*** THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI**

***THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM**

+WRIT APPEAL (SR)No.48241 of 2026

% 16.11.2026

The Andhra Pradesh State Election Commission,

……Appellant

And:

$1. Botta Appalaraju & others

….Respondents.

!Counsel for the appellant : Sri N Ashwani Kumar

^Counsel for the respondents : Sri N.Seshu Kumar

<Gist:

>Head Note:

? Cases referred:

[1] 1975 SCC Online SC 211
[2] SLP (C) No.37476 of 2026

HIGH COURT OF ANDHRA PRADESH

* * * *

WRIT APPEAL (SR)No.48241 of 2026

DATE OF JUDGMENT PRONOUNCED: .2026

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE RAVI NATH TILHARI

&

THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? Yes/No

2. Whether the copies of judgment may be marked to Law Reporters/Journals Yes/No

3. Whether Your Lordships wish to see the fair copy of the Judgment? Yes/No

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RAVI NATH TILHARI, J

_____

SUNITHA GANDHAM, J

APHC010607822026

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[0]**
(Special Original Jurisdiction)

MONDAY, THE 16th DAY OF NOVEMBER 2026

PRESENT

THE HON'BLE SRI JUSTICE RAVI NATH TILHARI
&
THE HON'BLE SMT JUSTICE SUNITHA GANDHAM

WRIT APPEAL NO(SR): 48241/2026

Between:

1. **The Andhra Pradesh State Election Commission**

...APPELLANT

AND

1. **Botta Appalaraju & others**

...RESPONDENTS

Counsel for the Appellant:

1.N ASHWANI KUMAR

Counsel for the Respondent:

N. Seshu Kumar

The Court made the following:

THE HON'BLE SRI JUSTICE RAVI NATH TILHARI
&
THE HON'BLE SMT JUSTICE SUNITHA GANDHAM

WRIT APPEAL (SR)No.48241 of 2026

JUDGMENT: (per Hon'ble Sri Justice Ravi Nath Tilhari)

The Writ Appeal has been filed by the Andhra Pradesh State Election Commission through its Secretary/State Election Commissioner, Vijayawada, challenging the judgment and order dated 13.11.2026 passed by the learned single judge in the Writ Petition No.32959 of 2026

2. The writ petition was filed by the 1st respondent herein (petitioner) to be addressed as writ petitioner.

3. The appellant is the 3rd respondent in Writ Petition to be addressed as the writ appellant.

4. The writ petitioner filed the writ petition directing the appellant to verify and rectify the electoral rolls of Papayapalem and P.S Palem Gram Panchayat of Anakapalli by including the eligible voters in respective gram Panchayats in accordance with their territorial jurisdiction and applicable law and consequently, direct the authorities to proceed with the panchayat election process only after such correction.

5. The case of the writ petitioner, briefly stated is that the petitioner is the resident of Papayapalem Gram Panchayat and previously contested for the post of Sarpanch. During the assembly and parliamentary

elections, 2024, voters of both Papayapalem and P.S Palem Gram Panchayats were provided with a common polling booth in P.S.Palem Gram Panchyat as both these gram panchayats fall within the same assembly constituency. Since the Gram Panchayat, at present has separate election process for election of sarpanch and ward members, there cannot be a common electoral roll for both gram panchayats. As such, the petitioner and others submitted a representation on 22.10.2026 to the Revenue Divisional Officer to verify and correct the electoral rolls of both the papayapalem and P.S.Palem gram panchayats. The Tahsildar, Anakapalli addressed a letter dated 24.10.2026 to the Mandal Development Officer, Anakapalli to take necessary action to resolve the issue, but the officials had not taken any action, despite the discrepancies pointed out and the genuine grievance raised.

6. The petitioner's further case in the writ petition is that on verification of electoral rolls, it is noticed that papayapalem gram panchayat has shown as having 601 voters, whereas approximately 378 voters belonging to papayapalem have been included in the electoral roll of P.S.Palem gram panchayat. Similarly, out of the 776 voters shown in P.S.Palem gram Panchayat, approximately 366 voters were included in the electoral roll of Papayapalem. It would therefore be necessary to verify and rectify the electoral rolls by resorting the voters to their respective Gram Panchayats and as per the petitioners earnest

verification after deducting 366 voters from the existing 776 voters of P.S.Palem, the remaining 410 voters, together with 378 voters requiring verification, would constitute 788 voters and therefore, the petitioner's contention in the writ petition is that the competent authorities are required to verify those figures with the original electoral records and making necessary corrections.

7. The petitioner's further case is that even in the case of the petitioner, the petitioner's name is retained in Papayapalem electoral roll, whereas the names of the other members of his own family members have been shifted to P.S.Palem electoral roll, despite residing in the same household and so the members of the petitioner's family are unable to exercise their voting rights in their own gram panchayat. However, without considering the petitioner's representation to remove discrepancies the election authorities are proceeding with the election schedule and consequently, the writ petition was filed.

8. On consideration of the submissions advanced by the learned counsel for the writ petitioner and the learned standing counsel for the Andhra Pradesh State Election commission, the learned single judge disposed of the writ petition by the order dated 13.11.2026 directing respondent Nos.3, 4 & 6 in the writ petition to do needful forthwith to undo anomaly pointed out in the writ petition. Respondent Nos.4 & 6 in the writ petition are present respondent Nos.5 & 7.

9. The learned single judge to arrive at such result, recorded that "considering the peculiarity in the present case, where there is a common list of both gram panchayats, which would result in utter breach of democratic process, in the light of the observation of the Supreme Court, the High Court cannot be prevented from interfering with the election process when appropriate interferences are necessary, it is a case fit for such interference.

10. Paragraph Nos.8 and 9 of the impugned judgment dated 13.11.2026 are reproduced as under:

> "8. Considering the peculiarity in the present case, where there is a common list of both gram panchayats, which would result in utter breach of democratic process, in the light of the observation of the Supreme Court that Constitutional Courts cannot be prevented from interfering with the election process when appropriate interferences are necessary, it is a case fit for such interference.
>
> 9. Accordingly, the writ petition is disposed of directing the respondents Nos.3, 4 and 6 to do the needful forthwith to undo the anomaly pointed out in the writ petition.
>
> There shall be no order as to costs."

11. Learned counsel for the writ appellant submitted that the learned single judge acted contrary to the settled legal position. The impugned directions amount to interference with the process of election. He submitted that once the election process has commenced, the judicial intervention under Article 226 of the Constitution of India is prohibited,

under Article 243-O of the Constitution of India. The election process has already commenced pursuant to the issuance of the election notification and the interference with the electoral roll at such stage is impermissible. He submitted that under the statutory scheme of A.P Panchayat Raj Act, 1994, the preparation, adoption and correction of electoral roll being governed by the statutory provisions and the procedure prescribed thereunder and even if there be any such illegality, on that ground the writ jurisdiction cannot be exercised.

12. Learned counsel for the writ appellant submitted that the learned single judge ought not to have interfered in view of the judgment of the Hon'ble Apex Court in **State of Karnataka and others vs. Gunhahalli Nagappa and others**[1] , in which it was laid down that the electoral roll in force on the date of commencement of the election process must remain the same throughout election process and cannot be altered during its subsistence. He further submitted that in so far as the judgment of the Hon'ble Apex Court in **Yuvajana Sramika Rythy Congress Party vs. The State of Andhra Pradesh and others**[2] decided on 27.10.2026 is concerned the direction therein were in the context of ensuring free and fair elections, preventing illegal obstructions, in nominations and those directions did not authorise interference with the matter of electoral rolls during an ongoing election process. He also placed reliance in Kalla

[1] 1975 SCC Online SC 211
[2] SLP (C) No.37476 of 2026

Ramakrishna vs. State Election Commission and others reported in 2004(6)ALD 587 and the State of Andhra Pradesh vs. S.V.Chiranjeevi and others reported in (2022) 1 ALD 566 both the judgments of the High Court of Andhra Pradesh.

