

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

S.B. Civil Writ Petition No.11107/2025

Smt. Urmila Agarwal W/o Shri Nirmal Agarwal, aged about 56 years, R/o Ward No. 20, Pansariyon Ka Mohalla, Paota, Tehsil Kotputli, District Kotputli- Behror Rajasthan

----Petitioner

Versus

1. State of Rajasthan, through Principal Secretary, Department of Local Self Government, Government of Rajasthan, Government Secretariat, Jaipur
2. Director-cum-Joint Secretary, Department of Local Self Government, G-3, Rajmahal Residency Road, Near Civil Line Phatak, C- Scheme, Jaipur
3. Principal Secretary, Rural Development and Panchayati Raj Department, Government of Rajasthan, Government Secretariat, Jaipur.

----Respondents

Connected With

S.B. Civil Writ Petition No.1727/2025

Santosh Devi Agarwal W/o Shri Prahlad Agarwal, aged about 60 years, R/o Ward No. 16, Naredi Mohalla, Ajeetgarh, Amarsar, Sikar (Rajasthan).

----Petitioner

Versus

1. State of Rajasthan, through Principal Secretary, Department of Local Self Government, Government of Rajasthan, Government Secretariat, Jaipur.
2. Director-cum-Joint Secretary, Department of Local Self Government, G-3, Rajmahal Residency Road, Near Civil Line Phatak, C-Scheme, Jaipur.
3. Principal Secretary, Rural Development and Panchayati Raj Department, Government of Rajasthan, Government Secretariat, Jaipur.

----Respondents

S.B. Civil Writ Petition No.6840/2025

Neeta Devi W/o Shri Sajjan Kumar Mishra, aged about 62

years, R/o Bansur District Alwar Rajasthan.

----Petitioner

Versus

1. State of Rajasthan, through Principal Secretary, Department of Local Self Government, Government of Rajasthan, Government Secretariat Jaipur.
2. Director-cum-Special Secretary, Department of Local Self Government, Government of Rajasthan, Government Secretariat, Jaipur.

----Respondents

S.B. Civil Writ Petition No.1875/2025

Himmat Singh S/o Shri Moolchand Choudhary, aged about 44 years, R/o Laxmangarh Road, Malakheda, Alwar.

----Petitioner

Versus

1. State of Rajasthan, through Principal Secretary, Department of Local Self Government, Government of Rajasthan, Government Secretariat, Jaipur.
2. Director-cum-Joint Secretary, Department of Local Self Government, G-3, Rajmahal Residency Road, Near Civil Line Phatak, C-Scheme, Jaipur.
3. Principal Secretary, Rural Development and Panchayati Raj Department, Government of Rajasthan, Government Secretariat, Jaipur.

----Respondents

S.B. Civil Writ Petition No.1876/2025

Hemlata Sharma W/o Shri Vinit Sharma, aged about 44 years, R/o Ward No. 20, Kudo Ka Mohalla, Sultanpura, Kota.

----Petitioner

Versus

1. State of Rajasthan, through Principal Secretary, Department of Local Self Government, Government of Rajasthan, Government Secretariat, Jaipur.
2. Director-cum-Joint Secretary, Department of Local Self Government, G-3, Rajmahal Residency Road, Near Civil Line Phatak, C-Scheme, Jaipur.
3. Principal Secretary, Rural Development and

Panchayati Raj Department, Government of Rajasthan, Government Secretariat, Jaipur.

----Respondents

S.B. Civil Writ Petition No.2468/2025

Smt. Barfi Devi W/o Shri Roop Ram Meena, aged about 35 Years, Resident of Sapotara Mode, Sapotara District Karauli (Raj.)

----Petitioner

Versus

1. State of Rajasthan, through its Principal Secretary, Department of Local Self, Government of Rajasthan, Government Secretariat, Jaipur.
2. Director-cum-Joint Secretary, Department of Local Self Government, G-3, Rajmahal Residency Road, Near Civil Line Phatak, C-Scheme, Jaipur.
3. Principal Secretary, Rural Development and Panchayati Raj Department, Government of Rajasthan, Government Secretariat, Jaipur (Raj.)

----Respondents

S.B. Civil Writ Petition No.2489/2025

Smt. Chandrakala W/o Shri Ramdeen, aged about 34 years, resident of Gandhi Tiraha, Chhahar Basedi, Basedi, District Dholpur (Raj.)

----Petitioner

Versus

1. State of Rajasthan, through Chief Secretary, Government of Rajasthan, Govt. Secretariat, Jaipur (Raj.)
2. The Principal Secretary-cum-Commissioner, Department of Local Self Bodies, Govt. Secretariat, Jaipur.
3. The Director, Department of Local Self Bodies, Directorate, Tonk Road, Jaipur.
4. The District Collector Dholpur, District Dholpur.
5. The Executive Officer, Nagar Palika, Basedi District Dholpur.

----Respondents

S.B. Civil Writ Petition No.3529/2025

Harphool Singh S/o Shri Ram Singh, aged about 48 years,
R/o Village Kanwarpura Balaji, Dundlod, Tehsil Nawalgarh,
District Jhunjhunu (Rajasthan).

----Petitioner

Versus

1. State of Rajasthan, through Principal Secretary,
Department of Local Self, Government of Rajasthan,
Secretariat, Jaipur.
2. Director-cum-Joint Secretary, Department of Local
Self Government, G-3, Rajmahal Residency Road,
Near Civil Line Phatak, C-Scheme, Jaipur.
3. Principal Secretary, Rural Development and
Panchayati Raj Department, Government of
Rajasthan, Secretariat, Jaipur.

----Respondents

S.B. Civil Writ Petition No.11111/2025

Urmila Devi W/o Shri Ajay Methi, aged about 54 Years, R/o
in front of Tehsil, VPO Govindgarh, Tehsil Laxmangarh,
District Alwar, Rajasthan.

----Petitioner

Versus

1. State of Rajasthan, through Principal Secretary,
Department of Local Self Government, Government of
Rajasthan, Government Secretariat, Jaipur.
2. Director-cum-Joint Secretary, Department of Local
Self Government, G-3, Rajmahal Residency Road,
Near Civil Line Phatak, C-Scheme, Jaipur.
3. Principal Secretary, Rural Development and
Panchayati Raj Department, Government of
Rajasthan, Government Secretariat, Jaipur.

----Respondents

S.B. Civil Writ Petition No.11123/2025

Pooja Garg W/o Shri Jitin Garg, aged about 33 years, R/o 1,
Main Market, Near Masjid, Tapukara, District Khairthal-Tijara.

----Petitioner

Versus

1. State of Rajasthan, through Principal Secretary, Department of Local Self Government, Government of Rajasthan, Government Secretariat, Jaipur.
2. Director-cum-Joint Secretary, Department of Local Self Government, G-3, Rajmahal Residency Road, Near Civil Line Phatak, C-Scheme, Jaipur.
3. Principal Secretary, Rural Development and Panchayati Raj Department, Government of Rajasthan, Government Secretariat, Jaipur.

----Respondents

For Petitioner(s)	: Mr. Rakesh Kumar Sharma with Ms. Kamini Pareek, Mr. Jitendra Choudhary & Mr. Sarthak Choubey Mr. N.C. Sharma Mr. G.S. Gouttam Mr. Dhanraj Bhaskar
For Respondent(s)	: Mr. Rajendra Prasad, Adv. General assisted by Ms. Harshita Thakral & Mr. Sheetanshu Sharma

JUSTICE ANOOP KUMAR DHAND

Order

Reserved on 16/09/2025

Pronounced on 20/09/2025

Reportable

For convenience of exposition, this judgment is divided in the following parts: -

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Prelude:

Municipalities in urban areas of India are established to provide local self-governance, evolving from the British-era corporation in the 17th and 18th Century to the constitutional recognition. Municipalities are also known as Urban Local Bodies (ULBs) and they play a crucial role in the governance and administration of cities and towns across the country. They are local self-government institutions responsible for managing urban centers, including cities and towns. Empowered by the State Governments, ULBs are responsible for a wide range of functions that directly affect the urban population and populace, including urban planning, infrastructure development, waste management, public health and other essential civic services.

The 74th Constitutional Amendment Act of 1992 laid the foundation stone for decentralized urban governance in India by providing a constitutional framework for ULBs. ULBs are tasked with delivering a wide range of public services effectively and efficiently. Their core responsibilities include urban planning, public services, ensuring adequate water supply and sanitation, infrastructure development and formulating & implementing strategies for socio-economic growth of urban areas. ULBs also regulate land development and construction across the municipal boundaries. They function at the grass-root level to implement various Central and State Government Policies & initiatives such as the Swachh Bharat Abhiyan, Smart Cities Mission, etc.

