

HIGH COURT FOR THE STATE OF TELANGANA
MAIN CASE No: W.P.Nos.30217, 30218, 30274, 30279, 30335,
30503, 30512, 30552, 30557 and 30615 of 2025
PROCEEDING SHEET

Sl. No.	Date	ORDER	OFFICE NOTE
3	09.10.2025	<p><u>HCJ (AKrS,J) & GMM,J</u></p> <p><u>W.P.Nos.30217, 30218, 30274, 30279, 30335, 30503, 30512, 30552, 30557 and 30615 of 2025</u></p> <p>Mr. K. Vivek Reddy, learned Senior Counsel appears for Mr. K. Buchi Babu, learned counsel for the petitioners in W.P.Nos.30274 and 30279 of 2025.</p> <p>Mr. B. Mayur Reddy, learned Senior Counsel appears for Ms. Anjali Nishtal and Ms. Kamatam Rajitha, learned counsel for the petitioners in W.P.Nos.30217 and 30512 of 2025.</p> <p>Mr. J. Prabhakar, learned Senior Counsel appears for Mr. Baskula Athik, learned counsel for the petitioner in W.P.No.30218 of 2025.</p> <p>Mr. K.Ram Reddy, learned counsel for the petitioners in W.P.No.30335 of 2025.</p> <p>Mr. G. Arun Kumar, learned counsel for the petitioners in W.P.No.30503 of 2025.</p> <p>Mr. Sudarshan Malugari, learned counsel for the petitioners in W.P.No.30552 of 2025.</p> <p>Ms. Purnima Kamble, learned counsel appears for Ms. Altaf Fathima, learned counsel for the petitioner in W.P.No.30557 of 2025.</p> <p>Mr. Mohammed Abdul Wahab, learned counsel for the petitioner in W.P.No.30615 of 2025.</p> <p>Dr. A.M. Singhvi, learned Senior Counsel, Mr. A.Sudershan Reddy, learned Advocate General</p>	

		<p>duly assisted by Mr. I.V.Siddivardhana, learned Special Government Pleader, and Prof. Ravivarma Kumar, learned Senior Counsel appear for the State.</p> <p>Mr. G. Vidya Sagar, learned Senior Counsel appears for Sri P. Sudheer Reddy, learned Standing Counsel for the State Election Commission.</p> <p>Rule Nisi. Call for the records. Notice returnable in four weeks.</p> <p style="text-align: right;">HCJ (AKrS,J)</p> <p style="text-align: right;">GMM,J</p> <p style="text-align: center;"><u>I.A.No.1 of 2025 in W.P.No.30512 of 2025</u></p> <p>Having regard to the reasons stated in the accompanying affidavit, the requirement of filing certified copies of G.O.Ms.No.9 BC Welfare (B) Department dated 26.09.2025, G.O.Ms.No.41 PR&RD Department dated 26.09.2025 and Notification No.660/TGSEC-PR/2023-1 dated 29.09.2025, is dispensed with.</p> <p>Accordingly, the application is allowed.</p> <p style="text-align: right;">HCJ (AKrS,J)</p> <p style="text-align: right;">GMM,J</p> <p>Pln/Lur</p>	
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HCJ (AKrS,J) & GMM,J:

I.A.Nos.1 & 2 of 2025 in WP.No.30217 of 2025,
I.A.Nos.1 & 2 of 2025 in W.P.No.30218 of 2025,
I.A.No.1 of 2025 in WP.No.30274 of 2025,
I.A.Nos.1 & 2 of 2025 in W.P.No.30279 of 2025,
I.A.No.1 of 2025 in W.P.No.30335 of 2025,
I.A.No.1 of 2025 in W.P.No.30503 of 2025,
I.A.No.2 & 3 of 2025 in W.P.No.30512 of 2025,
I.A.No.1 of 2025 in W.P.No.30552 of 2025,
I.A.Nos.1 & 2 of 2025 in W.P.No.30557 of 2025,
AND
I.A.Nos.1 & 2 of 2025 & 3 of 2025
in W.P.No.30615 of 2025

Mr. K.Vivek Reddy, learned Senior Counsel appears for Mr. K. Buchi Babu, learned counsel for the petitioners in W.P.Nos.30274 and 30279 of 2025.

Mr. B. Mayur Reddy, learned Senior Counsel appears for Ms. Anjali Nishtal and Ms. Kamatam Rajitha, learned counsel for the petitioners in W.P.Nos.30217 and 30512 of 2025.

Mr. J. Prabhakar, learned Senior Counsel appears for Mr. Baskula Athik, learned counsel for the petitioner in W.P.No.30218 of 2025.

Mr. K.Ram Reddy, learned counsel for the petitioners in W.P.No.30335 of 2025.

Mr. G. Arun Kumar, learned counsel for the petitioners in W.P.No.30503 of 2025.

Mr. Sudarshan Malugari, learned counsel for the petitioners in W.P.No.30552 of 2025.

Ms. Purnima Kamble, learned counsel appears for Ms. Altaf Fathima, learned counsel for the petitioner in W.P.No.30557 of 2025.

Mr. Mohammed Abdul Wahab, learned counsel for the petitioner in W.P.No.30615 of 2025.

