CGHC010199252026 2026:CGHC:46384

VISHAKHA BEOHAR

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**AFR**

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**WPC No. 2578 of 2026**

**Order Reserved on 27.10.2026**

**Order Delivered on 03.11.2026**

**1 -** Jageshwar Juganu Chandrakar S/o Shri Nandkumar Chandrakar Aged About 53 Years R/o Ward No. 29, Bhalesar Road, Mahasamund, 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 Additional Director Directorate Panchayat, New Mantralaya, Mahaadi Bhawan, Atal Nagar, New Raipur, Distt. Raipur,

Chhattisgarh.

**4 -** The Collector Cum District Electoral Officer Zila Panchayat, Distt. Mahasamund, Chhattisgarh.

**5 -** Returning Officer Zila Panchayat Mahasamund, Sachchidanand Alok, Chief Executive Officer, Zila Panchayat Mahasamund, Chhattisgarh.

**6 -** The Counting And Tabulation Officer Krishna Kumar Sahu, Tahsildar, Mahasaumund Distt. Mahasamund, Chhattisgarh.

**7 -** Prem Chandrakar S/o Shri Bihari Lal Chandrakar Aged About 52 Years R/o Village Nandgaon, Post Belsoda, Tahsil And Distt. Mahasamund, Chhattisgarh.

**8 -** Amit Chandrakar Aged About 31 Years, R/o Village Bakma, Ward No. 02, Post Dhansuli, Tahsil And Distt. Mahasamund, Chhattisgarh.

**9 -** Ashish Chandrakar Aged About 32 Years, R/ovillage Bakma Ward No. 01, Post Dhansuli, Tehsil And Distt. Mahasamund, Chhattisgarh.

**10 -** Bhojram Sahu Aged About 56 Years, R/o Village And Post Sher, Tahsil And Distt. Mahasamund, Chhattisgarh.

**11 -** Bhupendra Patel Aged About 52 Years, R/o Village Pirda, Post Tumgaon, Tahsil And Distt. Mahasamund, Chhattisgarh.

**12 -** Chamman Lal Chandrakar Aged About 51 Years, R/o Village

And Post Belsonda, Ward No. 11, Tahsil And Distt. Mahasamund, Chhattisgarh.

**13 -** Chandraprakash Dhidhi Aged About 50 Years, R/o Village And Post Bhoring, P.S. Tumgaon, Tahsil And Distt. Mahasamund, Chhattisgarh.

**14 -** Chandrahas Chandrakar Aged About 30 Years, R/o Village And Post Bemcha, Tahsil And Distt. Mahasamund, Chhattisgarh.

**15 -** Gaukaran Sahu Aged About 52 Years, R/o Village And Post Machewa, Tahsil And Distt. Mahasamund, Chhattisgarh.

**16 -** Hemant Kumar Sahu (Prasad) Aged About 58 Years, R/o Village Barondabazar, Post Bamhni, Tahsil And Distt. Mahasamund, Chhattisgarh.

**17 -** Jabbar Singh Chandrakar Aged About 48 Years, R/o Village Kharora, Post Bemcha, Tahsil And Distt. Mahasamund, Chhattisgarh.

**18 -** Lekhram Joshi Aged About 60 Years, R/o Village And Post Khatti, Tahsil And Distt. Mahasamund, Chhattisgarh.

**19 -** Sachin Gayakwad Aged About 46 Years, R/o Village Barondabazar, Post Bamhni, Tahsil And Distt. Mahasamund, Chhattisgarh.