ULBs are essential components of India's urban governance system, playing a crucial role in managing the complexities of urban areas' administration. Effective urban governance is a key to achieve sustainable development and to improve the quality of life in Indian cities, towns & urban areas making ULBs a critical institute for future policy making.

Factual Matrix & Prayer:

1. Since common questions of facts and law are involved in all these writ petitions, hence, with the consent of counsel for the parties, the matters are taken up and heard together for final disposal and are being decided by this common order.
2. For the sake of convenience, the facts and prayer quoted in SB Civil Writ Petition No.1727/2025 is taken into consideration. The instant writ petition has been preferred with the following prayer:

"a) By an appropriate writ, order and direction in the nature thereof thereby the Notification dated 22.1.2025 may kindly be quashed and set aside and the respondents may kindly be directed to extend the term of Nagar Palika till holding of election afresh as extended in the case of Gram Panchayat vide Notification dated 16.1.2025.
b) By an appropriate writ order and direction the respondents may kindly be directed to allow the petitioner to complete term of five years of office of chairman from the date of first meeting.
c) Any other relief as this Hon'ble Court may deem fit and proper be also passed in favour of the Petitioner."

Contentions of the petitioners:

3. Learned counsel appearing for the petitioners submits that the petitioners were elected as Sarpanch of their

respective Gram Panchayats in the month of January, 2020. During continuation of the petitioners on the post of Sarpanch, the Department of Local Self Bodies issued a notification dated 01.06.2021, whereby the Government of Rajasthan took a decision to merge certain Gram Panchayats into Municipal Boards/Municipal Councils and as part of this decision, an arrangement was made allowing the elected Sarpanch, Vice-Sarpanch or Member of Panchayati Raj to continue on the post of Chairperson, Vice-Chairperson or Member of the Municipal Board/Municipal Council. Counsel further submits that in pursuance of the aforesaid notification, all the petitioners were permitted to continue as Chairperson. However, all of a sudden, vide notification dated 22.01.2025, the petitioners were removed from their respective post of Sarpanch by the respondents on the pretext that their five-year tenure has completed. Counsel submits that in several other Gram Panchayats, where the five-year tenure of Sarpanch has completed, their Sarpanchs have been nominated/appointed as Administrators to continue discharging the functions of their respective Panchayats. Therefore, it is argued that a discriminatory approach has been adopted by the respondents in the case of the petitioners. Counsel submits that it is an admitted fact that till date no fresh elections for either the Panchayats or the Municipal Bodies have been conducted by the respondents. Therefore, under these circumstances, the petitioners are entitled to continue as Chairpersons of their respective

Municipal Bodies in accordance with Sections 7 and 322 of the Rajasthan Municipalities Act, 2009 (for short, 'the Act of 2009') and Article 243-U of the Constitution of India. Counsel submits that the notification dated 22.01.2025 is arbitrary and discriminatory, as it creates discrimination between two similarly situated persons. In the case of the present petitioners, they have been discontinued and removed from the post of Chairperson of their respective Municipal Bodies, on completion of five-year tenure, whereas in the case of the other Gram Panchayats wherein the term of the respective Panchayats have also been completed, the similarly situated persons, who too were elected as Sarpanch, have been allowed to continue as Administrator of their respective Gram Panchayats. Hence, interference of this Court is warranted.

Contentions of the respondents:

4. *Per contra*, learned Advocate General, appearing on behalf of the State opposed the arguments advanced by counsel for the petitioners and submitted that by way of filing these writ petitions, the petitioners are seeking a writ of mandamus with the prayer to issue directions to the respondents to continue them in the office of Chairperson, Vice-Chairperson. Counsel submits that a writ of mandamus can only be issued where a legal right has been violated or a legal injury has been caused. Unless and until the petitioners are able to establish any legal right in their favour, they cannot be permitted to approach this Court invoking its writ jurisdiction for the aforesaid directions. In support of his

contention, he has placed reliance upon the judgment passed by the Hon'ble Apex Court in the case of **Ayaubkhan Noorkhan Pathan vs. State of Maharashtra and Others** reported in **2013 (4) SCC 465**. He further submitted that the Panchayati Raj Institutions and the Municipal Bodies are two distinct institutions & entities and the duties and functions of these institutions are altogether different. While the Panchayati Raj Institutions operate as per Eleventh Schedule attached to Article 243-G of the Constitution of India, the Municipal Bodies function as per Twelfth Schedule attached to Article 243-W of the Constitution of India. Counsel pointed out that in the State of Rajasthan, Panchayati Raj Institutions are thousands in number as compared to the Municipal Bodies, which are hardly hundreds in number. Counsel further submitted that the mechanisms governing these two institutions are also different. Under the Rajasthan Panchayati Raj Act, 1994 (for short, 'the Act of 1994') and the Act of 2009, the provisions dealing with dissolution are distinct. In the event of dissolution of a Panchayati Raj Institution, the charge can be given to any person as per the discretion of the State Government. However, in the case of dissolution of a Municipal body, the charge can be given to any "officer" in accordance with the provisions of the Act of 2009. Counsel submits that the petitioners cannot be allowed to make out a case of discrimination, as their case does not fall within the ambit of Article 14 of the Constitution of India. Counsel submits that there is a reasonable classification and the

petitioners have failed to satisfy the twin conditions of reasonable classification to establish a violation of Article 14 of the Constitution i.e. intelligible differentia and nexus to the object sought to be achieved. Counsel submits that the petitioners have failed to demonstrate a single instance that after dissolution of any Municipal body, any individual has been permitted to continue in the capacity of an Administrator giving reference of Sections 3, 6, 9 & 10 and Sections 320 and 322 of the Act of 2009. Counsel submits that the notification dated 22.01.2025 has been rightly issued. Therefore, under these circumstances, the petitioners are not entitled to get any relief, as sought in the instant writ petition. In support of his contentions, counsel has placed reliance upon the judgment dated 23.03.2020 passed by the Division Bench of this Court at the Principal Seat at Jodhpur in the case of **Guddi vs. State of Rajasthan and Others** while deciding **D.B. Civil Writ Petition No.2002/2020**. Counsel submits that in view of the submissions made herein above, all the writ petitions are liable to be rejected, as these writ petitions are highly misconceived.

5. In rejoinder, counsel for the petitioners has opposed the arguments raised by counsel for the State.

Discussions, Analysis & Findings:

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

7. Part-IX of the Constitution of India deals with Constitution, Composition and Duration of the Panchayats,

whereas Part-IX-A of the Constitution pertains to the Constitution, Composition and Duration of the Municipalities. Likewise, Chapter-III of the Act of 1994, deals with establishment, composition and duration of the Panchayati Raj Institution and Chapter-IV of the Act deals with the power of the Government to dissolve the Panchayati Raj Institution and consequences of such dissolution. At the same time Chapter-II of the Act of 2009 contains the provisions of establishment, composition and duration of the Municipality and Chapter-XIV of this Act deals with controlling power of the State to dissolve the Municipality.

8. The relevant provisions of Constitution, Composition and Duration of the Panchayati Raj and the Municipality, under Part-IX and IX-A of the Indian Constitution and reproduced as under in comparative form:

Art.	Panchayats	Art.	Municipalities
243B	Constitution of Panchayats (1) There shall be constituted in every State, Panchayats at the village, intermediate and district levels in accordance with the provision of this Part. (2) Notwithstanding anything in clause (1), Panchayats at the intermediate level may not be constituted in a State having a population not exceeding twenty lakhs.	243Q	Constitution of Municipalities- (1) There shall be constituted in every State,— (a) a Nagar Panchayat (by whatever name called) for a transitional area, that is to say, an area in transition from a rural area to an urban area; (b) a Municipal Council for a smaller urban area; and (c) a Municipal Corporation for a larger urban area, in accordance with the provisions of this Part: Provided that a Municipality under this clause may not be

Art.	Panchayats	Art.	Municipalities
			<p>constituted in such urban area or part thereof as the Governor may, having regard to the size of the area and the municipal services being provided or proposed to be provided by an industrial establishment in that area and such other factors as he may deem fit, by public notification, specify to be an industrial township.</p> <p>(2) In this article, "a transitional area", "a smaller urban area" or "a larger urban area" means such area as the Governor may, having regard to the population of the area, the density of the population therein, the revenue generated for local administration, the percentage of employment in non-agricultural activities, the economic importance or such other factors as he may deem fit, specify by public notification for the purposes of this Part.</p>
243C	<p>Composition of Panchayats</p> <p>(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:</p> <p>Provided that the ratio between the population of the territorial area of a Panchayat at any level</p>	243R	<p>Composition of Municipalities-</p> <p>(1) Save as provided in clause (2), all the seats in a Municipality shall be filled by persons chosen by direct election from the territorial constituencies in the Municipal area and for this purpose each Municipal area shall be divided into territorial constituencies</p>

