RAJASTHAN HIGH COURT
सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR

S.B. Civil Writ Petition No. 27808/2026
CNR: RJHC011152912026 | URN: CW / 48207U / 2026

Rajasthan High Court
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Mahima Choudhary D/o Shri Bhairu Singh Choudhary, Aged About 29 Years, Resident Of Chainpura, Bhaniyana, District Jaisalmer, Rajasthan.

----Petitioner

Versus

1. The State Of Rajasthan, Through Principal Secretary, Department Of Panchayati Raj, Government Of Rajasthan, Jaipur.
2. State Election Commission, Rajasthan, Through Its Secretary, Jaipur.
3. District Election Officer (Panchayat) / District Collector, Jaisalmer, District Jaisalmer.
4. Electoral Registration Officer (Panchayat) / Sub-Divisional Officer, Bhaniyana, District Jaisalmer.
5. Tehsildar/assistant Electoral Registration Officer (Panchayat), Bhaniyana, District Jaisalmer.
6. Enumerator (Praganak), Gram Panchayat Chainpura, Panchayat Samiti Bhaniyana, District Jaisalmer.
7. Enumerator (Praganak), Gram Panchayat Bhaniyana, Panchayat Samiti Bhaniyana, District Jaisalmer.

----Respondents

For Petitioner(s)	:	Mr. C.S. Kotwani assisted by Ms. Swati Shekhar Mr. Chinmay Shekhar Kotwani Mr. Gaurav Khatri
For Respondent(s)	:	Mr. Ravindra Jala, AAAG for Mr. S.S. Ladrecha, AAG

HON'BLE MR. JUSTICE FARJAND ALI

Order

REPORTABLE

14/11/2026

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1. The instant writ petition under Article 226 of the Constitution of India has been preferred on behalf of the petitioner assailing the order dated 29.10.2026, whereby the application preferred by her seeking transfer of her name to Bhaniyana has been rejected, as also the subsequent order dated 05.11.2026 passed by respondent No.3, whereby the appeal preferred by the petitioner under Rule 21 of the Rajasthan Panchayati Raj (Election) Rules, 1994, has also been rejected.

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2. The concise facts of the case are that the petitioner is aggrieved by the rejection of her claim seeking transfer of her name from the electoral roll of Gram Panchayat Chainpura to Gram Panchayat Bhaniyana. During the process of preparation/revision of electoral rolls for the Panchayati Raj General Elections, 2026, the petitioner’s name was reflected in the electoral roll of Gram Panchayat Chainpura, Ward No. 04, despite her claim of being ordinarily resident at Bhaniyana. Accordingly, she submitted an objection dated 07.02.2026 seeking shifting of her electoral entry to Gram Panchayat Bhaniyana.

2.1 Pursuant thereto, a field verification was conducted by the concerned authorities and a report dated 14.02.2026 was forwarded by the Assistant Electoral Registration Officer (Panchayat)/Tehsildar, Bhaniyana, to the Electoral Registration Officer. In the said report, the petitioner’s name finds mention at Serial No. 29, wherein it was noticed that she had been residing in the newly constructed residential house of her father for approximately three years; however, the same was opined to be

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temporary in nature on account of her studies. Despite the aforesaid verification, the petitioner's name was not transferred to Gram Panchayat Bhaniyana.

2.2 Subsequently, upon a communication dated 28.09.2026 issued by the Electoral Registration Officer seeking fresh physical verification, the Assistant Electoral Registration Officer, vide communication dated 30.09.2026, declined the petitioner's request for shifting her name. The petitioner asserts that she has, for all practical purposes, shifted to and is residing at Bhaniyana, which is also reflected in the revenue records, Jamabandis and electricity bills placed on record.