**20 -** Yatendra Sahu Aged About 52 Years, R/o Village And Post Birkoni, Tahsil And Distt. Mahasamund, Chhattisgarh.

**... Respondents**

**(Cause-title taken from the Case Information System)**

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

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

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

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**SB-Hon'ble Shri Justice Amitendra Kishore Prasad**

**CAV Order**

**1.** By way of the present petition, the petitioner, being the returned candidate, has challenged the order dated 22.04.2026 passed in Election Petition No. 06/2025, whereby his application under Order VII Rule 11 read with Section 151 CPC seeking rejection of the election petition filed by respondent No. 7 under Section 122 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993, 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, Hon'ble Court may kindly be pleased to set-aside / quash the impugned order Dt. 22.04.2026 (ANN P-1 relevant internal page No. 41) passed by the office of the Respondent No.02 under the signature of Respondent No.03, in case No. 06/2025 "Prem Chandrakar Vs.*

*Jageshwar Juganu Chandrakar and 17 others" and allow the application filed by the Petitioner / Return candidate U/o. 07 Rule 11 R/w. Section 151 of CPC before the Respondent No.02, in the interest of justice.*

*10.3 That, the Hon'ble Court may kindly be pleased to set- aside the proceedings pending before the Respondent No.02 vide Case No. 06/2025 "Prem Chandrakar Vs. Jageshwar Juganu Chandrakar and 17 others" in view of the dicta laid down by the Hon'ble Supreme Court (Supra), in the interest of justice.*

*10.4 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, being the returned candidate, has challenged the order dated 22.04.2026 passed by respondent No. 2 in Election Petition No. 06/2025, *Prem Chandrakar v. Jageshwar Juganu Chandrakar and 17 Others*, whereby his application under Order VII Rule 11 read with Section 151 of the Code of Civil Procedure, 1908, seeking rejection of the election petition filed by respondent No. 7 under Section 122 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993, was rejected. The election for the post of District Development Councilor (DDC) for Election Area No. 01, District Mahasamund, was held on 23.02.2025. The

petitioner contested the election and was declared elected on 25.02.2025, having secured the highest number of votes. Respondent No. 7, Prem Chandrakar, subsequently filed an election petition on 10.03.2025 under Section 122 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993, seeking recounting of votes polled at Booth No. 80. During the pendency of the election petition, the petitioner filed his reply on 23.07.2025. Thereafter, on 07.01.2026, he moved an application under Order VII Rule 11 read with Section 151 CPC, contending that the election petition was not maintainable because respondent No. 7 had not pleaded that he had made an application for recounting of votes before the Election Booth Officer at Booth No. 80 at the time of counting. According to the petitioner, such a pleading was a statutory requirement for maintaining an election petition seeking recounting of votes. Respondent No. 7 filed his reply opposing the application, and the petitioner also advanced written arguments on 15.04.2026 in support of his objection. The petitioner further contends that respondent No. 7 had alleged tampering with the counting and tabulation of votes at Booth No. 80, involving 261 votes. Respondent No. 7 had also submitted an application for recounting before the Returning Officer, Zila Panchayat, Mahasamund (respondent

No. 5), on 04.03.2025. The said application was rejected by order dated 05.03.2025. The relevant counting slips and tabulation chart have been placed on record. By the impugned order dated 22.04.2026, respondent No. 2 rejected the petitioner's application under Order VII Rule 11 read with Section 151 CPC. Aggrieved thereby, the petitioner has approached this Court, contending that the election petition ought to have been rejected at the threshold for want of the requisite pleading regarding an application for recounting before the Election Booth Officer at the time of counting.

**4.** Mr. Vivek Bhakta, learned counsel for the petitioner submits that the impugned order dated 22.04.2026, passed by respondent No. 2 in Election Petition No. 06/2025, is contrary to law, as the election petition filed by respondent No. 7 under Section 122 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993, does not contain the necessary pleading that an application for recounting of votes was made before the Election Booth Officer, Booth No. 80, at the time of counting. It is contended that, in the absence of such a material pleading, the election petition seeking recounting of votes was not maintainable and the application filed by the petitioner under Order VII Rule 11 read with Section 151 of the Code of Civil Procedure, 1908, ought to have been

allowed. Learned counsel further submits that Rule 80(1) and Rule 80(5) of the Chhattisgarh Panchayat Nirvachan Niyam, 1995, prescribe the procedure for seeking recounting of votes and provide that no application for recounting shall be entertained after completion of the prescribed process of counting and preparation of the result sheet, subject to the proviso to sub-rule (5). In the present case, the election result was declared on 25.02.2025, whereas the election petition was filed on 10.03.2025. It is, therefore, contended that the failure to comply with the prescribed procedure renders the election petition seeking recounting of votes unsustainable.