Art.	Panchayats	Art.	Municipalities
	<p>and the number of seats in such Panchayat to be filled by election shall, so far as practicable, be the same throughout the State.</p> <p>(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.</p> <p>(3) The Legislature of a State may, by law, provide for the representation—</p> <p>(a) of the Chairpersons of the Panchayats at the village level, in the Panchayats at the intermediate level or, in the case of a State not having Panchayats at the intermediate level, in the Panchayats at the district level;</p> <p>(b) of the Chairpersons of the Panchayats at the intermediate level, in the Panchayats at the district level;</p> <p>(c) of the members of the House of the People and the members of the Legislative Assembly of the State representing constituencies which comprise wholly or partly a Panchayat area</p>		<p>to be known as wards.</p> <p>(2) The Legislature of a State may, by law, provide—</p> <p>(a) for the representation in a Municipality of—</p> <p>(i) persons having special knowledge or experience in Municipal administration;</p> <p>(ii) the members of the House of the People and the members of the Legislative Assembly of the State representing constituencies which comprise wholly or partly the Municipal area;</p> <p>(iii) the members of the Council of States and the members of the Legislative Council of the State registered as electors within the Municipal area;</p> <p>(iv) the Chairpersons of the Committees constituted under clause (5) of article 243S:</p> <p>Provided that the persons referred to in paragraph (i) shall not have the right to vote in the meetings of the Municipality; (b) the manner of election of the Chairperson of a Municipality.</p>

Art.	Panchayats	Art.	Municipalities
	<p>at a level other than the village level, in such Panchayat;</p> <p>(d) of the members of the Council of States and the members of the Legislative Council of the State, where they are registered as electors within—</p> <p>(i) a Panchayat area at the intermediate level, in Panchayat at the intermediate level;</p> <p>(ii) a Panchayat area at the district level, in Panchayat at the district level.</p> <p>(4) The Chairperson of a Panchayat and other members of a Panchayat whether or not chosen by direct election from territorial constituencies in the Panchayat area shall have the right to vote in the meetings of the Panchayats.</p> <p>(5) The Chairperson of —</p> <p>(a) a panchayat at the village level shall be elected in such manner as the Legislature of a State may, by law, provide; and</p> <p>(b) a Panchayat at the intermediate level or district level shall be elected by, and from amongst, the elected members thereof.</p>		
243E	<p>Duration of Panchayats, etc.</p> <p>(1) Every Panchayat, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first</p>	243U	<p>Duration of Municipalities, etc.-</p> <p>(1) Every Municipality, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first</p>

Art.	Panchayats	Art.	Municipalities
	<p>meeting and no longer.</p> <p>(2) No amendment of any law for the time being in force shall have the effect of causing dissolution of a Panchayat at any level, which is functioning immediately before such amendment, till the expiration of its duration specified in clause (1).</p> <p>(3) An election to constitute a Panchayat shall be completed-</p> <p>(a) before the expiry of its duration specified in clause (1);</p> <p>(b) before the expiration of a period of six months from the date of its dissolution: Provided that where the remainder of the period for which the dissolved Panchayat would have continued is less than six months, it shall not be necessary to hold any election under this clause for constituting the Panchayat for such period.</p> <p>(4) A Panchayat constituted upon the dissolution of a Panchayat before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Panchayat would have continued under clause (1) had it not been so dissolved.</p>		<p>meeting and no longer:</p> <p>Provided that a Municipality shall be given a reasonable opportunity of being heard before its dissolution.</p> <p>(2) No amendment of any law for the time being in force shall have the effect of causing dissolution of a Municipality at any level, which is functioning immediately before such amendment, till the expiration of its duration specified in clause (1).</p> <p>(3) An election to constitute a Municipality shall be completed,—</p> <p>(a) before the expiry of its duration specified in clause (1);</p> <p>(b) before the expiration of a period of six months from the date of its dissolution: Provided that where the remainder of the period for which the dissolved Municipality would have continued is less than six months, it shall not be necessary to hold any election under this clause for constituting the Municipality for such period.</p> <p>(4) A Municipality constituted upon the dissolution of a Municipality before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Municipality would have continued under clause (1) had it not been so</p>

Art.	Panchayats	Art.	Municipalities
			dissolved.
243K	<p>Elections to the Panchayats</p> <p>(1) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Panchayats shall be vested in a State Election Commission consisting of a State Election Commissioner to be appointed by the Governor.</p> <p>(2) Subject to the provisions of any law made by the Legislature of a State, the conditions of service and tenure of office of the State Election Commissioner shall be such as the Governor may by rule determine: Provided that the State Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of a High Court and the conditions of service of the State Election Commissioner shall not be varied to his disadvantage after his appointment.</p> <p>(3) The Governor of a State shall, when so requested by the State Election Commission, make available to the State Election Commission such staff as may be necessary for the discharge of the functions conferred on the State Election Commission by clause</p>	243ZA	<p>Election to the Municipalities-</p> <p>(1) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Municipalities shall be vested in the State Election Commission referred to in article 243K.</p> <p>(2) Subject to provisions of this Constitution, the Legislature of a State may, by law, make provision with respect to all matters relating to, or in connection with, elections to the Municipalities.</p>

Art.	Panchayats	Art.	Municipalities
	(1). (4) Subject to the provisions of this Constitution, the Legislature of a State may, by law, make provision with respect to all matters relating to, or in connection with, elections to the Panchayats.		

9. The provisions of establishment, composition and duration of the Panchayats and Municipalities under the Act of 1994 and the Act of 2009 respectively are reproduced as under:

Sec.	Rajasthan Panchayati Raj Act, 1994	Sec.	Rajasthan Municipalities Act, 2009
9	Establishment of Panchayat. (1) The State Government may, by notification in the Official Gazette, declare any local area, or a cantonment board constituted under any law for the time being in force to be Panchayat Circle and for every local area declared as such there shall be a Panchayat. (2) Every Panchayat shall, by the name notified in the Official Gazette, be a body corporate having perpetual succession and common seal and shall, subject to any restrictions and	5	Establishment and incorporation of Municipality. - (1) In every transitional area, there shall be established a Municipal Board and every such Municipal Board shall be a body corporate by the name of the Municipal Board of the place by reference to which the Municipality is known and shall have perpetual succession and a common seal and may sue or be sued in its corporate name. (2) In every smaller urban area, there shall be established a Municipal Council and

<p>conditions imposed by or under this Act or any other law, have power to acquire, by purchase, gift, or otherwise, to hold, administer and transfer property, both movable and immovable, and to enter into any contract and shall, by the said name, sue and be sued.</p> <p>(3) The State Government may, at any time, after one month's notice published in the prescribed manner either on its own motion or at the request of the Panchayat or of the residents of the Panchayat Circle, and by notification in the Official Gazette, change the name [or place of office] of any such Panchayat.</p>	<p>every such Municipal Council shall be a body corporate by the name of the Municipal Council of the city by reference to which the Municipality is known and shall have perpetual succession and a common seal and may sue and be sued in its corporate name.</p> <p>(3) In every larger urban area, there shall be established a Municipal Corporation and every such Municipal Corporation shall be a body corporate by the name of the Municipal Corporation of the city by reference to which the Municipality is known and shall have perpetual succession and a common seal and may sue and be sued in its corporate name:</p> <p>Provided that a Municipality under this Section may not be constituted in such urban area or part thereof as the Governor may, having regard to</p>
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		<p>the size of the area and the municipal services being provided or proposed to be provided by an industrial establishment in that area and such other factors as he may deem fit, by notification, specify to be an industrial township:</p> <p>Provided further that having regard to the cultural, historic, tourist or other like importance of an urban area, the State Government may, by notification in the Official Gazette, exclude such area from the Municipality and constitute, or without excluding such area from the Municipality constitute in addition to the Municipality, a development authority to exercise such powers and discharge such functions in the said area as may be prescribed and notwithstanding anything elsewhere in this Act, may, in</p>
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		<p>relation to such area, delegate, by notification in the Official Gazette, such municipal powers, functions and duties to the said authority as it may think appropriate for the proper, rapid and planned development of such area.</p>
<p>12</p>	<p>Composition of a Panchayat. (1) A Panchayat shall consist of-</p> <p>(a) a Sarpanch, and</p> <p>(b) directly elected Panchas from as many wards as are determined under Sub-Section (2).</p> <p>(2) The State Government shall, in accordance with such rules as may be framed in this behalf, determine the number or wards, not being less than five for each Panchayat Circle, and thereupon so divide the Panchayat Circle into single member ward that the population of each ward is, so far as practicable, the same throughout the Panchayat Circle.</p>	<p>6</p> <p>Composition of Municipality. - (1) Subject to the provisions contained in the succeeding sub-Sections, but save as Provided in the following provisions of this sub-Section, all seats in a Municipality shall be filled by persons chosen by direct election from the territorial constituencies known as wards, the number of such seats, not being less than thirteen, being fixed by the State Government from time to time by notification in the Official Gazette: -</p> <p>(a) the following shall represent in the Municipal Board, Municipal Council or, as the case may be, Municipal Corporation, viz: -</p> <p>(i) the member of the Rajasthan Legislative Assembly representing a constituency which comprises wholly or partly the area of a Municipality; and</p> <p>(ii) six persons in case</p>

