



NAFR

**HIGH COURT OF CHHATTISGARH AT BILASPUR****CR No. 149 of 2025****Judgment Reserved on 23/02/2026****Judgment Pronounced on \_10\_/04/2026**

Smt. Sadhana Jaiswal W/o Shri Ashok Jaiswal, Aged About 45 Years,  
R/o Ward No. 18, Gadhelpara Baikunthpur, District Korea (C.G.)

--- Applicant

**versus**

**1** - Smt. Navita Shivhare W/o Shri Shailesh Shivhare, Aged About 48  
Years, R/o Ward No. 6, Schoolpara, Baikunthpur, District Korea (C.G.)

**2** - Presiding Officer Nagar Palika Parishad Baikunthpur, President And  
Vice President Election, Shri Gyanendra Singh Thakur, Sub Divisional  
Office (R)

**3** - District Election Officer/ Collector Korea Baikunthpur, District Korea  
(C.G.)

**--- Respondent(s)**

(Cause Title downloaded from CIS Periphery)

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For Applicant : Mr. Hemant Kumar Agarwal, Advocate

For Respondent : Mr. Chandresh Shrivastava, Advocate

No.1

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**SB: Hon'ble Mr. Justice Amitendra Kishore Prasad**

**C A V Order**

1. By way of this Revision filed under Section 26 of the Chhattisgarh Municipalities Act, 1961 the applicant seeks to quash/set aside the order dated 7.5.2025 passed by the Principal District Judge, Baikunthpur, District Koriya (CG) in Misc. Civil Suit No.1/2022.
2. Brief facts of the case, as projected by the applicant, are that the applicant and Respondent No. 1 are elected ward members of the Nagar Palika Parishad, Baikunthpur, District Koriya (C.G.). On 01.01.2022, the election proceedings were held, wherein as per the inspection note 9.5.2024, the applicant secured 10 valid votes, while respondent No.1 secured only 8 valid votes and 2 invalid votes. However, as stated in the plaint, the applicant secured 10 valid votes, whereas respondent No.1 secured 9 valid votes and 1 invalid vote. It is alleged that respondent No.2 illegally counted an invalid note in favour of respondent No.1 and subsequently, in violation of the prescribed rules, resorted to a lottery system. Due to a conspiracy between respondent No.1 and other respondents, Respondent No.1 was declared elected as the President of the Nagar Palika. Thereafter, the applicant raised an objection in this regard before the competent authority and also submitted a written objection before respondent No.3. Subsequently, he also filed an Election Petition before the trial Court.



3. The respondents filed their written statement denying pleadings of the applicant and prayed for dismissal of the election petition. During the trial, the applicant examined herself and Gyanendra Singh Thakur, Additional Collector (PW-2). Respondent No.1 Smt. Navita Shivhare examined herself and Anil Kumar Khatik (DW-2). Subsequently, the predecessor trial Judge conducted an inspection of the ballot box on 09.05.2024, recorded in accordance with Rule 11 of the Chhattisgarh Municipalities (Election Petition) Rules, 1962. The Chhattisgarh Municipalities (Election of President & Vice President) Rules, 1998 (hereinafter referred to as "the Rules 1998") govern the ballot box and the method of voting. The said Inspection Note was recorded by the learned trial (District) Judge in presence of all parties, wherein it was observed that although Smt Navita Shivhare received 10 votes, only 8 votes were marked in accordance with Rule 10 (4) of the Rules 1998, while 2 votes failed to comply with the mandatory marking requirements of the said Rule. However, while passing the impugned order, the trial Judge completely overlooked the judicial inspection note dated 9.5.2024. Since Section 23 of the Chhattisgarh Municipalities Act, 1961 (in short "the Act, 1961"), prescribes a summary procedure for election petitions, the absence of minute details cannot override substantive evidence already forming part of the record, particularly the Inspection recorded by the trial Court itself. Furthermore, the trial Court while relying upon the provisions of the Chhattisgarh Nagar Palika Nirvachan Niyam,



1994 (in short “the Niyam, 1994”), observed that the applicant had not raised any objection during the counting of votes. The trial Court manifestly ignored the evidence presented by the petitioner and passed the impugned order. Hence, this Revision.

