



**NON- REPORTABLE**

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO.7427 OF 2026  
(ARISING OUT OF SLP (C) NO. 9638/2023)**

**URMILA DEVI**

**...APPELLANT(S)**

**VERSUS**

**THE STATE OF UTTAR  
PRADESH & ORS.**

**...RESPONDENT(S)**

**J U D G M E N T**

**1.** Heard. Leave Granted.

**1. BRIEF FACTS:**

**2.** This Appeal arises out of an Election issue between the Appellant i.e. (Urmila Devi) and Respondent No. 3 (Manoj Devi). The facts in a nutshell is as follows:

**2.1.** Both the Appellant, Respondent No. 3 and 18 others stood for Three Tier Panchayat (Pradhan) Election, 2021 held in respect of Election of Pradhan of Parauli

Sughapur Village, Block - Jaithara, Teshil – Aliganj,  
District – Etah, Uttar Pradesh.

**2.2.** After the voting was over, the counting of votes went for almost two complete dates i.e. it commenced from 2<sup>nd</sup> May 2021 at 11.00 a.m. and got completed on 03<sup>rd</sup> May 2021 at 10.00 a.m. As per the version of the Appellant, many candidates complained about the irregularities during the counting of votes and about the manner in which elections were conducted. However, the Authorities completed the voting and declared the results. As per the results, Respondent No. 3 was declared as Returned Candidate and the Appellant herein was declared as having lost by a margin of 2 votes.

**2.3.** Aggrieved by the procedural discrepancies during the counting of votes and aggrieved by the results of the elections, the Appellant filed an Election Petition No. 2646 of 2021<sup>1</sup>, in the Court of Sub Divisional Officer (Prescribed Authority), Aliganj, District-Etah<sup>2</sup> under Section 12C of the Uttar Pradesh Panchayat Raj Act, 1947<sup>3</sup>. He also prayed for re-counting of votes as there

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<sup>1</sup> Hereinafter referred to as ‘the Election Petition’.

<sup>2</sup> Hereinafter referred to as ‘the SDO’.

<sup>3</sup> Hereinafter referred to as ‘the Act’.

was a difference between the number of total valid votes and number of valid votes counted.

**3.** The Appellant and the Respondent No. 3 contended as follows:

**3.1.**The Appellant challenged the 2021 Gram Panchayat Pradhan election of Parauli Suhagpur (District Etah) alleging serious irregularities in the counting process, including improper supervision by election officials, chaotic counting arrangements, discrepancies in ballot numbers, and wrongful rejection of valid ballot papers in violation of Rules 104, 105 and 106 of the U.P. Panchayat Election Rules, 1994<sup>4</sup>. The Appellant contended that these violations materially affected the election result, and therefore sought for recounting of votes and declaration of the opponent's election as invalid, with a prayer to declare the petitioner duly elected after recount.

**3.2.**Summons were issued and served on the Respondent No. 3, and Respondent No.3 (Smt. Manoj Devi) filed a statement contesting the petition by filing the reply/written statement on 22.07.2022, after which issues were framed based on the pleadings. Despite

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<sup>4</sup> Hereinafter referred to as 'the Rules'

several opportunities, the Respondent No.3 failed to produce evidence or appear regularly, leading the Authority to hear the Appellants arguments *ex parte* and later, the opposite party filed a new vakalatnama and sought another date, which was considered in view of principles of natural justice.

## **II. THE ORDER OF THE SDO:**

**4.** After examination of the evidence tendered by both the parties and the material available on record, the SDO ordered for Re-counting of the votes vide order dated: 05.11.2022. The reasons assigned by the SDO are as follows:

**4.1.** During the proceedings, the Appellant produced evidence through affidavits and witnesses, which were cross-examined. On examining the election records, particularly Election Form 45 (Part-1) and Election Form 46 (Part-2), the court found discrepancies in the vote counts at certain polling booths, including differences in the number of valid votes recorded for candidates. Since the margin of victory between the Appellant and the respondent was only two votes (586 vs. 584), these discrepancies appeared significant.