		<p>of Municipal Board, eight persons in case of Municipal Council and twelve persons in case of Municipal Corporation, having special knowledge or experience in Municipal administration, to be nominated by the State Government by notification in the Official Gazette:</p> <p>Provided that-</p> <p>(i) the provisions contained in Section 24 and Section 35 shall be applicable to the persons to be nominated or nominated members;</p> <p>(ii) the State Government shall have power to withdraw a nominated member at any time;</p> <p>(iii) a nominated member shall not have the right to vote in the meetings of a Municipality;</p> <p>(iv) the number of persons to be nominated each in Municipal Board, Municipal Council and Municipal Corporation under sub-clause (ii) of clause (a) shall include one person with disability.</p> <p>(b) the member of the House of the People representing a constituency which comprises wholly or partly the area of a Municipal Council or, as the case may be, a Municipal Corporation shall represent on such Council or such Corporation:</p> <p>Provided that the</p>
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		<p>member referred to in sub-clause (i) of clause (a) shall have a right to vote in the meetings of a Municipal Board, a Municipal Council or, as the case may be, a Municipal Corporation, and the member referred to in clause (b) shall have a right to vote in the meetings of a Municipal Council or Municipal Corporation:</p> <p>Provided further that the members referred to in sub-clause (i) of clause (a), and clause (b) shall not be subject to any disqualification or any other proceedings under the provisions of this Act.</p> <p>(2) Upon the completion of each census after the establishment of the Municipality, the number of seats shall be re-determined by the State Government by notification in the Official Gazette on the basis of the population of the municipal area as ascertained at the latest census:</p> <p>Provided that the determination of seats as aforesaid shall not affect the existing composition of the Municipality until the expiry of its term.</p> <p>(3) In so fixing the total number of seats for a Municipality, the State Government shall specify the number respectively of general seats and of seats reserved for women and for members of the Scheduled Castes or for</p>
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		<p>members of the Scheduled Tribes or for both or persons belonging to the Backward Classes as it may in each case determine.</p> <p>(4) The number of seats reserved for members of Scheduled Castes or Scheduled Tribes shall, in relation to the total number of seats fixed for a Municipality, bear as nearly as may be, the same proportion as the population of the Scheduled Castes or Scheduled Tribes in the municipal area bears to the total population thereof.</p> <p>(5) The percentage of seats reserved for the Backward Classes shall be such as the percentage of the combined population of Scheduled Castes and Scheduled Tribes in relation to the total population in the municipal area falls short of fifty: Provided that the percentage of seats so reserved for the Backward Classes shall not exceed twenty-one: Provided further that at least one seat shall be reserved for the Backward Classes in every Municipality where the percentage of the combined population of Scheduled Castes and Scheduled Tribes in relation to the total population in the municipal area does not exceed seventy.</p> <p>(8) The reservation of</p>
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		<p>seats for Scheduled Castes and Scheduled Tribes and the Backward Classes under sub-Sections (3), (5) and (6) shall cease to have effect on the expiration of the period specified in Article 334 of the Constitution of India.</p> <p>(9) All the seats fixed for a Municipality, general as well as reserved, shall be filled up by direct election from the wards in the municipal area and such election shall be held in the prescribed manner.</p> <p>Explanation.- If a fraction forms part of the number of seats computed under this section, the number of seats shall be increased to the next higher number in case the fraction consists of half or more of a seat and the fraction shall be ignored in case it consists of less than half of a seat.</p>
<p>17.</p>	<p>Duration of, and election to the Panchayati Raj Institutions.- [(1) Every Panchayati Raj Institution, unless sooner dissolved under this Act, shall continue for five years from the date of the first meeting of the respective institution and no longer. [Explanation - The meeting held for the election of Chairperson of a Zila Parishad or Panchayat Samiti or, as the case may be, of Up-</p>	<p>7</p> <p>Term of office. - (1) Every Municipality unless sooner dissolved under the provisions of this Act, shall continue for five years from the date appointed for its first meeting and no longer. (2) A Municipality constituted upon the dissolution of a Municipality before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Municipality would have</p>

<p>Sarpanch of a Panchayat shall be deemed to be the first meeting of the respective Panchayati Raj Institution.]</p> <p>(2)The Superintendence, direction and control of the preparation of electoral rolls for and the conduct of, all elections to the Panchayat Raj Institution shall be vested in the State Election Commission.</p> <p>(3)The election to constitute a Panchayati Raj Institution shall be completed -</p> <p>(a)before the expiration of its duration specified in sub-Section (1); and</p> <p>(b)in the case of dissolution, before the expiration of a period of six months from the date its dissolution:</p> <p>Provided that where the remainder of the period for which the dissolved Panchayat Raj Institution would have continued is less than six months, it shall not be necessary to hold any election under this clause for constituting the Panchayati Raj Institution for such period.</p> <p>(4) A Panchayati Raj Institution constituted upon its dissolution before the expiration of its duration, shall continue only for the remainder of the period for which it would have continued under sub-Section (1) had it not been so dissolved.</p> <p>(5) The State</p>	<p>continued under sub-Section (1).</p> <p>Explanation.- For the purposes of this Section, the expression "first meeting" means the meeting of the elected members of the Municipality held immediately after the general elections.</p>
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<p>Government may, from time to time, make provisions by rules with respect to all matters relating to or in connection with the election to the Panchayati Raj Institution including those in relation to the preparation of electoral rolls, the delimitation of wards or constituencies and all other matters necessary for securing the due constitution of such institutions.</p>	
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10. Bare perusal of the above indicates that Article 243B, 243C, 243E, 243K of the Constitution of India and Section 9, 12 and 17 of the Act of 1994 deals with the provisions of composition, election and duration of the Panchayats. Similarly Article 243Q, 243R, 243U & 243ZA of the Constitution of India and Section 5, 6 & 7 of the Act of 2009 deals with the provisions of composition, duration and elections of the Municipalities. Perusal of all above provisions clearly indicates that the duration of the Panchayats & Municipalities would be of five years and it can be extended for further six months and administrators can be appointed for this intervening period for discharging the functions, works and duties of these institutions. But in any case, this duration of six months cannot be extended beyond the expiry of six months.

11. Section 94 of the Act of 1994 deals with the power of the Government to dissolve a Panchayati Raj Institution. The same reads as under:

“Sec.94.Power of Government to dissolve a Panchayati Raj Institution.- If at any time Government is satisfied that a Panchayati Raj Institution is not competent to perform or persistently makes default in the performance of the duties imposed on it by or under this Act or otherwise by law, or have exceeded or abused its powers, the Government may by an order published, alongwith the reasons thereof, in the Official Gazette, declare the Panchayati Raj Institution to be incompetent or in default or to have exceeded or abused its powers, as the case may be, and may dissolve such Panchayati Raj Institution on and from a date to be specified in the order of dissolution : Provided that no action shall be taken under this sub-section unless the Panchayati Raj Institution has been afforded a reasonable opportunity of submitting an explanation and of being heard if the Panchayati Raj Institution so desires.

Explanation. - If for any reason the number of vacancies in a Panchayati Raj Institution exceeds two-third of the total number of seats, the Panchayati Raj Institution shall be deemed to be not competent to perform the duties imposed on it by or under this Act.”

12. Section 95 of the Act of 1994 deals with the consequences of such dissolution, which reads as under:

“Sec.95. Consequences of dissolution.

(1) When a Panchayati Raj Institution is dissolved under this Act, the following consequences shall ensue:-

(a) all the members of the Panchayati Raj Institution including the chairperson shall, on the date of dissolution vacate their respective offices but without prejudice to their eligibility for re-election or re-appointment.