2.3 The petitioner, having received no favourable decision on her claim, initially approached this Court by way of S.B. Civil Writ Petition No. 25021/2026, which came to be rejected vide order dated 28.10.2026. Aggrieved thereby, she preferred a special appeal before the Division Bench of this Court, which, vide order dated 30.10.2026, disposed of the appeal with a direction to the respondents to decide the petitioner's claim on the same day and pass an appropriate order on her pending application, if not already decided. It is alleged that, despite the aforesaid direction, the respondents did not bring to the notice of the Division Bench that the petitioner's claim had purportedly already been rejected vide order dated 29.10.2026. The petitioner alleges that the said order is ante-dated and was subsequently brought into existence to circumvent the directions issued by the Division Bench.

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2.4 It is further contended that when the petitioner approached the Electoral Registration Officer on 30.10.2026 with a representation in compliance with the directions of the Division Bench, the same was not accepted, compelling her to submit it before the District Collector at about 8:00 PM on the same day. Thereafter, on 31.10.2026, she was informed that her claim had already been rejected vide order dated 29.10.2026.

2.5 Being aggrieved by the rejection of her claim, the petitioner preferred an appeal under Rule 21 of the Rajasthan Panchayati Raj (Election) Rules, 1994, before respondent No. 3. However, the said appeal also came to be rejected vide order dated 05.11.2026, primarily on the ground that the election process had commenced and, in view of Rule 23 of the Rules of 1994, no alteration could thereafter be made in the electoral roll, without examining the merits of the petitioner's claim.

2.6 The petitioner further contends that the copy of the appellate order was supplied to her only on 12.11.2026. It is also her case that the issue concerning the scope of judicial review under Article 226 of the Constitution of India vis-à-vis Article 243-O of the Constitution, as well as the applicability of the relevant provisions of the Rules of 1994, already stands considered by this Court in S.B. Civil Writ Petition No. 694/2015, *Surta Rani v. State of Rajasthan & Ors.*

2.7 The petitioner has, therefore, approached this Court assailing the orders dated 29.10.2026 and 05.11.2026, particularly when the elections of Gram Panchayat Bhaniyana are scheduled to be

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held on 16.11.2026 and the last date for filing nominations is 15.11.2026, contending that the impugned orders have deprived her of the opportunity to exercise her franchise and participate in the electoral process.

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3. Learned counsel for the petitioner submitted that the impugned orders dated 29.10.2026 and 05.11.2026 have been passed arbitrarily, without proper appreciation of the material available on record and in violation of Section 18 of the Rajasthan Panchayati Raj Act, 1994. It was contended that the petitioner's claim for shifting her electoral entry from Gram Panchayat Chainpura to Gram Panchayat Bhaniyana was supported by the field verification report dated 14.02.2026, which recorded her residence at Bhaniyana for approximately three years. Learned counsel argued that the respondents failed to undertake a comprehensive assessment of her ordinary residence and disregarded their own verification report without assigning cogent reasons. It was further contended that the claim was rejected belatedly, immediately before publication of the election notification, thereby depriving the petitioner of her right to participate in the ensuing Panchayat elections. Reliance was also placed upon the judgment passed by this Court in Surta Rani's case (supra) to contend that the bar under Article 243-O of the Constitution of India would not operate in the facts of the present case. It was, thus, argued that the impugned orders suffer from arbitrariness, non-application of mind and violation of Article 14 of the Constitution of India. Accordingly, learned counsel prayed that

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the impugned orders be quashed and set aside and the respondents be directed to consider the petitioner's claim in accordance with law.

4. Per contra, learned Assistant to Additional Advocate General (AAAG) appearing on behalf of the respondents submitted that the present writ petition is not maintainable, as the Division Bench of this Court, in several matters, has consistently declined to interfere with the electoral process once the same has commenced. In this regard, reliance was placed upon the orders dated 18.10.2026 passed in Manoj Kumar Godara v. State (S.B. Civil Writ Petition No. 26293/2026), 15.10.2026 passed in Kanti Lal v. State (D.B. Special Appeal Writ No. 1237/2026) and 27.10.2026 passed in Pawan v. State (S.B. Civil Writ Petition No. 24025/2026). It was further contended that the objections raised by the petitioner had already been duly examined by the competent authorities, as is evident from the findings recorded by the Tehsildar in the communication dated 14.02.2026. Learned AAAG further submitted that the election process has already commenced and the public notice under Rule 23 and Rule 58 of the Rajasthan Panchayati Raj (Election) Rules, 1994, was issued on 31.10.2026. In view of the express embargo contained in Rule 21-A of the Rules of 1994, no amendment, transposition or deletion of any entry in the electoral roll, nor any direction for inclusion of a name, can be made after issuance of the aforesaid public notice until completion of the elections. Accordingly, it was argued that the relief sought by the petitioner is barred by the