13. Learned counsel for the writ petitioner submitted that there is no illegality in the order passed by the learned single judge. The judgment is well considered and passed on a valid ground that, where there is a common list of both gram panchayats that would result in utter breach of democratic process. He submitted that learned single judge duly considered the judgment in the case of State of Karnataka and Others vs.Gunjahalli Nagappa and others(supra) and Meenakshi vs. Election Commission of India and another 2026 SCC Online SC 1133 and also the recent judgment of the Hon'ble Apex Court in the case of Yuvajana Sramika Rythy Congress Party v.The state of Andhra Pradesh and others(supra) consequently, no interference is called for and the writ appeal deserves to be dismissed.

14. We have considered the aforesaid submissions of the learned counsels for the parties and perused the material on record.

15. In view of the submissions advanced, we shall consider the question of the maintainability of the writ petition under Article 226 of the Constitution of India in election matters during its process, and also the

scope of interference on the ground on which such interference has been made in the exercise of the writ jurisdiction.

16. The A.P. State Election Commission issued elections schedule for urban and rural local bodies in the state on 14.10.2026.

17. As per the aforesaid notification, the A.P State Election commission, in accordance with the election law applicable to the local bodies, assembly electoral roll are to be adopted in toto for preparation of local body electoral rolls. All inclusions, deletions and modification ordered in assembly electoral roll by Election Returning Officers under continuous up gradation providing under Section 22 & 23 of the Representation of the People Act, 1950 up to the date of election notification issued by the State Election Commission shall be carried out in the local body electoral rolls. As per the said notification dated 14.10.2026, the Election Commission of India had provided the assembly electoral rolls upto 05.02.2026 to the State Election Commission and accordingly the local body electoral rolls have been prepared. The Andhra Pradesh State Election Commission required from the A.P. Chief Electoral Officer, Supplements to assembly electoral roll from 06.02.2026 up to the date of the election notifications to urban and rural local bodies.

18. The petitioner filed a representation dated 22.10.2026 to the Revenue Divisional Officer, Anakapalli Revenue Division, making “request for transferring voters who have been shifting from gram

panchayats to their respective gram panchayats and providing them an opportunity to exercise their voting rights". The said representation was forwarded to the Mandal Development Officer, Anakapalli by the Tahsildar. In the representation the writ petitioner raised the objections *interalia* as in paras 5, 6 and 7 (supra).

19. As per the notification of A.P. State Election commission vide notification No.1800/SEC-B2/2026 dated 13.11.2026, Annexure-I, the following is the election programme:-

1	(a) Date of issue of Election Notice by the Retuning Officer in Form-1 under Rule 6 of (Conduct of Andhra Pradesh Panchayat Ra) (Conduct of Elections) Rules, 2006.	15.11.2026 (From this date, Nominations can be filed between 10.30 a.m and 5.00 p.m)
	(b) Display of Ward-wise electoral roll of Gram Panchayat by Retuning Officer under Rule 5 of said rules.	15.11.2026
2	Last Day for Receipt of Nominations	17.11.2026 (Up to 5.00 pm)
3	Scrutiny of Nominations	18.11.2026 (From 8.00 a.m onwards)
4	Appeal against Rejection of Nominations before the Appellate Authority (Revenue Divisional Officer concerned)	19.11.2026 (Up to 5.00 p.m)
5	Disposal of Appeals by the Appellate Authority	20.11.2026
6	Last date for Withdrawal of Candidatures	21.11.2026 (Up to 3.00 p.m)
7	Publication of Final List of Contesting Candidates	21.11.2026 (After 3.00 p.m)
8	Conduct of Poll, wherever necessary	26.11.2026 (From 7.00 a.m to 1.00 p.m)
9	Counting of Votes	26.11.2026 (From 2.00 p.m onwards)
10	Declaration of Results	Soon after the completion of counting of votes
11	(a) Date of conduct of election of Upa-Sarpanch under Section 14(10) of A.P. Panchayat Raj Act, 1994	On the same date on which results are declared
	(b) If for any reason, the election of Upa-Sarpanch is not held on the aforesaid date, it shall be held on the next day, whether or	

	not it is a holiday observed by the Gram Panchayat.	
	Re-poll, if any	
	Date of Re-Poll	27.11.2026 (From 7.00 a.m to 1.00 p.m)
12	Counting of Votes	From 2.00 p.m onwards
	Declaration of Results	Soon after the completion of counting of votes

20. So far as the bar to challenge the 'election' after the commencement of the election process, by a writ petition under Article 226 of the Constitution of India and the scope of interference by the High Court is concerned the law has been well settled by Hon'ble the Apex Court in **N.P. Ponnuswami v. Returning Officer, Namakkal Constituency and others**, 1952 SCR 218 and later on considered and elaborated by the Hon'ble Apex Court in **Mohinder Singh Gill v. Chief Election Commissioner**, (1978) 1 SCC 405. The same is reiterated in various other pronouncements including in **Election Commission of India through Secretary v. Ashok Kumar and others**, (2000) 8 SCC 216 and recently in **Meenakshi Natarajan v. Election Commission of India and another**, 2026 SCC OnLine SC 1133.

21. The Hon'ble Apex Court **in Mohinder Singh Gill and Another v. Chief Election Commissioner, New Delhi and Others, (1978) 1 SCC 405**, held in paragraphs 28, 29, 30 and 92 which read as follows:

> **"28.** What emerges from this perspicacious reasoning, if we may say so with great respect, is that any decision sought and

rendered will not amount to 'calling in question' an election if it subserves the progress of the election and facilitates the completion of the election. We should not slur over the quite essential observation "Anything done towards the completion of the election proceeding can by no stretch of reasoning be described as questioning the election". Likewise, it is fallacious to treat 'a single step taken in furtherance of an election' as equivalent to election.

29. Thus, there are two types of decisions, two types of challenges. The first relates to proceedings which interfere with the progress of the election. The second accelerates the completion of the election and acts in furtherance of an election. So, the short question before us, in the light of the illumination derived from Ponnuswami, is as to whether the order for re-poll of the Chief Election Commissioner is "anything done towards the completion of the election proceeding" and whether the proceedings before the High Court facilitated the election process or halted its progress. The question immediately arises as to whether the relief sought in the writ petition by the present appellant amounted to calling in question the election. This, in turn, revolves round the point as to whether the cancellation of the poll and the reordering of fresh poll is 'part of election' and challenging it is 'calling it in question'.

