VISHAKHA BEOHAR Digitally signed by VISHAKHA BEOHAR

CGHC010192402026 2026:CGHC:4638

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HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 2568 of 2026

Order Reserved on 27.10.2026

Order Delivered on 03.11.2026

1 - Nayan Patel S/o Late Makardhwaj Patel Aged About 53 Years R/o Ward No. 10, Parsapali @ Lohargaon, Post Singhi, Tahsil And Distt. Mahasamund, Chhattisgarh.

... Petitioner(s)

versus

1 - The State Of Chhattisgarh Through Secretary, Department Of Panchayat And Rural Development, New Mantralaya, Mahanadi Bhawan, Atal Nagar, New Raipur, Distt. Raipur, Chhattisgarh.

2 - The Director Directorate Panchayat, New Mantralaya, Mahanadi Bhawan, Atal Nagar, New Raipur, Distt. Raipur, Chhattisgarh.

3 - The Collector Cum Returning Officer Zila Panchayat, Distt. Mahasamund, Chhattisgarh.

4 - Returning Officer Zila Panchayat Mahasamund, S. Alok, Chief

Executive Officer, Zila Panchayat Mahasamund, Chhattisgarh.

5 - Returning Officer Janpad Panchayat Electoral Officer, Krishna Kumar Sahu, Tahsildar, Mahasamund, Distt. Mahasamund, Chhattisgarh.

6 - The Presiding Officer Election Booth No. 187 (Nirvachan Kshetra Kramank 04), Saleem Khan, S/o Shri Hakeem Khan, Lecturer, Government Higher Secondary School, Birkol, Block Saraipali, Tehsil Saraipali, Distt. Mahasamund, Chhattisgarh.

7 - Hitesh Chandrakar S/o Shri Nayak Ram Chandrakar Aged About 51 Years R/o Village Khusrupali, Ward No. 10, Block And Tahsil Bagbahra, Distt. Mahasamund, Chhattisgarh.

8 - Ajay Kumar Sahu S/o Late Shatrughan Lal Sahu R/o Village Amakoni, Post Khamhariya, Tahsil Bagbahra, Distt. Mahasamund, Chhattisgarh.

9 - Champa Lal Patel S/o Shri Somnath Patel R/o Village Mararkashibahra, Post Onkarband, Tahsil Bagbahra, Distt. Mahasamund, Chhattisgarh.

10 - Ishwar Markande S/o Shri Umend Markande R/o Kanharpuri, Post Koma, Tahsil Bagbahra, Distt. Mahasamund, Chhattisgarh.

11 - Khilawan Sahu S/o Tarachand Sahu R/o Village Bhatgaon, Post Nartora, Tah. And Distt. Mahasamund, Chhattisgarh.

12 - Mohit Kumar Diwan S/o Tulsiram Diwan R/o Village Gondpali, Tah. And Distt. Mahasamund, Chhattisgarh.

13 - Premlal Ramji Nishad S/o Shri Ramji Nishad R/o Village Dumarpali, Post Tusda, Tahsil Bagbahra, Distt. Mahasamund, Chhattisgarh.

14 - Rishabh Chandrakar S/o Shri Ramesh Chandrakar R/o Village Post Ghunchapalikala, Tahsil Bagbahra, Distt. Mahasamund, Chhattisgarh.

15 - Thalesh Kumar Chandrakar S/o Shri Rikhiram Chandrakar R/o Village Kurrubhantha, Tahsil Bagbahra, Distt. Mahasamund, Chhattisgarh.

... Respondents

(Cause-title taken from the Case Information System)

For Petitioner **:-** Mr. Vivek Bhakta, Advocate

For State :- Mr. Akhilesh Kumar, G.A.

For Respondent No.7 :- Mr. Raghvendra Pradhan, Advocate

SB-Hon'ble Shri Justice Amitendra Kishore Prasad

CAV Order

1. By way of the present petition, the petitioner, the returned candidate for the post of Member of Zila Panchayat, Mahasamund, has challenged the order dated 22.04.2026 passed by the learned Election Tribunal in Election Petition No. 08/2025, whereby his application under Order VII Rule 11 CPC seeking rejection of the election petition on the ground that neither Respondent No. 7 nor his authorised agent

sought recounting of votes on 23.02.2025 in respect of Booth No. 187, has been rejected.