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statutory prohibition and the writ petition deserves to be dismissed.

5. Having heard learned counsel for the parties, examined the material available on record and considered the statutory scheme governing preparation, correction and final publication of electoral rolls under the Rajasthan Panchayati Raj (Election) Rules, 1994, this Court is of the view that the controversy involved in the present matter requires consideration in the backdrop of the statutory obligation cast upon the Electoral Registration Officer and the consequences flowing from non-discharge of such obligation within the prescribed framework.

5.1 The facts, as borne out from the record, reveal that the petitioner submitted her claim for shifting her electoral entry from Gram Panchayat Chainpura to Gram Panchayat Bhaniyana on 07.02.2026. The respondents thereafter undertook a physical verification, and a report dated 14.02.2026 was also prepared, recording the petitioner's existing electoral entry, her proposed place of registration and her residence at the newly constructed residential premises of her father for approximately three years. Thus, the claim was not one which remained unsupported by any material or was raised for the first time at the threshold of the election. Rather, the matter had already entered the statutory process of verification and consideration by the competent authority.

5.2 What emerges from the sequence of events is that despite the availability of the aforesaid material and the pendency of the

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petitioner's claim before the competent authority, the proceedings were not brought to their logical conclusion within the relevant period. The claim came to be rejected only on 29.10.2026, whereas the appellate authority proceeded to reject the petitioner's appeal on 05.11.2026. The question, therefore, is not merely whether an electoral entry can be altered after commencement of the election process, but whether the respondents can be permitted to rely upon the consequence of their own failure to discharge a statutory obligation in time, to defeat a claim which had already been initiated and was awaiting determination.

6. In order to appreciate the controversy, it would be apposite to advert to the relevant provisions of the Rajasthan Panchayati Raj (Election) Rules, 1994.

Statutory scheme and its interpretation

6.1 Rule 13 of the Rules of 1994 provides the mechanism for preferring claims and objections by a person whose name has not been entered in the electoral roll or whose name has been entered at an incorrect place or with incorrect particulars.

6.2 Rule 14, in turn, casts an obligation upon the Electoral Registration Officer to undertake a summary enquiry into such claims and objections, afford the requisite opportunity of hearing and record a decision thereon. The statutory scheme, therefore, does not envisage a mere mechanical disposal of the claim; rather, it contemplates an effective consideration of the material placed

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before the competent authority and a decision founded upon the relevant facts.

6.3 Rule 15 deals with inclusion of names inadvertently omitted during preparation of the electoral roll, whereas Rule 16 provides for deletion of names of deceased persons and persons who have ceased to be, or are not, ordinarily resident in the concerned ward or constituency.

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6.4 A conjoint reading of Rules 13 to 16 makes it abundantly clear that the preparation of an electoral roll is not an empty procedural formality, but a statutory exercise intended to ensure that the roll reflects the correct electoral particulars of eligible persons. The significance of Rule 17 assumes importance in the present controversy. Under sub-rule (1), the Electoral Registration Officer is required to thereafter prepare a list of amendments to give effect to the decisions taken under Rules 14, 15 and 16 and publish the roll along with such list of amendments.

6.5 The expression “thereafter” employed by the rule-making authority is not without significance. It indicates a definite sequence of statutory events, namely, consideration and adjudication of claims and objections, preparation of amendments in consequence thereof and, thereafter, publication of the electoral roll along with the amendments. These stages cannot be read in isolation or divorced from one another.

