APHC010316862021

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

Bench [3584]

WRIT PETITION NO: 19118 of 2021 along with W.P. Nos. 17924, 18066, 18511, 18554, 19096, 19409, 20017, 23928, 27097, 28954 of 2021; 16039 of 2024; 27476, 27487, 27885 of 2026

1. W.P.No.19118 of 2021:

Thota Radhakrishna Murthy and Others ...Petitioner(s)

Vs.

The State of Andhra Pradesh and Others ...Respondent(s)

2. W.P. No. 17924 of 2021:

Guru Jagapathibabu and Others ...Petitioner(s)

Vs.

The State of Andhra Pradesh and Others ...Respondent(s)

3. W.P.No.18066 of 2021:

Akula Srinivasa Rao and Others ...Petitioner(s)

Vs.

The State of Andhra Pradesh and Others ...Respondent(s)

4. WP.No.18511 of 2021:

Vallepalli Venkata Subrahmanyam and Others ...Petitioner(s)

Vs.

State of Andhra Pradesh and Others ...Respondent(s)

5. WP.No.18554 of 2021:

Addala Peddiraju and Others ...Petitioner(s)

Vs.

The State of Andhra Pradesh and Others ...Respondent(s)

6. WP.No.19096 of 2021:

Dasari Malyadri ...Petitioner

Vs.

The State of Andhra Pradesh and Others ...Respondent(s)

7. WP.No.19409 of 2021:

Korada Polipalli and Others ...Petitioner(s)

Vs.

The State of Andhra Pradesh and Others ...Respondent(s)

8. WP.No.20017 of 2021:

Chillimuntala Venkata Srinivasulu ...Petitioner

Vs.

The State of Andhra Pradesh and Others ...Respondent(s)

9. WP.No.23928 of 2021:

Pilla Gopala Krishna ...Petitioner

Vs.

The State of Andhra Pradesh and Others ...Respondent(s)

10. WP.No.27097 of 2021:

Yeddula Subba Reddy and Others ...Petitioner(s)

Vs.

The State of Andhra Pradesh and Others ...Respondent(s)

11. WP.No.28954 of 2021:

Kamisetti Srinivas and Others ...Petitioner(s)

Vs.

The State of Andhra Pradesh and Others ...Respondent(s)

12. WP.No.16039 of 2024:

Pentapati Kesava Krishna and Others ...Petitioner(s)

Vs.

The State of AP and Others ...Respondent(s)

13. WP.No.27476 of 2026:

Sri. Tallapaneni Gopi and Others ...Petitioner(s)

Vs.

The State of Andhra Pradesh and Others ...Respondent(s)

14. WP.No.27487 of 2026:

Sayana Anasuya and Others ...Petitioner(s)

Vs.

The State of Andhra Pradesh and Others ...Respondent(s)

15. WP.No.27885 of 2026:

Gorantla Rambabu ...Petitioner

Vs.

The Chief Secretary for the State of Andhra Pradesh and Others ...Respondent(s)

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Reserved for orders on	:	29.09.2026
Pronounced on	:	01.10.2026
Whether only operative part of the judgment is pronounced or whether full judgment is pronounced	:	Full

CORAM : THE CHIEF JUSTICE LISA GILL
SRI JUSTICE CHALLA GUNARANJAN

DATE : 01.10.2026

Present :

Advocate for Petitioner(s):

Mr. N. Subba Rao, Senior Counsel with Mr Subba Rao Korrapati (W.P. No.19118 of 2021)

Mr. S Srinivasa Rao (W.P. No. 17924 of 2021)

Mr. Dasaka Murali Krishna (W.P. No. 18066 of 2021)

Mr. Raviteja Padiri (W.P. No. 18511 of 2021)

Mr. Aravala Rama Rao (W.P. No. 18554 of 2021)

Mr. Y Nagi Reddy representing Mr K Jyothi Prasad (W.P. No. 19096 of 2021)

Mr. M Srikanth representing Mr Kiran Tirumalasetti (W.P. No. 19409 of 2021)

Mr. G. V. Shivaji (W.P. No. 20017 of 2021)

Mr. Sanneboina Bhargav (W.P. No. 23928 of 2021)

Mr. M Ravindra (W.P. No. 27097 of 2021)

Mr. Dasaka Murali Krishna (W.P. No. 28954 of 2021)

Mr. B Chandra Shekhar(W.P. No. 16039 of 2024)

Mr. Y Nagi Reddy representing Mr Gajjala Mallikarjuna Reddy (W.P. No. 27476 of 2026)

Mr. VSR Anjaneyulu, Senior Counsel

with Mr Vajjhala Satyanarayana Prasad (W.P. No. 27487 of 2026)

Mr. Madhava Rao Nalluri (W.P. No. 27885 of 2026)

Advocate(s) for Respondent(s): Mr. E. Sambasiva Pratap, Additional Advocate General

LISA GILL, CJ:

All the above said writ petitions were taken up together for hearing and adjudication at request and with consent of all learned counsel for parties, as there is a common thread which runs through all of them.

2. Petitioners in these writ petitions challenge passing of A.P. Municipal Laws (Amendment) Act, 2021 (05 of 2021) passed by State of Andhra Pradesh for carrying out amendments in A.P. Municipalities Act, 1965 (for short, 'APM Act') and A.P. Municipal Corporations Act, 1994 (for short, 'APMC Act'), which was published in Andhra Pradesh Gazette, dated 09.06.2021 being illegal, arbitrary, violative of Articles 14, 19, 243P, 243Q of the Constitution of India besides being violative of Andhra Pradesh Municipalities (Inclusion or Exclusion of Areas into/from the Jurisdiction of the Municipalities/Nagar Panchayats) Rules, 2015 (for short, 'APM Rules, 2015').

3. Challenge has been laid to action of State for inclusion of areas as mentioned in Schedule XI of APM Act and Schedule to / under Section 3(3-A) of APMC Act into areas governed by Municipality/Municipal Corporation. Petitioners challenge insertion of Section 3(1-B) in APM Act and Section 3(3-A) of APMC Act and respective schedules attached.