2. Following reliefs have been prayed in this petition:-

> *“10.1 That the Hon'ble Court may kindly be pleased to call for the entire records of the case from the authorities concerned for its kind perusal.*
>
> *10.2 That, the Hon'ble Court may kindly be pleased to set- aside / quash the impugned order dated 22.04.2026 (Ann P-1) passed by the Respondent No.02 in case No. 08/2025 "Shri Hitesh Chandrakar Vs. Nayan Patel and 13 others" (Only relating to U/o. 07 Rule 11 of CPC) and consequently the trial of Election petition Dated 10.03.2025 (11.03.2025) (Ann P-5 Colly), filed by the Respondent No.07 U/s. 122 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 also be set-aside in the interest of justice.*
>
> *10.3 That, the Hon'ble Court may kindly be pleased to pass any other relief, which this Hon'ble High Court deems fit and proper be also awarded.”*

3. Facts of the case are that the petitioner, who was declared elected as Member of Zila Panchayat, Mahasamund, having secured the highest number of votes in the election held on 23.02.2025, has preferred the present petition challenging the order dated 22.04.2026 passed by Respondent No. 2, the

learned Election Tribunal, in Election Petition No. 08/2025, whereby his application under Order VII Rule 11 of the Code of Civil Procedure, 1908, was rejected. Respondent No. 7, Shri Hitesh Chandrakar, challenged the petitioner's election by filing an election petition under Section 122 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993, alleging irregularities and corrupt practices in the counting and tabulation of votes at Booth No. 187, falling within Nirvachan Kshetra No. 04, and seeking recounting of votes in respect of the said booth. The petitioner, upon receipt of notice, filed his reply/written statement dated 01.07.2025 along with the counting slips and result of counting in Form No. 19 under Rule 77 of the applicable election rules. The Presiding Officer of Booth No. 187, Shri Saleem Khan, arrayed as Respondent No. 11 in the election petition and Respondent No. 5 in the present petition, also filed his reply on 02.09.2025. During the pendency of the election petition, the petitioner filed an application dated 07.01.2026 under Order VII Rule 11 CPC, contending that the election petition was not maintainable, as neither Respondent No. 7 nor his authorised agent had sought recounting of votes on the date of counting, i.e., 23.02.2025. Respondent No. 7 filed his reply to the said application on 08.04.2026. However, the learned Election

Tribunal, vide the impugned order dated 22.04.2026, rejected the petitioner's application. Aggrieved thereby, the petitioner has approached this Court challenging the legality and propriety of the impugned order.

4. Mr. Vivek Bhakta, learned counsel for the petitioner submits that the impugned order dated 22.04.2026, whereby the petitioner's application under Order VII Rule 11 of the CPC has been rejected, is contrary to the provisions of the Chhattisgarh Panchayat Nirvachan Niyam, 1995, and the law laid down by the Hon'ble Supreme Court. He submits that neither Respondent No. 7 nor his authorised agent raised any objection or sought recounting of votes at the time of counting on 23.02.2025, as contemplated under Rule 80(1) read with Rule 80(5) of the Rules of 1995. Despite this, Respondent No. 7 subsequently filed an election petition seeking recounting of votes in respect of Booth No. 187. Placing reliance upon **Dharmin Bai Kashyap v. Babli Sahu and Others, (2023) 10 SCC 461**, and the decision of this Court in **Smt. Ishwari Surendra Kashyap v. State of Chhattisgarh and Others, WPC No. 2888 of 2020**, decided on 28.09.2021, which was affirmed in Writ Appeal No. 312 of 2021, learned counsel contends that the election petition is not maintainable in the absence of a request for recounting at the appropriate

stage. He further submits that the learned Election Tribunal has failed to consider the aforesaid binding precedents while rejecting the application under Order VII Rule 11 CPC. Accordingly, he prays for setting aside the impugned order and rejection of the election petition. He also submits that the election proceedings are continuing without proper framing of issues and recording of evidence, which is the subject matter of a separate petition, being WPC No. 454 of 2026, pending before this Court. Learned counsel for the petitioner further places reliance upon the judgment passed by the Hon'ble Supreme Court in **Kanimozhi Karunanidhi vs. Santhana Kumar and Others** reported in **(2024) 18 SCC 592** in support of his contention that the election petition is not maintainable in the absence of a request for recounting at the appropriate stage.