30. The plenary bar of Article 329(b) rests on two principles: (1) The peremptory urgency of prompt engineering of the whole election process without intermediate interruptions by way of legal proceedings challenging the steps and stages in between the commencement and the conclusion. (2) The provision of a special jurisdiction which can be invoked by an aggrieved party

at the end of the election excludes other form, the right and remedy being creatures of statutes and controlled by the Constitution. Durga Shankar Mehta (supra) has affirmed this position and supplemented it by holding that, once the Election Tribunal has decided, the prohibition is extinguished and the Supreme Court's overall power to interfere under Article 136 springs into action. In Hari Vishnu (supra) this Court upheld the rule in Ponnuswami excluding any proceeding, including one under Article 226, during the on-going process of election, understood in the comprehensive sense of notification down to declaration. Beyond the declaration comes the election petition, but beyond the decision of the Tribunal the ban of Article 329(b) does not bind"

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"92. Diffusion, even more elaborate discussion, tends to blur the precision of the conclusion in a judgment and so it is meet that we synopsize the formulations. Of course, the condensed statement we make is for convenience, not for exclusion of the relevance or attenuation of the binding impact of the detailed argumentation. For this limited purpose, we set down our holdings:

(1) (a) Article 329(b) is a blanket ban on ligative challenges to electoral steps taken by the Election Commission and its officers for carrying forward the process of election to its culmination in the formal declaration of the result.

(b) Election, in this context, has a very wide connotation commencing from the Presidential notification calling upon the

electorate to elect and culminating in the final declaration of the returned candidate.

(2) (a) The Constitution contemplates a free and fair election and vests comprehensive responsibilities of superintendence, direction and control of the conduct of elections in the Election Commission. This responsibility may cover powers, duties and functions of many sorts, administrative or other, depending on the circumstances.

(b) Two limitations at least are laid on its plenary character in the exercise thereof. Firstly, when Parliament or any State Legislature has made valid law relating to or in connection with elections, the Commission, shall act in conformity with, not in violation of, such provisions but where such law is silent Article 324 is a reservoir of power to act for the avowed purpose of, not divorced from, pushing forward a free and fair election with expedition. Secondly, the Commission shall be responsible to the rule of law, act bona fide and be amenable to the norms of natural justice in so far as conformance to such canons can reasonably and realistically be required of it as fairplay-in-action in a most important area of the constitutional order, viz., elections. Fairness does import an obligation to see that no wrong-doer candidate benefits by his own wrong. To put the matter beyond doubt, natural justice enlivens and applies to the specific case of order for total re-poll, although not in full panoply but in flexible practicability. Whether it has been complied with is left open for the Tribunal's adjudication.

(3) The conspectus of provisions bearing on the subject of elections clearly expresses the rule that there is a remedy for

every wrong done during the election in progress although it is postponed to the post-election stage and procedure as predicated in Article 329(b) and the 1951 Act. The Election Tribunal has, under the various provisions of the Act, large enough powers to give relief to an injured candidate if he makes out a case and such processual amplitude of power extends to directions to the Election Commission or other appropriate agency to hold a poll, to bring up the ballots or do other thing necessary for fulfilment of the jurisdiction to undo illegality and injustice and do complete justice within the parameters set by the existing law."

22. The Hon'ble Apex Court in **Mohinder Singh Gill and Another v. Chief Election Commissioner, New Delhi and Others,** (supra) clearly held that the Constitution contemplates free and fair elections and vests comprehensive responsibility of superintendence, direction and control of the conduct of elections in the Election Commission. The Hon'ble Apex Court further observed that one of the limitations imposed on the plenary character of such powers, is that, when Parliament or any State Legislature has made a valid law relating to or in connection with elections, the Commission shall act in conformity with, and not in violation of, such provisions. Where such law is silent, Article 324 acts as a reservoir of power for the avowed purpose of pushing forward a free and fair election.

23. The Hon'ble Apex Court in Mohinder Singh Gill case further held that so far as the proceedings before the High Court are concerned whether they facilitated the election process or halted its progess, the question then arises as to whether the relief sought in the writ petition amounted to calling in question the election.

24. In **Ashok Kumar case (supra),** the Hon'ble Apex Court held that the power of judicial review is a basic structure of the Constitution. On the question, whether there was any conflict between the jurisdiction conferred upon the High Courts under Article 226 of the Constitution and the embargo created under Article 329, and if so, how would they coexist, which came up for consideration before N.P. Ponnuswami v. Returning Officer, Namakkal Constituency (supra) and the law enunciated in Ponnuswami (supra), was extensively dealt with and further amplified by another Constitution Bench in Mohinder Singh Gill (supra). The Hon'ble Apex Court in **Ashok Kumar (Supra)** summed up the conclusion in para 25. In this regard, it is apt to refer to paragraphs 18, 19, 20 and 32, which read as follows:

> "18. Is there any conflict between the jurisdiction conferred on the High Courts by Article 226 of the Constitution and the embargoes created by Article 329 and if so how would they coexist came up for the consideration of a Constitution Bench of this Court in N.P. Ponnuswami v. Returning Officer, Namakkal Constituency[2]. The law enunciated in Ponnuswami[2] was extensively dealt with, also

amplified, by another Constitution Bench in Mohinder Singh Gill v. Chief Election Commr.[3] The plenary power of Article 329 has been stated by the Constitution Bench to be founded on two principles:

(1) the peremptory urgency of prompt engineering of the whole election process without intermediate interruptions by way of legal proceedings challenging the steps and stages in between the commencement and the conclusion;

(2) the provision of a special jurisdiction which can be invoked by an aggrieved party at the end of the election process excludes other form, the right and remedy being creatures of statutes and controlled by the Constitution.

On these principles the conclusions arrived at in Ponnuswami case[2] were so stated in Mohinder Singh Gill case[3]: (SCC p. 426, para 26)

"(1) Having regard to the important functions which the legislatures have to perform in democratic countries, it has always been recognised to be a matter of first importance that elections should be concluded as early as possible according to time schedule and all controversial matters and all disputes arising out of elections should be postponed till after the elections are over, so that the election proceedings may not be unduly retarded or protracted.

(2) In conformity with this principle, the scheme of the election law in this country as well as in England is that no significance should be attached to anything which does not affect the 'election'; and, if any irregularities are committed while it is in progress and they belong to the category or class which, under the law by which elections are governed, would have the effect of vitiating the 'election' and enable the person affected to call it in question, they should be brought up before a special tribunal by means of an

election petition and not be made the subject of a dispute before any court while the election is in progress."

19. However, the Constitution Bench in Mohinder Singh Gill case[3] could not resist commenting on Ponnuswami case[2] by observing (vide para 25) that the non obstante clause in Article 329 pushes out Article 226 where the dispute takes the form of calling in question an election, except in special situations pointed out at, but left unexplored in Ponnuswami case[2].

20. Vide para 29 in Mohinder Singh Gill case[3] the Constitution Bench noticed two types of decisions and two types of challenges: the first relating to proceedings which interfere with the progress of the election and the second which accelerate the completion of the election and acts in furtherance of an election. A reading of Mohinder Singh Gill case[3] points out that there may be a few controversies which may not attract the wrath of Article 329(b). To wit:

(i) power vested in a functionary like the Election Commission is a trust and in view of the same having been vested in high functionary can be expected to be discharged reasonably, with objectivity and independence and in accordance with law. The possibility however cannot be ruled out where the repository of power may act in breach of law or arbitrarily or mala fide.

(ii) A dispute raised may not amount to calling in question an election if it subserves the progress of the election and facilitates the completion of the election. The Election Commission may pass an order which far from accomplishing and completing the process of election may thwart the course of the election and such a step may be wholly unwarranted by the Constitution and wholly

unsustainable under the law. In Mohinder Singh Gill case[3] this Court gives an example (vide para 34). Say after the President notifies the nation on the holding of elections under Section 15 and the Commissioner publishes the calendar for the poll under Section 30 if the latter orders returning officers to accept only one nomination or only those which come from one party as distinguished from other parties or independents, which order would have the effect of preventing an election and not promoting it, the Court's intervention in such a case will facilitate the flow and not stop the election stream."