**4.2.** Relying on judgments of the Allahabad High Court regarding recounting where specific and material irregularities are shown, the court concluded that prima facie discrepancies existed in the election records. Considering the narrow margin of votes and the irregularities found in the forms, the court held that recounting was necessary in the interest of justice. Accordingly, the election petition was allowed, the respondent's objections were rejected, and the Authority ordered recounting of votes for the post of Gram Pradhan, to be conducted on 07.11.2022 at 10:00 A.M., under the supervision of the Tehsildar, Aliganj.

### **III. THE WRIT PETITION AND THE ORDER OF THE HIGH COURT**

**5.** After the pronouncement of the order by SDO on 05.11.2022, Respondent No. 3 filed a Writ Petition No. 33777 of 2022<sup>5</sup> before the High Court of Allahabad<sup>6</sup> challenging the order dated: 05.11.2022. Each event which took place after the above-mentioned Writ Petition which was filed on 06.11.2022 is important to be noted and it plays a crucial role for the adjudication of the matter. The list of

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<sup>5</sup> Hereinafter referred to as 'the Writ Petition'.

<sup>6</sup> Hereinafter referred to as 'the High Court'.

dates along with the event which took place from the date of filing of Writ Petition by Respondent No. 3 is as follows:

06.11.2022	Respondent No. 3 filed Writ Petition No. 33777/2022 before Allahabad High Court challenging recounting order and interim stay granted on 05.11.2022 order.
12.12.2022	High Court extended interim stay on recounting.
15.03.2023	High Court vacated interim stay on recounting.
16.03.2023	Respondent No. 3 filed Civil Misc. Recall Application to reinstate stay on recounting.
<b><u>17.03.2023</u></b>	<b><u>Recounting was conducted and Petitioner declared winner by 12 votes.</u></b>  <b><u>It is important to note here that the Court of Deputy Collector i.e. Prescribed Authority which had passed an order dated: 05.11.2022, declared the election results after recounting.</u></b>
20.03.2023	District Panchayat Raj Officer issued letter to administer oath to Petitioner as Pradhan.
20.03.2023	Appellant took oath as Pradhan; electoral certificate still in force.

- 6.** The High Court vide judgment and order dated: 29.03.2023, allowed the Writ Petition filed by Respondent No. 3 and set aside the order of recounting passed on 05.11.2022 and other consequential recounting and result of election. The reasons assigned by the High Court are as follows:

**6.1.** Before examining the merits of the case, the Court noted a preliminary legal issue. The Prescribed Authority, by its order dated 05.11.2022, had allowed the election petition and granted final relief even before the recounting of votes actually took place. By finally deciding the election petition and directing recounting simultaneously, the authority effectively became *functus officio*, meaning it lost jurisdiction to pass any further orders in the matter.

**6.2.** The High Court relied on the Judgment of the Coordinate Bench of the High Court in *Parshuram vs. State of U.P and Ors.* (decided on 23.12.2022 – *Matters Under Article 227 No. 31424 of 2021*)<sup>7</sup>, whereunder it came to be held that once an Election Tribunal or Prescribed Authority finally decides an election petition, it becomes *functus officio* and cannot pass further orders, even if recounting is directed. The judgment also referred to the principle laid down by this Court in *Hari Vishnu Kamath v. Syed Ahmad Ishaque and Ors*<sup>8</sup>, emphasizing that after the final decision of an election petition, the tribunal has no authority to continue in exercising jurisdiction.

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<sup>7</sup> *Matters Under Article 227 No. 31424 of 2021*

<sup>8</sup> AIR 1955 SC 233.

Moreover, under Article 243-O of the Constitution, an election to a Panchayat can be challenged only through an election petition, and once such petition is finally decided, the authority cannot reopen or continue the proceedings.