4. Mr. Hemant Kumar Agarwal, learned counsel for the applicant submits that the trial Court erroneously dismissed the Election Petition primarily on the ground that Gyanendra Singh Thakur (PW-2) in para 6 of his cross-examination admitted that the identity of the voters was not revealed in respect of two votes nor in respect of remaining eighteen votes. The findings of the learned trial Court are contrary to settled law and statutory rules. Where specific statutory provisions exist, the Returning Officer is mandated to strictly follow the prescribed procedure. In the present case, the Returning Officer (PW-2) counted the votes arbitrarily and in violation of the applicable rules and law. He further submits that the Niyam, 1994, governs the election of Ward Members and is inapplicable to the election of the President, which is governed by the Rules, 1998. Furthermore, the applicable rules do not provide for raising objections during the counting of ballot papers. More so, the trial Court acknowledged this fact, it nonetheless relied upon the absence of such objections as a ground of dismissing the petition. In support of his submissions, learned counsel would for the applicant would place reliance on the judgments passed in the matters of **Arikala Narasa Reddy Vs. Venkata Ram Reddy Reddygari and another**, reported in **(2014) 5 SCC 312, Dharmin Bai Kashyap**



**Vs. Babli Sahu and others**, reported in (2023) 10 SCC 46 .  
**Era Sezhiyan Vs. T.R. Balu and others, 1990 (Supp) SCC 322.**

He lastly submits that the impugned order has been passed in an illegal and arbitrary manner, therefore, it is bad in law, perverse, and contrary to the facts on record.

5. Mr. Chandresh Shrivastava, learned counsel for respondent No.1 submits that the applicant fully participated in the election process and subsequent proceedings. He submits that the applicant also participated in the lottery system without any protest or written objection at the time of the election i.e. on 1.1.2022. He submits that as per Rule 11 of the Rules, 1998, the Presiding Officer treated the ballot papers as valid and proceeded with counting. Thereafter, upon equality of votes, he conducted the proceedings by drawing lots under Rule 12 and declared the results in terms of Rule 13. The said Rules expressly provide that the decision of the Presiding Officer in this regard shall be final. He further submits that the applicant herself admitted that the elected Councillors exercised their votes voluntarily and without any pressure. The entire voting process was videographed and none of the Councillors who participated in the voting raised any objection before the Presiding Officer regarding the validity of any ballot paper during the course of voting. Moreover, the witness produced on behalf of the applicant namely Shri Gyanendra Singh Thakur, Additional Collector (Returning Officer) (PW-2) categorically admitted in his cross-examination that the identity of any voter was not disclosed in respect of the said ballots. This



witness further admitted that no mark or indication appeared on any ballot paper processed before him which could reveal the identity of the voter. He also submits that the election petition did not contain material facts and particulars regarding the alleged conspiracy. As per the Act, 1961, an election cannot be set-aside on mere suspicion or minor counting discrepancies, if any, that do not materially affect the result. He lastly submits that the impugned order is well-reasoned and based on evidence, which does not warrant interference.

6. I have heard learned counsel for the parties and also perused the record with utmost circumspection.
7. Admittedly, the applicant relied upon the inspection note dated 9.5.2024, however, the oral testimony of Returning Officer (PW-2), particularly in para 6 of his cross examination, clearly indicates that the identity of voters was not revealed and the counting process was conducted in accordance with the standard electoral transparency. The contention that the Niyam, 1994 was incorrectly applied is not sustainable in a summary proceeding under Section 23 of the Act, 1961. In such proceedings, the trial Court is required to look at the substance of the election dispute rather than technicalities of pleading. Furthermore, the petitioner participated in the lottery system without any protest or written objection. Having taken a chance in the lottery and lost, the applicant is now estopped from challenging the validity of that very process. In my view, the findings of the trial Court are based on appreciation of evidence on record.



