CGHC010431072026 2026:CGHC:46760

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 5504 of 2026

Smt. Shweta Poorna W/o. Satmohan Poorna Aged About 33 Years R/o. Village Manikpur, Gram Panchayat, Manikpur, Tehsil Bodla, Dist Kabirdham (C.G.)

... Petitioner(s)

versus

1 - State Of Chhattisgarh Through The Secretary, Department Of Panchayat And Rural Development, Vikas Bhawan, Ground Floor, Sector 19, North Block, Atal Nagar, Naya Raipur, Dist Raipur (C.G.)

2 - Collector And District Election Officer Kabirdham, Dist Kabirdham (C.G.)

3 - Sub-Divisional Officer And Presiding Officer (Panchayat) Bodla, Dist Kabirdham (C.G.)

4 - Returning Officer (Panchayat) And Tehsildar Bodla, Tehsil Office Bodla, Dist Kabirdham (C.G.)

5 - Smt. Chameli Chandrawanshi W/o. Kedar Chandrawanshi R/o. Village Manikpur, Gram Panchayat, Manikpur, Tehsil Bodla, Dist Kabirdham (C.G.)

6 - Smt. Nirmala Chandrawanshi W/o. Hariram Chandrawanshi R/o. Village Manikpur, Gram Panchayat, Manikpur, Tehsil Bodla, Dist Kabirdham (C.G.)

7 - Smt. Pampi Chandrawanshi W/o. Devnarayan Chandrawanshi R/o. Village Manikpur, Gram Panchayat, Manikpur, Tehsil Bodla, Dist Kabirdham (C.G.)

... Respondent(s)

(Cause-title taken from the Case Information System)

For Petitioner **:-** Mr. N. Naha Roy, Advocate
For State :- Mr. Akhilesh Kumar, GA
For Respondent No.5 :- Mr. Chandrikaditya Pandey, Advocate

SB-Hon'ble Shri Justice Amitendra Kishore Prasad

Order on Board

04.11.2026

1. By way of the present petition, the petitioner is challenging the order dated 22.10.2026 passed by respondent No. 3, whereby the election petition preferred by respondent No. 5 herein, challenging the election of the petitioner to the post of Sarpanch under Section 122 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 (hereinafter referred to as the "Adhiniyam of 1993"), has been allowed. By the said order, directions have been issued for opening of the ballot boxes and recounting of votes in the presence of all concerned, without framing the necessary issues and without affording the petitioner a proper opportunity of hearing

and to lead evidence, which, in the facts and circumstances of the case, was an essential requirement in law.

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

> *“10.1 Issue an appropriate writ in the nature of mandamus and quash the order dated 22.10.2026 (Annexure P/1) passed by the respondent No. 3 in the election petition filed by the respondent No. 5 herein for the same being absolutely arbitrary and illegal.*
>
> *10.2. That the Hon’ble Court may kinldy 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 duly elected Sarpanch of Gram Panchayat Manikpur, District Kabirdham (C.G.), has preferred the instant writ petition challenging the order dated 22.10.2026 passed by respondent No. 3, whereby the election petition preferred by respondent No. 5 under Section 122 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993, has been allowed, directing the reopening of ballot boxes and recounting of votes, with a further direction to alter the declared election result in the event of any variation. The petitioner was declared elected by a margin of two votes in the election held on 20.02.2025. Respondent No. 5 challenged the election primarily on the grounds of inadequate electricity arrangements, delay in counting and improper scrutiny of ballot papers. However, the election petition was decided without framing the necessary issues,

without affording the petitioner an effective opportunity to cross-examine the witnesses or to lead evidence in rebuttal, and without recording sufficient reasons to justify the recounting of votes. Furthermore, despite the report of the Returning Officer indicating that there was no interruption or disturbance during the counting process, respondent No. 3 directed recounting merely on the basis of the allegations made in the election petition and the affidavits filed therein. It is contended that the impugned order has been passed in gross violation of the principles of natural justice and the settled legal principles governing recounting of votes. The impugned order is, therefore, arbitrary and procedurally unsustainable and warrants interference by this Court. Hence, the writ petition.

