.1 of 2012*, (2012) 10 SCC 1, it is clear that this Court did not read, *State of A.P. vs. McDowell and Co.*, (1996) 3 SCC 709, as being an authority for the proposition that legislation can never be struck down as being arbitrary. Indeed the Court, after referring to all the earlier judgments, and *Ajay Hasia vs. Khalid Mujib Sehravardi*, (1981) 1 SCC 722, in particular, which stated that*

legislation can be struck down on the ground that it is “arbitrary” under Article 14, went on to conclude that “arbitrariness” when applied to legislation cannot be used loosely. Instead, it broad based the test, stating that if a constitutional infirmity is found, Article 14 will interdict such infirmity. And a constitutional infirmity is found in Article 14 itself whenever legislation is “manifestly arbitrary” i.e. when it is not fair, not reasonable, discriminatory, not transparent, capricious, biased, with favoritism or nepotism and not in pursuit of promotion of healthy competition and equitable treatment. Positively speaking, it should conform to norms which are rational, informed with reason and guided by public interest, etc.

96. Another Constitution Bench decision reported as *Dr. Subramanian Swamy v. Director, Central Bureau of Investigation*, (2014) 8 SCC 682, dealt with a challenge to Section 6-A of the Delhi Special Police Establishment Act, 1946. This Section was ultimately struck down as being discriminatory and hence violative of Article 14. A specific reference had been made to the Constitution Bench by the reference order in *Dr. Subramanian Swamy v. Director, Central Bureau of Investigation*, (2005) 2 SCC 317, and after referring to several judgments including *Ajay Hasia vs. Khalid Mujib Sehravardi*, (1981) 1 SCC 722, *Mardia Chemicals Ltd. vs. Union of India*, (2004) 4 SCC 311, *Malpe Vishwanath Acharya vs. State of Maharashtra*, (1998) 2 SCC 1 and *State of A.P. vs. McDowell and Co.*, (1996) 3 SCC 709, the reference inter alia was as to whether arbitrariness and unreasonableness, being facets of Article 14, are or are not available as grounds to invalidate a legislation.

97. After referring to the submissions of counsel, and several judgments on the discrimination aspect of Article 14, this Court held: [*Dr. Subramanian Swamy v. Director, Central Bureau of Investigation*, (2014) 8 SCC 682, pp. 721-22, paras 48-49]

“48. In *E.P. Royappa* [*E.P. Royappa v. State of T.N.*, (1974) 4 SCC 3, it has been held by this Court that the basic principle which informs both Articles 14 and 16 are equality and inhibition against discrimination. This Court observed in para 85 as under: (SCC p 38)

“85. ... From a positivistic point of view, equality is antithetic to arbitrariness. In fact equality and arbitrariness are sworn enemies; one belongs to the rule of law in a republic while the other, to the whim and caprice of an absolute monarch. Where an act is arbitrary, it is implicit in it that it is unequal both according to political logic and constitutional law and is therefore violative of Article 14, and if it affects any matter relating to public employments, it is also violative of Article 16. Articles 14 and 16 strike at arbitrariness in State action and ensure fairness and equality of treatment.”

Court's approach

49. Where there is challenge to the constitutional validity of a law enacted by the legislature, the Court must keep in view that there is always a presumption of constitutionality of an enactment, and a clear transgression of constitutional principles must be shown. The fundamental nature and importance of the legislative process needs to be recognised by the Court and due regard and deference must be accorded to the legislative process. Where the legislation is sought to be

challenged as being unconstitutional and violative of Article 14 of the Constitution, the Court must remind itself to the principles relating to the applicability of Article 14 in relation to invalidation of legislation. The two dimensions of Article 14 in its application to legislation and rendering legislation invalid are now well recognised and these are: (i) discrimination, based on an impermissible or invalid classification, and (ii) excessive delegation of powers; conferment of uncanalised and unguided powers on the executive, whether in the form of delegated legislation or by way of conferment of authority to pass administrative orders-if such conferment is without any guidance, control or checks, it is violative of Article 14 of the Constitution. The Court also needs to be mindful that a legislation does not become unconstitutional merely because there is another view or because another method may be considered to be as good or even more effective, like any issue of social, or even economic policy. It is well settled that the courts do not substitute their views on what the policy is.”