4. Details of various Gram Panchayats sought to be included in a particular Municipality or Municipal Corporation as challenged in the subject writ petitions are as under:

S. No.	Writ Number	Name of Municipality	Name of Panchayat
1.	19118/2021	Ponnur Municipality	Merging of Chintalapudi, Peda Itikampadu, Vaddimukkala, Kattimpudi and Aluru Gram Panchayats into Ponnur Municipality.
2.	17924/2021	Srikakulam Municipal Corporation	Merging of Seven 7 Villages (1) Peddapadu (2) Patrunivalasa (3) Khajipeta (4) Chapuram (5) Killipalem (6) Thotapalem and (7) Kuslapuram Villages into the Srikakulam Municipal Corporation.
3.	18066/2021	Tadepalligudem Municipality	Merging of five Gram Panchayats, namely (1) Kondrupolu (2) L. Agraharam (3) Kunchanapalli (4) Prathipadu and (5) Padala in Tadepalligudem Rural and Pentapadu Mandal included in Tadepalligudem Municipality.
4.	18511/2021	Rajamahendravarm Municipal Corporation	Merging of ten Gram Panchayats of East Godavari District in Rajamahendravarm Muncipal Corporation namely (1) Satellite City(2) Katheru (3) Hukumpeta (4) Bommuru (5) Dowleswaram (6) Pidimgoyyi (7) Rajavolu (8) Thorredu (9)Venkatanagaram & (10) Vemagiri.
5.	18554/2021	Palakole Municipality	Merging of Kontheru and Adavipalem Grampanchayats of Elamanchili Mandal into Palakole Municipality.
6.	19096/2021	Kandukur Municipality	Merging of ten Areas/Gram Panchayats namely (1) Divvivaripalem (2) Ganjigunta (3) Anandapuram (4) Chuttagunta (5) Gallavaripalem (6) Mukkodipaalem (7) Kandravaripalem (8) Shameerpalem (9) Anandapalem SC Colony (10) Anandapuram ST Colony into Kandukur Municipality.
7.	19409/2021	Upgradation of Rajam Nagar Panchayat	Constitution/Upgradation of Rajam Nagar Panchayat by merging 5 Gram Panchayats, namely (1) Rajam (2) Saradhi (3) Kondampeta (4) Kothavalasa and (5) Ponugutivalsa Gram Panchayats.
8.	20017/2021	Bheemavaram Municipality	Merging of Chinna Amiram Village into the Bheemavaram Municipality.

9.	23928/2021	Palakole Municipality	Merging of five Gram Panchayats, namely (1) Konteru and Adavipalem, (2) Ullamparru, (3) Palakole Rural, (4) Pulapalli and Baggeswararam, and (5) Varidhanam Gram Panchayat, in Yelamanchili and Palakole Rural Mandals, into Palakole Municipality.
10.	27097/2021	Gudur Municipality	Merging of five Gram Panchayats, namely (1) Potupalem, (2) Chillakuru, (3) Chennuru, (4) Divipalem and (5) Nellaturu, into Gudur Municipality, SPSR Nellore District,
11.	28954/2021	Tadepalligudem Municipality	Merging of five Gram Panchayats, namely (1) Kondrupolu, (2) L. Agraharam, (3) Kunchanapalli, (4) Prathipadu and (5) Padala Gram Panchayats of Tadepalligudem Rural and Pentapadu Mandals, into Tadepalligudem Municipality.
12.	16039/2024	Bhimavaram Municipality	Merging of Taderu Gram Panchayat in Bhimavaram Municipality.
13.	27476/2026	Kandukur Municipality	Merging of ten areas/Gram Panchayats, namely (1) Divvivaripalem, (2) Ganjigunta, (3) Anandapuram, (4) Chuttagunta, (5) Gallavaripalem, (6) Mukkodipalem, (7) Kandravaripalem, (8) Shameerpalem, (9) Anandapalem Gram Panchayat SC Colony and (10) Anandapuram ST Colony into Kandukur Municipality.
14.	27487/2026	Gudivada Municipality	G.O.Ms.No.196, Panchayat Raj and Rural Development (E&R) Department, dated 31.12.2019, denotifying the concerned Gram Panchayats for their merger with Gudivada Municipality. G.O.Ms.No.352, Municipal administration and Urban Development Department, dated 31.12.2019, including the said Gram Panchayats in Gudivada Municipality. Merging of Grampanchayats namely (1) Valivarthipadu (2) Lingavaram (3) Billapadu (4) Bommuluru (5) Mallayapalem and (6) Bhushanagulla into Gudivada Municipality.
15.	27885/2026	--	Andhra Pradesh Municipal Laws Amendment Act 2021 Act No 5 of 2021 as void on the ground of lack of legislative competence

5. Learned counsel for parties agreed that any further reference to individual petitions except as is in following paras, is not necessary because questions of law as raised are identical in all matters.

6. Brief facts as are necessary for adjudication of these matters is that the fourth petitioner in writ petition No. 19118 of 2021 along with others had earlier filed writ petition No. 3337 of 2020 being aggrieved of action of respondent State in issuing notification under Section 3(2)(f) of the Andhra Pradesh Panchayat Raj Act, 1994, canceling notification in which Chintalapudi and other five villages are declared as Gram Panchayats / Villages with immediate effect in order to enable their merger into limits of Ponnur Municipality in Guntur District vide G.O.Ms.No.259 dated 28.01.2020 and consequential notification issued vide G.O.Ms.No.81, dated 28.01.2020, in exercise of powers conferred under Section 3(1)(A) of the APM Rules, 2015. Petitioners were aggrieved of alteration of limits of Ponnur Municipality by inclusion of six villages including Chintalapudi Village.

7. Said writ petition was allowed by learned Single Bench vide decision, dated 06.03.2020. It was held that in terms of Rule 12(1) of the A.P. Gram Panchayats (Declaration of Villages), Rules, 2007, a show cause notice granting ten days time is required for de-notification of any Gram Panchayat and its merger into another village or Municipality. Furthermore, as per sub-section (3) of Section 3 of APM Act, there is a requirement of issuance of notification for inclusion of local area or any portion thereof from a

Municipality. Merger of Chintalapudi Gram Panchayat into Ponnur Municipality was held to be contrary to procedure prescribed in law.

8. Thereafter, Ordinance No.17 of 2020, dated 31.12.2020 was issued by respondent State inserting a non obstante clause in sub-section 42-a of Section 2 of APM Act, 1965, and sub-section (1-B) to Section 3 thereof. Furthermore, sub-section (3-A) was inserted in Section 3 of APMC Act. Subsequently, the Andhra Pradesh Municipal Laws (Amendment) Act, 2021 (Act No.5 of 2021) (for short, 'Amendment Act') was enacted. Various writ petitions which had earlier been filed challenging Ordinance, dated 31.12.2020 i.e., W.P. No.5556 of 2021 and Batch were disposed of on 06.08.2021 granting liberty to petitioners therein to challenge Amendment Act of 2021. Present writ petitions were then subsequently filed, challenging Amendment Act.

9. W.P. No. 27487 of 2026 has now been filed on 22.09.2026 for declaring the Andhra Pradesh Municipal Laws (Amendment) Act, 2021 (Act No. 5 of 2021) to be illegal, arbitrary and unconstitutional on similar grounds as in other cases. This writ pertains to merger of five Gram Panchayat - respondent Nos.5 to 10 into Gudivada Municipality. It is submitted that earlier W.P. No. 2873 of 2020 filed in respect to merger of said villages into Gudivada Municipality was withdrawn on 01.09.2026 by filing memo dated 25.08.2026. Said writ petition, it is submitted, was withdrawn due to change in the regime. Therefore, present writ petition has now again been filed by petitioners who are ex-MPTCs and ex-Sarpanch. Objection was raised in respect to

maintainability of this writ petition. There is no expression of opinion on maintainability of this writ petition, which was simply tagged along with present writ petitions which were pending adjudication. W.P. Nos. 27885 of 2026 and 27476 of 2026 were also tagged.