4. Mr. N. Naha Roy, learned counsel for the petitioner, submits that respondent No. 5 herein has filed an election petition under Section 122 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 (hereinafter referred to as the "Adhiniyam of 1993"), challenging the election of the petitioner. He submits that the concerned Sub-Divisional Officer-cum-Prescribed Authority, Bodla, District Kabirdham (C.G.), has allowed the election petition without framing issues and without recording the evidence of the parties, in violation of Rule 11 of the Chhattisgarh Panchayats (Election Petitions, Corrupt Practices and Disqualification for Membership) Rules, 1995 (hereinafter referred to as the "Rules of 1995"). He further submits that, in terms of Rule 11 of the Rules of 1995, an

election petition is required to be enquired into, as nearly as may be, in accordance with the procedure applicable to the trial of suits under the Code of Civil Procedure, 1908. Therefore, respondent No. 1 was required to frame appropriate issues and afford the parties an opportunity to lead evidence and to examine and cross-examine witnesses. Learned counsel submits that the framing of issues and examination of witnesses are essential for the proper adjudication of an election petition. He further contends that the impugned order, having been passed without framing issues or recording evidence, is contrary to the statutory procedure and is, therefore, liable to be set aside. Accordingly, he prays that the matter be remitted to respondent No. 1 for fresh adjudication of the election petition in accordance with law.

5. Mr. Akhilesh Kumar, learned State counsel, fairly submits that, upon perusal of the impugned order, it appears that the procedure prescribed under the Rules has not been duly followed by the concerned authority. He further submits that the issues were not framed, nor was any evidence of the parties recorded before adjudicating the election petition. Thus, the mandatory procedural requirements contemplated under the Rules have not been complied with. Learned State counsel, therefore, fairly concedes that the impugned order has been passed without adhering to the procedure prescribed under law and, as such, cannot be said to be legally sustainable.

6. Learned counsel appearing for respondent No. 5 submits that the difference between the votes secured by the petitioner and respondent No. 5 is merely two votes. He further submits that, in view of the narrow margin of victory, the concerned authority has rightly passed an order directing recounting of votes without undertaking a detailed exercise of recording evidence. He, therefore, contends that the impugned order has been passed in accordance with law and does not warrant any interference by this Court.

7. Having heard learned counsel for the parties and perused the material available on record.

8. The Chhattisgarh Panchayats (Election Petitions, Corrupt Practices & Disqualification for Membership) Rules, 1995, framed under Section 95(1) read with sub-sections (1) & (3) of Section 122 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993, lay down the procedure to be followed in election petitions. In particular, Rule 11 and Rule 12 are relevant, which are reproduced below :

> " ***Rule 11. Procedure before the specified officer and his powers - (1)*** *Subject to the provisions of these rules, every election petition shall be enquried into by the specified officer as nearly, as may be, in accordance with the procedure applicable under the Code of the Civil Procedure, 1908 to the trial of suits:*

Provided that it shall only be necessary for the specified officer to make a memorandum of the substance of the evidence of any witness examined by him.

Rule 12. Parties to produce their witnesses –

It shall be the duty of the parties to produce their witnesses on the date fixed for evidence, and they shall not be entitled to an adjournment for non-attendance of their witnesses:

Provided that the specified officer may, at his discretion, order the issue of summons to any witness on the necessary process fee and costs being deposited by the party concerned."

9. The Hon'ble Supreme Court in the matter of ***Makhan Lal Bangal vs. Manas Bhunia & Others***, ***(2001) 2 SCC 652*** has laid down that an election petition is to be treated like a civil trial, requiring the framing of issues and the recording of evidence. The trial of an election petition must proceed in a manner similar to that of a civil suit, where the issues are framed, evidence is led, and the merits of the petition are examined. The summary dismissal of the petition at the preliminary stage, without framing issues or recording evidence, is contrary to the established legal procedure. Relevant paragraph of the said judgment is quoted below for ready reference :