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"32. For convenience sake we would now generally sum up our conclusions by partly restating what the two Constitution Benches have already said and then adding by clarifying what follows therefrom in view of the analysis made by us hereinabove

(1) If an election, (the term election being widely interpreted so as to include all steps and entire proceedings commencing from the date of notification of election till the date of declaration of result) is to be called in question and which questioning may have the effect of interrupting, obstructing or protracting the election proceedings in any manner, the invoking of judicial remedy has to be postponed till after the completing of proceedings in elections.

(2) Any decision sought and rendered will not amount to "calling in question an election" if it subserves the progress of the election and facilitates the completion of the election. Anything done towards completing or in furtherance of the election proceedings cannot be described as questioning the election.

(3) Subject to the above, the action taken or orders issued by Election Commission are open to judicial review on the well-settled parameters which enable judicial review of decisions of statutory bodies such as on a case of mala fide or arbitrary exercise of power being made out or the statutory body being shown to have acted in breach of law.

(4) Without interrupting, obstructing or delaying the progress of the election proceedings, judicial intervention is available if assistance of the court has been sought for merely to correct or smoothen the progress of the election proceedings, to remove the obstacles therein, or to preserve a vital piece of evidence if the same would be lost or destroyed or rendered irretrievable by the time the results are declared and stage is set for invoking the jurisdiction of the court.

(5) The court must be very circumspect and act with caution while entertaining any election dispute though not hit by the bar of Article 329(b) but brought to it during the pendency of election proceedings. The court must guard against any attempt at retarding, interrupting, protracting or stalling of the election proceedings. Care has to be taken to see that there is no attempt to utilise the court's indulgence by filing a petition outwardly innocuous but essentially a subterfuge or pretext for achieving an ulterior or hidden end. Needless to say that in the very nature of the things the court would act with reluctance and shall not act, except on a clear and strong case for its intervention having been made out by raising the pleas with particulars and precision and supporting the same by necessary material."

25. The Hon'ble Apex Court, in **Ashok Kumar** (supra), reiterated the principles, one, that under the scheme of election law, no significance should be attached to anything which does not affect the election. If any irregularities are committed during the election process and they fall within the category or class of irregularities which, under the law governing elections, would have the effect of vitiating the election and enable the person affected to call it in question, such matters should be brought before a special tribunal by way of an election petition and should not be made the subject matter of a dispute before any Court while the election is in progress.

26. The Hon'ble Apex Court explained the second principle that any decision sought and rendered will not amount to calling in question an election if it subserves the progress of the election and facilitates its completion. Anything done towards completing or in postponement of the election proceedings cannot be described as questioning the election. Therefore, the mere commencement of the election process does not, in every circumstance, preclude the exercise of jurisdiction under Article 226 of the Constitution. The nature of the challenge and the relief sought for are relevant considerations in determining whether judicial interference is warranted.

27. In **Manda Jagannath v. K.S. Rathnam and others, (2004) 7 SCC 492**, the Hon'ble Apex Court, at paragraphs 13 to 19, held as follows:

"13. It is to be seen that under Article 329(b) of the Constitution of India there is a specific prohibition against any challenge to an election either to the Houses of Parliament or to the Houses of Legislature of the State except by an election petition presented to such authority and in such manner as may be provided for in a law made by the appropriate legislature. Parliament has by enacting the Representation of the People Act, 1951 provided for such a forum for questioning such elections hence, under Article 329(b) no forum other than such forum constituted under the RP Act can entertain a complaint against any election.

14. The word "election" has been judicially defined by various authorities of this Court to mean any and every act taken by the competent authority after the publication of the election notification.

15. In Ponnuswami[1] this Court held: (AIR p. 68, para 9)

The law of elections in India does not contemplate that there should be two attacks on matters connected with election proceedings, one while they are going on by invoking the extraordinary jurisdiction of the High Court under Article 226 of the Constitution (the ordinary jurisdiction of the courts having been expressly excluded), and another after they have been completed by means of an election petition.

16. The above view of this Court in Ponnuswami case[1] has been quoted with approval by the subsequent judgment in M.S. Gill[2] wherein this Court after quoting the passages from the said judgment in Ponnuswami case[1] held that there is a non obstante clause in Article 329 and, therefore, Article 226 stands pushed out

where the dispute takes the form of calling in question an election, except in special situations pointed out but left unexplored in Ponnuswami case[1]. It is while considering the above unexplored situations in Ponnuswami[1] that in M.S. Gill case[2] this Court held thus: (SCC p. 429, para 34)

"34. This dilemma does not arise in the wider view we take of Section 100(1)(d)(iv) of the Act. Shri Rao's attack on the order impugned is in substance based on alleged non-compliance with a provision of the Constitution viz. Article 324 but is neatly covered by the widely-worded, residual catch-all clause of Section 100. Knowing the supreme significance of speedy elections in our system the framers of the Constitution have, by implication postponed all election disputes to election petitions and tribunals. In harmony with this scheme Section 100 of the Act has been designedly drafted to embrace all conceivable infirmities which may be urged. To make the project foolproof Section 100(1)(d)(iv) has been added to absolve everything left over. The Court has in earlier rulings pointed out that Section 100 is exhaustive of all grievances regarding an election."

17. In the very same paragraph this Court, however, demarcated an area which is available for interference by the High Court and the same is explained as follows: (SCC pp. 429-30, para 34)

"But what is banned is not anything whatsoever done or directed by the Commissioner but everything he does or directs in furtherance of the election, not contrariwise. For example, after the President notifies the nation on the holding of elections under Section 15 and the Commissioner publishes the calendar for the polls under Section 30, if the latter orders Returning Officers to

accept only one nomination or only those which come from one party as distinguished from other parties or independents, is that order immune from immediate attack. We think not. Because the Commissioner is preventing an election, not promoting it and the Court's review of that order will facilitate the flow, not stop the stream. Election, wide or narrow be its connotation, means choice from a possible plurality, monolithic politics not being our genius or reality, and if that concept is crippled by the Commissioner's act, he holds no election at all." (emphasis in original)

18. Of course, what is stated by this Court hereinabove is not exhaustive of a Returning Officer's possible erroneous actions which are amenable to correction in the writ jurisdiction of the courts. But the fact remains that such errors should have the effect of interfering in the free flow of the scheduled election or hinder the progress of the election which is the paramount consideration. If by an erroneous order conduct of the election is not hindered then the courts under Article 226 of the Constitution should not interfere with the orders of the Returning Officers, remedy for which lies in an election petition only.

19. In Election Commission of India v. Shivaji[3] this Court while considering a challenge to the election notification which included certain Zila Parishads within a notified constituency, held following the judgment in Ponnuswami[1] that even if there were any ground relating to the non-compliance with the provisions of the Act and the Constitution on which the validity of any election process could be questioned, the person interested in questioning the election has to wait till the election is over and institute a petition in accordance with Section 81 of the Act calling in question the election of the successful candidate."

28. In **Manda Jagannath** (supra), the Hon'ble Supreme Court reiterated that, what is banned is not anything whatsoever done or directed by the Commissioner, but everything he does or directs in furtherance of the election, and not otherwise. The Hon'ble Supreme Court further observed that such errors should have the effect of interfering with the free flow of the scheduled election or hindering the progress of the election, which is the paramount consideration.