5. Mr. Akhilesh Kumar, Learned State counsel, appearing on behalf of the State, submits that the present writ petition has been filed challenging the order dated 22.04.2026 passed by the Director, Panchayat, in Election Petition No. 08/2025, whereby the petitioner's application under Order VII Rule 11 of the Code of Civil Procedure, 1908, has been rejected. He submits that the impugned order is a reasoned order passed after consideration of the contentions raised by the petitioner

and does not suffer from any illegality or infirmity warranting interference by this Court. It is further submitted that the election petition filed by respondent No. 7 under Section 122 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993, alleging irregularities in the tabulation of votes, is pending consideration before the competent quasi-judicial authority and is required to be decided on its own merits in accordance with law. The petitioner cannot seek to foreclose the statutory remedy available to the election petitioner merely on the ground that no application for recounting was made by him or his authorized agent during the counting process. Learned State counsel further submits that the State are formal parties to the present proceedings and do not wish to make any specific submissions on the merits of the election dispute. The writ petition being devoid of merit, it deserves to be dismissed.

6. Mr. Raghvendra Pradhan, learned counsel appearing for respondent No. 7 submits that the impugned order dated 22.04.2026 passed by the Additional Director, Panchayat, rejecting the petitioner’s application under Order VII Rule 11 of the Code of Civil Procedure, 1908, is legal and proper and does not warrant interference by this Court. It is submitted that, in the election held for the post of Member, Zila

Panchayat, respondent No. 7 secured 167 votes, whereas the petitioner secured 110 votes and another candidate, Khilawan Sahu, secured 99 votes at Polling Booth No. 187. However, respondent No. 7 was not declared the returned candidate. Upon obtaining a certified copy of the tabulation chart on 28.02.2025, respondent No. 7 noticed discrepancies between the tabulation chart and the calculation chart prepared on 23.02.2025. Consequently, he submitted an application dated 28.02.2025 before the District Election Officer seeking correction of the errors under the Chhattisgarh Panchayat Nirvachan Niyam, 1995. Learned counsel further submits that, by order dated 04.03.2025, the Collector/District Election Officer acknowledged the discrepancy in the votes reflected in the relevant records and also noticed overwriting in Proforma-19 concerning the votes secured by the petitioner and Khilawan Sahu. The District Election Officer observed that the discrepancy could be ascertained only by recounting the ballot papers, which was beyond his authority. It is, therefore, contended that respondent No. 7 had no occasion to seek recounting before the Returning Officer during the counting process, as the discrepancies came to his knowledge only after obtaining the certified tabulation chart on 28.02.2025.

7. It is further submitted that the Returning Officer, in his reply to the election petition, has also acknowledged the alleged tampering in Proforma-19. Learned counsel contends that the election petition has been filed within the prescribed period and with proper court fees, and that the petitioner did not raise the ground regarding the absence of a recounting application before the Returning Officer in his application under Order VII Rule 11 CPC. The election petition, therefore, raises triable issues concerning discrepancies in the tabulation of votes and alleged irregularities in the election process, which ought to be adjudicated by the competent authority on their merits. On the aforesaid grounds, learned counsel for respondent No. 7 submits that the impugned order suffers from no illegality or infirmity and prays for dismissal of the writ petition.

8. The finding should focus on the limited scope of Order VII Rule 11 CPC, the pleadings in the election petition as a whole, the specific allegations of discrepancies and alleged manipulation in the election records, and the fact that the election petition has already proceeded to the stage of final hearing. The absence of a request for recounting during counting, or the District Election Officer’s refusal to order recounting, cannot by itself be treated as sufficient to reject

the election petition at the threshold when the pleadings raise disputed questions requiring adjudication on evidence.