		<p>Dr. A.M. Singhvi, learned Senior Counsel, Mr. A.Sudershan Reddy, learned Advocate General duly assisted by Mr. I.V.Siddivardhana, learned Special Government Pleader, and Prof. Ravivarma Kumar, learned Senior Counsel appear for the State.</p> <p>Mr. G. Vidya Sagar, learned Senior Counsel appears for Sri P. Sudheer Reddy, learned Standing Counsel for the State Election Commission.</p> <p>In these writ petitions, the petitioners lay challenge to G.O.Ms.No.9, dated 26.09.2025, whereby the Government of Telangana has ordered to provide 42% reservation of the seats and positions in Local Bodies to Backward Classes in the State of Telangana, and also the consequential G.O.Ms.Nos.41 and 42, dated 26.09.2025, whereby the Government of Telangana has laid down guidelines/procedure for fixation of reservations in respect of elections to Mandal Praja Parishads and Zilla Praja Parishads, and elections to Gram Panchayats respectively, under the Telangana Panchayat Raj Act, 2018 (hereinafter referred to as 'Panchayat Raj Act').</p> <p>The petitioners in W.P.No.30507 of 2025 also challenged the Notification No.660/TGSEC-PR/2023-2, dated 29.09.2025, issued by the Telangana State Election Commission, whereby the Election Schedule for 2nd Ordinary Elections to Mandal Praja Parishad Territorial Constituencies of Mandal Praja Parishads and Zilla Praja Parishad Territorial Constituencies in the Zilla Praja Parishads in the State of Telangana, have been notified.</p>	
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The petitioners also sought directions to the State Government as under:

(i) to hold/conduct the Panchayat (Local Body) Elections according to Section 9(8) and Section 285A of the Panchayat Raj Act; and

(ii) to provide categorywise i.e., A, B, C, D and E reservation in favour of backward classes as per Section 9(4) of the Panchayat Raj Act.

This Court has heard the arguments on the interim prayers.

Submissions of Mr. K.Vivek Reddy, learned Senior Counsel representing Mr. K.Buchi Babu, learned counsel for the petitioners in W.P.Nos.30274 and 30279 of 2025:

The learned Senior Counsel has challenged the G.O.Ms.No.9, dated 26.09.2025 on the following four grounds:

(i) The said G.O., is *ultra vires* not only the Constitution of India but also the very statute, i.e., the Telangana Panchayat Raj Act, 2018, itself, as the Panchayat Raj Act specifically states that in recognition of the Supreme Court judgments the upper ceiling of 50% shall not be breached. However, G.O.Ms.No.9 is issued in contravention of the statute.

		<p>(ii) That Articles 243D(6)¹ and 243T(6)² categorically provide that any reservations for backward classes shall be made by the State Legislature, whereas the G.O., under challenge has been issued by the State Government, which is illegal.</p> <p>(iii) The Hon'ble Supreme Court in K.Krishna Murthy vs. Union of India [(2010) 7 SCC 202] specifically held that 50% reservations cannot be breached and the only exception is the reservation in favour of the Scheduled Tribes in the Scheduled Areas. The Supreme Court has held that the reservation for OBCs is only a 'statutory' dispensation to be provided by the State legislations unlike the 'constitutional' reservation regarding SCs/STs which is linked to the proportion of population. The decision is a law declared under Article 141 of the Constitution of India. Learned Senior Counsel has relied upon paragraphs 60, 64, 67 and 82(iv) of the decision in K.Krishna Murthy (supra).</p> <p>(iv) It is submitted that after the judgment of the K.Krishna Murthy (supra), the Hon'ble Supreme Court in Vikas Kishanrao Gawali vs. State of Maharashtra [(2021) 6 SCC 73] propounded the triple test having three components. One crucial component is that if the 50% reservation is not complied with, no</p>	
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¹ 243D (6). Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Panchayat or offices of Chairpersons in the Panchayats at any level in favour of backward class of citizens.

² 243T (6). Nothing in this part shall prevent the Legislature of a State from making any provision for reservation of seats in any Municipality or offices of Chairpersons in the Municipalities in favour of backward class of citizens.