**5.** Placing reliance upon the decisions of the Hon'ble Supreme Court in **Dharmin Bai Kashyap v. Babli Sahu and Others, (2023) 10 SCC 461, and Kanimozhi Karunanidhi v. A. Santhana Kumar and Others, 2023 SCC OnLine SC 573**, as well as 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 argues that the requirement of seeking recounting in accordance with the prescribed procedure cannot be dispensed with. It is further submitted that the Election Tribunal proceeded with the election petition without properly

addressing the objection regarding maintainability and without framing any necessary additional issue or affording an adequate opportunity to the petitioner to adduce evidence on the allegations of alleged manipulation of votes at Booth No. 80. On the aforesaid grounds, learned counsel submits that the impugned order rejecting the application under Order VII Rule 11 CPC is unsustainable in law and prays that the same be set aside and the election petition filed by respondent No. 7 be rejected.

**6.** Mr. Akhilesh Kumar, learned State counsel, appearing on behalf of respondent Nos. 1 to 4, submits that the present writ petition is misconceived and devoid of merit. It is contended that the petitioner has challenged the order dated 22.04.2026 passed by the Director, Panchayat, in the pending election proceedings, whereby his application under Order VII Rule 11 of the Code of Civil Procedure, 1908, seeking rejection of the election petition filed under Section 122 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993, has been rejected. Learned State counsel further submits that the impugned order is a reasoned order passed by the competent quasi-judicial authority after considering the objections raised by the petitioner, and no illegality or infirmity warranting interference by this Court has been demonstrated. It is contended that the

election petition is still pending consideration before the competent authority and is required to be decided on its own merits and in accordance with law. It is further submitted that the State is a formal party to the present proceedings and has no specific role in the adjudication of the dispute between the petitioner and the election petitioner. The State does not wish to make any specific submissions on the merits of the pending election proceedings and leaves the matter to be decided by the competent authority in accordance with law. On the aforesaid grounds, learned State counsel submits that the writ petition is devoid of merit and deserves to be dismissed.

**7.** Mr. Raghvendra Pradhan, learned counsel for respondent No. 7 submits that the present writ petition is misconceived and devoid of merit, as the petitioner has failed to make out any ground warranting interference with the impugned order dated 22.04.2026, whereby his application under Order VII Rule 11 read with Section 151 of the Code of Civil Procedure, 1908, seeking rejection of the election petition, has been dismissed. Learned counsel further submits that the election for the post of Member, Zila Panchayat, Election Area No. 01, District Mahasamund, was held on 23.02.2025, and counting of votes was undertaken at the respective polling booths on the same

day. However, when the tabulation was carried out on 25.02.2025, respondent No. 7 noticed that, as per the figures displayed on the computer screen, he had secured 9,149 votes, whereas the petitioner had secured 9,046 votes. Despite this, the petitioner was declared elected. Respondent No. 7, therefore, submitted an application dated 04.03.2025 before the Collector, District Mahasamund, seeking correction of the alleged clerical and computational errors in the tabulation. It is contended that, upon examination of the relevant records, discrepancies and alleged overwriting in the counting and tabulation documents came to light. In particular, at Booth No. 80, the figure of 161 votes was allegedly altered to 261 in Proforma-19, Part I. Similarly, at Booth No. 79, the figure of 123 was allegedly altered to 173 in the calculation chart; at Booth No. 82, the serial numbers and votes recorded against the petitioner and another candidate, Lekhram, were allegedly interchanged; and at Booth No. 55, Sachin Gayakwad's votes were allegedly recorded as 46 in the tabulation despite the calculation chart reflecting 216 votes. Learned counsel submits that these discrepancies materially affected the election result, wherein the petitioner was declared elected by a margin of 31 votes over respondent No. 7.