(b) all powers and duties of the Panchayati Raj Institution shall, during the period of dissolution, be exercised and performed by such administrator as the State Government may appoint in this behalf; and

(c) all property vested in the Panchayati Raj Institution shall, during the period of dissolution, vest in the Government.

(2) If it shall not be possible to reconstitute the Panchayati Raj Institution within the time specified in Clause (b) of Sub-Sec. (3), of Sec. 17 because of any stay by any competent Court or authority on any general election to the Panchayati Raj Institution concerned and the proceedings consequent thereon the consequences specified in Clause (b) and (c) of Sub-Section (1) shall follow.

(3) An order of dissolution made under Section 94 together with a statement of the reasons thereof shall be laid before the House of the State Legislature, as soon as may be, after it has been made."

Bare perusal of Section 95(1)(b) of the Act of 1994 clearly indicates that during the period of dissolution, all powers and duties of the Panchayati Raj Institution shall be exercised and performed by such Administrator, as appointed by the State Government in this behalf.

13. Section 322 of the Act of 2009 deals with the power of the Government to dissolve the municipality and the same reads as under:

"Sec.322. Power of Government to dissolve Municipality in case of incompetency or having less than two third elected members.

- (1) If at any time the State Government is satisfied that the Municipality is not competent to perform, or persistently makes default in the performance of the duties imposed on it by or under this Act or otherwise by law, or has exceeded, or abused its powers, the State Government may, by an order published along with the reasons thereof, in the Official Gazette, declare the Municipality to be incompetent or in default, or to have exceeded or abused its powers, as the case may be, and may dissolve

such Municipality as from a date to be specified in the order of dissolution:

Provided that no action shall be taken under this sub-Section unless the Municipality through its Chairperson has been afforded a reasonable opportunity of submitting an explanation and of being heard, if the Municipality so desires:

Provided further that no order under this sub-Section shall be passed-

(i) unless the State Government has drawn up a statement setting out distinctly the charges against the Municipality and sent the same for inquiry in the prescribed manner and findings to a Tribunal consisting of a Chairman and not less than two members, constituted in the prescribed manner, or

(ii) otherwise than in conformity with such findings.

Explanation.- If for any reason the number of vacancies in a Municipality exceeds two-thirds of the total number of seats, the Municipality shall be deemed to be not competent to perform the duties imposed on it by or under this Act.

(2) The State Government shall dissolve the Municipality if at any time the number of its elected members falls short of two third of its total members.

(3) When a Municipality is dissolved under sub-Section (1) or any other provision of this Act, the following consequences shall ensue:

(a) all members of the Municipality including the Chairperson and the Vice-Chairperson shall, on the date specified in the order of dissolution, vacate their respective offices but without prejudice to their eligibility for re-election or re-appointment; and

(b) all powers and duties of the Municipality shall, during the period of dissolution, be exercised and performed by such officer as an Administrator as the State Government appoints in this behalf.

(4) An election to constitute a Municipality shall be completed before the expiration of a period of six months from the date of its dissolution:

Provided that where the remainder of the period for which the dissolved Municipality would have continued is less than six months, it shall not be

necessary to hold any election under this sub-Section for constituting the Municipality for such period.

(5) A Municipality constituted upon the dissolution of Municipality before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Municipality would have continued under Section 7 had it not been so dissolved.

(6) An order of dissolution made under this Section together with statement of the reasons thereof shall be laid before the House of the State Legislature, as soon as may be, after it has been made.”

Bare reading of Section 322 (a) & (b) of the Act of 2009 reveals that all members of the Municipality shall vacate their respective offices, on the dissolution of a Municipality and thereafter, all powers and duties of the members shall be exercised and performed by such officer as an Administrator as the State Government appoints in this behalf.

14. Bare perusal of Section 95(1)(b) of the Act of 1994 and Section 322(3)(b) of the Act of 2009 clearly indicates that in case of dissolution of a Panchayati Raj Institution and a Municipality, the powers and duties of these institutions would be performed by the 'Administrator' appointed by the State Government in this behalf.

15. Now the question remains for consideration of this Court is whether a Chairman/Vice-Chairman/Member of the Municipality can be allowed to be appointed or continue to act as an Administrator of such Municipality even after completion of his/her term on the said post?

16. This fact is not in dispute that all the petitioners were elected as Sarpanch of their respective Gram Panchayats in the month of January, 2020.

17. This fact is also not in dispute that in exercise of the powers contained under Section 3 of the Act of 2009, the areas previously falling under their Panchayats were declared as Municipal Areas and a decision was taken to merge these Panchayats into Municipalities in exercise of power contained under Section 3 of the Act of 2009 and accordingly, a notification was issued on 01.06.2021 to treat the Sarpanch of these Panchayats as Chairman of the respective Municipalities and accordingly, orders were passed in this regard by the State Government in exercise of the powers contained under Section 43 of the Act of 2009.

18. This fact is also not in dispute that the petitioners were allowed to continue and act as Chairman of their newly constituted Municipalities. This is not in dispute that all the petitioners have completed their five-year elected term in the month of January, 2025. Therefore, a notification was issued on 22.01.2025 to appoint Sub-Divisional Officers as Administrators of their respective Municipalities.

19. In the notification dated 16.01.2025 it has been observed that various Panchayats have completed their tenure on 31.01.2025 and fresh elections could not be held, due to unavoidable reasons. Thus, Sarpanchs of their respective Panchayats were appointed as Administrator to perform the duties and functions of their respective Panchayats. Now, the

petitioners are claiming their right to continue as Chairman of their respective Panchayats till the new elections are conducted in-spite of completion of their tenure, relying on the fact that other Sarpanchs have been allowed to continue as Administrators of their respective Panchayats pursuant to the notification dated 16.01.2025.

20. There is a clear distinction between the provisions contained under Section 95(1)(b) of the Act 1994 and Section 322(3)(b) of the Act of 2009. In the event of dissolution of a Panchayati Raj Institution, all powers and duties of such institution shall be exercised and performed by an Administrator to be appointed by the State Government. Whereas in case of dissolution of a Municipality, all these powers and duties shall be exercised and performed by "such officer" as an "Administrator" appointed by the State Government.

Under Section 322(3)(b) of the Act of 2009, the term "officer" has been specifically used, whereas Section 95(1)(b) of the Act of 1994 does not use the term "officer". Meaning thereby, after the dissolution of a Panchayat, any individual can be appointed as an "Administrator" to discharge the powers and duties of the Panchayat. The provisions contained under these Acts represent a reasonable classification and the petitioners have not assailed/challenged the validity of these provisions or alleged that these contradictory provisions are violative of their fundamental right contained under Article 14

of the Constitution of India, hence, the same is required to be declared as ultra-vires or unconstitutional.

21. The discretion to appoint an 'Administrator', following the dissolution of Panchayats and Municipalities, vests with the State Government. While exercising its discretion, the State Government appointed the Sarpanch as Administrator of his/her respective Panchayats, even after the completion of his/her term. However, in the case of Municipality, the State Government has decided to appoint the Sub Divisional Officer as 'Administrator' of the respective Municipalities, after completion of petitioners' five-year elected term.

22. The petitioners are seeking a Writ of Mandamus against the State to allow them to continue on the post of 'Chairman' in the capacity of 'Administrator' of their respective Municipalities, even after completion of their five-year elected term. The petitioners have miserably failed to demonstrate any legal right to continue on the post of Chairman, in the capacity of 'Administrator', even after completion of their five-year elected term.

It is a settled proposition of law that only a person who has suffered a 'legal injury' or whose 'legal right', whether guaranteed under any Statutory Act or Part-III of the Constitution of India, has been violated, then and then only he can invoke the extra-ordinary jurisdiction of this Court under Article 226 of the Constitution of India.

23. This settled proposition of law has been laid down by the Hon'ble Apex Court in the case of **Ayaubkhan Noorkhan**

Pathan (supra) wherein it has been held in para 9 and 10 as under:

“9. It is a settled legal proposition that a stranger cannot be permitted to meddle in any proceeding, unless he satisfies the authority/court, that he falls within the category of aggrieved persons. Only a person who has suffered, or suffers from legal injury can challenge the act/action/order etc. in a court of law. A writ petition under Article 226 of the Constitution is maintainable either for the purpose of enforcing a statutory or legal right, or when there is a complaint by the appellant that there has been a breach of statutory duty on the part of the authorities. Therefore, there must be a judicially enforceable right available for enforcement, on the basis of which writ jurisdiction is resorted to. The Court can, of course, enforce the performance of a statutory duty by a public body, using its writ jurisdiction at the behest of a person, provided that such person satisfies the Court that he has a legal right to insist on such performance. The existence of such right is a condition precedent for invoking the writ jurisdiction of the courts. It is implicit in the exercise of such extraordinary jurisdiction that the relief prayed for must be one to enforce a legal right. In fact, the existence of such right, is the foundation of the exercise of the said jurisdiction by the Court. The legal right that can be enforced must ordinarily be the right of the appellant himself, who complains of infraction of such right and approaches the Court for relief as regards the same.