8. The Hon'ble Supreme Court has, on many occasions, dealt with the matter regarding Election Petitions. In the matter of **Vijay Bahadur Vs. Sunil Kumar and others** reported in **(2025) 4 SCC 180**, the following was held in para 25 & 26 :

*25. In Vadivelu v. Sundaram [Vadivelu v. Sundaram, (2000) 8 SCC 355] , a three-Judge Bench of this Court while concerned with a dispute regarding the election for the post of President of Vannavalkudi Village Panchayat, Pudukkottai District in Tamil Nadu, which was governed by the Tamil Nadu Panchayats (Elections) Rules, 1995, held : (SCC p. 364, para 16)*

*"16. ... this Court has consistently taken the view that re-count of votes could be ordered very rarely and on specific allegation in the pleadings in the election petition that illegality or irregularity was committed while counting. The petitioner who seeks re-count should allege and prove that there was improper acceptance of invalid votes or improper rejection of valid votes. If only the court is satisfied about the truthfulness of the above allegation, it can order re-count of votes. Secrecy of ballot has always been considered sacrosanct in a democratic process of election and it cannot be disturbed lightly by bare allegations of illegality or irregularity in counting. But if it is proved that purity of elections has been tarnished and it has materially affected the result of the election whereby the defeated candidate is seriously prejudiced, the court can resort to re-count of votes under such circumstances to do justice between the parties."*

*26. Sarkaria, J., writing for the Court in Suresh Prasad Yadav v. Jai Prakash Mishra [Suresh Prasad Yadav v. Jai Prakash Mishra, (1975) 4 SCC 822] , recorded three scenarios when re-count would be justified. The*



*relevant extract of the judgment is as under : (SCC p. 825, para 6)*

*“6. The Court would be justified in ordering a re-count of the ballot papers only where:*

*(1) the election petition contains an adequate statement of all the material facts on which the allegations of irregularity or illegality in counting are founded;*

*(2) on the basis of evidence adduced such allegations are prima facie established, affording a good ground for believing that there has been a mistake in counting; and*

*(3) the court trying the petition is prima facie satisfied that the making of such an order is imperatively necessary to decide the dispute and to do complete and effectual justice between the parties.”*

9. In the matter of **Ajmera Shyam Vs. Smt. Kova Laxmi and Others** reported in **(2026) 3 SCC 373**, the following was held in para 55, 56, 57, 58, 59, 60 ,61 , 62 and 63 :

**55.** *In a democracy, the will of the people expressed through election is sacrosanct, which in Latin, is conveyed by the maxim, “vox populi, vox dei”, signifying that the voice of the people and collective wisdom should be respected which can even be placed on the highest pedestal of divine authority.*

**56.** *As noted above, participation by voters who are well-informed not only of the affairs of the State but also with knowledge of the candidates’ backgrounds invigorates the electoral process, reaffirming that election is one of the fundamental features of democracy. Voters obtain essential information about the candidates through the exercise of the fundamental right to know about them, derived from Article 19(1)(a) of the Constitution. This right to know the backgrounds*



*of candidates, which corresponds to their obligation to disclose such information, must, however, be balanced with the people's mandate expressed through ballot boxes, which is central to democracy.*

**57.** *Under the circumstances, once the people have spoken their mind by casting their votes through the ballot box and reposed their confidence in the elected candidate, whenever the issue of invalidating the people's mandate is raised before the court, the court must be very careful and circumspect.*

**58.** *A fine balance must be struck between holding free and fair election—which involves the fundamental right of voters to have information about the candidates—and maintaining the sanctity of the mandate of the voters upon the declaration of the result. After all, election result is the embodiment of the will of the people expressed through the exercise of the constitutional right of the people to vote. The court, therefore, must keep in mind that declaring an election void solely for non-disclosure of assets, if it lacks substantiality, could undermine the validity of the popular mandate. To nullify the choice of the people on a minor technicality and insignificant non-disclosure of assets by the elected candidate, would have serious repercussions on the democratic process.*

**59.** *Thus, while the court plays a vital role in upholding the Rule of Law, utmost care must be taken to ensure that election results are not invalidated based on subjective interpretation and minor or technical irregularities that do not substantially impinge on the law, since unwarranted interference with the electoral process and overturning election results can erode public trust in democratic institutions.*

**60.** *Under such circumstances, nullifying the election result and overturning the people's verdict through cold, clinical legal analysis and tools should be avoided, unless the electoral process has been vitiated by gross*



*irregularities that undermine electoral integrity. Courtroom interventions should only happen when there are clear and blatant violations of the law that threaten fairness, legality, and constitutional principles.*