10. In the above said backdrop, it would be useful at this stage, for better appreciation of the matter to refer to relevant provisions of APM Act and APMC Act, prior and after amendment.

Andhra Pradesh Municipalities Act, 1965

Provision	Before amendment (before 31.12.2020)	After amendment (Act No. 5 of 2021)
Section 2(42-a)	(42-a) "transitional area" or a smaller urban area means such area as the Governor may, having regard to the population of the area, the density of the population therein, the revenue generated for local administration, the percentage of employment in non-agricultural activities, the economic importance or such other factors as he may deem fit, specify by public notification for the purposes of this Act, subject to such rules as may be made in this behalf;	(42-a) "transitional area" or a smaller urban area means such area as the Governor may, having regard to the population of the area, the density of the population therein, the revenue generated for local administration, the percentage of employment in non-agricultural activities, the economic importance or such other factors as he may deem fit, specify by public notification for the purposes of this Act, subject to such rules as may be made in this behalf; *Notwithstanding anything contained in this clause, the areas mentioned in Column (3) of Schedule X shall be deemed to have been constituted as the smaller urban area as specified in the corresponding entry of Column (2) of the said Schedule, where no elected body of the Gram Panchayat constituted for such area is in existence.*
Section 3	3. Constitution of Municipalities.— (1) Where a notification is issued specifying an area as a smaller urban area under	3. Constitution of Municipalities.— (1) Where a notification is issued specifying an area as a smaller urban area under clause (42-a) of Section 2, a Municipality shall be deemed to have

	clause (42-a) of Section 2, a Municipality shall be deemed to have been constituted for such area; Provided that a Municipality under this clause may not be constituted in such urban area or part thereof as the Governor may, having regard to the size of the area of the Municipal Services being provided or proposed to be provided by an industrial establishment in that area and such other factors as he may deem fit, by public notification, specify to be an Industrial Township.] (1-A) The Government may, by notification and in accordance with such principles and procedure as may be prescribed in this behalf,— (a) include within a Municipality any local area or part thereof, in the vicinity of such Municipality; (b) exclude from a Municipality, any area comprised therein. (2) Any resident of a local area or tax payer of a Municipality, as the case may be, in respect of which any such notification has been published may, if he desires to object to anything therein contained, submit his objection in writing to the Government within six weeks from the publication of the notification and the Government shall take all such objections into consideration. (3) When six weeks from the publication of the notification have expired, and the Government have considered the objections, if any, which have been submitted, they may, as the case may be, by notification in the Andhra Pradesh Gazette, declare to	been constituted for such area; Provided that a Municipality under this clause may not be constituted in such urban area or part thereof as the Governor may, having regard to the size of the area of the Municipal Services being provided or proposed to be provided by an industrial establishment in that area and such other factors as he may deem fit, by public notification, specify to be an Industrial Township. (1-A) The Government may, by notification and in accordance with such principles and procedure as may be prescribed in this behalf,— (a) include within a Municipality any local area or part thereof, in the vicinity of such Municipality; (b) exclude from a Municipality, any area comprised therein. *(1-B) (i) Notwithstanding anything contained in sub-section (1-A), the areas mentioned in Column (3) of Schedule XI shall stand included and form part of the area governed by the Municipality shown in the corresponding entry of Column (2) of the said Schedule, where no elected body of the Gram Panchayat constituted for such area is in existence.* *(ii) Notwithstanding anything contained in any other laws for the time being in force, all the consequences arising out of the inclusion of the Gram Panchayats into the Schedule including the process of de-notifying the Gram Panchayats under the Andhra Pradesh Panchayat Raj Act, 1994 shall be deemed to have been completed.* (2) Any resident of a local area or tax payer of a Municipality, as the case may be, in respect of which any such notification has been published may, if he desires to object to anything therein contained, submit his objection in writing to the Government within six weeks from the publication of the notification and the Government shall

	be a Municipality or include in or exclude from a Municipality, the local area or any portion thereof.	take all such objections into consideration. (3) When six weeks from the publication of the notification have expired, and the Government have considered the objections, if any, which have been submitted, they may, as the case may be, by notification in the Andhra Pradesh Gazette, declare to be a Municipality or include in or exclude from a Municipality, the local area or any portion thereof.
Schedules X & XI	No Schedules X and XI corresponding to Sections 2(42-a) and 3(1-B) existed.	*After Schedule IX, new Schedule X [Section 2(42-a)] and Schedule XI [Section 3(1-B)] were added in Tabular form.* *Schedule X identifies six smaller urban areas: YSR Tadigadapa, Rajam, Alluru, B. Kothakota, Chintalapudi and Podili* *Schedule XI identifies the Gram Panchayats/areas to be included in the following Municipalities: Palacole, Tadepalligudem, Tanuku, Bhimavaram, Tadepalli, Mangalagiri, Bapatla, Ponnur, Kandukur, Kavali, Gudur (Nellore District), Srikalahasti and Gudivada.*

Andhra Pradesh Municipal Corporations Act, 1994

Provision	Before amendment (before 31.12.2020)	After amendment (Act No. 5 of 2021)
Section 3	3. Specification of larger urban area.— (1) Where a notification is issued by the Governor specifying an area as a larger urban area under clause (d) of section 2, a Corporation shall be deemed to have been constituted for such area. (2) The Governor may, from time to time, after consultation with the Corporation, by notification in the Andhra Pradesh Gazette, alter the	3. Specification of larger urban area.— (1) Where a notification is issued by the Governor specifying an area as a larger urban area under clause (d) of section 2, a Corporation shall be deemed to have been constituted for such area. (2) The Governor may, from time to time, after consultation with the Corporation, by notification in the Andhra Pradesh Gazette, alter the