9. I have heard learned counsel for the parties and perused the material available on record, including the impugned order dated 22.04.2026 passed by the learned Election Tribunal in Election Petition No. 08/2025.

10. The principal question which arises for consideration in the present writ petition is whether the learned Election Tribunal has committed any illegality in rejecting the petitioner's application under Order VII Rule 11 of the Code of Civil Procedure, 1908, seeking rejection of the election petition on the ground that neither respondent No. 7 nor his authorised agent had sought recounting of votes at the time of counting on 23.02.2025 and as such no cause of action arose for filing election petition in which one of the relief sought is in respect of recounting of votes.

11. Before proceeding further, it would be appropriate to reproduce the relevant provision of Order VII Rule 11 of the Code of Civil Procedure, 1908, which reads as under:

> ***"Order VII Rule 11—Rejection of plaint***
>
> *The plaint shall be rejected in the following cases:—*

(a) where it does not disclose a cause of action;

(b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;

(c) where the relief claimed is properly valued, but the plaint is returned upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;

(d) where the suit appears from the statement in the plaint to be barred by any law;

(e) where it is not filed in duplicate;

(f) where the plaintiff fails to comply with the provisions of Rule 9."

12. The settled position of law is that, while considering an application under Order VII Rule 11 CPC, the Court is required to examine the averments made in the plaint and the documents relied upon therein, read as a whole. The defence raised by the defendant, or the disputed questions which may arise during adjudication, cannot ordinarily be taken into consideration for determining whether the plaint discloses a cause of action.

13. The aforesaid principle has repeatedly been affirmed by the Hon'ble Supreme Court. In ***Saleem Bhai and Others v. State of Maharashtra and Others, (2003) 1 SCC 557***, the Supreme Court held that, for deciding an application under Order VII Rule 11 CPC, the relevant averments are those contained in the plaint, and the plea taken by the defendant in the written statement is wholly immaterial at that stage.

14. In the matter of ***Karam Singh v. Amarjit Singh and Others 2025 SCC OnLine SC 2240***, the Hon'ble Supreme Court has held as under:-

> ***"15.*** *Before we assess the correctness of the impugned orders, we must remind ourselves of the basic principles governing rejection of a plaint under Order 7 Rule 11 of CPC. Here, the defendants seek rejection of plaint under clause (d) of Rule 11 (i.e., suit barred by law). Clause (d) makes it clear that while considering rejection of the plaint thereunder only the averments made in the plaint and nothing else is to be considered to find out whether the suit is barred by law. At this stage, the defense is not to be considered. Thus, whether the suit is barred by any law or not is to be determined on the basis of averments made in the plaint."*

15. Similarly, in ***Popat and Kotecha Property v. State Bank of India Staff Association, (2005) 7 SCC 510***, the Supreme

Court explained that the question whether a plaint discloses a cause of action has to be determined by examining the plaint as a whole and not by isolating particular statements from their context. The Court is required to ascertain whether the material facts pleaded, if taken to be true for the purpose of the application, disclose a cause of action warranting adjudication.

16. Recently, Hon'ble Supreme Court in the matter of ***Kimneo Haokip Hangshing v. Kenn Raikhan and Others 2024 SCC OnLine SC 2548*** has held as under:-

> ***"6.*** *Section 83 of the RPA is reproduced below:*
>
> *"(1) An election petition—*
>
> *(a) shall contain a concise statement of the material facts on which the petitioner relies;*
>
> *(b) shall set forth full particulars of any corrupt practice that the petitioner alleges, including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice; and*
>
> *(c) shall be signed by the petitioner and verified in the manner laid down in the Civil Procedure Code, 1908 (5 of 1908) for the verification of pleadings:*
>
> *Provided that where the petitioner alleges any corrupt practice, the petition shall also be*

accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice and the particulars thereof.

(2) Any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition."