**61.** *Minor procedural errors or purely technical objections of inconsequential nature thus, should not be allowed to override the mandate of the electorate. Courts must be careful not to become tools that undermine the popular mandate in the name of technical perfection. The will of the people, expressed through the election result, should be respected, unless it has been corrupted by fraudulent practices, in which case, the court should intervene without hesitation. A judicial victory based on technicalities rather than the electoral victory won in the electoral battlefield should be avoided, unless the mandate and the integrity of the electoral process are compromised by fraud or corrupt practices. Statutory provisions and judicial approach in elections law have also been shaped by this cautious approach.*

**62.** *It is for this reason that it has been aptly noted by this Court in Jagan Nath v. Jaswant Singh [Jagan Nath v. Jaswant Singh, (1954) 1 SCC 57] as follows : (SCC pp. 62-63, para 7)*

*“7. The general rule is well settled that the statutory requirements of election law must be strictly observed and that an election contest is not an action at law or a suit in equity but is a purely statutory proceeding unknown to the common law and that the court possesses no common law power. It is also well settled that it is a sound principle of natural justice that the success of a candidate who has won at an election should not be lightly interfered with and any petition seeking such interference must strictly conform to the requirements of the law. None of these propositions however have any application if the special law itself*



*confers authority on a Tribunal to proceed with a petition in accordance with certain procedure and when it does not state the consequences of non-compliance with certain procedural requirements laid down by it. It is always to be borne in mind that though the election of a successful candidate is not to be lightly interfered with, one of the essentials of that law is also to safeguard the purity of the election process and also to see that people do not get elected by flagrant breaches of that law or by corrupt practices.”*

(emphasis added)

**63.** *This word of caution against overturning electoral verdicts by the courts was pithily put by this Court in Madhukar G.E. Pankakar v. Jaswant Chobbildas Rajani [Madhukar G.E. Pankakar v. Jaswant Chobbildas Rajani, (1977) 1 SCC 70] in the following words : (SCC pp. 74-75, para 6)*

*“6. It is plain democratic sense that the electoral process should ordinarily receive no judicial jolt except where pollution of purity or contravention of legal mandates invite the court's jurisdiction to review the result and restore legality, legitimacy and respect for norms. The frequency of forensic overturning of poll verdicts injects instability into the electoral system, kindles hopes in worsted candidates and induces post-mortem discoveries of “disqualifications” as a desperate gamble in the system of fluctuating litigative fortunes. This is a caveat against overuse of the court as an antidote for a poll defeat. Of course, where a clear breach is made out, the guns of law shall go into action, and not retreat from the rule of law.”*

*Similar view was expressed by this Court in Santosh Yadav v. Narender Singh [Santosh Yadav v. Narender Singh, (2002) 1 SCC 160] .*



10. Reverting to the facts of the present case, in light of the principles enunciated in the aforementioned judgments, I am of the view that the Court must be slow to interfere with the democratic mandate, unless a gross illegality is proved.
11. Moreover, while the judgments cited by learned counsel for the applicant are correct in principle and are appreciated, they remain distinguishable from the specific facts of the present case. The settled cited law by the applicant further underscores that the secrecy of ballot, which is sacrosanct, gets exposed if re-counting of votes is made easy. The court has to be more careful when the margin between the contesting candidates is very narrow. Looking for numerical good fortune or windfall of chance discovery of illegal rejection or reception of ballots must be avoided, as it may tend to a dangerous disorientation which invades the democratic order by providing scope for reopening of declared results. However, a genuine apprehension of miscount or illegality and other compulsions of justice may require the recourse to a drastic step.
12. In the present case, the objections raised by the applicant concerning the counting process and alleged irregularities remain unsubstantiated by any cogent evidence. The applicant has failed to lead any evidence, oral or documentary, sufficient to persuade this Court that the sanctity or purity of the election was in any way compromised. As such, in the absence of proof of gross illegality or a patent error in the counting process, the trial Court was justified in dismissing Miscellaneous Civil Suit



No.1/2022 and refusing to declare the election void.

13. Accordingly, the Revision, being devoid of merits, is liable to be and is hereby dismissed. This Court finds no infirmity in the impugned order dated 07/05/2025 passed by the trial Court. The said order is hereby upheld.

Sd/-

**(Amitendra Kishore Prasad)**  
Judge

Shyna Ajay