	<p>State Election Commission shall notify the election and even if is notified, it shall be ignored. The Supreme Court further held that triple test must be complied with for reservation of seats in local bodies for OBC candidates. He has referred to paragraphs 8, 13, 14, 27 and 28 of the said judgment.</p> <p>Learned Senior Counsel has further submitted that the election is based on One Man Commission Report. As per the Division Bench decision of this Court in Nimmaka Jaya Raju vs. State of Andhra Pradesh [2012 (6) ALT 183 (DB)], it cannot be based on the unpublished data. The mandatory step of publishing the data is not followed while issuing the G.O.</p> <p>He has argued that as per the Judgment of the Hon'ble Supreme Court in Vikas Kishanrao Gawali (supra), the entire State cannot be treated as a Unit, it can be a district specific reservation.</p> <p>He has invited the attention of the Court to paragraphs 4 and 5 of the G.O.Ms.No.9, dated 26.09.2025 and submitted that paragraphs 4 and 5 provide that the Article 243D(6) and Article 243T(6) of the Constitution empowers the State to make any provision for reservation of seats in any Panchayat or Offices of Chairpersons in the Panchayats and reservation of seats in any Municipality or offices of Chairpersons in the Municipalities respectively in favour of Backward Class of citizens. However, Articles 243D(6) and 243T(6) of the Constitution empower only the Legislature of a State to make</p>	
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	<p>provision for reservations in the local bodies in favour of the backward class of citizens. Therefore, the G.O., issued by the State, not by the Legislature, is illegal and violative of Articles 243D(6) and 243T(6) of the Constitution and as such, is liable to be set aside.</p> <p>Learned Senior Counsel has further submitted that the Telangana Backward Classes (Reservations of seats in Rural and Urban Local Bodies) Bill, 2025 though was passed, but it has not yet become a law as it is pending for assent of the Hon'ble Governor.</p> <p>He has submitted that Section 285A³ of the Panchayat Raj Act clearly specifies that in pursuance of the Judgments of the Supreme Court, the upper ceiling of 50% vertical reservations in favour of SCs/STs/OBCs should not be breached in the context of local self Government. He points out that the impugned G.O., is in contravention of Section 285A of the Panchayat Raj Act and also in violation of the Judgment of the Hon'ble Supreme Court in K.Krishna Murthy (supra).</p> <p>He has further submitted that proviso to Section 7 of the Telangana Municipalities Act, 2019 clearly states that the total reservations shall not</p>	
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³ **285A. Reservation of seats and offices in Gram Panchayats, Mandal Praja Parishads and Zilla Praja Parishads** – In pursuance of the Judgments of the Supreme Court of India, the upper ceiling of 50 percent vertical reservations in favour of SCs/STs/OBCs should not be breached in the context of local self Government, and accordingly, notwithstanding anything contained in Sections 9, 17, 146, 147, 175, 176 and elsewhere in the Act providing for reservation in favour of Scheduled Castes, Scheduled Tribes and Backward Classes, the seats and offices to be reserved for backward Classes shall be so determined, duly keeping in view the requirement of reservation in respect of SCs, STs therein, that the total number of seats/offices reserved for the SCs, STs and BCs shall not exceed 50 percent of the total number of seats or as the case may be the offices, in the respective local bodies, in the manner prescribed.