45. Provisions of the Constitution of India, the PR Act and the Rules made thereunder, are to provide a local self-government at village, intermediate, and district level and priority of the entire mechanism is interest of larger public. From the material on record, it is evident that post-amendment actions and decisions, including the delimitation of territorial constituencies of Zila Parishad are not helping or advancing the interest of the public population in any manner, rather is creating confusion to the concerned authority at the time of delimitation and also creating disparity in the ratio of population of Wards territorial constituencies of Zila Parishad in a District. There is no nexus with the object to be sought by Constitutional provisions and enactment, including the Rules framed thereunder.

46. The proposal for inserting proviso in Rule 9(2) itself is indicating arbitrariness and non-application of mind in the decisions taken in furtherance to amended Rule 9(2). There is no rationale or reason behind amendment in Rule 9(2), as it has resulted into decision of Authority in conflict with provisions of the Constitution and the PR Act, especially Section 89(2) of the PR Act.

47. Rules are framed to facilitate the aim and object of the Act and to give effect to the object of the Act in consonance with the constitutional provisions. However, in the present case, the existing Rule 9(2), as amended in January 2025, is defeating the very purpose of the Act.

48. By substituting the ‘Sabha area’ with ‘Panchayat Samiti area’ as a unit, the concerned Authority is not in a position to add or bifurcate some area of Panchayat Samiti to make balance in the ratio of population in various territorial constituencies of Zila Parishad. Sabha area is a smaller unit and it would facilitate the concerned Authority in adding certain Gram Sabha areas belonging to one Panchayat Samiti to another Panchayat Samiti, and vice-versa, so as to ensure, as far as practicable, an equivalent ratio of population among the various Wards of the Zila Parishad at least in a District Panchayat.

49. Amended Rule 9(2) provides that Panchayat Samiti area shall be a unit for creating territorial constituency of Zila Parishad. In draft notification as well as in the final notification, notifying the delimitation of territorial constituencies of Zila Parishad, Shimla, it transpires that Panchayat Samiti Rampur has been divided into three territorial constituencies of Zila Parishads and

similarly, Chhohara, Theog and Chopal Panchayat Samiti areas have been divided into three Wards each of Zila Parishad, Shimla. Panchayat Samiti areas Rohru, Mashobra, Totu and Narkanda have been divided into two territorial constituencies each for Zila Parishad, Shimla, whereas for Panchayat Samiti areas Nankhari, Jubbal, Kotkhai, Kupvi and Basantpur, only one territorial constituency each of Zila Parishad, Shimla, has been notified.

50. Undisputedly, Panchayat Samiti area Jubbal is having population of 36,551 and Panchayat Samiti area Kotkhai is having population of 37,899. As competent authority was not permitted to transgress the area of Panchayat Samiti, it was not permissible for the competent Authority to create third territorial constituency by taking out certain contiguous Gram Sabha areas from Panchayat Samiti areas Jubbal and Kotkhai to maintain ratio of population nearer to 25,000 as provided under the Act. Combined population of these two Panchayat Samiti areas is 74,450 and for creating a territorial constituency of Zila Parishad for a population of 25,000, these two Panchayat Samiti areas were to be divided into three territorial constituencies of Zila Parishad, but for amendment in Rule 9(2), it has not been done unlike the earlier delimitation carried out on the basis of unamended Rule 9(2).

51. It is also a fact that after excluding five Panchayats or remote area for creation of Kavar Territorial Constituency, the left-out population of Block Chhohara has been bifurcated in two territorial constituencies, i.e. Jangla and Khashdhar with population of 21,894 and 20,870, respectively. Whereas in Blocks Jubbal and Kotkhai having almost the same population, i.e. 36,551 and 37,899, respectively, no such bifurcation has been carried out. Resultantly, Khashdhar and Jangla territories are having population of less than 25,000, as provided under the Act, whereas Jubbal and Kotkhai having almost double of population of Jangla and Khashdhar, but have only single territorial constituencies. It also indicates that the provisions of the amended Rule 9(2), on the basis of which delimitation has been carried out, is resulting in irrational, unreasonable and discriminatory distribution of population amongst different territorial constituencies of District Shimla Zila Parishads.