(emphasis supplied)

A perusal of the section shows that an Election Petition should, inter alia, contain a concise statement of material facts and particulars of any corrupt practices which is alleged against the returned candidate, etc. Further, the Proviso to Section 83(1) of the Act requires that the Election Petition shall also be accompanied by an affidavit in prescribed form to support the allegations of corrupt practices.

7. *Over the years, Election Petitions have been filed invariably on the grounds which are similar to the ones raised before this Court.*

The only question is whether the Court can dismiss such a petition at the very threshold on an application under Order VII Rule 11 CPC or that the petition needs a detailed consideration by the Court. The answer to this will depend upon what kind of statutory compliances have been made in the Election Petition.

The case of the present appellant before this Court is that if the provisions as referred above, wherein material details have to be given

by the respondent and particularly the details of corrupt practices etc., has to be strictly construed and any deviation by the respondent on this requirement shall make the petition liable to be dismissed at the very threshold.

All the same, this is not what is the requirement of law. Rather the settled position of law here is that an Election Petition should not be rejected at the very threshold where there is a "substantial compliance" of the provisions.

***12.** In view of the reasons stated above, we see no reason to interfere with the finding of the High Court of Manipur that the Election Petition discloses a cause of action and that there is substantial compliance of the requirements provided under provisions of RPA and thus the petition cannot be dismissed under Order VII Rule 11 CPC."*

17. In ***(2018) 14 SCC 1 Madiraju Venkata Ramana Raju v. Peddireddigari Ramachandra Reddy and Others***, it has been held as under:-

***"38.** It is well settled that the election petition will have to be read as a whole and cannot be dissected sentence-wise or paragraph-wise to rule that the same does not disclose a cause of action. Cause of action embodies a bundle of facts which may be necessary for the plaintiffs to prove in order to get a relief from the Court. The reliefs claimed by the appellant are*

founded on grounds inter alia ascribable to Section 100(1)(d)(i). Further relief has been claimed to declare the appellant as having been elected under Section 101 of the 1951 Act. The cause of action for filing the election petition, therefore, was perceptibly in reference to the material facts depicting that the nomination form of Respondent 1 was improperly accepted by the Returning Officer.

45. *In Kuldeep Singh Pathania [Kuldeep Singh Pathania v. Bikram Singh Jaryal, (2017) 5 SCC 345 : (2017) 3 SCC (Civ) 147] , the decision [Kuldeep Singh Pathania v. Bikram Singh Jaryal, 2014 SCC OnLine HP 5911] of the High Court which is similar to the one under consideration (namely, the impugned judgment) had accepted the explanation offered by the respondents and meticulously dealt with it to conclude that the petition did not disclose any cause of action since it lacked material facts. The High Court passed that order purportedly in exercise of power under Order 14 Rule 2. This Court pointed out the distinction between an order under Order 7 Rule 11 to reject the election petition in limine for non-disclosure of cause of action and an order under Order 14 Rule 2 for disposal of the petition on a preliminary issue. In that case, the order passed by the High Court was relatable only to Order 7 Rule 11. This Court adverted to the decisions in Mayar (H.K.) Ltd. v. Vessel M.V.*

Fortune Express [Mayar (H.K.) Ltd. v. Vessel M.V. Fortune Express, (2006) 3 SCC 100] and Virender Nath Gautam v. Satpal Singh [Virender Nath Gautam v. Satpal Singh, (2007) 3 SCC 617] , and explicated that under Order 7 Rule 11(a), only the pleadings of the plaintiff-petitioner can be looked at as a threshold issue. Whereas, entire pleadings of both sides can be looked into for considering the preliminary issue under Order 14 Rule 2. Neither the written statement nor the averments or case pleaded by the opposite party can be taken into account for answering the threshold issue for rejection of election petition in terms of Order 7 Rule 11(a) of the Act."