		<p>exceed 50 per cent of the total number of seats of the municipality.</p> <p>He has submitted that through the Telangana Backward Classes Reservation Bill, the State Government is trying to amend Section 285A of the Panchayat Raj Act as well as Section 7 of the Municipalities Act.</p> <p>He has also relied on the interim order in Rahul Ramesh Wagh vs. State of Maharashtra [(2022) 12 SCC 778] (Petition for Special Leave to Appeal (Civil) No.19756 of 2021, dated 19.01.2022), wherein the Hon'ble Supreme Court had prohibited the State Election Commission from proceeding with the election programme already notified in respect of reserved seats for OBC category only, in the local bodies as the Maharashtra Ordinance No.3 of 2021 was issued by the State Government to overcome the decision of this Court in K.Krishna Murthy (supra).</p> <p>He has also invited the attention of this Court to paragraph 17 of the interim order passed by the Hon'ble Supreme Court in State of Maharashtra vs. Union of India [(2022) 12 SCC 784] to contend that the State is barred from issuing any notification without complying the triple test.</p> <p>He has also invited the attention of this Court to the interim order passed by the Hon'ble Supreme Court in Suresh Mahajan vs. State of Madhya Pradesh [(2022) 12 SCC 779], wherein the Supreme Court has held that until the triple test formality is</p>	
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		<p>completed “in all respects” by the State Government, no reservation for Other Backward Classes can be provisioned. He has referred to paragraphs 13, 14, 27 and 31 of the said order.</p> <p><u>Submissions of Mr. B.Mayur Reddy, learned Senior Counsel representing Ms.Anjali Nishtal and Ms.Kamatam Rajitha, learned counsel for the petitioners in W.P.Nos.30512 and 30217 of 2025:</u></p> <p>Learned Senior Counsel has adopted the submissions of the learned Senior Counsel Mr. K.Vivek Reddy, and further submitted that when there are two laws, the law declared by the Hon’ble Supreme Court is on the higher pedestal. One law is that the law declared by the Hon’ble Supreme Court in K.Krishna Murthy (supra) in respect of local bodies, where the Supreme Court has taken inspiration from the earlier decision in Indra Sawhney vs. Union of India [1992 Supp (3) SCC 217]. He has submitted that there is an upper ceiling of 50% for reservation in favour of Backward Classes.</p> <p>He has referred to paragraph 65 of the decision of the Hon’ble Supreme Court in K.Krishna Murthy (supra) to contend that the only exception to upper ceiling of 50% reservation is to the persons who are living in an area, cut-off from the normal stream of life. Insofar as State of Telangana is concerned, such an exception shall not apply.</p>	
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		<p>He has relied on paragraph 123 of the decision of the Supreme Court in V.Narayana Rao vs. State of Andhra Pradesh [1986 SCC OnLine AP 116] wherein it was held that reservation of seats/posts cannot exceed 50% following the decisions in Mr.R.Balaji vs. State of Mysore [AIR 1963 SC 649].</p> <p>The learned Senior Counsel has submitted that the State Government has relied on the Report of the One Man Commission while issuing the impugned G.O. However, the said Report is not published and objections are not invited. Unless the report is published and objections are invited, the said report cannot be made the basis for providing reservation upto 42% to the OBCs. In support of the said submission, he has relied on the decision of this High Court of Andhra Pradesh in Satyanarayana Reddy vs. State of Andhra Pradesh [1987 (1) ALT 665 (FB)].</p> <p>Learned Senior Counsel has invited the attention of this Court to para 391 of the decision of the Hon'ble Supreme Court in Dr Jaishri Laxmanrao Patil vs. Chief Minister [(2021) 8 SCC 1], wherein the proceeding of the Constituent Assembly Debates and the observation of Dr Ambedkar were referred.</p> <p>He has pointed out that the Bill was sent to the Hon'ble Governor for assent on 31.08.2025 and the G.O.Ms.No.9 was issued on 26.09.2025, even before completion of one month. Therefore, it cannot be said that there is a deemed assent of the Hon'ble Governor. In support of this argument, learned Senior Counsel</p>	
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	<p>has relied on the decision of the Hon'ble Supreme Court in State of Tamil Nadu vs. Governor of Tamil Nadu ((2025) 8 SCC 1).</p> <p><u>Submissions of Mr. J.Prabhakar, learned Senior Counsel appearing for Mr. Baskula Athik, learned counsel for the petitioners in W.P.No.30218 of 2025:</u></p> <p>As per clause 8 of the impugned GO, the One Man Commission has not conducted enquiry on empirical formula, but only on demographic formula, which is not permissible. Reservations on demographic formula can be given in respect of education and employment, to certain extent to the SCs and STs, but not to the OBCs. In support of his submission, he has relied on paragraph 60 (pg72) of the K.Krishna Murthy (supra).</p> <p>Learned Senior Counsel has also submitted out that the triple test laid down by the Hon'ble Supreme Court in K.Krishna Murthy (supra) and Vikas Kishanrao Gawali (supra) has not been complied with by the State Government.</p> <p>He has further submitted that on earlier occasion also the State Government tried to give reservations to OBCs without publishing the Report. A Full Bench of this Hon'ble Court in Satyanarayana Reddy vs. State of Andhra Pradesh [1987 (1) ALT 665 (FB)] held that the Report has to be published and the objections have to be obtained on the said</p>	
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		<p>Report. Therefore, the impugned G.O., is liable to be set aside.</p> <p>He has also referred to the paragraphs 58 and 61 of the decision of this Court in Nimmaka Jaya Raj vs. Government of Andhra Pradesh [2012 (6) ALD 329 (DB)].</p> <p><u>Submissions of learned counsel Ms. Purnima Kamble appearing for Ms.Altaf Fathima, learned counsel for the petitioner in W.P.No.30557 of 2025:</u></p> <p>Learned counsel for the petitioner has submitted that the impugned G.O.Ms.No.9 has not even referred to the Panchayat Raj Act and therefore, the said G.O., is in no manner related to the Panchayat Raj Act. However, the Election Commission in its Notification dated 27.09.2025 used the expression “<i>in exercise of powers conferred under Section 9 and 17 of the Telangana State Panchayat Raj Act, 2018 keeping in view of <u>amendment</u> issued through G.O.Ms.No.9 Backward Classes Welfare (B) Department, dated 26.09.2025 ...</i>”. In this regard, the learned counsel has pointed out that there is no amendment in the G.O.Ms.No.9. Further, she has argued that by way of any Government Order, the amendment to the Act cannot be permitted to be done.</p> <p>She has also submitted that the Election Commission by way of the said Notification has</p>	