	limits of a larger urban area specified in the notification issued under clause (d) of section 2, so as to include therein or to exclude therefrom, the areas specified in the notification. (3) The power to issue a notification under sub-section (2) shall be subject to such rules as may be made in this behalf and to previous publication. (4) The Corporation shall, by the said name, be a body corporate, having perpetual succession and a common seal with power to acquire, hold and dispose of property and to enter into contracts and may by its corporate name, sue and be sued. (5) Where any local area which is within the jurisdiction of any other local authority is included in a larger urban area for which a Corporation is constituted, the Government may pass such orders as they may deem fit as to the transfer to the Corporation or disposal otherwise, of the assets or institutions of any such local authority in the local area and as to the discharge of the liabilities, if any, of such local authority relating to such assets or institutions. (6) Where any local area for which a Municipality is constituted under the Andhra Pradesh Municipalities Act, 1965 (Act VI of 1965) is declared as a larger urban area and a Municipal Corporation is constituted, then the Municipality functioning immediately before such constitution shall be deemed to have been abolished and the said Act shall cease to apply to such larger Urban area. (7) Where a Municipality stands abolished under sub-section (6), it shall be competent for the Government to pass such orders as they may deem fit as to the	limits of a larger urban area specified in the notification issued under clause (d) of section 2, so as to include therein or to exclude therefrom, the areas specified in the notification. (3) The power to issue a notification under sub-section (2) shall be subject to such rules as may be made in this behalf and to previous publication. *(3-A) (i) Notwithstanding anything contained in sub-sections (2) and (3), the areas mentioned in Column (3) of Schedule shall stand included and form part of the area governed by the Municipal Corporations shown in the corresponding entry of Column (2) of the said Schedule, where no elected body of the Gram Panchayat constituted for such area is in existence.* *(ii) Notwithstanding anything contained in any other laws for the time being in force, all the consequences arising out of the inclusion of the Gram Panchayats into the Schedule including the process of de-notifying the Gram Panchayats under the Andhra Pradesh Panchayat Raj Act, 1994 shall be deemed to have been completed.* (4) The Corporation shall, by the said name, be a body corporate, having perpetual succession and a common seal with power to acquire, hold and dispose of property and to enter into contracts and may by its corporate name, sue and be sued. (5) Where any local area which is within the jurisdiction of any other local authority is included in a larger urban area for which a Corporation is constituted, the Government may pass such orders as they may deem fit as to the transfer to the Corporation or

	transfer to the Corporations or disposal otherwise, of the assets or institutions of the abolished Municipality and as to the discharge of the liabilities, if any, of such Municipality relating to such assets or institutions.	disposal otherwise, of the assets or institutions of any such local authority in the local area and as to the discharge of the liabilities, if any, of such local authority relating to such assets or institutions. (6) Where any local area for which a Municipality is constituted under the Andhra Pradesh Municipalities Act, 1965 (Act VI of 1965) is declared as a larger urban area and a Municipal Corporation is constituted, then the Municipality functioning immediately before such constitution shall be deemed to have been abolished and the said Act shall cease to apply to such larger Urban area. (7) Where a Municipality stands abolished under sub-section (6), it shall be competent for the Government to pass such orders as they may deem fit as to the transfer to the Corporations or disposal otherwise, of the assets or institutions of the abolished Municipality and as to the discharge of the liabilities, if any, of such Municipality relating to such assets or institutions.
Schedule under Section 3(3-A)	No Schedule corresponding to Section 3(3-A) existed.	*A new Schedule [Section 3(3-A)] was added. It provides for inclusion of specified Gram Panchayats/areas into:* ***1. Srikakulam Municipal Corporation****- Peddapadu, Patrunivalasa, Khajipeta, Chaparam, Killipalem, Thotapalem and Kusalapuram.* ***2. Rajamahendravaram Municipal Corporation****- Satellite City, Katheru, Hukumpeta, Bommuru, Dowleswaram, Pidimgoyyi, Rajavolu, Thorredu, Venkatanagaram and Vemagiri.*

11. Questions raised for consideration in the writ petitions are:

i. Whether impugned amendment Act is within legislative competence of State?

ii. Whether said Amendment Act is violative of Articles 14, 243Q(2) of the Constitution of India and contrary to 73rd and 74th amendment to the Constitution of India?

iii. Whether said Amendment Act is an example of legislative overreach and is a colourable legislation?

iv. Whether mandatory provisions for inclusion of Gram Panchayats in Municipalities / Municipal Corporations were not followed and whether notification de-notifying Gram Panchayats first and thereafter notification for their inclusion in Municipalities / Municipal Corporations is required?

v. Whether prior notice is mandatory to be served upon elected representatives of village and villagers?

Submissions on behalf of writ petitioners:

12. Mr. N. Subba Rao, learned Senior Counsel representing petitioners in W.P. No.19118 of 2021 led arguments which were supplemented by Mr. VSR Anjaneyulu, learned Senior Counsel representing petitioners in W.P. No.27487 of 2026 and Mr. S. Srinivasa Rao, Mr. M. Srikanth, Mr. Raviteja Padiri. Said arguments were adopted by learned counsel in other writ petitions.

13. It was vehemently argued by learned counsel for petitioners that Article 243 of the Constitution of India does not permit of such legislation. It was submitted that Part IX of the Constitution of India came into being for

strengthening the rural local body, the Gram Panchayat. ‘Panchayat’ is defined in Article 243D to be an institution of self-government constituted under Article 243B, for rural areas. Article 243B provides for constitution of Panchayats. Governance of Panchayats is under an independent enactment i.e., under the Panchayat Raj Act, 1994, therefore, impugned action of State is illegal. It was argued that by way of impugned amendment, a Panchayat cannot be included in Municipalities / Municipal Corporation in this manner under the APM and APMC Act. Moreover, it is imperative that prior notice to be given to Gram Panchayats / residents of village as their rights are directly affected by such act.

14. It was asserted that unless and until there is first a de-notification of Gram Panchayat, it could not have been merged with Municipality / Municipal Corporation. No such action for de-notification of area was taken. Moreover, as per Sections 3(1-A) of APM Act and Section 3(2) of APMC Act, prior notification for merger is necessary, which has not been issued. Procedure laid down by APM Act and APMC Act could not have been bypassed with the amendments as caused.

15. It was further submitted that said amendment is beyond legislative competence of State. Violation of Article 243Q was asserted.

16. Another argument addressed on behalf of petitioners was that State cannot be permitted to take benefit of its own wrong inasmuch as non obstante clause has been inserted by way of Section 3 (1-B) stating that

notwithstanding anything contained in sub section (1A), the areas mentioned in column (3) of Schedule XI shall stand included and form part of area governed by Municipality shown in corresponding entry of column (2) of schedule where no elected body of Gram Panchayat constituted for such area is in existence.

17. Further, as per sub-section (1-B) (ii) of Section 3 of APM Act, all consequences arising out of inclusion of Gram Panchayats into Schedule including process of de-notifying Gram Panchayats under Andhra Pradesh Panchayat Raj Act, 1994, shall be deemed to have been completed. Such deemed provisions are absolutely illegal and arbitrary and in fact contrary to constitutional provisions as well as APM Act and APMC Act itself.

18. While referring to judgment of Hon'ble the Supreme Court in **Kishansing Tomar v. Municipal Corporation**[1] and other judgments on the aspect of holding timely elections, it was submitted that State is undoubtedly under a mandate to conduct timely elections within stipulated periods, thus, it cannot take advantage of its own wrong by first not holding elections on time and then take a stand that where there is no elected body, a Panchayat in question would be deemed to have merged with the Municipality / Municipal Corporation, as the case may be.

19. Learned counsel for petitioners in W.P. No.19409 of 2021 stated that insofar as Rajam Mandal is concerned, there are 20 Mandal Praja Parishad Territorial Constituencies (MPTC). Four MPTCs are earmarked for Rajam

[1] 2006 (8) SCC 352

Gram Panchayat, one for Saradhi Gram Panchayat, one for Kothavalasa Gram Panchayat and one for Kondampeta and Guravam Gram Panchayat. In event of formation of Rajam Nagar Panchayat, re-delimitation of area covered in Rajam MPTCs and Santhakaviti MPTCs and respective zilla parishad territorial constituencies will have to be done under District Formation Act, 1974. Rajam Nagar Municipality came into being on 24.03.2020.