29. Section 11 of the A.P. Gram Panchayat Act reads as under:-

> **"11. Preparation and Publication of electoral roll for a Gram Panchayat.**
>
> (1) The [*] **[Omitted by Section 3(i)(a) of Act No. 26 of 2000.] electoral roll for Gram Panchayat shall be prepared by the person authorised by the Andhra Pradesh Election Commissioner for Local Bodies in such manner by reference to such qualifying date as may be prescribed and the electoral roll for the Gram Panchayat shall come into force immediately [upon its publication] [Substituted by of Act No. 26 of 2000.] in accordance with the rules made by the Government in this behalf. The** [*] [Omitted by of Act No. 26 of 2000.] electoral roll for the Gram Panchayat shall consist of such part of the electoral roll for the Assembly Constituency published under the Representation of the People Act, 1950 (Central Act 43 of 1950) as revised or amended under the said Act, upto the qualifying date, as relates to the village or any portion thereof:
>
> [Provided that any amendment, transposition or deletion of any entries in the electoral roll, or any inclusion of names in the electoral roll of the Assembly Constituencies concerned, made by the Electoral

Registration Officer under Section 22 or Section 23, as the case may be, of the Representation of the People Act, 1950, up to the date of election notification, for any election held under this Act, shall be carried out in the electoral roll of the Gram Panchayat and any such names included shall be added to the part relating to the last ward.] [Inserted by Section 3(i)(c) Act No. 26 of 2000.]

Explanation. - Where in the case of any Assembly Constituency there is no distinct part of the electoral roll relating to the village, all persons whose names are entered in such roll under the registration area comprising the village and whose addresses as entered are situated in the village shall be entitled to be included in the electoral roll for the Gram Panchayat prepared for the purposes of this Act.(2)[The electoral roll for a Gram Panchayat:-

(a)shall be prepared and published in the prescribed manner by reference to the qualifying date,-(i)before each ordinary election; and(ii)before each casual election to fill a casual vacancy in the office of the Sarpanch and Member of a Gram Panchayat; and

(b)shall be prepared and published in any year, in the prescribed manner, by reference to the qualifying date, if so directed by the Andhra Pradesh Election Commission for Local Bodies:Provided that if the electoral roll is not prepared and published as aforesaid, the validity, or continued operation of the said electoral roll, shall not thereby be affected.] [Substituted by Section 3(ii) Act No. 26 of 2000.]

(3)The [electoral roll] [Substituted by Section 3(iii) Act No. 26 of 2000.] published under sub-Section (1) shall be the electoral roll for the Gram Panchayat and it shall remain in force till a fresh electoral roll for the Gram Panchayat is published under this Section.

(4)The electoral roll for the Gram Panchayat shall be divided into as many parts as there are wards so that each part consists of the voters

residing in the concerned ward and for this purpose the electoral roll may be rearranged if such rearrangement is found necessary.

(5)Every person whose name appears in the part of the electoral roll relating to a ward shall subject to the other provisions of this Act, be entitled to vote at any election which takes place in that ward while the electoral roll remains in force and no person whose name does not appear in such part of the electoral roll shall vote at any such election.

(6)No person shall vote at an election under this Act in more than one ward or more than once in the same ward and if he does so, all his votes shall be invalid.Explanation. - In this Section, the expression 'Assembly Constituency' shall mean a constituency provided by law for the purpose of elections to the Andhra Pradesh Legislative Assembly."

30. Rules 2, 5 and 6 of the Andhra Pradesh Panchayat Raj (Preparation and Publication of Electroal Rolls) Rules, 2000, read as under:

"2. **Preparation of Gram Panchayat electoral roll.**

(1) The electoral roll of a Gram Panchayat, hereinafter referred to as "the electoral roll", shall be such part of the current electoral roll of the Andhra Pradesh Legislative Assembly Constituency, prepared and published under the Representation of the People Act, 1950 (Central Act 43 of 1950), as relates to the village, which shall be prepared by the District Panchayat Officer, taking into account the various amendments issued to the said electoral roll of the Assembly Constituency, from time to time, as they relate to the village, up to the date of election notification. (2)There shall be a separate electoral roll for each Gram Panchayat.

5. Publication of copies of rolls.

(1) As soon as the roll is prepared in accordance with these rules, the District Panchayat Officer shall, make arrangements to print or cyclostyle or write in manuscript as many copies of the roll as may be directed by the State Election Commission, from time to time. He shall publish the same for inspection by general public:

(a)on the notice board kept in the office of the District Panchayat Officer.

(b)on the notice board kept in the office of the Gram Panchayat; and

(c)at three conspicuous places in the concerned village.

(2)The electoral roll published under sub-rue (1) shall indicate the ward division made under sub-section (4) of Section 11 or, as the case may be, under Section 12, of the Andhra Pradesh Panchayat Raj Act, 1994 (Act 13 of 1994), hereinafter in these rules referred to as "the Act".

(3)Upon such publication under this rule, the roll shall be the electoral roll of the Gram Panchayat and shall remain in force till a fresh electoral roll is prepared and published.

6. Procedure for lodging claims and objections.

- All omissions of names in any part of the roll or objections to any entry in the roll, at any point of time after its publication under rule 5, shall be settled only after a suitable amendment to the relevant entry in the electoral roll of the Legislative Assembly Constituency, based on which the Gram Panchayat roll was prepared. Anybody wishing to prefer a claim for inclusion or deletion of any name in the roll or any objection in respect of any entry in the roll so published, shall submit a proper claim or objection under the provisions of the Registration of Electors Rules, 1960 made under the representation of the People Act, 1950 (Central Act 43 of 1950), to the Electoral Registration Officer of the concerned Legislative Assembly Constituency. Subject to the provisions of Section 11 of the Act, and based on the orders of the Electoral Registration Officer of the Assembly Constituency on such claims and objections, the District Panchayat Officer shall carry out consequential amendments in the Gram Panchayat electoral roll. In case of any clerical or printing error or both, or when the entries deviate from the particulars of the Assembly Electoral Roll, the District Panchayat Officer may cause such errors rectified, so as to bring it in conformity with the particulars of the Assembly Electoral roll concerned. However, the District Panchayat Officer shall not resort to suo motu revision of the rolls by way of deletions or additions or modifications.

31. A bare perusal of section 11(1) shows that the electoral roll for Gram Panchayat shall be prepared by reference to such qualifying date as may be prescribed. The electoral roll of the Gram Panchayat shall

consist of such part of electoral roll for the assembly constituency published under the Representation of the People Act, 1950 as revised or amended under the R.P. Act, upto date the qualifying date, as relates to the village or any portion thereof. The proviso, provides that any amendment, transposition or deletion of any entries in the electoral roll or any inclusion of names in the electoral roll of the Assembly constituency concerned made by Electoral Registration officer under Sections 22 & 23 as the case may be of the Representation of Peoples Act 1950 up to the date of election notification shall be carried out in the electoral roll of the gram panchayat and any such name included shall be added to the part relating to the last ward.

32. In the **State of Karnakata and others vs. Gunjahalli Nagappa and others** (supra) the Hon'ble Apex Court held in the context of provision of Sections 14 and 15 of the Karnataka Municipalities Act read with Rule 75 of the Mysore Municipalities (Election of Councillors)Rules, 1965, rules framed under the said Act that, under Sub-Section (1) of Section 14, what is required is that the list of the voters of division should correspond *ipsissima verba* with the electoral roll for the territorial area included in the division. If there is any mistake in the electoral roll, in that some voters residing in one area or house number are shown as residing in another, it cannot be corrected by the Returning Officer while preparing the list of voters for each division. The Returning Officer has to take the

electoral roll for the territorial area of the division as it is, with whatever mistakes there may be in it, and that would be the list of voters for the division. The only way in which the mistakes, if any, either in the names of the voters or in their addresses, including house numbers in which they reside, can be corrected is by applying for rectification of electoral roll under Section 22 of the Representation of the People Act, 1950. So long as such rectification is not made, the entries in the electoral roll would stand and they would necessarily be reflected in the list of voters for the division. But they would not constitute mistakes, so far as the preparation of the list of voters for the division is concerned. It is only if the list of voters for the division does not correspond with the electoral roll for territorial area comprised in the division, in the sense that voters shown in the electoral roll as residing in the territorial area of the division are omitted to be included in the list of voters, or voters shown in the electoral roll as residing in the territorial area of another division are included in the list of voters, that it can be said that the list of voters is defective and not in accordance with the provisions of the Act.