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		<p>misrepresented the public at large stating that there is an amendment to the Panchayat Raj Act. Therefore, the impugned G.O.Ms.No.9, dated 26.09.2025 and the Notification dated 27.09.2025 are bad in law, illegal and arbitrary and are liable to be set aside.</p> <p><u>Submissions of Mr. Sudarshan Malugari, learned counsel for the petitioners in W.P.No.30552 of 2025:</u></p> <p>Learned counsel for the petitioner submitted that the petitioners are supporting the 42% reservation to the OBCs. However, they oppose G.O.Ms.No.9 as there is no sub-categorisation. He has pointed out that as per the Anantharaman Commission, some of the backward classes communities are most depressed and vulnerable and they shall be given priority in the reservations. Therefore, the petitioners seek a direction to the respondents to adopt existing sub-classification of backward classes in the lines of G.O.Ms.No.1793 dated 23.09.1970, as BC A/B/C/D groups for the purposes of political reservation in local bodies under Section 285A of the Panchayat Raj Act.</p> <p><u>Submissions of learned Senior Counsel Dr. A.M.Singhvi for the State:</u></p> <p>Learned Senior Counsel for the State has submitted that the legislation has been passed unanimously across the political spectrum in the Legislative Assembly of the State of Telangana.</p>	
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		<p>Therefore, the power of judicial review, in such matter, is used only sparingly.</p> <p>He has further pointed out that there is no challenge to the legislation and without any challenge to the legislation, there cannot be any challenge to the consequential action of issuing the impugned GOs and the Notification.</p> <p>The learned Senior Counsel has submitted that the power of the authority issuing the impugned G.Os., is not challenged. Therefore, stay should not be granted at the interim stage.</p> <p>He has pointed out that there is no constitutional prohibition that reservations should not exceed beyond 50% ceiling.</p> <p>He has also submitted that the Hon'ble Supreme Court, in a number of judgments, recognised the specific power to exceed 50% reservations provided that there should be proper exercise of collecting empirical data and analysing the same. The State Government has the power of taking policy decision based on the said empirical data. He has submitted that the State Government has done proper enquiry and collected the empirical data and only thereafter has taken the policy decision to ensure that there should be proper and fair representation of the cross-section of the people in society. Therefore, the impugned GOs and the Notification are valid in law.</p> <p>Learned Senior Counsel has submitted that the Socio Economic, Educational and Employment</p>	
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	<p>Particulars Census (SEEEPC) Survey, 2024-25 was conducted by the State which revealed that backward classes constitute approximately 56.33% of the total population.</p> <p>Further, he has pointed out that on 17.03.2025 itself, the Telangana Backward Classes (Reservations of Seats in Rural and Urban Local Bodies) Bill, 2025 was unanimously passed by the legislature, which provides 42% reservation for BCs in urban and rural local bodies. It was sent to the Hon'ble Governor on 22.03.2025 for his assent. Till date, it has neither been returned nor assented to. Therefore, after one month, Bill is deemed to have been passed. In this connection, he has relied on para 250(iii) and para 435(c) of the decision of the Hon'ble Supreme Court in State of Tamil Nadu vs. the Governor of Tamil Nadu [(2025) 8 SCC 1]. On 10.07.2025, Ordinance to amend Section 285A of the Act has been issued. Therefore, on 26.09.2025, on analysing all this data, the Government has issued the impugned G.O.Ms.Nos.9, 41 and 42.</p> <p>Learned Senior Counsel has invited the attention of this Court to the Note on Report and submitted that entire exercise has been done by collecting empirical data by conducting door-to-door survey. The policy decision is taken after conducting a detailed survey.</p> <p>Learned Senior Counsel has invited the attention of this Court to para 810 of Indra Sawhney (supra) and submitted that there is no absolute bar</p>	
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	<p>for providing reservations beyond 50%.</p> <p>He has further invited the attention of this Court to paragraphs 166, 169, 171 and 172 of the decision of the Hon'ble Supreme Court in Janhit Abhiyan vs. Union of India [(2023) 5 SCC 1] to submit that validity of the extent of reservations over 50% would depend upon the facts and circumstances of each case. Therefore, he submits that there is no statutory bar of upper ceiling for providing reservations and it is flexible.</p> <p>He, therefore, has submitted that there is no <i>prima facie</i> case to grant any interim relief to the petitioners.</p> <p><u>Submissions of Mr. A.Sudershan Reddy, learned Advocate General for the State:</u></p> <p>Learned Advocate General has adopted the submissions of the learned Senior Counsel Mr. A.M.Singhvi appearing for the State. He has further submitted that a unanimous resolution (Item No.21) has been passed by the Council of Ministers of the Telangana State Legislative Assembly to conduct a door-to-door and comprehensive socio-economic survey within a period of 60 days. The survey report was accepted by the Members of the Assembly unanimously without opposition from any of the opposite parties. Hence, the resolution to conduct the survey as well as the resolution accepting the survey report is nothing but the resolution of the people at large. The survey report has been accepted</p>	