20. Reliance was placed by learned counsel for parties on judgments of Hon'ble the Supreme Court in **Champa Lal v. State of Rajasthan**[2], **Bhanumati & Ors v. State of Uttar Pradesh**[3], **Prof. B.K. Chandrashekar and another v. State of Karnataka**[4] and **D. Suryanarayana and others v. Government of Andhra Pradesh and others**[5].

Submissions on behalf of respondents:

21. Learned Additional Advocate General refuted arguments raised on behalf of writ petitioners and submitted that amendments are within legislative competence of State. There is absolutely no violation of Part IX or Part IX-A of the Constitution of India, particularly Articles 243-A, 243-B, 243-C, 243-P, 243-Q, 243-R, 243-S and 243-T. It was denied that there is any violation of Article 14 of the Constitution of India or that the Amendment Act is contrary to provisions of the said Act(s). Impugned amendments made to municipal laws are within the constitutional parameters. State has power to legislate in

[2] (2018) 16 SCC 356
[3] 2010 (12) SCC 1
[4] AIR 1999 Kant 461
[5] (2000) 2 ALT 787

respect of local government, local authorities under Entry 5 of List II of Seventh Schedule of the Constitution of India.

22. There is no question of violation of constitutional provisions by insertion of non-obstante clause, as urged by learned counsel for the petitioners. In fact, the amendment is a means of realization of constitutional mandate. It was further submitted that as per judgment of Hon'ble the Supreme Court in **Cheviti Venkanna Yadav v. State of Telangana**[6], once the defect which led to a judgment being rendered, is removed by way of legislation, the same is liable to be upheld, and it cannot be said that action of State is an act of overreach or that the amendment is a colourable legislation. It is always open to the legislature to remove the defect which has been pointed out by Court by amending the applicable provisions of law.

23. It was also argued that there is no requirement of issuance of separate notifications for either de-notification of Gram Panchayats or their merger with municipalities / municipal corporations in view of specific provisions of the Act. Notification of the Act itself is sufficient and moreover, the same being a legislative Act, does not require issuance of prior notice to petitioners or stakeholders as argued on behalf of petitioners.

24. Learned Additional Advocate General further submitted that it was a painstaking exercise which had been undertaken for identification of areas to be merged in the different Municipalities / Municipal Corporations. The process of identification of areas was started much earlier. The proposed

[6] (2017) 1 SCC 283

Gram Panchayats which have acquired urban characteristics and peri-urban areas, which had potential and robust urban features, were identified by collectors and district magistrates in consultation with various stakeholders and recommendations for merger into adjoining urban local bodies and for constitution of new local bodies had been received. The process had started in the year 2017 and taken forward in 2019. It was found that to improve urbanization in Andhra Pradesh, it was required to identify new growth engines in this regard. Vide memo dated 25.01.2017, a district-level committee was constituted to submit proposals along with suggestions of district-level committee to state-level committee. Members of the said district-level committee were as under:

"1. The District Collector	- Chairman
2. Regional Deputy Director of Town and Country Planning	- Member
3. District Town and Country Planning Officer	- Convenor
4. Chief Planning Officer of Concerned District	- Member
5. Superintendent Engineer, Panchayat Raj Dept.	- Member
6. Superintendent Engineer/Executive Engineer, Road & Buildings Dept	- Member
7. General Manager, District Industries Centre	- Member
8. The Joint Director, Fisheries Department	- Member
9. The Joint Director, Horticulture Department	- Member
10. The Deputy Director, Animal Husbandry Dept.	- Member
11. Assistant Director/Deputy Director, Agriculture Dept	- Member"

25. Data was collected from the concerned areas and recommendations of the Committee were received in respect to various districts. Learned Additional Advocate General at the time of arguments produced original records in respect to these exercises qua different municipalities and municipal corporations. Views, suggestions and objections had been duly called for from the residents. It was urged that in this view of the matter,

argument raised on behalf of petitioners that it was merely on whims and fancies that process of inclusion of Gram Panchayats in Municipalities / Municipal Corporation was undertaken is absolutely refuted from a perusal of the record. Moreover, said exercise undertaken by State cannot be negated on account of order dated 06.03.2020, passed by this High Court in W.P. No.3337 of 2020, which was primarily passed on account of requisite notice(s) not being issued in accordance with prevailing applicable provisions.

26. State, it was urged, is committed to carry out its duty of planned development of State and that there would be no adverse impact on residents of area as argued. Benefits which are available in Municipalities / Municipal Corporation would become available to them. Therefore, aspect of depravation of benefit of a scheme in rural areas cannot be a ground to set aside the amendment. Living conditions of citizens are sought to be made better for their better prospects in life and to make citizens self-reliant. It was thus prayed that all the writ petitions be dismissed.

27. Reliance was placed upon judgment passed by High Court of Telangana in **Jangili Sagar v. State of Telangana**[7]. It was submitted that challenge had been raised in said writ petitions in respect to similar provisions in Telangana Municipal Corporation Act, 1994, and Telangana Municipalities Act, 1965, on identical grounds. These writ petitions were dismissed on 8.3.2019 and same was upheld by Hon'ble the Supreme Court with SLP No. 8921 of 2019 filed challenging the same being dismissed. Reliance was also

[7] AIR 2019 AP 30

placed upon judgments of Hon'ble the Supreme Court in **Cheviti Venkanna Yadav v. State of Telangana (supra)** and **State Of Punjab v Tehal Singh[8].** Dismissal of writ petitions was sought.

28. We have heard learned counsel for parties at length and have perused the files carefully with their assistance.

Analysis & Conclusion:

29. Part IX (Panchayats) was introduced by 73rd Amendment, whereas Part IX-A (Municipalities) was introduced by 74th Amendment, both in 1992. This step was taken to strengthen urban local bodies which, it was felt, had become weak and ineffective on account of a variety of reasons, including the failure to hold regular elections, prolonged supersession, and inadequate devolution of powers and functions. To carry forward mandate of the Constitution, APM Act and APMC Act were promulgated.

30. At the outset, it is useful to refer to some of the relevant Articles of the Constitution of India and provisions of the subject enactments.

31. Article 243P, of the Constitution of India reads as under:

> 243P. Definitions.—In this Part, unless the context otherwise requires,—
>
> (a) "Committee" means a Committee constituted under article 243S;
>
> (b) "district" means a district in a State;
>
> (c) "Metropolitan area" means an area having a population of ten lakhs or more, comprised in one or more districts and consisting of two or more Municipalities or Panchayats or other contiguous areas, specified by the

[8] 2002 (2) SCC 7

Governor by public notification to be a Metropolitan area for the purposes of this Part;

(d) “Municipal area” means the territorial area of a Municipality as is notified by the Governor;

(e) “Municipality” means an institution of self-government constituted under article 243Q;

(f) “Panchayat” means a Panchayat constituted under article 243B;

(g) “population” means the population as ascertained at the last preceding census of which the relevant figures have been published.

