

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2034 of 2016

1. Dharam Singh Rathiya S/o Panch Ram Rathiya, Aged About 40 Years Elected Sarpanch Of Gram Panchayat Dehjari, P.S. & Tahsil Kharsiya, District Raigarh (Chhattisgarh)

---- Petitioner

Versus

1. Vijay Rathiya S/o Tikaram Rathya, Aged About 43 Years R/o Village Bhalunara, Block & P.S. Kharsiya, District Raigarh (Chhattisgarh)
2. Baikunth Bihari Head Master, Primary School Bijli, Dipa. Gobarsingha, Block Baramkela, District Raigarh (Chhattisgarh) Presiding Officer Polling Booth No. 37 (Kharsiya).
3. Dhaniram Sidar, Lecturer, Government Higher Secondary School Sariya, District Raigarh (Chhattisgarh) Presiding Officer Polling Booth No. 38 (Kharsiya)
4. Juckson Alias Lusuram Rathiya S/o Jagbandhu Rathiya R/o Village Bhalunara Tahsil Kharsiya, District Raigarh (Chhattisgarh)
5. Sukmati Rathiya W/o Visir Rathiya R/o Village Dehjari, Tahsil Kharsiya, District Raigarh (Chhattisgarh)
6. Sub Divisional Officer (R)/Presiding Officer Kharsiya District Raigarh (Chhattisgarh)

---- Respondent

For Petitioner	Shri F.S. Khare, Advocate
For Respondent No.1	Shri Sunil Sahu, Advocate
For Respondent/State	Shri S.M. Ali, Panel Lawyer

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

18/11/2016

1. At the very outset, learned counsel appearing for the parties would not dispute that in view of the law laid down by this Court in **Parvatia v. Padmini and Others**¹ and **Ajoram v. Shatruhan Sahu and Others**², the matter deserves to be remitted back to the Election Tribunal for deciding the election petition including the prayer for recounting of votes in accordance with the provisions contained under Rule 11 of the Chhattisgarh Panchayats (Election Petitions, Corrupt Practices and Disqualification for Membership) Rules, 1999 (for short 'the Rules')
2. In view of the joint statement made by the learned counsel appearing for the parties, the order impugned is set aside and the matter is remitted back to the Election Tribunal for proceeding ahead from the stage framing of issues.
3. It is made clear that after framing issues, the Election Tribunal shall afford opportunity to the parties to lead evidence and thereafter shall decide the prayer for recounting of votes and

1 2005 (2) CGLJ 335

2 WPC No.2583 of 2011 (decided on 28-8-2012)

the election petition be decided finally in accordance with Rule 11 of the Rules.

4. Let the trial be completed within a period of four months from the date of submission of certified copy of this order before the Election Tribunal.

5. Accordingly, the writ petition is allowed to the extent indicated *supra*.

6. No order as to costs.

Sd/-

Judge
Prashant Kumar Mishra

Gowri