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	<p>by the people. It has recorded that the BC household proportion is 57.3%. Therefore, on the basis of the said survey, 42% is fixed for the purpose of providing reservation. There has been no dispute from anybody, therefore the question of publication of the report does not arise. The fixation of 42% reservation for OBCs cannot be found fault with as the report is based on scientific and empirical data evolved from a survey conducted on a door-to-door basis.</p> <p>The learned Advocate General has reiterated the submissions of Mr. A.M.Singhvi, learned Senior Counsel that since the Bill was sent for President's assent on 30.03.2025, in view of judicial pronouncement in State of Tamil Nadu vs. the Governor of Tamil Nadu [(2025) 8 SCC1], it would amount to a deemed assent and as such it has become an Act. He has referred to the amendment to Section 285A of the Panchayat Raj Act, which came into effect on 15.12.2018 by way of Act No.4. Legislative competence of the State is not an issue. Local authorities for the purposes of local self Governments or village administration fall within Entry 5 of List II. In view of Article 243D(6) of the Constitution of India, assent of the President is not necessary. For amendment to Section 285A of the Panchayat Raj Act, on the earlier occasion the assent of Governor was given. By an ordinance dated 10.07.2025 necessary amendment has been made to Section 285A of the Panchayat Raj Act.</p> <p>Learned Advocate General further submitted that reservation which is provided for higher</p>	
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	<p>education and employment cannot be applicable to political reservations. Therefore, borrowing 50% from Indra Sawhney (supra) is not correct. It is further submitted that Article 243-O of the Constitution of India is a specific bar from interference in Poll process especially when the election notification has already been issued. He has referred to Sections 197 and 198 of the Panchayat Raj Act. Therefore, at this stage, no interim order be passed to stall the election process. The reservation of 42% to BC population should not be interfered with. He has distinguished the case of C.Satyanarayana Reddy (supra) from the present one.</p> <p><u>Submissions of Professor Ravivarma Kumar, learned Senior Counsel for the State:</u></p> <p>He submits that many of the aspects have already been covered by learned Advocate General and Mr. A.M.Singhvi, learned Senior Counsel. He submits that the decision in M.R.Balaji (supra) laid the foundation for 50% rule. He relied on paragraph 31 at Page No.662 and stated that nowhere there is a prescription that there should be 50% cap on reservations. The Constitution of India does not spell out any such limitations. The Supreme Court for the first time has invented the formula to safeguard the interest of the rest of the citizens other than SCs, STs and BCs. He questioned the fundamental right of the petitioners or the rest of the society that is affected by the reservations now provided. It is contended that petitioners have no fundamental right or</p>	
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	<p>constitutional right. Right to contest and vote is not a fundamental right. He relied on decisions of the Supreme Court in M.P.Ponnuswamy (supra) and Jyoti Basu v. Debi Ghosal [(1982) 1 SCC 691]. No right of any candidate much less a forward caste is affected by this reservation. He relied on Article 243D(6) of the Constitution of India and submitted that it does not fix any limitation on the reservation in favour of BC and supported the reservation of 42%. As regards the case in Vikas Kishanrao Gawali (supra), he submits that the same has followed the decision in K.Krishna Murthy (supra), wherein the relevant provisions were not noticed. He has referred to the case of S.V.Joshi v. State of Karnataka [(2012) 7 SCC 41], Tamil Nadu which provided 69% reservation. According to him, if there is a deemed assent, it would amount to a deemed publication.</p> <p>We have considered the submissions of learned counsel for the petitioners Mr. K.Vivek Reddy, Mr. B.Mayur Reddy, Mr. J.Prabhakar, Ms. Purnima Kamble and Mr. Sudarshan Malugari and Dr. A.M.Singhvi, learned Senior Counsel, Mr. A.Sudarshan Reddy, learned Advocate General and Prof. Ravivarma Kumar, learned Senior Counsel appearing for the respondent State.</p> <p>The impugned G.O.Ms.No.9 relates to the provision of reservation upto 42% to the Backward Classes in the State of Telangana. As a result of the impugned G.O., the total reservation has gone upto 67%. Before the impugned G.O., was issued, the</p>	
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	<p>extent of reservation for SC and ST category were 15% and 10% respectively, and 25% for the OBCs, which was within the ceiling limit of 50% as laid down by the Hon'ble Supreme Court in the case of Vikas Kishanrao Gawali (supra).</p> <p>The decision in Vikas Kishanrao Gawali (supra) is rendered specifically in case of reservation in the local bodies. In Vikas Kishanrao Gawali (supra), following the ratio laid down by the Constitution Bench in K.Krishna Murthy (supra), the Hon'ble Supreme Court has laid down that the triple test is mandatorily to be complied with for reservation of seats in the local bodies for OBC candidates. The opinion of the Hon'ble Supreme Court in this regard, at paragraphs 13, 14, 16, 19, 27 and 28 are extracted hereunder:</p> <p style="padding-left: 40px;">“13. Be that as it may, it is indisputable that the triple test/conditions required to be complied with by the State before reserving seats in the local bodies for OBCs has not been done so far. To wit, <u>(1) to set up a dedicated Commission to conduct contemporaneous rigorous empirical inquiry into the nature and implications of the backwardness qua local bodies, within the State; (2) to specify the proportion of reservation required to be provisioned local body-wise in light of recommendations of the Commission, so as not to fall foul of overbreadth; and (3) in any case such reservation shall not exceed aggregate of 50 per cent of the total seats reserved in favour of SCs/STs/OBCs taken together.</u> In a given local body, the space for providing such reservation in favour of OBCs may be available at the time of issuing election programme (notifications). However, that could be notified only upon fulfilling the aforementioned preconditions. Admittedly, the first step of establishing dedicated Commission to undertake rigorous empirical inquiry itself</p>	
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remains a mirage. To put it differently, it will not be open to the respondents to justify the reservation for OBCs without fulfilling the triple test, referred to above.

