



2026:CGHC:3487-DB

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****WA No. 47 of 2026**

Netram Kashyap S/o Pran Nath Aged About 42 Years R/o Ward No. 12,
Chorbhatti, Tahsil Pamgarh, District Janjgir-Champa Chhattisgarh

... Appellant**versus**

- 1 - State of Chhattisgarh Through Its Secretary, Department of Panchayat And Rural Development, Mahanadi Bhawan, Mantralaya, Atal Nagar, Nava Raipur, District - Raipur Chhattisgarh
- 2 - The Collector District Janjgir-Champa Chhattisgarh
- 3 - Sub-Divisional Officer (R) Pamgarh, District Janjgir-Champa Chhattisgarh
- 4 - Janki Prasad Kashyap S/o Keshav Prasad Aged About 70 Years R/o Ward No. 12, Chorbhatti, Tahsil Pamgarh, District Janjgir-Champa Chhattisgarh
- 5 - Lakshmi Prasad S/o Rajaram Aged About 40 Years R/o Ward No. 10, Chorbhatti, Tahsil Pamgarh, District Janjgir-Champa Chhattisgarh
- 6 - Naresh Kashyap S/o Baldev Prasad Aged About 35 Years R/o Ward No. 18, Chorbhatti, Tahsil Pamgarh, District Janjgir-Champa Chhattisgarh
- 7 - Puniram Kashyap S/o Chaitram Aged About 40 Years R/o Ward No. 11, Chorbhatti, Tahsil Pamgarh, District Janjgir-Champa Chhattisgarh
- 8 - Sanat Patel S/o Ramfal Patel Aged About 40 Years R/o Ward No. 17, Chorbhatti, Tahsil Pamgarh, District Janjgir-Champa Chhattisgarh
- 9 - Presiding Officer Raghuraj Singh Chandel R/o Village Taraud, Tahsil Akaltara, District Janjgir-Champa Chhattisgarh



10 - Returning Officer, Shri Mahendra Lahre Tahsildar, Pamgarh, District Janjgir-Champa Chhattisgarh

... Respondents

(Cause-title taken from Case Information System)

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| For Appellant | : Mr. Prafull N. Bharat, learned Senior Advocate assisted by Mr. Shivang Dubey, Advocate |
| For Respondent-State | : Mr. Prasun Kumar Bhaduri, Deputy Advocate General |
| For Respondent No.4 | : Mr. Chandresh Shrivastava, Advocate |

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Ravindra Kumar Agrawal, Judge

Judgment on Board

Per Ramesh Sinha, Chief Justice

21.01.2026

1. Heard Mr. Prafull N. Bharat, learned Senior Counsel assisted by Mr. Shivang Dubey, learned counsel for the appellant as well as Mr. Prasun Kumar Bhaduri, learned Deputy Advocate General, appearing for the State and Mr. Chandresh Shrivastava, learned counsel appearing for respondent No.4.
2. By way of this writ appeal, appellant has prayed for following relief(s):-

“The humble Appellant most respectfully prays that this Hon’ble Court may kindly be pleased to issue appropriate writ(s), order(s), direction(s):

To set-aside directions passed in the impugned order dated 08.12.2025 directing “Matter is



remitted back to respondent No.3/Prescribed Authority -cum- Sub Divisional Officer to pass order afresh following due process of law, providing opportunity of hearing to other non-applicants also to lead evidence if they so desire and opportunity of hearing to all parties. Proceedings of election petition may be concluded following due process of law within a further period of 3 months from the date of appearance of the parties before it.”

3. The present intra Court appeal has been filed against the order dated 08.12.2025 passed by the learned Single Judge in WPC No.2698/2025 (*Netram Kashyap v. State of Chhattisgarh and others*), whereby the writ petition filed by the appellant/writ petitioner has been allowed.
4. Brief facts projected before the learned Single Judge are that the appellant/writ petitioner, along with respondent Nos. 4 to 8, contested the election for the post of Sarpanch of Gram Panchayat Chorbhatti, Tahsil Pamgarh, District Janjgir-Champa, Chhattisgarh. Polling for the said election was held on 23.02.2025, and the counting of votes was also conducted on the same date. Upon conclusion of the counting process, as per the declaration made by the Election Authority, the appellant/writ petitioner secured 489 votes, whereas respondent No. 4 (election petitioner) secured 451 votes. Consequently, the appellant/writ petitioner was declared as the returned candidate and a certificate of election was issued in his favour on 25.02.2025.