**8.** Learned counsel further submits that the Collector, by order dated 05.03.2025, declined to undertake recounting on the ground that the authority to open the ballot papers and recount the votes was not vested in him under the applicable provisions. It is, therefore, contended that the application submitted before the Collector was for correction of alleged clerical and computational errors and not an application for recounting as such. Respondent No. 7 subsequently sought recounting in the election petition after the alleged discrepancies came to light. Consequently, the question of res judicata does not arise, as the Collector had declined to undertake recounting for want of jurisdiction. It is also contended that the objection regarding the absence of a pleading that an application for recounting had been made before the Election Booth Officer at the time of counting was not raised in the manner now sought to be urged by the petitioner. Learned counsel submits that the petitioner cannot rely upon a ground allegedly not raised before the Election Tribunal to contend that the Tribunal failed to consider it. The allegations concerning discrepancies in the counting and tabulation records raise issues requiring adjudication in the pending election petition and cannot, according to learned counsel, be summarily rejected at the threshold under Order

VII Rule 11 CPC. On the aforesaid grounds, learned counsel for respondent No. 7 submits that the impugned order does not suffer from any illegality warranting interference by this Court and prays that the writ petition be dismissed.

**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. 06/2025.

**10.** The principal question that arises for consideration in the present writ petition is whether the learned Election Tribunal has committed any illegality or jurisdictional error in rejecting the petitioner's application under Order VII Rule 11 read with Section 151 of the Code of Civil Procedure, 1908, seeking rejection of the election petition filed by respondent No. 7 under Section 122 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993, primarily on the ground that respondent No. 7 had neither personally nor through his authorised agent 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 contained in the plaint or

election petition, read as a whole, along with the documents forming part thereof, insofar as permissible under law. The defence raised by the opposite party and disputed questions requiring appreciation of evidence ordinarily cannot be taken into consideration for deciding whether the pleadings disclose a cause of action. Similarly, where rejection is sought on the ground that the proceeding is barred by law, such bar must be apparent from the statements contained in the pleadings themselves.

**13.** In **Saleem Bhai and Others v. State of Maharashtra and Others, (2003) 1 SCC 557**, the Hon'ble 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 pleas taken by the defendant in the written statement are 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 Hon'ble Supreme Court explained that the question whether a plaint discloses a cause of action must 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.** Applying the aforesaid principles to the present case, the question at this stage is not whether respondent No. 7 has conclusively established the allegations concerning discrepancies in the counting and tabulation of votes or whether he is ultimately entitled to an order of recounting. The limited inquiry 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 adjudicated by the Election Tribunal in accordance with law.

**20.** In the present case, it is not in dispute that the election for the post of Member, Zila Panchayat, Election Area No. 01,

District Mahasamund, was held on 23.02.2025 and that the petitioner was declared elected on 25.02.2025. Respondent No. 7, who was also a contesting candidate, instituted an election petition under Section 122 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993, challenging the election result and seeking, inter alia, recounting of votes on the ground of alleged discrepancies in the counting and tabulation records.

**21.** The case set up by respondent No. 7 is that the counting of ballot papers at the respective polling booths took place on 23.02.2025, whereas the tabulation of votes was carried out on 25.02.2025. According to respondent No. 7, when the figures were displayed on the computer screen during tabulation, he noticed that his total votes were shown as 9,149, whereas the petitioner's votes were shown as 9,046. Despite the figures allegedly displayed, the petitioner was declared elected. Respondent No. 7 has accordingly pleaded that he subsequently approached the Collector, District Mahasamund, by an application dated 04.03.2025, seeking correction of the alleged clerical and computational errors in the election records.

**22.** Respondent No. 7 has further relied upon the order dated 05.03.2025 passed by the Collector and has alleged that,

during examination of the relevant records, discrepancies in the calculation charts and tabulation documents came to light. In particular, it is alleged that, in Proforma-19, Part I, pertaining to Booth No. 80, the figure of 161 votes recorded against the petitioner was altered to 261. It is further alleged that, in the calculation chart pertaining to Booth No. 79, the figure of 123 was altered to 173 without any initial or authentication. With respect to Booth No. 82, respondent No. 7 alleges that the serial numbers and votes recorded against the petitioner and another candidate, Lekhram, were interchanged, resulting in 10 votes being attributed to Lekhram and 144 votes being attributed to the petitioner. It has also been alleged that, in the case of Booth No. 55, the calculation chart reflected 216 votes in favour of Sachin Gayakwad, whereas the tabulation allegedly recorded only 46 votes.