33. The Hon'ble Apex Court in **Gunhahalli Nagappa** (supra) further held that the only defect- if at all it can be called a defect, which the Returning Officer noticed on physical verification was that the voters shown in the electoral roll as residing in the territorial area of one division were in fact residing in another. The Hon'ble Apex Court observed that,

that cannot be regarded as a defect in the division-wise lists of voters and it would not stamp them with the vice of not being in conformity with the requirements of the Act. Consequently, the State Government was, therefore, in any view of the matter, not entitled to make the impugned order under Rule 75 on the ground that the divisional lists of voters were defective and the election held on the basis of such lists of voters would not be in accordance with the provisions of the Karnataka Act. The Hon'ble Apex Court further observed that what the State Government did by making the impugned order was to interfere with the election process which was going on in accordance with law and that was clearly not permissible on any interpretation of Rule 75.

34. From the aforesaid judgment in the **State of Karnakata and others vs. Gunjahalli Nagappa and others** (supra), it clearly follows that if the returning officer noticed on physical verification that the voters shown in the electoral roll are residing in the electoral area of one division or residing in another that cannot be recorded as a defect in the division wise list of voters.

35. The relevant para Nos.8, 9 & 10 of **Gunjahalli Nagappa** (supra) are reproduced as under:-

> 8. Section 14 is the next important section which deals with the subject of list of voters. It has four sub-sections of which the first three are material. They read as follows:
>
> "(1) The electoral roll of the Mysore Legislative Assembly for the time being in force for such part of the constituency of the Assembly as is included in a

division of a municipality shall, for the purpose of this Act, be deemed to be the list of voters for such division.

(2) The officer designated by the Deputy Commissioner in this behalf in respect of a municipality shall maintain a list of voters for each division of such municipality.

(3) Every person whose name is in the list of voters referred to in sub-section (1) shall, unless disqualified under any law for the time being in force, be qualified to vote, at the election of a member for the division to which such list pertains."

What shall be the qualification of a person to stand as a candidate at an election is laid down in Section 15 sub-section (1). That sub-section provides that every person whose name is in the list of voters for any of the divisions of the municipality shall, unless disqualified under this Act or any other law for the time being in force, be qualified to be elected at the election for that division or any other division of the municipality and every person whose name is not in such list shall not be qualified to be elected, at the election for any division of the municipality. Then follows sub-section (2) which is of some importance. We quote it:

"Subject to any disqualification incurred by a person the list of voters shall be conclusive evidence for the purpose of determining under this section whether the person is qualified or is not qualified to vote or is qualified or is not qualified to be elected as the case may be, at an election."

Section 38 confers power on the State Government to make rules to provide for or regulate all or any of the matters set out in the section for the purpose of holding election of councillors under the Act. It was in pursuance of this section that the Rules were made by the State Government.

9. It will be seen on a plain reading of sub-section (1) of Section 14 that the electoral roll for the territorial area comprised in a division is to be the list of voters for such division. The designated officer is merely to perform the operation of "scissors and paste"-cut out those portions of the electoral roll which relate to the territorial area included in the division and paste them together so as to form the list of voters for the division. There is no separate qualification laid down in the Act for being placed in the list of voters for a division as was the case in Chief Commissioner, Ajmer v. Radhey Shyam Dani. In that case, Section 30 sub-section (2) of Ajmer-Merwara Municipalities Regulation, 1925 laid down two conditions which must be fulfilled in order to entitle a person to be enrolled as an elector of the Ajmer municipalities, namely, (1) that he should be entitled under Representation of the People Act, 1950 to be registered in the electoral roll for a parliamentary constituency, if that constituency had been co-extensive with the municipality, and (2) that his name should be registered in the electoral roll for a parliamentary constituency comprised in the municipality. It was for this reason that it was held by this Court that it was not enough that the name of a person should be registered in the electoral roll of a parliamentary constituency. That did not entitle him straightaway to be included in the electoral roll of the municipality. It was further required to be seen whether he was entitled to be registered in the electoral roll of the

parliamentary constituency. That enquiry was necessary to be made before the electoral roll of the municipality could be prepared. But, here no other qualification is required; the mere fact of a person being in the electoral roll for the territorial area comprised in a division is sufficient to include him in the list of voters for such division. Vide sub-section (1) of Section 14. What is required by this sub-section is that the list of voters of a division should correspond ipsissima verba with the electoral roll for the territorial area included in the division. If there is any mistake in the electoral roll, in that some voters residing in one area or house number are shown as residing in another, it cannot be corrected by the Returning Officer while preparing the list of voters for each division. The Returning Officer has to take the electoral roll for the territorial area of the division as it is, with whatever mistakes there may be in it, and that would be the list of voters for the division. The only way in which the mistakes, if any, either in the names of the voters or in their addresses, including house numbers in which they reside, can be corrected is by applying for rectification of electoral roll under Section 22 of the Representation of the People Act, 1950. So longas such rectification is not made, the entries in the electoral roll would stand and they would necessarily be reflected in the list of voters for the division. But they would not constitute mistakes, so far as the preparation of the list of voters for the division is concerned. It is only if the list of voters for the division does not correspond with the electoral roll for territorial area comprised in the division, in the sense that voters shown in the electoral roll as residing in the territorial area of the division are omitted to be included in the list of voters, or voters shown in the electoral roll as residing in the territorial area of another division are included in the list of voters, that it can be said that the list of voters is defective and not in accordance with the provisions of the Act.

10. Now in the present case, it is clear from the order of the Returning Officer dated December 21, 1974 that the list of voters for each division corresponded fully and completely with the electoral roll for the territorial area comprised in such division. The finding of the Returning Officer was that the various parts of the electoral roll included in the list of voters for each division conformed to the census block numbers of the respective division mentioned in the notification dated December 3, 1974. Each division was defined and demarcated by reference to census block numbers and the parts of the electoral roll were also made out on the basis of census block numbers. There could, therefore, be no doubt or confusion as to which parts of the electoral roll related to the territorial area comprised in a particular division. The corresponding parts of the electoral roll could be easily ascertained and identified by reference to census block numbers for preparing the list of voters for each division. That was admittedly done in the present case and there was no complaint about it. No defect was also alleged or found in this respect. The only defect if at all it can be called a defect which the Returning Officer noticed on physical verification was that the voters shown in the electoral roll as residing in the territorial area of one division were in fact residing in another. But, as already pointed out above, that cannot be regarded as a defect in the division-wise lists of voters and it would not stamp them with the vice of not being in conformity with the requirements of the Act. The State Government was, therefore, in any view of the matter, not entitled to make the impugned order under Rule 75 on the ground that the divisional lists of voters were defective and the election held

> on the basis of such lists of voters would not be in accordance with the provisions of the Act. Whatthe State Government did by making the impugned order was to interfere with the election process which was going on in accordance with law and that was clearly not permissible on any interpretation of Rule 75.