“19. An election petition is like a civil trial. The stage of framing the issues is an important one inasmuch as on that day the scope of the trial is determined by laying the path on which the trial shall proceed excluding diversions and departures therefrom. The date fixed for settlement of issues is, therefore, a date fixed for hearing. The real dispute between the parties is determined, the area of conflict is narrowed and the concave mirror held by the court reflecting the pleadings of the parties pinpoints into issues, the disputes on which the two sides differ. The correct decision of civil lis largely depends on correct framing of issues, correctly determining the real points in controversy which need to be decided. The scheme of Order 14 of the Code of Civil Procedure dealing with settlement of issues shows that an issue arises when a material proposition of fact or law is affirmed by one party and denied by the other. Each material proposition affirmed by one party and denied by other should form the subject of a distinct issue. An obligation is cast on the court to read the plaint/petition and the written statement/counter, if any, and then determine with the assistance of the

learned counsel for the parties, the material propositions of fact or of law on which the parties are at variance. The issues shall be framed and recorded on which the decision of the case shall depend. The parties and their counsel are bound to assist the court in the process of framing of issues. Duty of the counsel does not belittle the primary obligation cast on the court. It is for the Presiding Judge to exert himself so as to frame sufficiently expressive issues. An omission to frame proper issues may be a ground for remanding the case for retrial subject to prejudice having been shown to have resulted by the omission. The petition may be disposed of at the first hearing if it appears that the parties are not at issue on any material question of law or of fact and the court may at once pronounce the judgment. If the parties are at issue on some questions of law or of fact, the suit or petition shall be fixed for trial calling upon the parties to adduce evidence on issues of fact. The evidence shall be confined to issues and the pleadings. No evidence on controversies not covered by issues and the pleadings, shall normally be admitted, for each party leads evidence in support of issues the

burden of proving which lies on him. The object of an issue is to tie down the evidence and arguments and decision to a particular question so that there may be no doubt on what the dispute is. The judgment, then proceeding issue-wise would be able to tell precisely how the dispute was decided."

10. Rule 11 of the Chhattisgarh Panchayats (Election Petitions, Corrupt Practices and Disqualification for Membership) Rules, 1995 specifically provides that every election petition shall be enquired into by the specified officer, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908 to the trial of suits. The aforesaid provision, when read with Rule 12 of the Rules of 1995, clearly contemplates an adjudicatory process wherein the real questions in controversy between the parties are required to be identified and the parties are to be afforded an opportunity to produce their witnesses and lead evidence in support of their respective cases.

11. This Court is of the considered opinion that, in view of the nature of the controversy raised in the election petition, the concerned authority ought to have framed appropriate issues on the basis of the pleadings of the parties and thereafter afforded them adequate opportunity to lead evidence in support of their respective claims. The election petition could not have been dismissed in a summary manner without framing issues and without recording evidence,

particularly when specific factual disputes relating to the counting of votes. The course adopted by concerned authority is contrary to the procedure contemplated under Rule 11 of the Rules of 1995 and the principles laid down by the Hon'ble Supreme Court in Makhan Lal Bangal v. Manas Bhunia and Others, (2001) 2 SCC 652, wherein the importance and necessity of framing issues in an election trial involving disputed questions of fact or law has been emphasized.

12. In view of the foregoing discussions and in light of the aforesaid judgment passed by Hon'ble Apex Court, this Court finds that the impugned order dated 22.10.2026 (Annexure P/1), passed by the respondent No. 3 suffers from a procedural illegality and cannot be sustained in the eyes of law. Accordingly, the impugned order dated 22.10.2026 (Annexure P/1) is hereby set aside. The matter is remanded back to the concerned authority for fresh adjudication of the election petition in accordance with law. The concerned authority shall frame appropriate issues on the basis of the pleadings of the parties and shall afford adequate opportunity to all the parties to lead evidence in support of their respective cases and thereafter decide the election petition on its own merits, strictly in accordance with the provisions of the Rules of 1995.

13. Considering that the dispute pertains to an election matter, the concerned authority is directed to conclude the proceedings and decide the election petition as expeditiously as possible, preferably within a period of 60 days from the date of receipt of a

certified copy of this order. It is made clear that this Court has not expressed any opinion on the merits of the rival claims of the parties and all the issues are left open to be considered and decided by the concerned authority in accordance with law.

14. Accordingly, the writ petition stands **allowed** to the extent indicated hereinabove.

SD/-

(Amitendra Kishore Prasad)

Judge

AMIT PATEL