6.6 The word “thereafter” necessarily carries with it the implication that the preceding statutory exercise must first be undertaken before the subsequent stage is reached. If the

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adjudication contemplated under Rule 14 is not undertaken, the consequential exercise contemplated under Rule 17 cannot be treated as having been completed in its true statutory sense in relation to the pending claim. The sequence prescribed by the Rules has to be respected in its entirety and cannot be reduced to a mere formality.

6.7 Equally significant is the expression "if any" occurring in Rule 17(3). The same has to be understood in the context of the statutory stage at which the Electoral Registration Officer is required to prepare and publish the list of amendments. It cannot be interpreted to mean that the authority may indefinitely postpone consideration of a claim and, at a subsequent stage, take shelter behind the fact that the list of amendments has already been published or that the election process has commenced. The expression does not confer an unfettered discretion upon the authority to disregard claims which were duly instituted and were awaiting adjudication within the prescribed statutory framework.

6.8 Rule 18 provides for the duration of an electoral roll, whereas Rule 19 contemplates its revision, either intensively or summarily, in accordance with the directions of the State Election Commission. These provisions further demonstrate that preparation and revision of electoral rolls constitute a continuing statutory exercise and are not confined exclusively to the period immediately preceding a particular election.

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6.9 Rule 20 assumes significance inasmuch as it empowers the Electoral Registration Officer, upon being satisfied after such enquiry as may be considered necessary, to amend, transpose or delete an entry in the electoral roll, including where a person has changed his place of ordinary residence. Sub-rule (2) thereof further enables a person whose name is not included in the electoral roll of a particular ward or constituency to apply for inclusion of his name. Rule 21 provides an appellate remedy against orders passed under Rules 14 and 20.

6.10 At the same time, Rule 21-A imposes a restriction upon amendment, transposition or deletion of entries and upon issuance of directions for inclusion of names under Rules 20 and 21 after issuance of the public notice under Rule 23 or Rule 58, as the case may be, and until completion of the elections. The said restriction undoubtedly has to be respected; however, its interpretation cannot be divorced from the circumstances in which the claim was instituted and the stage at which the competent authority was required to discharge its statutory obligation.

Application of the statutory scheme to the facts

7. After a bare perusal of the scheme aforementioned when the facts of the case are examined, it is revealing that as per Rule 13 of the Rules, the authorities invited objections of the public and in accordance with that, the petitioner had submitted an application/ claim/objection dated 07.02.2026 well within the prescribed period. The application above was processed and an inquiry was conducted as it is reflecting from the report dated 14.02.2026. As

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a matter of fact, no adjudication of the above application was ever done by the respondents. Now the plea which has been taken today and interestingly which was not taken before the Division Bench [SAW 1299/2026] in the first round of litigation that the objection of the petitioner had been decided on 29.10.2026 and therefore the election process was hampered, cannot be sustained or countenanced because the decision on 29.10.2026 was taken on subsequent application dated 20.09.2026 however, the objection dated 07.02.2026 remained undecided till now. As per the governing Rules, only after disposal of the objection and its communication to the concern, further process of preparation of final list should be undertaken.

7.1 The writ petition filed by the petitioner was dismissed by the co-ordinate Bench of this Court by the order above was merged into the order dated 30.10.2026 of the Division Bench and this Court records that the direction given by the Division Bench have not been followed up *stricto sensu* rather efforts have been made to defeat the very order by contending that the representation had been decided on 29.10.2026. If it is so, then why the fact was not brought to the notice of the Division Bench on 30.10.2026. secondly, the instance of making adjudication of objection of the petitioner on 29.10.2026 is not in accordance with the mandate of Rule 13 and 14 of the Rules because her application dated 07.02.2026 had not been decided prior to completion and publication of final list and even till now. For ready reference, the relevant operative part of the order is reproduced herein below:-

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> "8. Accordingly, the present Special Appeal Writ is disposed of. The respondents are directed to decide the claim of the appellant today itself i.e. on 30.10.2026, and pass a necessary order on the pending application, **if not already decided**. An appropriate decision shall be taken after considering all the material placed by the appellant before the concerned authorities. In the event the case of the appellant is considered for transpositions, necessary corrections shall be made to the electoral rolls today itself i.e. 30.10.2026, and she shall be allowed to participate in the election."