**23.** The aforesaid allegations constitute the factual foundation of the election dispute raised by respondent No. 7. Whether the discrepancies actually occurred, whether they resulted from inadvertent clerical errors or any other irregularity, whether the relevant documents were altered, and whether such discrepancies materially affected the election result are matters requiring examination of the original election records

and such evidence as may be adduced by the parties. These questions cannot ordinarily be conclusively determined while considering an application under Order VII Rule 11 CPC, unless the election petition is otherwise liable to rejection on a ground expressly contemplated under the said provision.

**24.** Learned counsel for the petitioner has principally contended that respondent No. 7 did not make any application for recounting of votes before the Election Booth Officer at Booth No. 80 at the time of counting on 23.02.2025. It is argued that, in view of Rule 80(1) read with Rule 80(5) of the Chhattisgarh Panchayat Nirvachan Niyam, 1995, a request for recounting was required to be made at the prescribed stage and that, in the absence of such a request, the subsequent election petition seeking recounting is not maintainable.

**25.** Rule 80 of the Chhattisgarh Panchayat Nirvachan Niyam, 1995, provides the procedure governing recounting of votes. Sub-rule (5) stipulates that, after the total number of votes polled by each candidate has been announced and the result sheet has been completed and signed, no application for recounting shall be entertained thereafter, subject to the proviso contained therein. The requirement of following the prescribed election procedure is undoubtedly a relevant

consideration while examining a challenge seeking recounting of votes. However, the legal consequence of the alleged non-compliance must be determined with reference to the precise statutory provision, the nature of the election dispute and the material averments contained in the election petition.

**26.** In this context, the distinction between the absence of a request for recounting at the time of counting and the subsequent discovery of an alleged discrepancy in the election records assumes relevance to the case pleaded by respondent No. 7. Respondent No. 7 asserts that he did not seek recounting at the time of counting because the discrepancy relied upon by him became apparent during the subsequent tabulation process. He claims that the figures displayed during tabulation did not correspond with the figures reflected in the relevant calculation charts and that he approached the Collector on 04.03.2025 after noticing the alleged discrepancy.

**27.** Learned counsel for respondent No. 7 has further submitted that the application dated 04.03.2025 was not an application seeking recounting of votes as such, but was made for correction of the alleged clerical and computational errors in the tabulation. According to him, the Collector, by order dated 05.03.2025, declined to undertake recounting on the ground

that he lacked the requisite authority to open the ballot papers and recount the votes. It is contended that respondent No. 7 thereafter approached the Election Tribunal under Section 122 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993, seeking appropriate relief in respect of the alleged discrepancies.

**28.** 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 to determine whether the circumstances pleaded by him legally justify a departure from the procedure prescribed under Rule 80 of the Chhattisgarh Panchayat Nirvachan Niyam, 1995. Equally, this Court is not required to determine whether the order passed by the Collector operates as a bar to any relief sought in the election petition. These questions must be examined in the light of the relevant statutory provisions, the complete pleadings and the applicable legal principles. For the limited purpose of the present application, however, the explanation forms part of the factual narrative pleaded by respondent No. 7 and cannot be ignored merely because the petitioner disputes its legal sufficiency.

**29.** The contention of learned counsel for the petitioner that the election petition is not maintainable in the absence of a

pleading regarding an application for recounting at Booth No. 80 must, therefore, be considered in the context of the entire election petition. The question under Order VII Rule 11(a) CPC is whether the material facts pleaded disclose a cause of action. 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 the aforesaid provision, the Court must determine whether the pleaded facts, if taken to be true, disclose a legally cognisable basis for seeking 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.