5. Thereafter, respondent No. 4 filed an election petition under Section 122 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993, alleging that the votes secured by the appellant/writ petitioner and respondent No. 6 were interchanged, resulting in an erroneous declaration of the appellant/writ petitioner as having secured the highest number of votes. In the election petition, a prayer was made for recounting of votes of Booth No. 79, for declaring the election of the appellant/writ petitioner (non-applicant No. 1 therein) as illegal and void, for cancellation of his election, and for declaring the election petitioner as the duly elected candidate. The appellant/writ petitioner filed his reply to the election petition, denying the allegations made therein. Respondent Nos. 5, 6, 8 and 9 also submitted their respective replies.

6. The Election Tribunal, by an order, directed recounting of votes. The said order was assailed by the appellant/writ petitioner by filing WPC No. 1975 of 2025, contending that the order for recounting had been passed without adhering to the mandatory procedure prescribed under Rule 11 of the Chhattisgarh Panchayats (Election Petitions, Corrupt Practices and Disqualification for Membership) Rules, 1995 (hereinafter referred to as "*the Rules of 1995*"). The writ petition was allowed, the order dated 16.04.2025 was quashed, and the matter was remitted back to the Election Tribunal to decide the election petition afresh in accordance with law.



7. After receipt of the matter on remand, the Election Tribunal framed the issues, fixed the case for recording of evidence of the parties, and thereafter passed the impugned order, which was the subject matter of challenge before the learned Single Judge by filing WPC No.2698/2025, which was allowed by the learned Single Judge vide order dated 08.12.2025.
8. Feeling aggrieved by the order dated 08.12.2025 passed in WPC No.2698/2025, the present appeal has been filed by the appellant/writ petitioner.
9. Learned Senior Counsel for the appellant/writ petitioner submits that the impugned order passed by the learned Single Judge is unsustainable both on facts and in law. It is contended that an order of remand cannot be made casually or mechanically, particularly when such remand has the effect of enabling the contesting party to fill up lacunae left in its case before the learned Election Tribunal. In the present matter, the appellant had raised a specific objection in the rejoinder that remanding the case would allow respondent No. 4 to improve and supplement his election petition, yet the learned Single Judge failed to consider the said objection. It is further submitted that there was no pleading whatsoever, either in the writ petition or in the replies filed by the respondents, alleging that the Election Tribunal had failed to record evidence or had denied proper opportunity of hearing to any of the parties. Despite this, the learned Single Judge



proceeded to develop an entirely new case by holding that parties should be afforded further opportunity to lead evidence, which was never the case of any of the litigating parties. Such an approach, it is urged, amounts to an error apparent on the face of the record, as the Court cannot travel beyond the pleadings and build a case for the parties.

10. Learned Senior Counsel further submits that respondent No. 3/Prescribed Authority-cum-Sub Divisional Officer, in its reply before the Court, has categorically stated that no illegality was committed while passing the impugned order. The reply clearly demonstrates that, pursuant to the earlier remand in WPC No.1975/2025, the Election Tribunal framed issues, fixed the matter for evidence, recorded examination-in-chief and cross-examination of witnesses of both sides on multiple dates, and thereafter fixed the case for final arguments. The order sheets and proceedings unmistakably show that ample and sufficient opportunity to lead evidence and to be heard was afforded to all parties, and written submissions were also filed in addition to oral arguments. It is submitted that, in fact, the Election Tribunal conducted a full-fledged trial on two separate occasions before passing the impugned order dated 26.05.2025. Despite such exhaustive proceedings, the learned Single Judge failed to consider that the Tribunal had already granted complete opportunity to the parties and yet had not adhered to the mandatory procedure prescribed under Rule 11 of the



Chhattisgarh Panchayats (Election Petitions, Corrupt Practices and Disqualification for Membership) Rules, 1995.

11. Learned Senior Counsel submits that the respondents/non-applicants had denied the contents of Form 17 relied upon by respondent No. 4, and even the Presiding Officer (respondent No. 9) had appeared before the Election Tribunal and specifically denied the correctness of the counting slip alleged by respondent No. 4. Further, in the writ proceedings, the Office of the Advocate General had accepted notice on behalf of respondent Nos. 9 and 10, yet they consciously chose not to file any reply. Having forfeited their right to contest, it was wholly erroneous on the part of the learned Single Judge to grant them yet another opportunity to lead evidence upon remand. It is also submitted that a serious jurisdictional issue regarding the maintainability of the election petition was specifically raised by the appellant. Without adjudicating this preliminary issue, the matter could not have been remanded. The Election Tribunal, instead of deciding the issue of maintainability, repeatedly directed recounting of votes, first by order dated 16.04.2025 and again by order dated 26.05.2025, despite the earlier order having been set aside by this Court. This conduct, according to learned Senior Counsel, clearly reflects a pre-determined and biased approach against the appellant.
12. Learned Senior Counsel further submits that the learned Single Judge erred in permitting adducing of additional evidence upon