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7.2 The term, "if not already decided" as mentioned by the Division Bench above would in my humble understanding would be that the objection had been decided in accordance with Rules 13 and 14 within prescribed period but surely not at a subsequent stage just to defeat the cause of the petitioner or to disentitle her to take the shelter of the Court.

8. In the present matter, the petitioner had approached the competent authority much prior to the commencement of the election process. Her application was not an attempt to introduce a fresh claim after issuance of the election notification. The respondents had themselves initiated the process of verification, obtained the relevant factual material and forwarded the report for consideration at the competent level. Thus, the obligation to take the proceedings to their logical conclusion had already arisen. This Court is of the considered opinion that the respondents cannot be permitted to remain inactive when the petitioner’s claim was pending consideration and thereafter seek to justify such inaction by placing reliance upon the subsequent commencement

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of the election process. The statutory restriction under Rule 21-A cannot be employed as an instrument to confer an advantage upon an authority which has itself failed to discharge its obligation at the appropriate stage. Otherwise, an authority may, by simply withholding a decision upon a duly instituted claim, render the statutory remedy illusory and thereafter defeat the very claim by relying upon the intervening commencement of elections.

8.1 The principle that no person can be permitted to take advantage of his own wrong is well recognised in law. In this regard, reliance may be placed upon the judgment of the Hon'ble Supreme Court in **Kusheshwar Prasad Singh v. State of Bihar** reported in **2007 (11) SCC 447**, wherein the principle against permitting a party to derive benefit from its own wrongful conduct has been recognised. The well recognized Latin maxim *'Commodum ex injuria sua nemo habere debet'* (No party can take undue advantage of his own wrong) has been discussed in its true form.

8.2 The respondents, being statutory authorities, cannot be placed in a position where their own failure to act in accordance with law becomes the foundation for defeating the petitioner's otherwise legitimate statutory claim. It is also necessary to notice that the finding recorded by the Division Bench in this very case, as brought to the notice of this Court, has not been disturbed or set aside and, therefore, continues to hold the field in which it was held that there was a complete violation of Rules 13 and 14 of the Rules of 1994 by the Electoral Registration Officer prior to making

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the publication under Rule 17 of the Rules of 1994. The legal position emerging therefrom cannot be diluted by adopting an interpretation which renders the statutory sequence contemplated under the Rules redundant.

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8.3 The contention advanced on behalf of the respondents with regard to the restriction contained in Rule 21-A also requires careful examination. No doubt, the said provision places a restriction upon the Electoral Registration Officer and the appellate authority from undertaking amendment, transposition or deletion of entries after issuance of the public notice contemplated under Rule 23 or Rule 58. However, the question which arises in the present matter is whether such restriction can be construed so as to extinguish the consequence of a statutory proceeding which had already been initiated much prior to the issuance of such public notice and which remained pending for no fault attributable to the petitioner. In the opinion of this Court, the commencement of the election process cannot, by itself, become a justification for overlooking the circumstances in which the petitioner's claim remained undecided. The distinction between a fresh request for alteration of an electoral roll after commencement of the election process and a claim duly instituted, enquired into and awaiting a final decision before such commencement cannot be lost sight of. The former may attract the statutory embargo, whereas the latter requires examination of the conduct of the statutory authority and the prejudice occasioned by its failure to act at the appropriate stage.