**6.3.** Applying these principles, the High Court held that, **the Prescribed Authority committed a serious legal error by allowing recounting and declaring the election petitioner as the returned candidate after finally deciding the Election Petition. Consequently, the impugned order dated 05.11.2022, along with the subsequent recounting and election result, was set aside.** Although such matters are generally remanded for reconsideration, the Court declined to do so because the impugned order itself failed to satisfy the legal requirements for recounting. Hence, the writ petition was allowed, and the Sub-Divisional Magistrate/Prescribed Authority was cautioned to act carefully in future election matters.

**7.** It is this order of the High Court which has been challenged by the Appellant before this Court, by filing this Appeal.



#### **IV. THE SUBMISSION OF THE PARTIES:**

**8.** Mr. Ashok Anand, the Learned Counsel appearing for the Appellant, contended as follows:

**8.1.** The High Court erred in interfering with the order of the SDO/Prescribed Authority, which had directed recounting of votes; High Court had failed to properly consider the factual findings recorded by the SDO, particularly that there was a difference of 110 votes between the total valid votes cast and the total valid votes counted; the margin of victory in the original result was only two votes, which itself justified recounting to ensure accuracy and fairness in the electoral process.

**8.2.** It was further argued that upon recounting, the Appellant had been declared the returned candidate by a margin of 13 votes, demonstrating that the irregularities in counting had materially affected the election result. According to the Appellant, the High Court ignored the evidence on record showing serious irregularities committed by election officials during the counting process and failed to appreciate that the Election Petition contained specific pleadings and supporting evidence regarding these irregularities. The

Appellant also contends that Election Petition had been properly adjudicated after giving both the parties sufficient opportunity to present evidence and arguments and as such High Court ought not to have interfered with the same.

**8.3.** The Appellant also contends that the Prescribed Authority was legally competent to order recounting, and respondent had an alternative statutory remedy of filing a Revision under Section 12C(6) of the U.P. Panchayat Raj Act, 1947 before the District Judge. It is further argued that the writ petition before the High Court was devoid of merit and had become infructuous after the recounting, in which the Appellant was declared elected. Lastly, the Appellant emphasizes that free and fair elections are fundamental to democracy, and therefore the High Court should not have interfered with the order ensuring transparency and correctness in the election process.

**9.** Mr. Shaurya Sahay and Mr. Aman Jaiswal, Learned Advocates appearing on behalf of the State Authorities (Respondent No. 1,2 and 21) have filed their reply and contended that statutory framework under Section 12C of the U.P. Panchayat Raj Act, 1947 and the U.P. Panchayat Raj (Settlement of Election Disputes) Rules, 1994, which

govern the filing, hearing, and decision of election petitions. It is submitted that Prescribed Authority acted strictly in accordance with these provisions, particularly Rule 4(3), which empowers the authority to declare another candidate duly elected if the election of the returned candidate is found invalid. It is further contended that the recounting order was justified because the margin of victory was only two votes and evidence indicated irregularities in counting. Reliance is placed on rulings of this Court in *Ram Sewak Yadav v. Hussain Kamil Kidwai and Others*<sup>9</sup>, *Udey Chand v. Surat Singh and Another*<sup>10</sup>, and *Vijay Bahadur v. Sunil Kumar and Others*<sup>11</sup>, to contend that recounting is permissible where material irregularities are shown. Therefore, it is asserted that actions of the authorities were lawful, bona fide, and consistent with the statutory scheme. He further contended that as per the status quo order of this Court dated 15.05.2023, Respondent No. 3 is presently performing the duties of the Pradhan.

**10.** Mr. Kaushal Yadav and Mr. Nandlal Kumar Mishra, Learned Counsels appearing for Respondent No. 3/Successful Writ Petitioner contended as follows:

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<sup>9</sup> 1964 SCC OnLine SC 249.

<sup>10</sup> (2009) 10 SCC 170.

<sup>11</sup> (2025) 4 SCC 180.