remand, which would result in a fresh trial and allow the respondents to set up an entirely new case, contrary to settled principles of election law. It is pointed out that respondent No. 4 never sought recounting before the Presiding Officer at the time of counting of votes, nor raised any objection during the counting process, and failed to produce any contemporaneous or certified documentary evidence in support of his allegations. It is also contended that there is a clear non-compliance of Section 80 of the Chhattisgarh Panchayat Nirvachan Niyam, 1995. Rule 80(5) categorically bars any application for recounting after declaration of results. In the present case, the election result was declared on 23.02.2025, whereas the application for recounting was filed on 27.03.2025, i.e., after 32 days, rendering the prayer for recounting legally impermissible.

13. Learned Senior Counsel submits that the impugned order of the Election Tribunal is a non-speaking order passed in haste, without proper application of mind, and is detrimental to the democratic mandate. The right to seek recounting is not an inherent right and cannot be exercised casually. Recounting, if at all permissible, can only be incidental to the final relief contemplated under Rule 6 of the Rules of 1995 at the conclusion of trial. The relief sought by respondent No. 4 does not fall within the ambit of Rule 6, thereby rendering the election petition itself not maintainable and raising a serious jurisdictional bar. It is submitted that once maintainability becomes a jurisdictional issue, the Court is duty-bound to decide



it at the threshold, as held by the Supreme Court in **B.Y.**

Narasimha Prasad v. M. Veerappa (2008) 9 SCC 372 and

Magadh Sugar & Energy Ltd. v. State of Bihar (2021 SCC

OnLine SC 801). Reliance is also placed on *Nadakeruppa (Dead)*

by *LRs v. Pillamma (Dead)* by *LRs*, wherein the Supreme Court has categorically held that an order of remand cannot be passed as a matter of course, particularly when parties have already led oral and documentary evidence, and that the appellate court must endeavor to decide the matter on merits. On these grounds, learned Senior Counsel submits that the impugned order of remand passed by the learned Single Judge is legally unsustainable and liable to be set aside.

14. On the other hand, learned State counsel opposes the submissions advanced on behalf of the appellant/writ petitioner and submits that the learned Single Judge has consciously safeguarded the interest of the appellant/writ petitioner while passing the impugned order. It is contended that the learned Single Judge has taken due care of the objections raised by the appellant and has specifically dealt with the same in paragraphs 9 to 11 of the impugned order.
15. Learned State counsel would further submit that the direction of remand has not been issued in a casual or mechanical manner, but only to ensure strict compliance with the mandatory procedure prescribed under Rule 11 of the Chhattisgarh Panchayats



(Election Petitions, Corrupt Practices and Disqualification for Membership) Rules, 1995. According to learned State counsel, the remand was ordered only with a view to cure the procedural irregularities and to ensure that the Election Tribunal adjudicates the election dispute in accordance with law, and not to permit any party to fill up lacunae in its case. It is further submitted that the learned Single Judge has neither expressed any opinion on the merits of the controversy nor prejudged the rights of the parties. The impugned order, it is urged, merely restores the matter to the Election Tribunal with appropriate safeguards so that the proceedings are conducted afresh in conformity with the statutory mandate, after granting opportunity to all concerned, thereby upholding the principles of natural justice.

16. Learned State counsel, therefore, submits that no case for interference in writ appeal is made out and that the appeal deserves to be dismissed.
17. Learned counsel for respondent No. 4 submits that respondent No. 4 has also preferred an independent writ appeal assailing the same impugned order passed by the learned Single Judge.
18. We have heard learned counsel for the parties at length and have carefully considered the rival submissions advanced on their behalf as also the impugned order.
19. After appreciating the submissions of learned counsel for the parties as also the materials on record, the learned Single Judge,



while relying upon the decisions rendered by the Hon'ble Supreme Court in ***Arikala Narasa Reddy v. Venkata Ram Reddy Reddygari and another, (2014) 5 SCC 312*** and ***Secretary and Curator, Victoria Memorial Hall v. Howrah Ganatantrik Nagrik Samity and others, (2010) 3 SCC 732***, has passed the impugned order in following terms:-

"11. Perusal of the order sheet would show that on 08.05.2025, election petitioner had made statement that he do not want to give further evidence. Order sheet dated 13.05.2025 would show that non-applicant No.1 submitted affidavit under Order 18 Rule 4 CPC as examination-in-chief of non-applicant No.1/election petitioner. Returned candidate Netram Kashyap, Omprakash and Ramnarayan were cross-examined on 16.05.2025 and have closed evidence. Election Tribunal thereafter had fixed the case for argument.