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8.4 The judgment of Pawan v. State of Rajasthan & Ors. [D.B. Civil Writ Petition No.24025/2026] passed by the Division Bench of this Court relied upon by learned counsel for the respondents also deserves to be examined in its proper factual and legal context. It appears that the relevant aspect concerning the sequential operation of the statutory provisions, particularly the expression "thereafter" occurring in Rule 17, has not been dealt with in the manner in which the controversy arises in the present matter. A decision rendered without consideration of the particular statutory expression and the consequential sequence of events cannot automatically be treated as determinative of an issue which was neither examined nor adjudicated therein. The ratio of a judicial pronouncement has to be understood with reference to the question which actually fell for consideration and the reasoning adopted for deciding the same.

8.5 So far as the other judgment passed by the Division Bench of this Court in Kanti Lal v. Satte of Rajasthan & Ors. relied upon by the respondents is concerned, the factual situation therein stands on an entirely different footing. The controversy in that matter pertained to reservation of a particular territorial area and the consequential alteration of the reservation status of the concerned constituency. Such an exercise, if undertaken at the stage when elections are imminent, may have ramifications upon the entire electoral arrangement, including the classification of constituencies, reservation of seats and the rights of various prospective candidates. The same may consequently disturb the

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electoral framework as a whole. The controversy involved herein, however, is materially distinguishable. The petitioner is not seeking alteration of the reservation status of any constituency, reconstitution of any ward or modification of the electoral structure. Her grievance is confined to the correction/transposition of her individual electoral entry from one Gram Panchayat to another, on the basis of her claim of ordinary residence, which had already been subjected to physical verification and had been raised well within the prescribed statutory period and much before the publication of electoral roll and public notice of election. Such a correction, if found permissible in accordance with law, does not, by itself, necessitate any alteration in the reservation arrangement or the overall electoral structure. The mere inclusion of the petitioner's name through an appropriate supplementary list, subject to the statutory and constitutional requirements, would not necessarily entail disruption of the election schedule or the electoral process as a whole.

8.6 The distinction between interference with the election process and correction of an individual electoral entry, in the peculiar circumstances of the present case, therefore, assumes considerable significance. The constitutional objective of conducting elections in a timely and uninterrupted manner must undoubtedly be respected, but the same cannot be converted into a shield for perpetuating an administrative omission which has already occasioned prejudice to a citizen.

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8.7 Coming to the factual aspect of ordinary residence, the report dated 14.02.2026 assumes considerable evidentiary significance. The respondents themselves recorded that the petitioner had been residing for approximately three years in the newly constructed residential premises of her father at Bhaniyana. The mere circumstance that the petitioner was pursuing her studies or that her parental connection was with another village could not, by itself, be treated as conclusive of the question of ordinary residence. The Explanation appended to Section 18(2) of the Rajasthan Panchayati Raj Act, 1994, requires the question to be determined upon consideration of the relevant factual circumstances. Neither ownership of a dwelling house nor temporary absence can, in isolation, determine the issue. The competent authority was, therefore, required to examine the nature, continuity and duration of the petitioner's residence, her actual living arrangements and the other relevant circumstances disclosed during the field enquiry. In any case her objection or claim must have been adjudicated as provided. However, the impugned orders do not demonstrate an appropriate consideration of the material gathered by the respondents themselves. The rejection of the petitioner's claim at a belated stage which was never communicated to her, without a meaningful determination of the aforesaid aspects renders the decision vulnerable to judicial scrutiny. It is equally important to observe that the petitioner is not seeking registration at two different places simultaneously. Her claim is for transposition of her existing electoral entry from

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Gram Panchayat Chainpura to Gram Panchayat Bhaniyana, subject to deletion or corresponding correction of the earlier entry in accordance with law and publication of her name in the roll of transferred place.