32. Article 243Q providing the composition of Municipalities reads as under:

243Q. Constitution of Municipalities.—(1) There shall be constituted in every State,—

(a) a Nagar Panchayat (by whatever name called) for a transitional area, that is to say, an area in transition from a rural area to an urban area;

(b) a Municipal Council for a smaller urban area; and

(c) a Municipal Corporation for a larger urban area, in accordance with the provisions of this Part:

Provided that a Municipality under this clause may not be constituted in such urban area or part thereof as the Governor may, having regard to the size of the area and the municipal services being provided or proposed to be provided by an industrial establishment in that area and such other factors as he may deem fit, by public notification, specify to be an industrial township.

(2) In this article, “a transitional area”, “a smaller urban area” or “a larger urban area” means such area as the Governor may, having regard to the population of the area, the density of the population therein, the revenue generated for local administration, the percentage of employment in nonagricultural activities, the economic importance or such other factors as he may deem fit, specify by public notification for the purposes of this Part.

33. Section 3 of APM Act is reproduced as under:

“3. Constitution of Municipalities:- (1) Where a notification is issued specifying an area as a smaller urban area under clause (42a) of Section 2, a Municipality shall be deemed to have been constituted for such area:

Provided that a Municipality under this clause may not be constituted in such urban area or part thereof as the Governor may, having regard to the size of the area of the Municipal Services being provided or proposed to be provided by an industrial establishment in that area and such other factors as he may deem fit, by public notification, specify to be an Industrial Township.

(1A) The Government may, by notification and in accordance with such principles and procedure as may be prescribed in this behalf,-

(a) include within a Municipality any local area or part thereof, in the vicinity of such Municipality;

(b) exclude from a Municipality, any area comprised therein.

(1-B) (i) Notwithstanding anything contained in sub-section (1-A), the areas mentioned in Column (3) of Schedule XI shall stand included and form part of the area governed by the Municipality shown in the corresponding entry of Column (2) of the said Schedule, where no elected body of the Gram Panchayat constituted for such area is in existence.

(ii) Notwithstanding anything contained in any other Laws for the time being in force, all the consequences arising out of the inclusion of the Grampanchayats into the Schedule including the process of de-notifying the Grampanchayats under the Andhra Pradesh Panchayat Raj Act, 1994 (Act No. 13 of 1994) shall be deemed to have been completed.

(2) Where any local area which is within the jurisdiction of any other Local authority is constituted as or included in a Municipality, the Government may pass such orders as they may deem fit as to the transfer to the council of such Municipality, or disposal otherwise, of the assets or institutions of any such local authority in the local area and as to discharge of the liabilities, if any, or such local authority relating to such assets or institutions.

(3) Where any local area is excluded from a Municipality and included within the jurisdiction of any other local authority, the Government may pass such orders as they deem fit, as to the transfer to such local authority or disposal otherwise, of the assets or institutions of such Municipality in the local area and as to the discharge of the liabilities, if any, of such municipality relating to such assets or institutions."

34. Section 3 of APMC Act is reproduced as under:

3. Specification of larger urban area.—

(1) Where a notification is issued by the Governor specifying an area as a larger urban area under clause (d) of section 2, a Corporation shall be deemed to have been constituted for such area.

(2) The Governor may, from time to time, after consultation with the Corporation, by notification in the Andhra Pradesh Gazette, alter the limits of a larger urban area specified in the notification issued under clause (d) of section 2, so as to include therein or to exclude therefrom, the areas specified in the notification.

(3) The power to issue a notification under sub-section (2) shall be subject to such rules as may be made in this behalf and to previous publication.

(3-A) (i) Notwithstanding anything contained in sub-sections (2) and (3), the areas mentioned in Column (3) of Schedule shall stand included and form part of the area governed by the Municipal Corporations shown in the corresponding entry of Column (2) of the said Schedule, where no elected body of the Gram Panchayat constituted for such area is in existence.

(ii) Notwithstanding anything contained in any other laws for the time being in force, all the consequences arising out of the inclusion of the Gram Panchayats into the Schedule including the process of de-notifying the Gram Panchayats under the Andhra Pradesh Panchayat Raj Act, 1994 shall be deemed to have been completed.

(4) The Corporation shall, by the said name, be a body corporate, having perpetual succession and a common seal with power to acquire, hold and dispose of property and to enter into contracts and may by its corporate name, sue and be sued.

(5) Where any local area which is within the jurisdiction of any other local authority is included in a larger urban area for which a Corporation is constituted, the Government may pass such orders as they may deem fit as to the transfer to the Corporation or disposal otherwise, of the assets or institutions of any such local authority in the local area and as to the discharge of the liabilities, if any, of such local authority relating to such assets or institutions.

(6) Where any local area for which a Municipality is constituted under the Andhra Pradesh Municipalities Act, 1965 (Act VI of 1965) is declared as a larger urban area and a Municipal Corporation is constituted, then the Municipality functioning immediately before such constitution shall be deemed to have been abolished and the said Act shall cease to apply to such larger Urban area.

(7) Where a Municipality stands abolished under sub-section (6), it shall be competent for the Government to pass such orders as they may deem fit as to the transfer to the Corporations or disposal otherwise, of the assets or institutions of the abolished Municipality and as to the discharge of the liabilities, if any, of such Municipality relating to such assets or institutions."

35. Section 2 (42-a) of APM Act defines transitional area or smaller urban area as under:

"(42-a) "transitional area" or a smaller urban area means such area as the Governor may, having regard to the population of the area, the density of the population therein, the revenue generated for local administration, the percentage of employment in non-agricultural activities, the economic importance or such other factors as he may deem fit, specify by public notification for the purposes of this Act, subject to such rules as may be made in this behalf;

Notwithstanding anything contained in this clause, the areas mentioned in Column (3) of Schedule X shall be deemed to have been constituted as the smaller urban area as specified in the corresponding entry of Column (2) of the

said Schedule, where no elected body of the Gram Panchayat constituted for such area is in existence."

36. Panchayat is defined as an institution (by whatever name called) of self-government constituted under Article 243B for rural areas. 'Gram Panchayat' in Panchayat Raj Act, 1994, is defined as the body constituted for the local administration of a village under the Act under Section 2(17).

37. A bare perusal of Article 243Q reveals that there is no bar upon the State to include Gram Panchayats in a Municipality or Municipal Corporation as may be the case. Article 243Q (2) specifically provides that Governor may having regard to various factors mentioned therein specify by public notification a transitional area or smaller urban area or a larger urban area. Therefore, a specific power has been conferred upon the State in this respect.

38. By way of impugned amendment, Section 3 (1-B) was inserted providing that notwithstanding anything contained in sub-section (1A), areas mentioned in column (3) of Schedule XI shall stand included and form part of area governed by Municipality shown in corresponding entry of column (2) of schedule where no elected body of Gram Panchayat constituted for such area is in existence.