18. In ***(2015) 1 SCC 129 Ashraf Kokkur v. K.V. Abdul Khader and Others***, it has been held as under:-

"21. *The pleadings, if taken as a whole, would clearly show that they constitute the material facts so as to pose a triable issue as to whether the first respondent is disqualified to contest election to the Kerala State Legislative Assembly while holding an office of profit under the State Government as Chairperson of the Kerala State Wakf Board. The question is not whether the Chairperson of the Kerala State Wakf Board is an office of profit or not. That is the issue to be tried. The question is whether the petitioner has raised such a question in the*

election petition. The disqualification under the Constitution of India being, holding an office of profit under the State Government. The petitioner has furnished all the material particulars in that regard. Therefore, the petition discloses a cause of action.

22. *After all, the inquiry under Order 7 Rule 11(a) CPC is only as to whether the facts as pleaded disclose a cause of action and not complete cause of action. The limited inquiry is only to see whether the petition should be thrown out at the threshold. In an election petition, the requirement under Section 83 of the RP Act is to provide a precise and concise statement of material facts. The expression "material facts" plainly means facts pertaining to the subject-matter and which are relied on by the election petitioner. If the party does not prove those facts, he fails at the trial [see Philipps v. Philipps [(1878) LR 4 QBD 127 (CA)] (QBD p. 133); Mohan Rawale v. Damodar Tatyaba [(1994) 2 SCC 392] (SCC p. 399, para 16)].*

27. *In Mayar (H.K.) Ltd. v. Vessel M.V. Fortune Express [(2006) 3 SCC 100] , this Court at para 12 held that : (SCC p. 115)*

"12. … The court has to read the entire plaint as a whole to find out whether it discloses a cause of action and if it does, then the plaint cannot be rejected by the court exercising the powers

under Order 7 Rule 11 of the Code. Essentially, whether the plaint discloses a cause of action, is a question of fact which has to be gathered on the basis of the averments made in the plaint in its entirety taking those averments to be correct. A cause of action is a bundle of facts which are required to be proved for obtaining relief and for the said purpose, the material facts are required to be stated but not the evidence except in certain cases where the pleadings relied on are in regard to misrepresentation, fraud, wilful default, undue influence or of the same nature. So long as the plaint discloses some cause of action which requires determination by the court, the mere fact that in the opinion of the Judge the plaintiff may not succeed cannot be a ground for rejection of the plaint."

19. In the light of the aforesaid settled legal position, the question is not whether respondent No. 7 has ultimately established the allegations made in the election petition or whether he is entitled to an order for recounting of votes. The limited inquiry at this stage is whether the averments contained in the election petition, taken as a whole and assumed to be true for the purpose of deciding the application under Order VII Rule 11 CPC, disclose a cause of action or whether the election petition is ex facie barred by law. The merits of the allegations, their evidentiary value and the

entitlement of respondent No. 7 to the reliefs claimed are matters to be considered by the Election Tribunal in accordance with law.

20. In the present case, it is not in dispute that the petitioner was declared elected as a Member of Zila Panchayat, Mahasamund, in the election held on 23.02.2025. Respondent No. 7, who was one of the contesting candidates, instituted Election Petition No. 08/2025 under Section 122 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993, challenging the petitioner's election. The election petition contains allegations of irregularities in the counting and tabulation of votes at Polling Booth No. 187, falling within Nirvachan Kshetra No. 04. Respondent No. 7 has alleged that the petitioner, in connivance with the concerned election authorities, benefited from discrepancies in the election records and has sought, inter alia, a declaration that the petitioner's election is void, recounting of votes polled at the aforesaid booth and consequential relief in respect of declaring him to be elected.

21. A perusal of the pleadings, as referred to by the parties, indicates that respondent No. 7 has not confined his challenge merely to a general or unsupported assertion that the counting was incorrect. He has specifically pleaded

discrepancies between the calculation chart prepared on 23.02.2025 and the tabulation chart subsequently obtained by him. According to respondent No. 7, he secured 167 votes at Polling Booth No. 187, whereas the petitioner secured 110 votes and another contesting candidate, Khilawan Sahu, secured 99 votes, as reflected in the calculation chart relied upon by him. He has further pleaded that, upon obtaining a certified copy of the tabulation chart on 28.02.2025, he discovered discrepancies in the votes recorded in the respective documents.