36. In **State of Andhra Pradesh, represented by its Principal Secretary to Government and Another v. S.V. Chiranjeevi and Others, 2021 SCC OnLine AP 1040**, it was held that the preparation and revision of electoral rolls is a continuous process and that, even if the revision of the electoral roll is not complete, the electoral roll for the time being in force must hold the field and the election cannot be postponed on account of non-consideration of certain claims and objections.

37. In the said case, the Division Bench considered Section 12 of the Municipal Corporation Act, 1955, which deals with the preparation, revision and publication of the electoral roll for the Corporation, which is on the same lines as Section 11 of the Andhra Pradesh Gram Panchayat Act. The Division Bench held as follows, at paragraphs 26, 28, 30 and 39:

> **26.** Therefore, Section 12 of the Municipal Corporation Act, 1955 postulate that the electoral roll to the elections of the Corporation consists of such part of the electoral roll for the assembly published under the Representation of People Act, as revised and amended under the said Act, up to the qualifying date. A reading of proviso to Section 12(1) of Municipal Corporation Act, 1955 makes it very clear that any amendment, transposition or deletion of any entry in the electoral roll or any inclusion of the name in electoral roll of the

assembly constituency is concerned made by the Electoral Registration Officer under Section 22 or Section 23 of the Representation of the People Act, 1950, up to the date of election notification, for any election held under this Act shall be carried out in the roll of the Corporation and any such inclusion shall be added to the part relating to the concerned ward. Therefore, any amendment or deletion or transposition shall only be to the electoral roll that is prepared under the Representation of People Act, 1950, up to the qualifying date, which is 01.01.2019.

28. Therefore, from a reading of Section 12(1) of the Municipal Corporation Act and the Rules for Preparation and Publication of Electoral Rolls, 2001, it is very much clear that electoral roll for the Corporation shall be part or parts of electoral roll of A.P. Legislative Assembly constituency prepared and published under the provisions of the Representation of People Act, 1950 and such roll shall be published under Rule 5 along with the notice in Form-1 for inspection of general public and their objections, if any, be called for.:

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"30…… Reading of these two provisions, along with Rule 2(e), Rules 3 and 4 of Registration of Electoral Rules, 1960 makes it clear that the Registration of Electors Rules, 1960, which are promulgated in exercise of powers under Section 28 of Representation of the People Act, 1950, are for preparing electoral rolls for the assembly constituency and admittedly in the State of Andhra Pradesh the roll for the assembly constituency was published on 01.01.2019, which was

qualifying date for the assembly elections. The very same list is now being used/adopted for elections to the Corporation and any additions or objections shall only be to the said electoral roll. Further, there is no material on record to show that any objections were raised to the roll that was published on 01.01.2019. Having regard to the above, we find force in the argument of the learned Advocate General, to hold that the electoral roll, published on 03.02.2020 under Rule 5 of Andhra Pradesh Municipal Corporation (Preparation and Publication of Electoral Rolls) Rules, 2001 and objections to the said list were called for in Form-1, is the final electoral roll. Further, as observed earlier, the period of 30 days or 15 days prescribed for raising the claim/objections relate to rolls prepared for the assembly constituency and the same cannot be read into the objection to be filed under the provisions of A.P. Municipal Corporation (Preparation and Publication of Electoral Rolls) Rules, 2001, more so, when the said rules are silent on that aspect.

39. From the above two judgments, it is also clear that preparation of Electoral Roll is a continuous process and even if a revision of Electoral Roll is not complete, the electoral roll, for the time being in force, must hold the field and the Election cannot be postponed for non -consideration of certain claims & objections.

38. On reading of Section 11 of the Act, and Rules 2,5 and 6 of the Rules, 2000, and the judgments in **Gunhahalli Nagappa** (supra) and **S.V. Chiranjeevi and Others** (supra) it follows. (1) That the Electoral Roll for Gram Panchayat shall be prepared in accordance with Electoral Roll of

the concerned Assembly Constituency, for the concerned Gram Panchayat. The Electoral Roll of the Assembly Constituency, as published under the Representation of People Act as revised or amended under the said Act up to the qualifying date, as relates to the concerned Gram Panchayat shall be the basis. (2) Any amendment, transposition or deletion of any entries in the Electoral Roll or any inclusion of names in the Electoral Roll of the Assembly Constituency concerned made by the Electoral Registration Officer under Section 22 or Section 23 as the case may be of the Representation of the People Act, 1950 upto to the date of the election notification under the Panchayat Raj Act for the Gram Panchayat shall be carried out in the Electoral Roll of the Gram Panchayat. So, the amended, Electoral Roll up to the election notification of the concerned Gram Panchayat, shall be the basis of the Electoral Roll for the concerned Gram Panchayat. (3) If any objection is to be filed relating to any entry in the role such objection, is to be filed under the Provisions of the Registration of Electors Rules, 1960 under the Representation of People Act, 1950 to the Electoral Registration Officer of the concerned Legislative Assembly Constituency and based on the order of the Electoral Registration Officer on such claim and objections consequential amendment in the Gram Pahcyat Electoral Roll shall be carried out subject to the provisions of Section 11. In other words, i.e up to the date of election notification.

39. However, in case of any clerical error or printing error or both or when the entries deviate from the particulars of the Assembly Electoral Roll, the District Panchayat Officer may cause such errors to be rectified so as to bring in conformity with the particulars of the Assembly Electoral Roll concerned. The District Panchayat Raj Officer has no power of revision of the rolls by way of deletion, edition or modifications.

40. Therefore, the Electoral Roll of Gram Panchayat has to be in accordance with the Electoral Roll of the Assembly Constituency concerned, as amended upto the date of the election notification under the Gram Panchayat Act and if the Electoral Roll of the Gram Panchayat concerned is not in accordance therewith, the District Panchayat Raj Officer, has the power only to cause the clerical or printing errors or both to correct and also in case the entries deviate from the particulars of Assembly Electoral Roll, to make those deviated entries, as per the Electoral Roll Assembly of the Constituency.

41. Consequently when a representation is made as in the present case submitting, as per the contents of the representation as also the para numbers 4 to 6 in the affidavit of the Writ Petition, it was the statutory duty of the concerned competent authority to have seen if the Electoral Roll of the concerned Gram Panchayats was as per the entries in the Electoral Roll of the concerned Assembly Constituency relating to the concerned Gram Panchayats or not and if it was not so to correct the

same within the scope and power as conferred under Rule 6 of the Rules, 2000.

42. The prayer in the Writ Petition No.32959 of 2026 is as follows:

> ".....may be pleased to issue an appropriate writ order or direction more particularly one in the nature of a Writ of Mandamus directing the 3rd Respondent to verify and rectify the electoral rolls of Papayapalem and P.S Palem Gram Panchayats of Anakapalli District by including the eligible voters in their respective Gram Panchayats in accordance with their territorial jurisdiction and applicable law and consequently direct the authorities to proceed with the Panchayat election process only after such correction....."

43. The aforesaid prayer shows that the writ petition was filed not to impede the election process but to advance the same after considering the objections representation filed and doing the needful. By not considering the objections the Commission has failed to discharge its statutory duties for advancement of the election in a fair and transparent manner.

44. The writ petition was maintainable. It was not for restraining the election or interfering the process so as to stall the election but for its advancement which is within the power and jurisdiction under Article 26 of the Constitution of India. The order has been passed as noted above, considering the peculiarity of the case, as there was a common list of the Gram Panchayats which would result in utter breach of democratic process.