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8.8 It is further contended that the action of the respondents is ex facie discriminatory, inasmuch as one Kewal Singh, whose case is stated to be similarly situated to that of the petitioner, has been included in the electoral roll of Gram Panchayat Bhaniyana at Serial No. 236 of Ward No. 04, despite the fact that he was the then Sarpanch of the erstwhile Gram Panchayat. The aforesaid factual position is borne out from the electoral roll produced before this Court. Interestingly, she also moved an application/objection as per Rules 13 and 14 of the Rules and inquiry to her case was also conducted alongwith the case of Kewal Singh which is very much evident from the recommendation dated 14.02.2026 (Annexure-3), but his case was adjudicated while leaving the case of the petitioner in limbo without adjudication. Thus, when the respondents have considered it permissible to include the name of Kewal Singh in the electoral roll of Gram Panchayat Bhaniyana, despite his previous electoral association with the erstwhile Gram Panchayat, no justifiable reason is forthcoming as to why the petitioner’s request for a similar treatment has been declined. Such differential treatment, in the absence of any cogent or intelligible basis, prima facie raises a question of arbitrariness and discriminatory exercise of authority.

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9. This Court is conscious of the constitutional mandate contained in Article 243-O of the Constitution of India and the settled principle that the election process ought not ordinarily to be interrupted once it has commenced. However, the constitutional protection afforded to the election process cannot be interpreted as a blanket immunity to statutory authorities against judicial scrutiny of arbitrary or unlawful action preceding the election. The exercise of jurisdiction under Article 226 of the Constitution of India, in the peculiar facts of the present case, is directed towards examining the legality of the administrative action and the failure to discharge the statutory obligation, rather than adjudicating upon or questioning the election itself. The respondent authority owe a duty to adhere and abide by the Rules and the statutory mandate as envisaged under Rules 13 and 14 and objection legitimately raised. The law mandates the adjudication of the objections raised and to have done as provided under the law. If they have proceeded without following the procedure, it was their fault and not of the petitioner. Now the respondents cannot be permitted to take the benefit of their own wrong by simply raising a plea of commencement of election process. In the considered opinion of this Court, the commencement of the election process must have been done after following the due process and complying with the provisions. Publication of final list must precede adjudication of objection.

10. The Hon'ble Supreme Court, in **Election Commission of India through Secretary v. Ashok Kumar & Ors**., decided on

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30.08.2000, reported in 2000 (8) SCC 216, has propounded the principle that the constitutional bar against judicial interference in electoral matters during the subsistence of an election process is not absolute in its operation so as to exclude the jurisdiction of the High Court under Article 226 of the Constitution of India in every circumstance. The Hon'ble Apex Court has elucidated that judicial intervention during the election process is permissible where the exercise of such jurisdiction is intended to facilitate the completion of the election rather than obstruct, interrupt or protract the same. The decisive consideration is whether the intervention would subserve the progress of the election or instead impede its completion. Thus, the constitutional embargo is not intended to immunise arbitrary or unlawful actions of the authorities from judicial scrutiny, provided that the intervention does not amount to stalling or derailing the election process.

11. In the considered opinion of this Court, the statutory scheme has to be interpreted in a manner which advances its object and not in a manner which defeats the very purpose for which the mechanism of claims, objections, enquiry and consequential amendments have been incorporated. A citizen cannot be made to suffer for an omission committed by the authority entrusted with the responsibility of deciding the claim. The respondents cannot first keep the petitioner's application pending and undecided despite having undertaken the requisite verification and thereafter turn around to contend that the election process has commenced and, therefore, nothing can be done now. Such an approach would

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amount to permitting the authority to take advantage of its own failure, which is impermissible in law. Consequently, this Court finds that the impugned orders cannot be sustained in the manner in which they have been passed. The writ petition deserves to be allowed.

12. Accordingly, the instant writ petition is allowed. It is ordered that the name of the petitioner be included in the electoral role of Gram Panchayat, Bhaniyana and be deleted from previous village electoral list. A supplementary list shall be prepared immediately showing her name as a voter of Gram Panchayat, Bhaniyana and the same shall be circulated/forwarded immediately to the concerned RO, BRO and the Booth Level Officers. She shall be allowed to cast her vote at Gram Panchayat, Bhaniyana and to contest election for whatever post she desires, if she is otherwise eligible and her nomination form is found up to the mark.

13. The instant writ petition and stay petition as well as all pending applications, if any, stands disposed of.

(FARJAND ALI),J

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