39. It has further been provided that notwithstanding anything contained in any other laws for the time being in force, all consequences arising out of the inclusion of the Gram Panchayats into the Schedule including the process of de-notifying the Gram Panchayats under the Andhra Pradesh Panchayat Raj Act, 1994, shall be deemed to have been completed.

40. Therefore, it is apparent that this exercise has been carried out by way of legislative act i.e., the activity of inclusion of Panchayats in Municipalities / Municipal Corporations. Learned counsel for petitioners were unable to point out any clause in the Constitution of India prohibiting inclusion or exclusion of areas of Gram Panchayats into a transitional area or smaller urban area or a larger urban area by the State.

41. It is a settled position that constitutionality of an enactment would be presumed unless and until shown to be otherwise. It has been held by Hon'ble the Supreme Court in **State of Bihar v. Bihar Distillery Ltd.,**[9] that the Court should not approach an enactment with a view to pick holes or search for defects of drafting much less inexactitude of language employed and that Court has to start with a presumption of constitutionality.

42. In an identical situation, Telangana High Court in **Jangili Sagar v. State of Telangana (supra)**, rejected the challenge to Section 3 of Telangana Municipal Corporation Act, 1994 and Sections 2 and 3 of Telangana Municipalities Act, 1965 on identical grounds. It was thus held that impugned amendment carried out by State of Telangana was well within its legislative competence.

43. Argument raised that present Amendment Act is violative of Article 243Q(2) of the Constitution of India or the parent Act itself and is beyond legislative competence of State, is not substantiated from material on record or on the basis of arguments addressed before us. Hon'ble the Supreme

[9] (1997) 2 SCC 453

Court in **State of Rajasthan v. Ashok Khetolia**[10], being seized of an order passed by High Court of Rajasthan, whereby notification declaring one of Gram Panchayats as Municipal Board, being set aside while dealing with similar challenge referred to Article 243ZF of the Constitution of India. Article 243ZF provides for continuance of existing laws in municipalities. It is held as under:

> "4. Therefore, Article 243-ZF of the Constitution is in the context of mandating the State Legislature to amend the State laws to be in conformity with Part IX-A of the Constitution. The objects and reasons of introducing Part IX-A in the Constitution were that local bodies had become weak and ineffective on account of variety of reasons such as failure to hold regular elections, prolonged supersessions and inadequate devolution of powers and functions. The Urban Local Bodies were also not able to perform effectively as vibrant democratic units of self-government. Therefore, when Part IX-A was introduced, Parliament was aware that the competent legislature to legislate on the subject of the Urban Local Bodies was the State Legislature but Part IX-A of the Constitution had given constitutional status to the Municipalities. The States were put under constitutional obligation to adopt Municipalities as per systems enshrined in the Constitution."
>
> ..
>
> "8. We find that the High Court has misread the scope of Part IX-A of the Constitution and Article 243-Q of the Constitution contemplating that the transitional area has to be notified under such provision. The scheme of the Constitutional Amendment is not to take away legislative competence of the State Legislatures to legislate on the subject of local Government but it is more to ensure that the three tiers of governance are strengthened as part of democratic set up."

44. It has neither been argued not any material placed on record to show that the amendment thereof run contrary to the object enshrined behind part IX-A of the Constitution or that the same will weaken the institution or local Government. There is no merit in the arguments raised on behalf of petitioners

[10] (2022) 12 SCC 185

that merging of Gram Panchayat by way of Amendment Act is an infringement or in violation of the constitutional mandate or is impermissible on account of a Gram Panchayat being an independent local body.

45. Hon'ble the Supreme Court in case of **Parmar Samantsinh Umedsinh v. State of Gujarat**[11] was considering vires of Gujarat Provincial Municipal Corporation Act, 1949, on the ground that State law has provided more than one representative from a single ward and it is thus inconsistent with Articles 243-R and 243-S of the Constitution. Said challenge was negated. It was held that the power of State legislature in the light of enabling provisions provided in the Constitution with regard to framing of laws concerning legislature cannot be whittled down by way of restrictive interpretation.

46. Vehement arguments were raised by learned counsel for petitioners that by way of insertion of an non-obstante clause in Section 3 of APM Act and APMC Act cannot take away the requirement of issuance of separate notifications and that it was essential to have first de-notified the Gram Panchayat by way of a notification and thereafter issue notification of inclusion in Municipality / Municipal Corporation is equally devoid of any merit. As noted in foregoing paras, Hon'ble the Supreme Court in case of **State of Rajasthan v. Ashok Khetolia (supra)**, in this respect held that State is competent to legislate in respect of Municipalities as local Government falls in Entry 5 of List II of seventh Schedule, only limitation being that provisions of State Act cannot

[11] (2022) 15 SCC 364

be inconsistent with mandate of scheme of Part IX-A of the Constitution. It was held in the said matter that:

> "16. ..The scheme of Part IXA of the Municipalities Act does not contemplate a separate notification under Article 243-Q of the Constitution and thereafter under Section 5 of the Municipalities Act. As section 5 of the Municipalities Act is not inconsistent with any provisions of Article 243-A of the Constitution, therefore, two notifications are not contemplated or warranted under the scheme of Part IX-A or the Municipalities Act as reproduced in the table above."

47. Division Bench of Telangana High Court in the case of **Jangili Sagar v. State of Telangana (supra)** while deciding question as to whether amending Act No.04 of 2018 under its consideration was against texture of parent Act i.e., Municipal Corporation Act and Municipalities Act held as under:

> "37. Coming to the question as to whether the impugned amending Act 4 of 2018 is in conflict with the parent Acts 1994 and 1965, in this case some of the rural areas in Gram Panchayat, on being identified by the functionaries of the State, taking into various factors as envisaged in Article 243Q(2) of the Constitution of India and relevant provisions of both the Acts 1994 and 1965 in that regard as mentioned supra, are merged with Municipal Corporation, and some with Municipalities and some upgraded as Municipalities. Hence, there is no conflict between the amending Act 4 of 2018 and the parent Acts. Mitigating factors pleaded opposing the merger or creation of larger urban or smaller urban area on the ground they deprived the benefits under employment guarantee scheme extended by the State and the Union Government cannot override the power of State legislature from enacting or amending an enactment. Such actions on the part of the State to merge the rural areas or upgrade some of them into Municipalities, is a policy decision of the State. Even otherwise, the rules framed under Act or the 1965 Act, is a subordinate legislation and the amending Act 4 of 2018 in Section 3-A of Act, 1994 and Clause 42-aa of Section 2 and sub-Section 1B of Section 3 of the 1965 Act, starts with a non-obstante clause, giving overriding effect over the other provisions of the Act, 1994, as such, the impugned amending Act 4 of 2018 cannot be invalidated on the ground of not following the procedure provided under parent Acts or the rules framed thereunder. The amending Act is preceded by collection of data and also identifying the villages which have potential to be merged into Municipal Corporation or Municipality or creation of a Municipality, as the case may be, cannot be said to be in conflict with the provisions of parent Act. It is settled proposition of law as laid down by the Supreme Court in a plethora of decisions that the constitutional validity of an enactment made by the State legislature or by the Parliament can only be challenged on the ground i.e. it is violative of any provisions of the Constitution or on the ground of excessive delegation and not on any other ground as such impugned legislation amending the parent Act cannot be

> challenged on the ground that it is offending or destructive of parent Acts when it is within the province of the State legislature as held in Point (ii) while dealing with the issue of legislative competence of State legislature."