22. Respondent No. 7 has also relied upon his application dated 28.02.2025 submitted before the District Election Officer and the subsequent order dated 04.03.2025 passed by the Collector/District Election Officer. According to the pleadings, the said authority noticed discrepancies between the calculation chart and the tabulation chart and also referred to overwriting in Proforma-19 concerning the votes recorded against the petitioner and Khilawan Sahu. It is further pleaded that the District Election Officer observed that the discrepancy could be ascertained by recounting the ballot papers, but that he was not empowered to undertake such recounting.

23. These allegations and the documents relied upon by respondent No. 7 form part of the factual foundation of the

election dispute. Whether the alleged discrepancies actually occurred, whether they resulted from any irregularity or malpractice, and whether they materially affect the election result are questions that cannot be conclusively determined merely by examining the application under Order VII Rule 11 CPC.

24. Learned counsel for the petitioner has principally contended that respondent No. 7 did not seek recounting of votes at the time of counting on 23.02.2025, either personally or through his authorised agent, as contemplated under the applicable election rules. Reliance has been placed upon Rule 80(1) read with Rule 80(5) of the Chhattisgarh Panchayat Nirvachan Niyam, 1995, as well as the judgments referred to in the submissions of learned counsel for the petitioner. It is argued that, in the absence of a request for recounting at the prescribed stage, the election petition seeking recounting is not maintainable and is liable to be rejected.

25. The contention requires consideration in the context of the limited jurisdiction exercised under Order VII Rule 11 CPC. The mere fact that no request for recounting was made at the time of counting does not, by itself, dispense with the requirement of examining the entire election petition to determine whether it discloses a cause of action or is ex facie

barred by law. Whether the applicable election rules impose a mandatory requirement in the circumstances pleaded, and what consequences follow from non-compliance with such a requirement, must be considered in the context of the relevant statutory provisions and the specific pleadings in the election petition.

26. It is also relevant that respondent No. 7 has sought to explain the absence of an earlier request for recounting by pleading that the discrepancy became apparent only after he obtained the certified tabulation chart on 28.02.2025. He asserts that, before obtaining that document, he was unaware of the alleged difference between the calculation chart and the tabulation chart. He further relies upon the order dated 04.03.2025 passed by the District Election Officer, which, according to him, recorded discrepancies in the relevant election documents.

27. At this stage, this Court is not required to record any final finding on the correctness of the explanation offered by respondent No. 7 or on the legal sufficiency of the circumstances pleaded by him. However, these averments form part of the overall factual narrative set out in the election petition and cannot be ignored while examining the

petitioner's contention that no cause of action whatsoever has been disclosed.

28. The concept of a cause of action comprises the bundle of material facts which a party is required to establish to obtain the relief claimed. For the purpose of Order VII Rule 11(a) CPC, the Court has to determine whether the facts pleaded, if taken to be true, disclose a legally cognisable basis for seeking the relief. It is not necessary at this preliminary stage for the election petitioner to establish the truth of every allegation or to demonstrate that the relief sought must ultimately be granted. Conversely, a mere assertion of a cause of action would not suffice where the pleadings, read as a whole, disclose no enforceable claim. The decisive consideration is whether the material facts pleaded disclose a cause of action requiring adjudication.

29. In the present case, the allegations regarding discrepancies in the calculation chart and tabulation chart, the alleged overwriting in Proforma-19, the difference in the votes recorded against the contesting candidates and the subsequent proceedings before the District Election Officer constitute the factual basis of the challenge to the petitioner's election. These averments, considered collectively, cannot be treated as wholly irrelevant or incapable of raising an election

dispute at the threshold. Their truth and legal effect remain matters for adjudication by the competent Election Tribunal.

30. The further contention that the District Election Officer had already considered and rejected the request for recounting also does not, by itself, establish that the election petition is liable to be rejected under Order VII Rule 11 CPC. The proceedings before the District Election Officer and the election petition instituted under Section 122 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993, are required to be examined with reference to their respective statutory foundations, the nature of the relief sought and the applicable legal provisions. The fact that the District Election Officer did not undertake recounting, reportedly on the ground of lack of authority, cannot automatically be equated with a determination that the election petition itself is barred by law.