12. Though in election petition there is specific pleading that in the 'counting slip', Presiding Officer of Booth No.79 while preparing counting slip has recorded that returned candidate secured 85 votes, Naresh/non-applicant No.3 secured 157 votes and in the election results, number of votes have been erroneously mentioned by Presiding Officer, the Election Tribunal has not fixed the case for recording of evidence of other non-applicants. No notice has been issued to non-applicants No.6 and 7 against whom allegations were made, overlooking the fact that non-



applicant No.6 has submitted his reply.

13. *True it is that order to be passed by Election Tribunal/Authority should contain reasons by discussing the evidence which is not appearing in this case. Hon'ble Supreme Court in case of Arikala Narasa Reddy Vs. Venkata Ram Reddy Reddygari and Anr. (2014) 5 SCC 312 ,has observed thus:*

“14. Before the court permits the recounting, the following conditions must be satisfied:

(i) The court must be satisfied that a prima facie case is established;

(ii) The material facts and full particulars have been pleaded stating the irregularities in counting of votes;

(iii) A roving and fishing inquiry should not be directed by way of an order to re-count the votes;

(iv) An opportunity should be given to file objection; and (v) Secrecy of the ballot should be guarded.”

14. *In case of Secretary and Curator, Victoria Memorial Hall Vs. Howrah Ganatantrik Nagrik Samity and Ors. (2010) 3 SCC 732, Hon'ble Supreme Court has observed thus:*

“40. It is a settled legal proposition that not only administrative but also judicial order must be supported by reasons, recorded in it. Thus, while deciding an issue, the Court is bound to



give reasons for its conclusion. It is the duty and obligation on the part of the Court to record reasons while disposing of the case. The hallmark of an order and exercise of judicial power by a judicial forum is to disclose its reasons by itself and giving of reasons has always been insisted upon as one of the fundamentals of sound administration justice - delivery system, to make known that there had been proper and due application of mind to the issue before the Court and also as an essential requisite of principles of natural justice. "The giving of reasons for a decision is an essential attribute of judicial and judicious disposal of a matter before Courts, and which is the only indication to know about the manner and quality of exercise undertaken, as also the fact that the Court concerned had really applied its mind." [Vide State of Orissa Vs. Dhaniram Luhar and State of Rajasthan Vs. Sohan Lal & Ors.]

41. Reason is the heartbeat of every conclusion. It introduces clarity in an order and without the same, it becomes lifeless. Reasons substitute subjectivity by objectivity. Absence of reasons renders the order indefensible/unsustainable particularly when the order is subject to further challenge before a higher forum. [Vide Raj Kishore Jha Vs. State of Bihar & Ors. AIR 2003 SC 4664; Vishnu Dev Sharma Vs. State of Uttar Pradesh & Ors. (2008) 3 SCC 172; Steel Authority of India Ltd. Vs. Sales Tax Officer, Rourkela I Circle & Ors.



(2008) 9 SCC 407; *State of Uttarakhand & Anr. Vs. Sunil Kumar Singh Negi AIR 2008 SC 2026; U.P.S.R.T.C. Vs. Jagdish Prasad Gupta AIR 2009 SC 2328; Ram Phal Vs. State of Haryana & Ors. (2009) 3 SCC 258; Mohammed Yusuf Vs. Faij Mohammad & Ors. (2009) 3 SCC 513; and State of Himachal Pradesh Vs. Sada Ram & Anr. (2009) 4 SCC 422].*

42. Thus, it is evident that the recording of reasons is principle of natural justice and every judicial order must be supported by reasons recorded in writing. It ensures transparency and fairness in decision making. The person who is adversely affected may know, as why his application has been rejected.”

*15. In view of the aforementioned decisions of Hon’ble Supreme Court, it is apparent that before passing of order of re-counting of votes, Election Tribunal should be satisfied that *prima facie* case is made out and all material facts and particulars have been pleaded stating irregularities in counting of votes by providing opportunity to all parties to lead evidence and further that order to be passed must be supported by reason.*

16. From perusal of the order sheets, it is clearly appearing that case was not fixed for recording of evidence of other non-applicants who submitted reply to election petition and further from impugned order, it is not reflecting that Election Tribunal has discussed the evidence and has assigned cogent reason for directing re-counting of votes.