**10.1.** The impugned Judgment of the High Court does not suffer from any illegality or infirmity warranting interference by this Court under Article 136 of the Constitution of India; the High Court rightly set aside the order dated 05.11.2022 of the Prescribed Authority directing recounting of votes on account of Election Petition being allowed, the Prescribed Authority had become *functus-officio* under Section 12-C of the U.P. Panchayat Raj Act, 1947 and had no jurisdiction to pass further orders, including altering the election result on the basis of recounting. The High Court relied on settled law and precedents, including *Hari Vishnu Kamath v. Syed Ahmad Ishaque (supra) and Parshuram v. State of U.P. and Ors*<sup>12</sup>, whereunder it was held that once an election petition is finally decided, the Prescribed Authority cannot pass subsequent orders.

**10.2.** The Counsel appearing for Respondent No. 3 further contended that recounting of ballot papers was unjustified and contrary to established legal principles. Recounting can be ordered only when the election petition contains clear, specific and material allegations supported by evidence, since the secrecy of

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<sup>12</sup> 2022 SCC OnLine All 916

the ballot is sacrosanct; in the present case, the election petition did not contain any allegation that votes were illegally counted in favour of the respondent or that invalid votes were included while declaring the result. The recount was ordered merely on the basis of a clerical discrepancy in recording of votes in Forms 45 and 46 relating to another candidate, which had no material effect on the election result. Reliance is placed on *P.K.K. Shamsudeen v. K.A.M. Mappillai Mohindeen and Others*<sup>13</sup> to contend that recounting cannot be ordered on vague or speculative grounds.

**10.3.** It was further contended that Section 12-C of the U.P. Panchayat Raj Act, 1947 and the relevant Rules of 1994 do not confer power on the Prescribed Authority to order recounting after declaration of results. The statutory scheme only permits the authority to set aside the election, declare it void, or declare another candidate having been elected, but does not provide recounting as an independent relief. Moreover, the State Election Commission guidelines permit recounting only during the counting process before declaration of the result and not thereafter and that too through an election petition. Hence,

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<sup>13</sup> *AIR 1989 SC 640*

Respondent No. 3 asserts that High Court correctly allowed the writ petition, maintained the sanctity of the electoral process, and therefore the present Appeal deserves dismissal with costs.

**11.** Having heard the Learned Counsels appearing for the parties and after perusal of the records, the following question would arise for consideration:

*I. Whether the Judgment of the High Court in the Writ Petition call for interference?*

**V. ANALYSIS AND FINDINGS:**

**12.** The preliminary question that arose before the High Court was whether the order dated 05.11.2022 passed by the SDO, being in the nature of a final order, rendered the SDO *functus officio*, thereby precluding him from passing any further order after the recounting was completed. This question arose in the present matter because, after the recounting was conducted, the Appellant herein emerged as the returned candidate, and the SDO, vide order dated 17.03.2023, declared the Appellant as the successful candidate of the election thus effectively passing yet another final order in a case where a final order had already been passed on 05.11.2022. The High Court was therefore

required to determine whether the order dated 05.11.2022 passed by the SDO was indeed a final order, or merely an interim direction ordering recounting.

**13.** For the purposes of adjudication, the scheme of Section 12-C of the Uttar Pradesh Panchayat Raj Act, 1947 requires to be examined as it has a direct bearing. It reads as follows:

**“12C. Application for questioning the elections. -**

**(1)** The election of a person as Pradhan or as member of a Gram Panchayat shall not be called in question except by an application presented to such authority within such time and in such manner as may be prescribed on the ground that –

**(a)** the election has not been a free election by reason that the corrupt practice of bribery or undue influence has extensively prevailed at the election, or

**(b)** that the result of the election has been materially affected –

**(i)** by the improper acceptance or rejection of any nomination; or

**(ii)** by gross failure to comply with the provisions of this Act or the rules framed thereunder.

**(2)** The following shall be deemed to be corrupt practices of bribery or undue influence for the purposes of this Act –