**30.** In the present case, respondent No. 7 has relied upon specific alleged discrepancies in the calculation charts and tabulation records pertaining to Booth Nos. 55, 79, 80 and 82. He has also relied upon his application dated 04.03.2025 submitted before the Collector and the subsequent order dated 05.03.2025. These allegations, considered collectively, constitute the factual basis of the challenge to the election result. Whether the discrepancies are genuine, whether they can be attributed to any irregularity in the counting or tabulation process, and whether they materially affected the

result are questions that require adjudication on the basis of the relevant records and evidence.

**31.** It is equally important to note that the 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 Election Tribunal, subject to the applicable statutory provisions and the principles governing election disputes.

**32.** The petitioner has also relied upon Rule 80(5) of the Chhattisgarh Panchayat Nirvachan Niyam, 1995, to contend that no application for recounting could be entertained after completion of the prescribed process of counting and preparation of the result sheet. The provision and the judgments relied upon by learned counsel for the petitioner are relevant to the ultimate determination of the legality of the relief claimed by respondent No. 7. Nevertheless, for the purpose of deciding the application under Order VII Rule 11 CPC, it must be established that the election petition, on a

meaningful reading of its averments, is barred by law. The mere assertion that no request for recounting was made at the time of counting does not dispense with the requirement of examining the complete pleadings and determining whether the statutory bar is apparent from the election petition itself.

**33.** In this regard, the decision in **Smt. Ishwari Surendra Kashyap v. State of Chhattisgarh and Others, WPC No. 2888 of 2020**, affirmed in Writ Appeal No. 312 of 2021, as relied upon by the petitioner, must be considered in the context of the statutory provisions and the factual circumstances governing the present dispute. The applicability and effect of the aforesaid decision, as well as the judgments of the Hon'ble Supreme Court relied upon by the petitioner, are matters for consideration by the Election Tribunal while adjudicating the election petition. At this stage, this Court is concerned only with the legality of the order rejecting the application under Order VII Rule 11 CPC and is not called upon to decide the election petition itself.

**34.** The further contention concerning the order dated 05.03.2025 passed by the Collector also does not, by itself, establish that the election petition is liable to be rejected at the threshold. According to respondent No. 7, the Collector

declined to undertake recounting on the ground of lack of authority and did not adjudicate the election dispute on its merits. Whether the said order has any legal consequence for the proceedings instituted under Section 122 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993, and whether any principle of res judicata or other legal bar is attracted are questions to be examined with reference to the nature of the earlier proceedings, the jurisdiction exercised therein and the reliefs sought in the election petition. On the material placed before this Court, the petitioner has not established that the order of the Collector, by itself, renders the entire election petition ex facie barred by law.

**35.** On perusal of the impugned order dated 22.04.2026, it appears that the learned Election Tribunal rejected the petitioner's application under Order VII Rule 11 CPC and declined to terminate the election proceedings at the threshold. Having regard to the scope of the said provision and the nature of the allegations raised by respondent No. 7, this Court finds no sufficient ground to hold that the Election Tribunal committed an error of law or exceeded its jurisdiction in rejecting the application. The petitioner has not demonstrated that the election petition, on its face and upon a meaningful reading of its pleadings, fails to disclose a cause

of action or is wholly barred by law so as to warrant its rejection under Order VII Rule 11 CPC.

**36.** 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 concerning discrepancies or alleged tampering in the election records, the correctness of the tabulation, the entitlement of respondent No. 7 to recounting, or the ultimate validity of the petitioner's election. The Election Tribunal shall consider all such questions independently, in accordance with law, on the basis of the pleadings, evidence and applicable statutory provisions, without being influenced by any observation made in this order on the merits of the election dispute.

**37.** In view of the foregoing discussion, this Court is of the considered opinion that the petitioner has failed to establish any illegality or jurisdictional error in the impugned order dated 22.04.2026 warranting interference in exercise of writ jurisdiction. Accordingly, the writ petition is **dismissed**. The impugned order dated 22.04.2026 passed by the learned Election Tribunal in Election Petition No. 06/2025 is affirmed. The Election Tribunal shall proceed to decide the election petition in accordance with law.

**38.**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.”