10. A “legal right”, means an entitlement arising out of legal rules. Thus, it may be defined as an advantage, or a benefit conferred upon a person by the rule of law. The expression, “person aggrieved” does not include a person who suffers from a psychological or an imaginary injury; a person aggrieved must therefore, necessarily be one, whose right or interest has been adversely affected or jeopardised.”

24. In the present writ petitions, the petitioners have failed to establish their fundamental or statutory right to claim continuation as Chairperson, in the capacity of Administrator, even after completion of their five-year elected term. Hence, they are not entitled to invoke the writ jurisdiction of this Court under Article 226 of the Constitution of India.

25. The petitioners are asserting their claim under Article 14 of the Constitution of India by referring to the order by which the Sarpanchs of other Panchayats have been allowed to continue in their respective offices despite the dissolution of the Panchayats and completion of their five-year tenure.

26. Equality before law and equal protection of laws form the heart and soul of the constitutional framework adopted by this country. The right to equality and equal protection of laws under Article 14 is the genus while the right against discrimination is the species. Equality, as contemplated under the Constitutional scheme, implies equality among equals. The doctrine of equality is considered to be a corollary to the concept of Rule of Law which postulates that every executive action, if it is to operate to the prejudice of any individual must be fair and referable to legal authority. What Article 14 prohibits is the class legislation and not reasonable classification. If classification is based upon reasonable criteria and the persons belonging to well-defined class are treated equally, then the vice of discrimination would not be attracted. In order to withstand the test of reasonable classification, the

impugned statute, order or notification is required to satisfy the twin tests of permissible classification viz.,

- (i) that the classification must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group and;
- (ii) that, the differentia must have a rational relation to the object sought to be achieved by the impugned statute or order.

27. Mere differential treatment, by itself, cannot be termed as an "anathema to Article 14 of the Constitution". When there is a reasonable basis for a classification adopted by taking note of the exigencies and diverse situations, the Court is not expected to insist upon absolute equality by adopting a rigid and pedantic approach, as against a pragmatic one.

28. Such differentiation would not be termed as arbitrary, as the object of the classification itself is meant for providing benefits to an identified group of persons who constitute a class of their own. When the basis of differentiation is clearly distinguishable with adequate demarcation duly identified, the object of Article 14 gets satisfied. Social, revenue and economic considerations are certainly valid and permissible parameters in classifying a particular group. Thus, a valid classification is nothing but a valid discrimination. That being the position, there can never be an injury to the concept of equality enshrined under the Constitution, not being an inflexible doctrine.

29. A larger latitude is mandated on the part of the Court, in dealing with a challenge to the classification, introduced either by the Legislature or the Executive, as the case may be. There

is no way, Courts could act like appellate authorities especially when a classification is introduced by way of a policy decision clearly identifying the group of beneficiaries by analysing the relevant materials.

30. The question as to whether a classification is reasonable or not is to be answered on the touchstone of a reasonable, common man's approach, keeping in mind the avowed object behind it. If the right to equality is to be termed as a genus, a right to non-discrimination becomes a specie. When two identified groups are unequal, certainly they cannot be treated as a homogeneous group. A reasonable classification thus certainly would not injure the equality enshrined under Article 14 when there exists an intelligible differentia between two groups having a rational relation to the object. Therefore, an interference would only be called for, on the Court being convinced that the classification causes inequality among similarly placed persons. The role of the Court being restrictive, generally, the task is best left to the concerned authorities. When a classification is made on the recommendation made by a body of experts, constituted for the purpose, Courts will have to be more wary of entering into the said arena as its interference would amount to substituting its views, a process which is best avoided.

31. As long as the classification does not smack of inherent arbitrariness and conforms to justice and fair play, there may not be any reason to interfere with it. It is the wisdom of the other wings which is required to be respected except when a

classification is bordering on arbitrariness, artificial difference and itself being discriminatory. A decision made sans the aforesaid situation cannot be tested with either a suspicious or a microscopic eye. Good-faith and intention are to be presumed unless the contrary exists. One has to keep in mind that the role of the Court is on the illegality involved as against the governance.

32. For the aforesaid principle of law, this Court would like to quote the elucidations of the Hon'ble Apex Court in the case of **Transport & Dock Workers Union v. Mumbai Port Trust** reported in **(2011) 2 SCC 575**, wherein it has been held as under:

"36. Differential treatment in our opinion does not per se amount to violation of Article 14 of the Constitution. It violates Article 14 only when there is no conceivable reasonable basis for the differentiation. In the present case, as pointed out above, there is a reasonable basis and hence in our opinion there is no violation of Article 14 of the Constitution.

37. In our opinion it is not prudent or pragmatic for the Court to insist on absolute equality when there are diverse situations and contingencies, as in the present case. In view of the inherent complexities involved in modern society, some free play must be given to the executive authorities in this connection.

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39. In our opinion, there is often a misunderstanding about Article 14 of the Constitution, and often lawyers and Judges tend to construe it in a doctrinaire and absolute sense, which may be totally impractical and make the working of the executive authorities extremely difficult if not impossible.

40. As Lord Denning observed:

This power to overturn executive decision must be exercised very carefully, because you have got to remember that the executive and the local authorities have their very own responsibilities and they have the right to make decisions. The courts should be very wary about interfering and only interfere in extreme cases, that is, cases where the court is sure they have gone wrong in law or they have been utterly unreasonable. Otherwise you would get a conflict between the courts and the Government and the authorities, which would be most undesirable. The courts must act very warily in this matter.” (See Judging the World by Garry Sturgess Philip Chubb.)”

41. In our opinion Judges must maintain judicial self-restraint while exercising the powers of judicial review of administrative or legislative decisions. “In view of the complexities of modern society”, wrote Justice Frankfurter, while Professor of Law at Harvard University, “and the restricted scope of any man's experience, tolerance and humility in passing judgment on the worth of the experience and beliefs of others become crucial faculties in the disposition of cases. The successful exercise of such judicial power calls for rare intellectual disinterestedness and penetration, lest limitation in personal experience and imagination operate as limitations of the Constitution. These insights Mr Justice Holmes applied in hundreds of cases and expressed in memorable language: It is misfortune if a Judge reads his conscious or unconscious sympathy with one side or the other prematurely into the law, and forgets that what seem to him to be first principles are believed by half his fellow men to be wrong.

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43. In our opinion adjudication must be done within the system of historically validated restraints and conscious minimisation of the Judges' preferences. The Court must not embarrass the administrative authorities and must realise that administrative authorities have expertise in the field of administration while the Court does not. In the words of Chief Justice Neely, former Chief Justice of the West Virginia Supreme Court of Appeals:

"I have very few illusions about my own limitations as a Judge. I am not an accountant, electrical engineer, financier, banker, stockbroker or system management analyst. It is the height of folly to expect Judges intelligently to review a 5000 page record addressing the intricacies of a public utility operation. It is not the function of a Judge to act as a super board, or with the zeal of a pedantic school master substituting its judgment for that of the administrator."

44. In administrative matters the Court should, therefore, ordinarily defer to the judgment of the administrators unless the decision is clearly violative of some statute or is shockingly arbitrary. In this connection, Justice Frankfurter while Professor of Law at Harvard University wrote in *The Public and its Government*:

"With the great men of the Supreme Court constitutional adjudication has always been statecraft. As a mere Judge, Marshall had his superiors among his colleagues. His supremacy lay in his recognition of the practical needs of the Government. The great Judges are those to whom the Constitution is not primarily a text for interpretation but the means of ordering the life of a progressive people."

33. Hence, in the light of the above-noted judgment, it is clear that the Court should refrain from interfering in administrative matters unless the decision is clearly violative of some statute or is shockingly arbitrary.

34. The petitioners have failed to establish any violation or infringement of their rights, guaranteed under Article 14 of the Constitution of India.

35. The petitioners cannot be permitted to continue on the post of Chairman, in the capacity of Administrator, in terms of Article 243U of the Indian Constitution and Section 7 of the

Act of 2009. This proposition of law has also been settled by the Division Bench of this Court in the matter of Sarpanchs, who were seeking directions to permit them to continue on the said post, even after completion of their elected term. It has been held in the case of **Guddi (supra)** in para 16 to 20, which reads as under:

“16. After hearing learned counsel for the parties as well as perusing the record of the case, alongwith the precedent laws cited at the Bar, this Court finds that the final relief, as claimed by the petitioners herein, pertains to continuation of the petitioners on the post as occupied by them, inspite of the fact that their tenure on the said post has already come to an end.