14. As regards Section 12(2)(c) of the 1961 Act inserted in 1994, the plain language does give an impression that uniform and rigid quantum of 27 per cent of the total seats across the State need to be set apart by way of reservation in favour of OBCs. In light of the dictum of the Constitution Bench, such a rigid provision cannot be sustained much less having uniform application to all the local bodies within the State. Instead, contemporaneous empirical inquiry must be undertaken to identify the quantum qua local body or local body specific.

16. The argument of the respondent State that the reservations in favour of OBCs must be linked to population, is very wide and tenuous. That plea if countenanced, will be in the teeth of the dictum of the Constitution Bench of this Court wherein it has been noted and rejected. The Court has expounded about the distinction in the matter of reservation in favour of SCs and STs on the one hand, which is a “constitutional” reservation linked to population unlike in the case of OBCs which is a “statutory” dispensation. Therefore, the latter reservation for OBCs must be proportionate in the context of nature and implications of backwardness and in any case, is permissible only to the extent it does not exceed the aggregate of 50 per cent of the total seats in the local bodies reserved for SCs/STs/OBCs taken together.

19. Thus understood, the impugned notifications issued by the State Election Commission reserving seats for OBCs in the local bodies concerned, suffer from the vice of foundational jurisdictional error. The impugned notification(s) to the extent it provides for reservation for OBCs in the local bodies concerned, is, therefore, void and without authority of law.

27. In conclusion, we hold that Section 12(2)(c) of the 1961 Act is an enabling provision and needs to be read down to mean that it may be invoked only upon complying with the triple conditions (mentioned in para 13 above) as specified by the Constitution Bench of this Court, before notifying the seats as reserved for OBC category in the local bodies concerned. Further, we quash and set aside the impugned notifications to the extent they provide for reservation of seats for OBCs being void and non est in law including the follow-up actions taken on that basis. In other words, election results of the OBC candidates which had been made subject to the outcome of these writ petitions including so notified in the election programme concerned issued by the State Election Commission, are declared as non est in law and the vacancy of seat(s) caused on account of this declaration be forthwith filled up by the State Election Commission with General/Open candidate(s) for the remainder term of the local bodies concerned, by issuing notification in that regard.

28. As a consequence of this declaration and direction, all acts done and decisions taken by the local bodies concerned due to participation of members (OBC candidates) who have vacated seats in terms of this decision, shall not be affected in any manner. For, they be deemed to have vacated their seat upon pronouncement of this judgment, prospectively. This direction is being issued in exercise of plenary power under Article 142 of the Constitution of India to do complete justice.”

(emphasis supplied)

Much argument has been advanced on behalf of the State that the triple test has been complied with by setting up of a dedicated Commission to conduct a contemporaneous rigorous empirical enquiry into the nature and implications of the backwardness *qua*

	<p>local bodies within the State; and specifying the proportion of reservations to be provisioned local body wise in the light of the recommendations of the Commission. It is submitted that criteria that such reservation shall not exceed aggregate of 50% of the total local seats reserved in favour of the SCs/STs/OBCs taken together is not an inflexible rule. In order to justify this contention, the learned Senior Counsel for the State has referred to the decisions in the case of Indra Sawhney (supra) and Janhit Abhiyan (supra), which relates to 10% reservation for economically weaker sections.</p> <p>Reference is also made to the decision rendered earlier by the Hon'ble Supreme Court in M.R.Balaji (supra), in order to submit that the ceiling of 50% is not an inviolable rule, rather can be gone above in exceptional circumstances which are not limited to States in far-flung areas, such as the North-eastern States. However, as observed above, the decision in Vikas Kishanrao Gawali (supra) relates specifically to reservation for OBCs in local bodies in all the States.</p> <p>On behalf of the petitioners, reliance has been placed upon a number of interim orders passed by the Hon'ble Supreme Court relying on the decision in Vikas Kishanrao Gawali (supra), such as the interim order passed in Suresh Mahajan v. State of Madhya Pradesh [(2022) 12 SCC 770], of which paragraphs 13 and 27 are extracted as under:</p> <p style="text-align: center;"><u>“13. For, until the triple test formality is completed “in all respects” by the State Government, no reservation for Other Backward Classes can be provisioned; and if</u></p>	
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that exercise cannot be completed before the issue of election programme by the State Election Commission, the seats (except reserved for the Scheduled Castes and Scheduled Tribes which is a constitutional requirement), the rest of the seats must be notified as for the General category.

27. Acceding to the argument set forth on behalf of the State of Madhya Pradesh would be overlooking and in fact a case of violation of the successive directions given by this Court to the State Election Commission to speed up the election process in respect of local bodies where elections are due/overdue and to proceed without providing reservation for Other Backward Classes (but limited to the constitutional reservation for Scheduled Castes and Scheduled Tribes) until the completion of triple test formality by the State “in all respects”. As and when, the formalities of triple test are completed, that can be reckoned for future elections to be held thereafter. However, elections which are already due need not and cannot be delayed on that count in view of the constitutional mandate.”

(emphasis supplied)

It would be appropriate to reproduce the direction of the apex Court at paragraph 31 quoted hereunder:

“31. We also make it clear that this order and directions given are not limited to the Madhya Pradesh State Election Commission/State of Madhya Pradesh; and Maharashtra State Election Commission/State of Maharashtra in terms of a similar order passed on 4-5-2022 [*Rahul Ramesh Wagh v. State of Maharashtra*, (2022) 12 SCC 798] , but to all the States/Union Territories and the respective Election Commission to abide by the same without fail to uphold the constitutional mandate.”