45. In **Yuvajana Sramika Rythy Congress Party** (Supra), the Hon'ble Apex Court vide order dated 21.10.2026 observed that free and fair elections are basic structure of the Constitution. It was further held that it is a constitutional duty vested on the State Election Commission under Article 243ZA to conduct and supervise Municipal elections in a free and fair manner. Discharge of such duty would necessarily include all step to ensure unhindered filing of nomination papers by all contesting candidates. The power of the constitutional courts to exercise judicial review, though deferential in election matters, cannot be said to be wholly negated when the discharge of such constitutional duty of the State Election Commission is hampered. The Hon'ble Apex Court further held that when the judicial intervention is imperative to ensure a fair and impartial conclusion to the election process and cannot be eschewed as "calling in question an election" prior to its conclusion. The judgment in through **Secretary v. Ashok Kumar and others** [(2000) SCC Online SC 1234 was referred. The Hon'ble Apex Court also referred to In **Union Territory of Ladakh and Others VS. Jammu and Kashmir National Conference**, through its General Secretary and Another, [(2024) 18 SCC 643 and reiterated the need for judicial intervention to ensure a level playing field during elections. It also referred to the case of **Bharatiya Janata Party, West Bengal v. State of West Bengal and others** [(2018) SCC Online SC 337 and emphasised that instilling confidence in election

process is vital for the maintenance of constitutional democracy and rule of law.

46. The relevant paras 12 to 16 of **Yuvajana Sramika Rythy Congress Party** (Supra), are reproduced as under:

> "12. We have heard learned Senior Counsels at the Bar and perused the relevant materials on record. Free and fair elections are a basic structure of the Constitution. Right to freely participate in such election by filing nomination papers without hindrance is a facet of the free and fair election process. It is a constitutional duty vested on the State Election Commission under Article 243ZA to conduct and supervise Municipal elections in a free and fair manner. Discharge of such duty would necessarily include all steps to ensure unhindered filing of nomination papers by all contesting candidates. The power of the constitutional Courts to exercise judicial review, though deferential in election matters, cannot be said to be wholly negated when the discharge of such constitutional duty of the State Election Commission is hampered due to widespread violence impairing peace and tranquility and thereby skewing a level playing field in filing nominations.
>
> 13. The philosophy of judicial deference to the control and superintendence of elections by the Election Commission has grown from a doctrine of necessity that the election process which is entrusted in the hands of an independent constitutional authority be permitted to be concluded within a prescribed timeline and not be mired in the quagmire of intermediate judicial interference. All grievances to such election process may be agitated in an election petition after the process is over.

However, when the principal opposition political party in the State had approached the High Court even prior to the commencement of the election process and had placed on record ample representations and materials expressing serious apprehension and/or instances of use of force and coercion during filing of nomination papers, the power of judicial review cannot be muted on the plea of non-interference in election matters. In such cases, judicial intervention is imperative to ensure a fair and impartial conclusion to the election process and cannot be eschewed as “calling in question an election” prior to its conclusion as noted below in Election Commission of India through Secretary v. Ashok Kumar and others [(2000) SCC Online SC 1234]:

> "Any decision sought and rendered will not amount to "calling in question an election" if it subserves the progress of the election and facilitates the completion of the election. Anything done towards completing or in furtherance of the election proceedings cannot be described as questioning the election.

Subject to the above, the action taken or orders issued by Election Commission are open to judicial review on the well-settled parameters which enable judicial review of decisions of statutory bodies such as on a case of mala fide or arbitrary exercise of power being made out or the statutory body being shown to have acted in breach of law."

14. In Union Territory of Ladakh and Others VS. Jammu and Kashmir National Conference, through its General Secretary and Another, [(2024) 18 SCC 643], this Court again emphasized the

need for judicial intervention to ensure a level playing field during elections, observing as follows:

“37. We would indicate that the restraint, self-imposed, by the Courts as a general principle, laid out in some detail in some of the decisions supra, in election matters to the extent that once a notification is issued and the election process starts, the Constitutional Courts, under normal circumstances are loath to Where, apropos Article 324 powers of the ECI, this Court held “However, it has to be stated this power is not unbridled. Judicial review will still be permissible, over the statutory body exercising its functions affecting public law rights.” Where the learned 3-Judge Bench has considered a catena of the precedents relevant to the issue(s) before it, interfere, is not a contentious issue. But where issues crop up, indicating unjust executive action or an attempt to disturb a level-playing field between candidates and/or political parties with no justifiable or intelligible basis, the Constitutional Courts are required, nay they are duty-bound, to step in. The reason that the Courts have usually maintained a hands-off approach is with the sole salutary objective of ensuring that the elections, which are a manifestation of the will of the people, are taken to their logical conclusion, without delay or dilution thereof……”

15. In similar vein, noting that instilling confidence in election process is vital for the maintenance of constitutional democracy and rule of law, this Court in Bharatiya Janata Party, West Bengal v. State of West Bengal and others [(2018) SCC Online SC 337]observed as follows:

“16. We hope and trust that in order to and free election to the ensure fair panchayats, the State Election Commission

shall take appropriate steps to remove the apprehensions of the and/or intending candidates and they may not be petitioner deprived of their chance to contest the panchayat elections. With the aforesaid observations, the writ petition is disposed of."

16. These their while authorities above unequivocally state constitutional courts would ordinarily not interfere with election process, but hands are not tied when appropriate interventions are necessary to ensure that elections are conducted in a free and fair manner and are not marred by extra-constitutional or illegal means, for eg. muscle power."

47. In **Yuvajana Sramika Rythy Congress Party** (supra), finally issued directions vide order dated 27.10.2026 in respect of the elections to all local bodies in the State of Andhra Pradesh, which directions have been taken into consideration by the learned single Judge in passing the order under challenge.

48. By the order dated 15.11.2026 while reserving the judgment, it was provided that "order reserved. List on 16.11.2026, under the caption "For Orders/Judgment" at 2.15 p.m. In the meantime, the display of ward-wise electoral roll of Gram Panchayat by Returning Officer, as per the schedule fixed dated 15.11.2026 (i.e, for today) be done, subject to the orders in this Writ Appeal".

49. We find no illegality in the order of the learned single Judge.

50. The Writ Appeal is dismissed.

51. The publication, if made, under interim order, and being made subject to the orders in the appeal, in view of the dismissal of the appeal, the publication of the Electoral Roll of the concerned Gram Panchayats, shall be of no legal effect and would not be conclusive.

52. The appellant and the concerned respondents shall comply with the direction as issued by the writ Court and shall proceed further in accordance with the law. No order as to costs.

Consequently, miscellaneous petitions, if any, pending shall stand closed.

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RAVI NATH TILHARI, J

Date:16.11.2026
Note : LR Copy to be marked
B/O. LSP/RSD/GK
Note:

A separate judgment dated 16.11.2026 concurring
with the aforesaid judgment is pronounced by
Hon'ble Smt Justice Sunitha Gandham through virtual mode.

B/O.
LSP/RSD/GK.

THE HON'BLE SRI JUSTICE RAVI NATH TILHARI

&

THE HON'BLE SMT JUSTICE SUNITHA GANDHAM

WRIT APPEAL (S.R.No.48241 OF 2026

JUSTICE SUNITHA GANDHAM:

I have perused the judgment prepared by my learned brother in the above mentioned writ appeal. I concur with the same.

Sunitha
16.11.2026

SUNITHA GANDHAM,J

Date:16.11.2026.