



**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

PUBLIC INTEREST LITIGATION (PIL) No. - 593 of 2026

Sanjay Kumar Sharma

.....Petitioner(s)

Versus

State Of U.P. Thru. Addl. Chief Secy./Prin. Secy.
Panchayat Raj Deptt. Lko. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	: In Person
Counsel for Respondent(s)	: C.S.C., Anurag Kumar Singh

Court No. - 1

**HON'BLE RAJAN ROY, J.
HON'BLE MANJIVE SHUKLA, J.**

1. Heard.
2. A Single Judge Bench of this Court at Allahabad in Writ C No.23749 of 2026 has passed an interim order on 25.06.2026 wherein he has recorded the contention of the petitioner before him that Section 12(3-A) of the Uttar Pradesh Panchayat Raj Act, 1947 (hereinafter referred to as 'Act, 1947') has already been declared ultra vires in ***Prem Lal Patel vs. State of U.P. and Another; 2000 (3) All WC 2159.***
3. We have gone through the Coordinate Bench judgment in ***Prem Lal Patel (supra)***.
4. We have perused the provisions of Section 12(3-A) of the Act, 1947 as also Part IX of the Constitution of India including Article 243-E of the Constitution of India.
5. Without expressing any conclusive opinion in the matter, for reasons of propriety as a Division Bench has already expressed its opinion as to the vires of Section 12(3-A) of the Act, 1947, prima facie, what we find is that Article 243-E(1) of the Constitution of India provides that every Panchayat, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer. Much emphasis has been placed by the Coordinate Bench in ***Prem Lal Patel (supra)*** upon the words 'and no longer' with

reference to the provisions contained in Part IX of the Constitution of India and has expressed the opinion that no Panchayat can function more than a period of five years. The words 'shall and no longer' are of paramount importance. Article 243-E of the Constitution of India leaves no option, by providing that an election to constitute the next Panchayat shall be completed before the expiry of the requisitions specified in Clause 1. The words 'no longer' unequivocally mandates that fresh elections to constitute the next Panchayat at any cost must be completed before expiry of the duration of five years of on-going Panchayat and the State cannot claim any superior power in respect of the matters mentioned in Entry 5 of List 2, which the Constitution of India does not permit. The exercise of powers under entries of List 2 shall be subject to the provisions of Part IX of the Constitution of India. Section 3 of the impugned ordinance, which sought to substitute sub section 3 in Section 12(BB) of the Act, 1947, not only trenched upon the field of Article 243-K of the Constitution of India, but, also more or less nullifies the powers of State Election Commission. The entire ordinance, according to the Coordinate Bench, suffered from repugnancy to the constitutional provisions contained in Article 243-K and Article 243-K of the Constitution of India.

6. The Coordinate Bench was of the view that by inserting such provision in the ordinance, which has been subsequently inserted as sub section 3-A of Section 12 of the Act, 1947 vide U.P. Act No.22 of 2000, suffered from repugnancy to the constitutional provisions contained in Article 243-E and Article 243-K of the Constitution of India.

7. The question is as to whether by appointing Administrator under Section 12(3-A) of the Act, 1947, the term of the Panchayat, as referred in Article 243-E of the Constitution of India, gets extended beyond five years or it is an Administrator who is appointed in its place to administer the Panchayat because the embargo placed by the Article 243-E of the Constitution of India is on the term of the Panchayat, which is five years, which cannot be extended in any circumstances beyond the said period; whether by appointing a Gram Pradhan as an Administrator, the term of the panchayat gets extended beyond five years; whether Gram Pradhan is the Panchayat. The Panchayat is a larger body of which Gram Pradhan is

also a part. The Gram Pradhan, if he is appointed as Administrator after the expiry of its term does not continue to function as a Panchayat but he functions as an Administrator i.e. a substitute for the Panchayat. The Panchayat, of course, comprises of several other persons as is mentioned in Article 243-C of the Constitution of India.

8. Another question is, as to whether merely because of Section 12(3-A) or by appointing an Administrator under Section 12(3-A) of the Act, 1947, in the circumstances and exigencies mentioned therein, can it be said that the jurisdiction of the Election Commission under Article 243-K of the Constitution of India has been encroached because after all appointment of an Administrator does not prevent the Election Commission from holding the election as per law, subject to other pre-requisites being satisfied. Of course, it could be said that the election should have been held prior to expiry of period of five years of the Panchayat, ideally so, and in not doing so, the government has faulted but that is a different issue, therefore, all these issues require consideration and in this context, we keep in mind that ordinarily we are bound by the judgment of the Coordinate Bench unless we decide to refer the said decision and the issues referred herein-above for consideration by a Larger Bench of this Court. Of course, if we take the same view as the Coordinate Bench in ***Prem Lal Patel (supra)*** then the burden would be heavy upon the State Government to justify its decision, impugned herein, with reference to Section 12(3-A) of the Act, 1947 when a similar provision contained in the ordinance has already being declared ultra vires. Even if we decide to refer the matter to a Larger Bench hereinafter, the question still remains as to how the State Government passed the impugned order in the teeth of the Division Bench which is the law of the land as of now.

9. At this stage, we have been informed that decision by the Coordinate Bench in ***Prem Lal Patel (supra)*** was put to challenge by the State of U.P. by filing a special leave petition which was converted into Civil Appeal No.2742 of 2000 but by then the ordinance took the shape of an enactment i.e. U.P. Act No.22 of 2000, therefore, Hon'ble the Supreme Court disposed of the said Civil Appeal on 31.10.2001 with the observation:-

"The State of Uttar Pradesh is in appeal against the judgment of Allahabad High Court dated 3.4.2000. Under the impugned judgment the Ordinance X of 2000, by means of which the provisions of U.P. Panchayati Raj Act were amended, was declared unconstitutional and ultra vires. While the matter was pending in this Court, elections have already been held pursuant to the direction of this Court, and in the meantime, the Ordinance itself has been replaced by the Act of the Legislature. The validity of the said Act has not been assailed before any forum nor has there been any declaration to that effect. In such circumstances, we do not think it necessary for us to examine the correctness of the impugned judgment, and in our view the appeal has become infructuous.

The appeal stands disposed of accordingly.

The questions of law raised here remain open.

The SLP is disposed of in view of the order passed in the Civil Appeal."

10. In view of the aforesaid order of Hon'ble the Supreme Court whether the reasons given and law discussed by the Coordinate Bench in **Prem Lal Patel (supra)** seizes to be binding? whether a reference would be required, are questions which would also have to be considered.

11. **List/put up this case on 10.07.2026, as fresh** alongwith Public Interest Litigation bearing W.P.I.L. No.559 of 2026 (Ashish Kumar Singh vs. State of U.P. and Others) and W.P.I.L. No.26264 of 2020 (Panchayati Raj Gram Pradhan Sangathan vs. State of U.P. and Others).

12. Let the Additional Chief Secretary, Department of Panchayat Raj, Government of Uttar Pradesh join these proceedings through video conferencing on the next date to satisfy the Court.

(Manjive Shukla,J.) (Rajan Roy,J.)

July 7, 2026

-Piyush-