52. It has also not been clarified by the respondents that when Rule 9(2) provides that for delimitation of constituencies of Zila Parishad, Panchayat Samiti area shall be a unit, then how and under what authority, concerned authority has created three territorial constituencies of Zila Parishad in Panchayat Samiti area of Rampur, Theog and Chopal and also, how and under what authority, Panchayat Samiti areas of Mashobra, Rohru, Totu and Narkanda have been bifurcated into two territorial constituencies.

53. So far as insertion of third proviso in Section 89(2) vide Himachal Pradesh Panchayati Raj (Amendment) Act, 2024, is concerned, the same is not under challenge and otherwise also, the said amendment has negated the impact of Amended Rule 9(2) by reversing the situation like pre-amended Rule 9(2), which is in consonance with the mandate of the Constitution as well as provisions of the PR Act.

54. Proposal for inserting proviso to Rule 9(2), approved by the Council of Ministers, also indicates that there was non-application of mind, not only at the time of carrying out amendment

in Rule 9(2), but also at the time of proposing and approving the insertion of proviso in Rule 9(2), as the amended provisions of Rule 9(2) and insertion approved by the competent authority, is mutually destructive and are nullifying each other. Therefore, instead of incorporating proviso, the amendment carried out in Rule 9(2) should have been reversed. Amended Rule 9(2) provides that Panchayat Samiti area shall not be transgressed and unit formation of Wards of a Zila Parishad shall be Panchayat Samiti area, whereas proviso approved to be added, permits transgression and bifurcation of Panchayat Samiti for the same purpose, but for subjective satisfaction of Deputy Commissioner. Arbitrariness is manifest on the face of amended provisions. There is no nexus with object sought to be achieved in the Constitution as well as under the PR Act and Rules framed thereunder.

55. The extremely difficult geographical terrain and poor connectivity of Panchayat Samiti area Chhohara, especially the area of Dodra Kwar, is not in dispute. Therefore, notification of separate territorial constituency of Zila Parishad (Ward), Shimla, for five contiguous backward Gram Panchayats, mentioned in notification dated 21.02.2025 (Annexure R-2/II), cannot be said to be unreasonable, irrational or unconstitutional. However, again the bifurcation of rest of the area of Panchayat Samiti area Chhohara in two constituencies, namely Khashdhar with population of 20870 and Jangla with population of 21,894, is also not permissible under amended Rule 9(2), but it has been done.

56. There is no provision in Rule 9(2) to bifurcate the Panchayat Samiti area, which is a unit, in more than one territorial constituencies, even if population of such unit is more than 25,000. After excluding the territorial constituency Kwar from Panchayat Samiti area Chhohara, the remaining population of about 40,000 has been provided two territorial constituencies of Zila Parishad, whereas population of about 76,000 in two Panchayat Samiti area, namely Jubbal and Kothkai, have been provided only two territorial constituencies, which is not only irrational, but impracticable also.

57. In present case, manifest arbitrariness, unreasonableness, irrationality and conflict with provisions of the Act as well the Constitution, is writ large.

58. On behalf of respondents, objections with regard to maintainability of present petition have been raised by referring provisions of Article 243-O of the Constitution and Section 182 of PR Act.

59. Relevant provisions of Article 243-O reads as under:-

“Article 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;”

60. Relevant provisions of Section 182 of PR Act reads as under:-

“182. Bar of interference by Courts in election matters.-Notwithstanding anything contained in this Act, the validity of any law relating to the delimitation of constituencies, or the allotment of seats in such constituencies, made or purported to be made under this Act shall not be called in question in any Court.”

61. Power of judicial review is basic fundamental feature of the Constitution. It is a basic structure giving constitutional mandate to the Judiciary to protect the rights of the citizens/electors. Neither Judiciary nor Election Commission or Legislature or Executive can violate the constitutional mandate. Any action of any limb of the State, not passing the test of constitutional mandate can be struck down at any point of time by exercising the power of judicial review, especially, when arbitrariness and patent illegality is manifest on the face of record. The prohibition contained in Article 243-O of the Constitution is similar to the prohibition provided under Article 329 of the Constitution, which reads as under:-

“329. 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 327 or article 328, shall not be called in question in any court;”

62. 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.”

63. 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 PR 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.