(emphasis supplied)

Reliance has also been placed on paragraphs 2, 3, 4, 5 and 8 of the interim order passed in the case of

	<p>Rahul Ramesh Wagh vs. State of Maharashtra [(2022) 12 SCC 778]. Reference has also been made to the decision of the Hon’ble Supreme Court in State of Maharashtra (supra), wherein following the decision rendered by the apex Court in Vikas Kishanrao Gawali (supra), the Supreme Court observed as under:</p> <p>“ 17. The question is, whether the Court should accede to the request made by the State of Maharashtra and interveners to stay the entire elections, awaiting the report of the Commission. In that regard, reliance has been placed on the observation made by the Constitution Bench in <i>K. Krishna Murthy v. Union of India</i> [<i>K. Krishna Murthy v. Union of India</i>, (2010) 7 SCC 202 : (2010) 2 SCC (L&S) 385] , in para 64 which states that reservation in favour of OBC in local self-government, until necessary steps are taken to identify the percentage, rule of thumb is to give proportionate reservation to OBC. <u>It is true that the rule of thumb can be of proportionate reservation but as ordained by the three-Judge Bench of this Court relying upon the Constitution Bench judgment, it is imperative to abide by the triple test requirement. That is the precondition to be complied with by the State authorities and the State Election Commission to provide for reservation for OBC in the local bodies concerned.</u>”</p> <p>(emphasis supplied)</p> <p>We may also refer to the interim order dated 19.01.2022 passed in the case of Rahul Ramesh Wagh (supra), in relation to compliance of triple test laid down by the Hon’ble Supreme Court in Vikas Kishanrao Gawali (supra). The relevant observation and direction of the Hon’ble Supreme Court quoted hereunder provide insight as to such similar dispensation to be followed regarding compliance of triple test by all the States or the Union Territories, if they intend to conduct election of local Government</p>	
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		<p>and provide for reservation for OBC category:</p> <p>“We reiterate that similar dispensation be followed including regarding the compliance of triple test by all States or the Union Territories, if they intend to conduct election of local Government and provide for reservation for OBC category. In case, the State or the Union Territory is not in a position to fulfil the triple test requirement and the election to any of its local body cannot be postponed beyond the statutory period, the concerned (State) Election Commission ought to notify proportionate seats as open category seats, and proceed with the elections of the local bodies.”</p> <p>We are, therefore, of the <i>prima facie</i> view that the respondents/State have failed to adhere to the criteria of 50% upper ceiling as laid down by the Hon’ble Supreme Court in Vikas Kishanrao Gawali (supra) by issuance of G.O.Ms.Nos.9, dated 26.09.2025, whereby 42% reservation has been provided to the OBCs in the local bodies, thereby breaching the ceiling of 50% to a total of 67% reservation in local bodies.</p> <p>Arguments have also been advanced relying upon the provisions of Article 243-O of the Constitution of India that since the elections have been notified on 29.09.2025, this Court should not interfere in the process of election. In this regard, we may observe that the process of conduct of election is not being stayed by this Court. The G.O.Ms.No.9, dated 26.09.2025, which increased the percentage of reservation to OBCs to 42% and the consequential G.O.Ms.Nos.41 and 42, dated 26.09.2025, are being stayed, till the matter is finally decided.</p>	
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We are further strengthened by the observations of the Hon'ble Supreme Court in its interim order dated 19.01.2022 passed in the case of **Rahul Ramesh Wagh** (supra) quoted above, wherein the Hon'ble Supreme Court observed that in case, the State or the Union Territory is not in a position to fulfil the triple test requirement and the election to any of its local body cannot be postponed beyond the statutory period, the concerned State Election Commission ought to notify proportionate seats as open category seats and proceed with the elections of the local bodies.

Therefore, following the directions of the apex Court in the case of **Rahul Ramesh Wagh** (supra), since the impugned notification providing reservation up to 42% has been stayed by this Court, the State Election Commission would notify the proportionate seats as open category seats and proceed with the elections of the local bodies.

We have also taken into consideration the observations made by the apex Court in **Vikas Kishanrao Gawali** (supra), at paragraphs 27 and 28, which are also extracted hereunder:

“27. In conclusion, we hold that Section 12(2)(c) of the 1961 Act is an enabling provision and needs to be read down to mean that it may be invoked only upon complying with the triple conditions (mentioned in para 13 above) as specified by the Constitution Bench of this Court, before notifying the seats as reserved for OBC category in the local bodies concerned. Further, we quash and set aside the impugned notifications to the extent they provide for reservation of seats for OBCs being void

		<p>and non est in law including the follow-up actions taken on that basis. In other words, election results of the OBC candidates which had been made subject to the outcome of these writ petitions including so notified in the election programme concerned issued by the State Election Commission, are declared as non est in law and the vacancy of seat(s) caused on account of this declaration be forthwith filled up by the State Election Commission with General/Open candidate(s) for the remainder term of the local bodies concerned, by issuing notification in that regard.</p> <p>28. As a consequence of this declaration and direction, all acts done and decisions taken by the local bodies concerned due to participation of members (OBC candidates) who have vacated seats in terms of this decision, shall not be affected in any manner. For, they be deemed to have vacated their seat upon pronouncement of this judgment, prospectively. This direction is being issued in exercise of plenary power under Article 142 of the Constitution of India to do complete justice.”</p> <p>In order to avoid such an irreversible consequence, it is therefore proper to stay the impugned G.O.Ms.Nos.9, 41 and 42, dated 26.09.2025.</p> <p>We refrain from expressing any opinion on the merits of the contentions raised by rival parties, at the stage of interim relief, which are to be dealt with at the time of final hearing.</p> <p>Therefore, in view of the aforesaid discussion and reasons recorded, there shall be interim stay of impugned G.O.Ms.Nos.9, 41 and 42, dated 26.09.2025.</p> <p>The interlocutory applications are accordingly disposed of.</p>	
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