31. Whether the earlier proceedings operate as a legal bar to any part of the relief sought by respondent No. 7 is a question to be determined with reference to the relevant statutory provisions and the pleadings. In the present case, the petitioner has not demonstrated that, merely on the basis of the alleged absence of a request for recounting during the counting process and the subsequent order of the District

Election Officer, the entire election petition is liable to be rejected at the threshold.

32. It is equally important to bear in mind that an application under Order VII Rule 11 CPC cannot be converted into a proceeding for adjudicating the disputed merits of the election petition. The Court, while exercising jurisdiction under the said provision, is not required to weigh the competing versions of the parties, assess the evidentiary value of the election records or determine whether the allegations of manipulation and discrepancies have been proved. Those matters fall within the domain of the adjudication of the election petition, subject to the applicable law.

33. The petitioner's contention that respondent No. 7 did not seek recounting at the appropriate stage may be a matter requiring consideration in the election proceedings. However, the legal consequence of that circumstance must be determined in the light of the applicable election rules and the complete pleadings. It cannot be assumed, without such examination, that the election petition does not disclose any cause of action at all.

34. Another significant aspect of the matter is that the election petition was instituted in March 2025 and has proceeded before the Election Tribunal. As stated by learned counsel for

the parties, issues have been framed, evidence has been recorded and the matter has reached the stage of final hearing or pronouncement of the decision. The stage of the proceedings does not, by itself, preclude consideration of an application under Order VII Rule 11 CPC, if the statutory requirements for its allowance are otherwise satisfied. Nevertheless, the progress of the proceedings reinforces the need to determine the application on the correct legal test rather than on a selective reading of one circumstance, divorced from the remaining pleadings.

35. The question remains whether the election petition, on a meaningful and holistic reading, discloses a cause of action or is barred by law. Since respondent No. 7 has pleaded specific discrepancies in the election records and has relied upon the subsequent proceedings before the District Election Officer, the petitioner's objection cannot be accepted merely by isolating the allegation that no application for recounting was made on the date of counting.

36. On perusal of the impugned order dated 22.04.2026, it appears that the learned Election Tribunal considered the petitioner's objection and declined to reject the election petition under Order VII Rule 11 CPC. Having regard to the scope of the said provision and the nature of the allegations

contained in the election petition, this Court finds no sufficient ground to hold that the Election Tribunal committed an error of law in reaching that conclusion. The petitioner has not established that the election petition, on its face, fails to disclose a cause of action or that the entire proceeding is ex facie barred by law.

37. It is clarified that the observations made herein are confined to the question of rejection of the election petition under Order VII Rule 11 CPC. This Court has not expressed any opinion on the truth of the allegations of malpractice, the correctness of the disputed election records, the entitlement of respondent No. 7 to recounting or the ultimate validity of the petitioner's election. All such questions shall be considered by the Election Tribunal in accordance with law, on the basis of the pleadings, evidence and applicable statutory provisions, without being influenced by any observation in this order on the merits of the election dispute.

38. In view of the foregoing discussion, this Court is of the considered opinion that the learned Election Tribunal has not committed any illegality or jurisdictional error warranting interference in exercise of writ jurisdiction. The present writ petition, filed by the returned candidate challenging the rejection of his application under Order VII Rule 11 CPC, is

accordingly **dismissed.** The impugned order dated 22.04.2026 passed in Election Petition No. 08/2025 is affirmed. The Election Tribunal shall proceed to decide the election petition in accordance with law.

39. No order as to costs.

Sd/-

(Amitendra Kishore Prasad)
Judge

Vishakha

HEAD-NOTE

“At the stage of Order VII Rule 11 CPC, an election petition must be read as a whole, confining to its pleadings, to see if cause of action is disclosed. Allegations of discrepancy in vote tabulation and manipulation of election records disclose triable issues and cannot be rejected merely for not seeking recount at the time of counting; the same are to be adjudicated by the Tribunal on merits.”