64. It is also apt to record that in CWP No.6074 of 2025 decided on 19.11.2025 titled as Sanjay Mahajan & Ors. Vs. State of H.P. & Ors. , on the basis of statement made on behalf of the State, delimitation notification of Nagar Panchayat Nagrota Surian, District Kangra, has been set aside with direction to the State to consider the objections of the people of the area submitted within time specified for that, but not considered earlier by the concerned authority by treating the same time barred and Competent Authority has been directed to take appropriate decision on the objections in accordance with law by passing reasoned and speaking order on or before 30.11.2025 and, thereafter, to complete the process as expeditiously as possible.

65. The date of election has not been announced, there is no possibility of conducting elections immediately in recent future and reorganization of Panchayats and Local Self Body is under process at various places and Government is taking decision for reorganization of Panchayats, which definitely changing the constituencies of the Panchayats amounting to delimitation of such Panchayats.

66. From the pronouncements referred supra and the status of delimitation and other ground realities referred supra, the objections with regard to prohibition under Article 243-O of the Constitution and Section 182 of the PR Act, are not sustainable and accordingly rejected.

67. In view of above discussion, we are of the considered opinion that amendment carried out under Rule 9(2) along with proposed amendment approved for inserting proviso thereto, is manifestly arbitrary, unreasonable, irrational and unconstitutional, being in conflict with the

provisions of the Act for defeating the purpose and object sought to be achieved by provisions of the Constitution as well as enactment of PR Act.

68. Accordingly, impugned notifications dated 08.01.2025 (Annexure P-4), 15.02.2025 (Annexure P-5), 01.05.2025 (Annexure P- 6) qua amendment of Rule 9(2) of Election Rules, 1994, and consequential notifications dated 17.05.2025 (Annexure P-7) and 31.05.2025 (Annexure P-9), are quashed and set aside.

69. From the material on record, including the reply filed by the respondents, it is apparent that at the time of dealing the objections, preferred by the petitioner, no speaking order was ever passed by the Deputy Commissioner, Shimla, as there is a specific written information supplied by the office of District Panchayat Officer in this regard, placed on record as Annexure P-10, and in reply also, it has been categorically stated that since the objections of the petitioner did not raise any sustainable ground, the same were not separately dealt with in writing. However, Divisional Commissioner, Shimla, in impugned order dated 24. 06.2025 (Annexure P-12) has categorically stated that she has gone through the record of authority below minutely, and it was evident from the same that the authority below had rejected the objections raised by the petitioner after passing a speaking order based on factual position. The findings returned by the Divisional Commissioner, Shimla, for rejecting the appeal preferred by the petitioner, are not only contrary to record, but also shocking, as an officer of the rank and level of Divisional Commissioner is not expected to record facts in his/her order, which are not in existence at all. The order passed by the Divisional Commissioner, Shimla, is perverse, and the same also deserves to be set aside.

70. Accordingly, order dated 24.06.2025 (Annexure P-12) passed by Divisional Commissioner, Shimla, is also quashed and set aside.

71. For quashing and setting aside the amendment carried out in Rule 9(2) of Election Rules, there shall be no need to incorporate proposed proviso to Rule 9(2), because as apparent from the reasons narrated in the memorandum to be placed before Council of Ministers for proposed another amendment in Rule 9(2) of Election Rules by adding proviso thereto, the basic reason for proposing such amendment is difficulties being faced by the Competent Authority in delimitation of the territorial constituencies of Zila Parishad on account of amended Rule 9(2) of the Election Rules, because Competent Authority is not able to create territorial constituencies in consonance with the provisions of Article 243C of the Constitution and Section 89 of PR Act, especially in maintaining ratio of population nearer to each other in each territorial constituency. However, the proposal made is neither under challenge nor petitioner was and is aggrieved from that, as the proposed amendment by adding proviso is resulting in undoing the impugned first amendment carried out in Rule 9(2) of the Election Rules. Therefore, the necessity of incorporating proviso to Rule 9(2) is kept open to be determined by the Competent Authority concerned. Otherwise also, cause for proposal of inserting proviso was the amendment of Rule 9(2), as the cause has been quashed and set aside, therefore, consequential action on account of said cause also goes.

72. In consequence, respondents and competent authority have to take appropriate steps in accordance with law as expeditiously as possible.

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