17. This Court is bound by the constitutional mandate of Article 243-E of the Constitution of India, as quoted hereinabove, wherein duration of Panchayats is prescribed and thus, final relief in the present petitions in relation to increasing or extending the tenure of the present petitioners, beyond the duration prescribed, cannot be granted by this Court.

18. Furthermore, this Court is of the firm opinion that once the Hon’ble Apex Court, vide the aforequoted orders, has finally decided the controversy pertaining to elections of the Panchayati Raj Institutions by accepting the State Election Commission’s undertaking that they shall complete the elections in the second half of April, 2020, strictly in accordance with law, then any relief, if granted to the present petitioners, would be overreaching the orders of the Hon’ble Supreme Court.

19. The judgment rendered by the Hon’ble Allahabad High Court cited and quoted above shall not have any bearing in the present case, as the provision of Section 101 of the Act of 1994 empowering the appointment of administrator is not under challenge in these writ petitions. The relief of continuation of the petitioners on their respective post, beyond the stipulated tenure, as sought by them, shall amount to breach of the

constitutional provisions of Article 243-E of the Constitution of India.

20. In light of the aforesaid observations, no case for making any interference in the present writ petitions is made out, and the same are accordingly dismissed. All pending applications also stand dismissed."

36. The Division Bench of Punjab and Haryana High Court in the case of **Jaswinder Kaur vs. State of Punjab and Others** while deciding **CWP No.22662/2004** on 03.10.2024, has also taken the similar view in para 10 to 14 which reads as under:

"10. Sub Article 1 of Article 243E of the Constitution of India explicitly declares, that the term of every Panchayat, unless sooner dissolved under any law for the time being in force, shall continue for five years, from the date appointed for its first meeting and no longer. The conclusion therefrom, is that, the term of every democratically elected Gram Panchayat, shall last upto a period of 5 years, unless dissolution thereof earlier takes place, through the valid invocation of any subsisting law. Moreover, thereupons a conclusion also becomes sparked, that the tenure of 5 years whereupto the term of a democratically elected Gram Panchayat is to last, thus shall be computed from the date of the first meeting and shall not last beyond the said term of 5 years.

11. Moreover, Section 14 of the Act of 1994, declares that the term of office of Sarpanch and of the Panch of a Gram Panch, shall co-terminate with the term of the Gram Panchayat. Furthermore, Section 15 of the Act of 1994 also carries an explicit speaking, that the term of every Gram Panchayat, unless validly dissolved earlier under the Act of 1994 rather shall continue for a term of 5 years from the date of its first meeting. Cumulatively therebys there is cotermini inter se the tenure of functionings of the democratically elected Sarpanch and of the Panches to Gram Panchayat, thus vis-a-vis the

term of the Gram Panchayat, term whereof is to be not lasting for a period more than 5 years, since the apposite first meeting takes place. Resultantly, any democratically elected Sarpanch or Panch to a Gram Panchayat, thus cannot claim that his/her term is to last longer, than the term of the Gram Panchayat concerned, nor can any Sarpanch or a Panch who becomes elected to a Gram Panchayat, can claim that beyond the period of 5 years since general elections, or bye-elections become conducted to the Gram Panchayat concerned, rather he or she is to continue, nor can claim that beyond five years from the first apposite meeting, thus he/she is to be permitted to serve as such. In case such a latitude is provided, thereby the effective declarations (supra) as made both in sub Article 1 of Article 243E of the Constitution of India and also in Sections 14 and 15 of the Act of 1994, would become rendered completely ineffective, and/or would become redundant. The said ill-effectivity or redundancy is to be avoided.

12. Even otherwise, sub Section 1 of Section 22 of the Act of 1994, thus naturally falls in alignment with the explicit declarations (supra), to the extent, that whenever any vacancy occurs by death, resignation or removal or otherwise of a Sarpanch or Panch, thereupon the so created vacancy shall be filled up by way of election. The signification to be imparted to the above statutory provision, is naturally that, when any democratically elected Sarpanch or Panch dies, resigns or is removed, thereupons the vacancy which become so created by the occurrence of the events (supra), would result in bye-elections, being held. However, yet the conducting of bye-elections, in the event of the above situations arising, thus would not endow any right either to the Sarpanch or to the Panch, who is elected in a bye-election, to claim that he/she be permitted to continue for 5 years from the date of the conducting of such bye-elections or from the date of holding of the first apposite meeting, as arises on accrual of situation (supra), as thereby the mandate enclosed in sub Article 1 of Article 243E of the Constitution of India and also in Sections 14 and 15 of the Act of 1994, would become

completely defeated, besides would lead to ill redundancy thereof becoming generated.

13. Though, in the instant case the vacancy arose not on account of death, resignation or removal of the Sarpanch or of the Panch, but arose on account of delays in the holding of elections. The said became spurred from the rejection of nomination papers, whereafter through orders (supra) becoming made by this Court, to validly conduct bye-elections, thus the bye-elections became held. Consequently, if bye-elections were conducted on account of rejection of the nomination papers and when the conducting of the said bye-elections were under the orders passed by this Court, on 13.01.2023 in CM-1127-CWP-2022 in CWP-35054-2019. Resultantly, the conducting of bye-elections but in the event of the nomination papers becoming rejected at the initial stage, but would fall within the ambit of the statutory coinage "or otherwise" as occurs in sub Section 1 of Section 22 of the Act of 1994.

14. Therefore, the present petitioner who became elected as a Sarpanch in a bye-election, which was conducted in the year 2023, thus cannot claim that she is to be bestowed with a right to continue for a period of 5 years from the date of hers becoming elected as Sarpanch, or from the date of the apposite first meeting being held, as therebys the purposeful explicit declaration carried in sub Article 1 of Article 243E of the Constitution of India and also in Sections 14 and 15 of the Act of 1994, would become completely defeated."

37. There is a lot of difference between the functions and duties of the Panchayati Raj Institutions and Municipalities as per Schedule XI and XII attached to the Indian Constitution. Hence, the petitioners cannot claim parity with the Sarpanchs, who have been allowed to continue as 'Administrator' of their respective dissolved Panchayats until fresh elections are held.

Conclusion:

38. In view of the discussions made hereinabove, this Court finds no merits and substance in these writ petitions. These writ petitions lack merit, hence, deserves rejection and the same are hereby dismissed.

39. The stay applications and all pending applications, if any, also stand rejected.

Concluding Remarks:

40. Democratic governance at the grassroots level is fundamental to ULBs i.e. Municipalities. As per the mandate contained under Article 243U of the Constitution of India and Sections 7 & 322(4) of the Act of 2009, the tenure of Municipalities cannot exceed for more than five years. The term of almost all of the Municipalities has already been completed and the same has been extended, but in any case, such extension cannot be exceeded beyond a period of six months after completion of their original tenure.

41. Similar view has been taken by the Gauhati High Court in the case of **Muna Thapa vs. State of Manipur** reported in **2010 (5) Gau LT 648** and it has been held that the State is duty bound to comply with the mandate of Article 243E(3) of the Constitution of India and election of the Panchayat has to be completed before expiration of the fixed tenure and the State cannot extend the term of 'Administrator' beyond six months after expiry of duration of the Panchayats. It has been held in para 8 as under:

"8. It is quite settled law that the authority concerned, i.e. the State Respondents are duty bound to comply with the mandate of the Constitution provided under Art 243E(3) of the Constitution of India, wherein the election to constitute a Panchayat shall be completed within expiry of duration. In order to dilute the mandatory requirement of compliance of the mandate of the Constitution of India provided under Article 243E(3) of the Constitution, the state Govt. cannot make an endeavour to amend the provisions of Section 22 of the Manipur Panchayati Raj Act, 1994 so as to extend the term of the Administrative Committee beyond six months after the expiry of the duration of the Panchayat. In other words, the State-Respondents cannot amend the provisions of Sec. 22 of the Manipur Panchayati Raj Act, 1994 so as not to hold the election in derogation of the mandate under Article 243E of the Constitution of India, wherein the election to constitute Panchayat shall be completed before the expiry of its duration i.e. five years."