We are in respectful agreement with above said decision of Telangana High Court.

48. Much stress had been laid by learned counsel for petitioners on the argument that Amendment Act is a piece of colourable legislation with a view to overreach decision, dated 06.03.2020 passed in W.P. No.3337 of 2020 by this Court. In our considered opinion, this argument is also devoid of any merit because it is a settled position that it is always open to legislature to remove the defect pointed by Court or amend the definition or any other provision of legislation in question. In this respect, gainful reference can be made to judgment of Hon'ble the Supreme Court in **Cheviti Venkanna Yadav v. State of Telangana (supra)**.

49. In respect to argument that a notice was required to be issued to representatives of Gram Panchayats or the villagers is also devoid of any merit and hence rejected. Once it is found that action has been taken by way of a legislation, a separate notice as such would not be required. Reliance by learned counsel for petitioners on case of **V.K. Kapoor v. State of Haryana**[12] rendered by a Division Bench of Punjab & Haryana High Court, is misplaced, for the reason that in an appeal challenging said order before Hon'ble the Supreme Court in **Civil Appeal No.7002-7004 of 2011 titled State of Haryana v. V.K. Kapoor**, Hon'ble the Supreme Court opined that said order

[12] 2011 (1) R.C.R. (Civil) 15

was rendered redundant in view of subsequent developments and that observations therein would not have any effect on other pending cases on similar issues before the High Court.

50. This fact was duly noted in a subsequent decision of Punjab and Haryana High Court itself in case of **Som Prakash v. State of Haryana**[13] whereby challenge was to a notification, whereby Gram Panchayat Radaur was declared to be a Municipality by merging two villages, being violative of Section 2A of Haryana Municipal Act, 1973. Reference was made to Division Bench Judgment of same High Court in CWP No.17225 of 2008 titled **Gram Panchayat, Manne Majra v. State of Punjab** decided on 02.04.2012 wherein it was specifically held that establishment of a municipal committee is a legislative function.

51. In case of **State of Rajasthan v. Ashok Khetolia (supra)** itself, Hon'ble the Supreme Court held that there is no requirement of a notice to be issued. While referring to its decision in the case of **Tulsipur Sugar Co. Ltd. v. The Notified Area Committee**[14], it was held that maxim of '*audi alteram partem'* does not become applicable to the case by necessary implication.

52. In case of **State Of Punjab v Tehal Singh**[15], Hon'ble the Supreme Court while considering power of State Government to issue notifications regarding establishment of Gram Sabha area and constitution of Gram

[13] 2015 SCC OnLine P & H 6010
[14] (1980) 2 SCC 295
[15] 2002 (2) SCC 7

Sabhas held that power exercisable under Sections 3 and 4 of Punjab Panchayati Raj Act, 1994, is legislative in character and provisions of Act do not provide for any opportunity of hearing to residents before any area falling under a particular Gram Sabha is excluded or included in another Gram Sabha.

53. At this juncture, we take note of the fact that exercise for determining areas to be merged was indeed undertaken by the State. Decision dated 06.03.2020 passed in W.P. No.3337 of 2020 of this High Court setting aside G.O.Ms.No.259 dated 28.01.2020, and G.O.Ms.No.81 dated 28.01.2020, cannot wipe out the exercise undertaken by State in this respect. Writ Petition was in fact allowed on the ground that a show cause notice granting ten days notice was not issued, and furthermore, necessary notification was not issued in accordance with provisions of law.

54. We have perused the original record produced in Court in respect to consideration of material for merging of Gram Panchayats into Municipalities / Municipal Corporations, i.e., in respect to population of area, density of population, revenue generation, percentage of employment in non-agricultural activities, economic importance and other factors. In respect to W.P. No. 19409 of 2021, Rajam Nagar Panchayat, we take note of averments on behalf of State that Rajam Nagar Panchayat was constituted in 2005 itself *vide* G.O.Ms.No.855, dated 07.10.2005, which was however set aside by this Court in W.P. No.23727, 23732 and 23736 of 2005 & W.P. No.6669 of 2006, while giving liberty to Government to reconsider the issue, take fresh decision and

issue appropriate orders in accordance with law. Rajam Nagar Panchayat was stated to be upgraded as Grade –III Municipality vide G.O.Ms.No.22, dated 24.03.2021 of MA & UD Department, since it fulfilled the criteria of population of above 40,000 and revenue of more than Rs.60 lakhs besides other criteria. We thus find no merit in argument as raised on behalf of petitioners for declaring Amendment Act to be illegal, arbitrary and unconstitutional.

55. There is also no cause to set aside the Amendment Act on the ground that residents shall be deprived of benefit of various schemes meant for rural areas. It is an admitted position that the step of inclusion in Municipality is for the betterment and future development / urbanization of area leading to better opportunities for residents.

56. In the given factual matrix, all the questions as raised for consideration are answered as thus; Amendment Act is upheld and is not violative of Article 14, 243Q(2) of the Constitution of India or contrary to 73rd and 74th amendment to the Constitution of India; Said Amendment Act cannot be termed to be an example of legislative overreach or a colourable legislation. As discussed in foregoing paras, in view of action being a legislative act and within the legislative competence of State, there was no requirement of separate notifications for de-notification of Gram Panchayats and then another for their inclusion in Municipalities / Municipal Corporations. Rule of *audi alteram partem* was not required to be observed in present circumstances as discussed in foregoing paras.

57. Learned counsel for petitioners were unable to point out any ground for setting aside amendment Act No.05 of 2021. Keeping in view facts and circumstances as above, we do not find any ground to cause interference in these matters in exercise of jurisdiction under Article 226 of the Constitution of India.

58. Writ Petitions are accordingly dismissed. No costs.

Pending miscellaneous applications, if any including implead applications, shall stand closed.

Photocopy of this order be placed on the files of aforementioned connected cases.

LISA GILL, CJ

Date: 01.10.2026 **CHALLA GUNARANJAN, J**

akn

Uploaded on: 01.10.2026

Whether the order is Speaking/Reasoned : Yes

Whether the order is Reportable : Yes

HON'BLE MRS.JUSTICE LISA GILL, CHIEF JUSTICE
&
HON'BLE MR. JUSTICE CHALLA GUNARANJAN

WRIT PETITION NO: 19118 of 2021 along with
W.P. Nos. 17924, 18066, 18511, 18554, 19096, 19409, 20017, 23928, 27097, 28954 of 2021; 16039 of 2024; 27476, 27487, 27885 of 2026

DATE : 01.10.2026

AKN