**(A)** Bribery, that is to say, any gift, offer or promise by a candidate or by any other person with the connivance of a candidate of any gratification to any person whomsoever, with the object, directly or indirectly of inducing –

- (a) a person to stand or not to stand as, or withdraw from being a candidate at any election; or
  - (b) an elector to vote or refrain from voting at an election; or as a reward to
    - i. a person for having so stood or not stood or having withdrawn his candidature; or
    - ii. an elector for having voted or refrained from voting.
- (B) Undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of a candidate or of any other person with the connivance of the candidate with the free exercise of any electoral right:

Provided that without prejudice to the generality of the provisions of this clause any such person as is referred to therein who –

- (i) threatens any candidate, or any elector, or any person in whom a candidate or any elector is interested, with injury of any kind including social ostracism and ex-communication or expulsion from any cast or community; or
  - (ii) induces or attempts to induce a candidate or an elector to believe that he or any person in whom he is interested will become or will be rendered an object of divine displeasure or spiritual censure, shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause.
- (3) The application under sub-section (1) may be presented by any candidate at the election or any elector and shall contain such particulars as may be prescribed.



**Explanation.** - Any person, who filed a nomination paper at the election whether such nomination paper was accepted or rejected, shall be deemed to be a candidate at the election.

- (4) The authority to whom the application under sub-section (1) is made shall, in the matter of —
- i. hearing of the application and the procedure to be followed at such hearing.
  - ii. setting aside the election, or declaring the election to be void or declaring the applicant to be duly elected or any other relief that may be granted to the petitioner,
- have such powers and authority as may be prescribed.
- (5) Without prejudice to the generality of the powers to be prescribed under sub-section (4) the rules may provide for summary hearing and disposal of an application under sub-section (1).
- (6) Any party aggrieved by an order of the prescribed authority upon an application under sub-section (1) may, within thirty days from the date of the order, apply to the District Judge, for revision of such order on any one or more of the following grounds, namely :-
- (a) that the prescribed authority has exercised a jurisdiction not vested in it by law;
  - (b) that the prescribed authority has failed to execute a jurisdiction so vested;
  - (c) that the prescribed authority has acted in the exercise of its jurisdiction illegally or with material irregularity.
- (7) The District Judge may dispose of the application for revision himself or may assign it for disposal to any Additional District Judge,

Civil Judge or Additional Civil Judge under his administrative control and may recall it from any such officer or transfer it to any other such officer.

- (8) The revising authority mentioned in subsection (7) shall follow such procedure as may be prescribed, and may confirm, vary or rescind the order of the prescribed authority or remand the case to the prescribed authority for re-hearing and pending its decision pass such interim orders as may appear to it to be just and convenient.
- (9) The decision of the prescribed authority, subject to any order passed by the revising authority under this section, and every decision of the revising authority passed under the section, shall be final.]”

**14.** From a bare perusal of Section 12-C of the Act, it is clear that an election to the post of Pradhan can be challenged only by way of an application filed under Section 12-C (1) before the Prescribed Authority, and such application is thereafter to be decided by the Prescribed Authority. Thus, it is evident from the provision that the Prescribed Authority alone has the power to set aside the election result.

**15.** Once the Prescribed Authority passes an order granting final relief, it is well settled in law that it ceases to have jurisdiction to pass any further order in relation to the election, as it would become *functus officio* in respect of the matter adjudicated. This position is supported by the

judgment of this Court in *Hari Vishnu Kamath v. Syed Ahmad Ishaque and Ors*<sup>14</sup>, which was rightly relied upon by the High Court to set aside the order of the Prescribed Authority dated 05.11.2022 and the subsequent orders.