17. *Perusal of the pleadings made in the election petition would show that election petitioner in election petition has pleaded material facts, provided full particulars in support of the case, further, have examined witnesses supporting the pleadings and therefore election petitioner cannot be put at fault when he pleaded material facts and provided full particulars on which his case is based, but the Prescribed Authority failed to record satisfaction and have not followed due procedure for fixing of case for recording of evidence of witness/witnesses of other non-applicants.*

18. *In the aforementioned facts of case and discussions made as also decisions of Hon'ble Supreme Court, I am of the view that order dated 26.05.2025 Annexure P-1 passed by Prescribed Authority/Election Tribunal directing re-counting of votes is not sustainable in the eye of law and it is accordingly set aside. Matter is remitted back to respondent No.3/Prescribed Authority -cum- Sub Divisional Officer to pass order afresh following due process of law, providing opportunity of hearing to other non-applicants also to lead evidence if they so desire and opportunity of hearing to all parties. Proceedings of election petition may be concluded following due process of law within a further period of 3 months from the date of appearance of the parties before it. Parties are directed to appear before the Election Tribunal on 23rd December 2025.*

19. *Writ petition is accordingly allowed to the*



extent and in the manner indicated above.

20. Original Record of election petition which is placed before this Court for perusal by learned counsel for the State be returned back."

- 20.** From a conjoint reading of paragraphs 11 to 18 of the impugned order, it is manifest that the learned Single Judge has recorded clear findings to the effect that, although some evidence had been recorded, the Election Tribunal failed to extend opportunity to all necessary parties, particularly other non-applicants against whom allegations were specifically made in the election petition.
- 21.** The learned Single Judge has also noticed that the impugned order of the Election Tribunal directing recounting of votes does not disclose proper reasons nor demonstrates the recording of requisite satisfaction before ordering recounting, which is a mandatory requirement under the law governing election disputes.
- 22.** The principles enunciated by the Hon'ble Supreme Court in *Arikala Narasa Reddy* (supra) and *Secretary and Curator, Victoria Memorial Hall* (supra) have been correctly appreciated and applied by the learned Single Judge. The impugned order clearly reflects that the remand has been ordered to ensure compliance with the mandatory procedure, to safeguard the principles of natural justice, and to ensure that any eventual decision of the Election Tribunal is reasoned, legally sustainable, and capable of withstanding judicial scrutiny.



23. We are unable to accept the contention advanced on behalf of the appellant that the remand would permit respondent No. 4 to fill up lacunae in his case. The directions contained in the impugned order neither permit improvement of pleadings nor grant liberty to travel beyond the scope of the election petition. On the contrary, the remand has been ordered only to ensure that all parties who are already on record and against whom allegations have been levelled are afforded an opportunity of hearing and that the Election Tribunal records its satisfaction in accordance with law before passing any order having serious civil consequences, such as recounting of votes.

24. The submission regarding jurisdictional issues and maintainability of the election petition has also been adequately taken care of by the learned Single Judge by setting aside the order of recounting itself and remitting the matter for fresh consideration in accordance with law. All contentions raised by the appellant, including maintainability and jurisdiction, remain open to be urged before the Election Tribunal, which is duty bound to adjudicate the same in accordance with law while deciding the election petition afresh.

25. We also find no merit in the argument that the learned Single Judge has pre-judged the controversy or expressed any opinion on the merits of the election dispute. The impugned order is carefully worded and confined strictly to procedural infirmities and



non-compliance of mandatory requirements. The learned Single Judge has consciously refrained from making any observations which may prejudice either party before the Election Tribunal.

26. In an election dispute, the democratic mandate and sanctity of the electoral process are of paramount importance. Directions ensuring adherence to statutory procedure, opportunity of hearing to all concerned, and passing of reasoned orders cannot be faulted with. The remand in the present case subserves these very objectives and does not call for interference in intra-court appellate jurisdiction.
27. In view of the foregoing discussion, we are of the considered opinion that the order dated 08.12.2025 passed by the learned Single Judge does not suffer from any perversity, illegality, or jurisdictional error warranting interference by this Court. The writ appeal, being devoid of merit, deserves to be dismissed.
28. Accordingly, the writ appeal is **dismissed**. No order as to costs.
29. The Election Tribunal shall proceed in terms of the directions issued by the learned Single Judge and conclude the election petition expeditiously, strictly in accordance with law.

Sd/-

(Ravindra Kumar Agrawal)
Judge

Sd/-

(Ramesh Sinha)
Chief Justice