42. An identical issue came before the Division Bench of the High Court Manipur at Imphal in the case of **Mayanglamban Joykumar Singh and Another vs. State of Manipur** reported in **2025 SCC OnLine Mani 439** and the following issue/question of law came for adjudication in para 1, which reads as under:

"1. The core question involved in the present writ petition is the legality and validity of the Manipur Panchayati Raj (Amendment) Act, 1996 [in short MPR (Amendment) Act, 1996] with respect to Section 22 (3) of the parent Act i.e. Manipur Panchayati Raj Act, 1994 (in short MPR Act, 1994) whereby, the existing member of the Panchayat will 'continue' to be members of the Gram-Panchayat even after expiry of its 5 years term upon appointment of the Administrative Committee by replacing the original word 'cease'

by 'continue' in Section 22(3) of the Act of 1994 by Section 6 of the Amendment Act of 1996."

43. The legality and constitutional validity of the amendment was challenged before the Manipur High Court against the amended provisions made by the Government of Manipur by which the members of the Gram Panchayats were allowed to continue even after expiry of their five year continuous tenure and it has been held that upon expiration of five year tenure, the elected members 'cease' to be member of such panchayat and all powers, functions and duties of the Panchayats shall be exercised by the Administrative Committee. It has been held in para 20 to 23 as under:

"20. In the circumstances, we are of the considered opinion that the amendment of Manipur Panchayati Raj (Amendment) Act, 1996 to the Manipur Panchayati Raj Act, 1994 with respect to replacing the word 'cease' in Section 22(3) of the original Act by word 'continue' is ultra vires the provision of Article 243E and in violation of the decision of Hon'ble Supreme Court and High Courts in the cases of (i) Kishansing Tomar (supra), (ii) Suresh Mahajan v. State of M.P. (supra), (iii) Prof. B.K. Chandrashekar (supra), & (iv) Muna Thapa (supra). Hence, applying the principle of 'reading down' of statute to save the main amendment by striking out the offending and absurd portion only, it is held that the Manipur Panchayati Raj (Amendment) Act, 1996 with respect to Section 6 of the amendment Act introducing the word 'continue' in place of 'cease' in Section 22(3) of the original Act is ultra vires the provisions of the Article 243E of the Constitution of India as well as Section 22(2) of the MPR Act, 1994. The original word 'cease' is retained in Section 22(3) of the Act so that the absurd condition of indirect extension of the tenure of the Gram Panchayat beyond 5 years which was introduced by the

amendment in Section 22(3) of the Act, is avoided. In order to save the Amendment Act of 1996, this Court resort to the doctrine of 'reading down' by restoring the original word 'cease' in Section 22(3) of the Act of 1994, thereby preventing the situation where the elected members of the Panchayat can continue till next election is notified. However, the remaining portions of Amendment Act of 1996 including the deletion of word 'Administrator' from Section 22, are upheld.

21. Another ground for striking down of the amendment in Section 22(3) of the Act of 1994 of replacing the word 'cease' by the word 'continue' is the duality of the body to exercise the power, function and duty of the Gram Panchayat. By replacing the word 'cease' by 'continue', the amendment in Section 22(3) of the Act allows the elected members of the Gram Panchayat, whose term has already expired, to 'continue' without a time limit, even after the appointment of the Administrative Committee under Section 22(1)(b)(i) of the Manipur Panchayati Raj, 1994. The amended Section 22(3) stipulates that the Administrative Committee will still exercise the power, function and duty of the Gram Panchayat, notwithstanding the continuation of the elected members in terms of the amendment. This creates a situation where there are two bodies-one, the elected members as per amended Section 22(3) and two, the Administrative Committee appointed under Section 22(1)(b)(i) of the Act with all the powers and functions of the Gram Panchayat.

22. It is the settled law that the tenure of a Panchayat is 5 years as mandated by Article 243E of the Constitution and Section 20 of the Manipur Panchayati Raj, 1994. Original Section 22(3) of the Act stipulates that once the Administrative Committee is appointed under Section 22(1)(b)(i) of the Act upon the expiration of the five years tenure, the elected members 'cease' to be members of such Panchayat and all the power, function and duty of the Panchayat shall be exercised by the Administrative Committee. Section 6 of the Manipur Panchayati Raj (Amendment) Act, 1996 replaces the word

'cease' in Section 22(3) of the Act by the word 'continue', but there is no corresponding amendment in Section 22(3) for transferring the power, function and duty of the Gram Panchayat to the elected members so 'continued'. In other words, the elected members will 'continue' as members without any power and the power, function and duty of the Panchayat will be exercised by the Administrative Committee. This reduces the continuation of the elected members as per amended Section 22(3) of the Act for name's sake and without any power. Ironically, there are two bodies in a Gram Panchayat whose tenure has already expired : (i) the elected members allowed to continue by amended Section 22(3), and (ii) the Administrative Committee appointed under Section 22(1) (b)(i) of the Act exercising all the powers, functions and duties of the Gram Panchayat. The amendment in Section 22(3) of replacing the word 'cease' by 'continue' does not serve any fruitful purpose except for creating a confusion, absurdity and anomaly of having dual bodies for the same office. The earlier arrangement, of appointment of Administrative Committee to exercise all functions of the Panchayat and ceasing of the tenure of the elected members, is more logical and practical. By the amendment introduced in Section 22(3), the working of the Panchayat has become chaos and uncertain. In the circumstances narrated above, we are of the view that the amendment in Section 22(3) of the Act of replacing the word 'cease' by 'continue' is illogical and is without any fruitful purpose, except for creating two bodies vying for the same power and function. The purpose of amendment in a statute is to remove difficulties, to introduce new rights and/or in compliance of court's recommendations for some modifications. However, such amendment is not expected to create a chaotic situation making the working of the Panchayat impractical. Accordingly, the amendment in Section 22(3) of the Manipur Panchayati Raj Act, 1994 of replacing the word 'cease' by the word 'continue' by the amendment Act of 1996, can be quashed on the ground of

absurdity so that the purpose of the amendment is workable and meaningful.

23. In the circumstances, the writ petition is allowed and the word 'continue' introduced by the Manipur Panchayati Raj (Amendment) Act, 1996 to Section 22(3) is deleted and the original word 'cease' as contained in the Manipur Panchayati Raj Act, 1994 is retained in Section 22(3) of the Act, 1994. However, the word 'Administrator' as contained in Section 22 (1)(b) (ii), Section 22(2), Section 22(3) and Section 22(4) of the Manipur Panchayati Raj, 1994 shall stand deleted in terms of the Manipur Panchayati Raj (Amendment) Act, 1996."

44. It is pertinent to note here that in-spite of the constitutional mandate, neither the Government of Rajasthan nor the Election Commission has adhered to the prescribed timeline for conducting elections of the Municipalities, which is quite an essential requirement for the health of local democracy. In the instant case, the term of elected representatives of various Gram Panchayats has expired in the month of January, 2025. These Panchayats have been merged into Municipalities in the year 2021 and the Sarpanchs of the respective Panchayats, like the petitioners, were allowed to continue as Chairman/Chair-Person of the newly formed Municipalities. However, in the meantime, the total five-year term of these representatives has expired in January, 2025, hence, they were removed from their respective posts and subsequently, the Sub-Divisional Officers (for short 'SDO') were appointed as 'Administrator' to perform the functions/duties of these Municipalities. However, the maximum permissible period of six months, for such an

arrangement, has too expired in the month of July, 2025, but still such SDOs are continuing to function as 'Administrator' of these Municipalities, which is in clear violation of the constitutional mandate. There is no provision either under the Constitution of India or under the Act of 2009, that permits Municipalities to function without elected representatives beyond the stipulated five-year term. But, despite this, the SDOs continue to perform as 'Administrators', in utter violation of the principles of democratic governance at the local level.

45. In adherence to the importance of demarcation/divisions of the Municipalities, the Government is precluded from indefinitely postponing the election process of Municipalities, as such deferment is contrary to the mandate contained under Article 243U of the Indian Constitution. Both the Government of Rajasthan and the State Election Commission are under a constitutional obligation to conduct timely elections of the Municipalities in consonance with the constitutional mandate. Hence, under such circumstances, the Election Commission cannot be allowed to close its eyes and sit like a silent spectator.

46. In the event of persistent failure and undue delay in conducting election process of the Municipalities, it becomes incumbent upon the State Election Commission to intervene and take all necessary measures to restore the democratic process.

47. Prolonged postponement of the municipal elections can lead to a governance vacuum at the local level, severely affecting the delivery of services and developmental activities at the grassroots level in urban areas.

48. Let a copy of this order be sent to the Chief Secretary, Government of Rajasthan; the Election Commission of India; and the State Election Commission to look into the matter and to do the needful by taking necessary steps in compliance of the mandate contained under Article 243-U of the Constitution of India and Section 322(4) of the Act of 2009.

(ANOOP KUMAR DHAND),J