**16.** The logic of the argument has been rightly and aptly explained in the case of *Parasuram vs. State of U.P. and others (Matters Under Article 227 No. 31424 of 2021), decided on 23.12.2022*<sup>15</sup>, which is also referred to in the impugned order is as follows:

“16. When the aforesaid constitutional provision is seen in the context of the action impugned, it emerges that the respondent No.6 had filed the election petition for setting aside the election of the petitioner. The Prescribed Authority, instead of passing an order in terms of powers conferred upon him in terms of sub-section (4) (ii) of Section 12-C of the Act, 1947, has passed-on the mantle, after allowing the election petition, for re-counting of votes. Once the election petition has itself been decided the Prescribed Authority becomes ‘functus officio’ and even if after re-counting of votes either the petitioner or the respondent No.6 herein receive more or less votes, the same would be meaningless as the Authority who has carried out the re-counting of votes would be powerless to set aside the election of the petitioner or to declare the respondent No.6 as elected considering that the said power can only be flow out from the order passed by an authority I an election petition, who is no longer having the election petition before it,

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<sup>14</sup> AIR 1954 SC 233.

<sup>15</sup> **Matters Under Article 227 No. 31424 of 2021, by the High Court of Allahabad.**

the same having been allowed and thus having become ‘functus officio’.”

We are in complete agreement with the aforesaid view. From the above discussion, it is clear that once the Prescribed Authority has passed an order in the nature of a final order, it ceases to have jurisdiction to pass any further order, having become *functus officio*.

- 17.** We now proceed to examine the nature of the order passed in the present case, i.e., the order dated 05.11.2022. In order to determine whether the said order is final or interim in nature, it would be necessary to reproduce the order itself. It reads:

#### JUDGMENT

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#### ORDER

“The petition of Smt. Urmila Devi wife Dataram resident Gadhiya Majra Parauli Suhagpur Development Block Jaithra Tehsil Aliganj district Etah is allowed and statement of defendant no.1 Mrs. Manoj Devi wife of Dinesh resident of Nagla Dhammi Development Block Jaithra Tehsil Aliganj district Etah is rejected. Re-counting of the post of Gram Pradhan should be done in the three-tier panchayat elections of Gram Panchayat Parauli Suhagpur Development Block Jaithara Tehsil Aliganj district Etah. Re-counting will be held on 07.11.2022 at 10.00 am in the court room of the undersigned. For Necessary arrangements for recounting/ supervision, Shri Rakesh Kumar Tehsildar Aliganj is nominated.”

**18.** Having reproduced the order of the Prescribed Authority, we must now determine whether the said order is interim or final in nature. In a recent judgment of this Hon'ble Court in *Raj Kumari v. Asha Devi and Ors*<sup>16</sup>, a similar question arose. In that case, which also arose from the State of Uttar Pradesh and was governed by the same statutory provisions, this Court held that an order directing recounting is in the nature of an interim order. Accordingly, this Court set aside the judgment of the High Court, which had erroneously held such an order to be final in nature.

**19.** In order to understand the decision of this Court in *Raj Kumari v. Asha Devi and Ors.*(*supra*), it is necessary to examine the order passed by the Prescribed Authority in that case, i.e., the order dated 02.03.2024 passed by the Court of the Sub-Divisional Magistrate, Aonla Tehsil, District Bareilly, in Case No. 3334 of 2021 titled *Smt. Raj Kumari v. Smt. Asha Devi*, is reproduced hereinbelow:

DECISION

.....

ORDER

“Therefore, on the basis of the above discussion, the election petition of the petitioner Rajkumari, is partially accepted. The date 09.03.2024 is fixed for recounting of the ballot papers. The recounting proceedings will be conducted in Development Block- Ramnagar, Tehsil Amla, District Bareilly.

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<sup>16</sup> SLP (C) No. 28467 of 2024. *Hereinafter referred to as Raj Kumari.*

1. Assistant District Election Officer Panchayat, Bareilly is directed that he must ensure to be present at the fixed date and place at 10.00 A.M. at the Development Block-Ramnagar, District Bareilly for re-counting of all shield ballot papers and other counting related forms of Village Panchayat, Guleli, Development Block Ramnagar, District Bareilly.
2. Development Block Officer Ramnagar should constitute a counting team for counting the ballot papers and ensure to inform the undersigned.
3. The Block Development Officer, Ramnagar is also ordered to get the entire re-counting process videographed.
4. For implementation of this order, a copy of this order should be sent to Assistant District Election Officer-Panchayat, Bareilly and Development Block Officer, Ramnagar; Circle Officer / Incharge Inspector, Aonla, District Bareilly; District Panchayat Raj Officer, Bareilly and Tehsildar, Aonla, Bareilly.
5. Circle Officer, Aonla, Bareilly and Inspector/ Incharge of Police Station Aonla, Bareilly should deploy adequate police force to maintain peace and order on the said date.”

When the aforesaid order was called in question before the High Court, the High Court held that the order of the Prescribed Authority was final in nature and, therefore, that the Prescribed Authority had become *functus officio* and could not pass any further order. This Court, upon analyzing both the

order of the Prescribed Authority and that of the High Court, held as follows:

“5. Be that as it may, the High Court allowed the writ petition on the ground that the first order passed by the Prescribed Authority was for re-counting and was in the nature of a final order and once a final order has been passed, the Prescribed Authority becomes ‘functus officio’ and it had no authority to pass any other order and, therefore, the second order based on which the re-counting was done and the appellant had been declared elected, has been set aside.

6. We totally disagree with the reasoning given by the learned Single Judge of the High Court, for the simple reason that the first order was in the nature of an interim order, which was only for recounting and it also fixed a date for re-counting i.e. 09.03.2024 and ordered that the results should be apprised to the Prescribed Authority, which we have already indicated above. The final order was passed on 21.03.2024.

7. Consequently, we set aside the order of the High Court. The order of the Prescribed Authority dated 21.03.2024 is restored. The concerned Authority should give the charge of the Gram Pradhan to the appellant herein forthwith.”

**20.** This Court, upon perusal of the order of the Prescribed Authority, came to the conclusion that the order passed therein was in the nature of an interim order. In contrast, a bare perusal of the order of the Prescribed Authority in the present case indicates that it is in the nature of a final order,

as it has completely allowed the application filed by the Appellant herein and, therefore, leaves no scope for passing any further order after the recounting is conducted, the authority which passed the order had become *functus officio*. However, despite passing the recounting order dated 05.11.2022, the Prescribed Authority, after the recounting was completed, proceeded to pass yet another order dated 17.03.2023, wherein it accepted the report of the Tehsildar and declared the Appellant, i.e., Urmila Devi, as the returned candidate, thereby declaring her as elected to the post of Pradhan of Gram Panchayat, Parauli, Suhagpur.

**21.** Having become *functus officio* upon passing the order dated 05.11.2022, the Prescribed Authority could not have passed any further order or continued the proceedings. The difficulty arising from the passing of a final order and the consequent cessation of jurisdiction is that, even after recounting, the election officers who were appointed for the purposes of conducting the election and had already discharged their duties upon the declaration of the results cannot reassume authority to declare the election results afresh or set aside the earlier results. The power to set aside election results vests exclusively with the Prescribed Authority, and once it has become *functus officio*, such power cannot be exercised thereafter.



**22.** Therefore, in conclusion, the High Court has rightly allowed the Writ Petition filed by Respondent No. 3, and the impugned order does not warrant interference. Before parting, we would like to reiterate the observations of the High Court, which is as follows:

“14. The Sub-Divisional Magistrate/Prescribed Authority, Aliganj, District Etah is directed to remain cautious in future while dealing with election petitions.”

**23.** Appeal dismissed. Pending applications, if any, are consigned to records.

.....**J.**  
[ARAVIND KUMAR]

.....**J.**  
[PRASANNA B. VARALE]

**NEW DELHI;**  
**MAY 11<sup>th</sup>, 2026.**