A.F.R.

Neutral Citation No. . 2024:AHC:109919

Court No. . 49

Case :. WRIT . C No. . 14461 of 2024

Petitioner :. Smt Asha Devi
Respondent :. Prescribed Authority / Sub Divisional Magistrate And 8 Others
Counsel for Petitioner :. Bhagwan Dutt Pandey,Girja Shanker Sen
Counsel for Respondent :. Bheshaj Puri,C.S.C.,Sarvesh Pandey

Hon'ble Dinesh Pathak,J.

1. Heard learned counsel for the petitioner, learned counsel for the private respondent No. 3 as well as learned Standing Counsel for the State-respondents and perused the record on board.

2. Petitioner has invoked the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India assailing the order dated 21.3.2024 passed by Sub-Divisional Officer, Aonwla, Bareilly whereby election petition under Section 12-C of UP Panchayat Raj Act, 1947 (in brevity, 'Act, 1947') moved on behalf of Rajkumari, respondent No. 3, has been allowed and she has been declared returned candidate on the post of Pradhan of the village Guleli, Vikas Khand Ramnagar, Tehsil-Aonwla, District Bareilly, after recounting of ballot papers in pursuance of the order dated 2.3.2024.

3. Facts culled out from the record are that in UP Panchayat Election 2020-2021 held on 15.4.2021, present petitioner has been declared successful to the post of Pradhan. Counting of votes was conducted on 2.5.2021 and, thereafter, result was declared on the same day. In the final result, returned candidate (petitioner) has secured 650 votes and the first runner respondent No. 3 has secured 644 votes. Having been aggrieved with the result of the panchayat election, Smt. Raj Kumari (respondent No. 3) has filed an election petition dated 25.5.2021 with the prayer to cancel the election result on the post of Pradhan of village/Gram Panchayat, Guleli and declare the election-petitioner as a returned candidate after recounting of votes. After exchange of respective

pleadings between the parties, learned Prescribed Authority (Election Tribunal) has framed as many as 11 issues and, after due discussion, has allowed the election petition in part, vide its order dated 2.3.2024, with a direction for recounting of ballot papers fixing 9.3.2024 as a date. Having been aggrieved with the order of recounting dated 2.3.2024, the returned candidate (present petitioner) has preferred a revision dated 12.3.2024 which has been ordered to be registered and admitted, vide order dated 22.3.2024 (Annexure No. 10). During pendency of the revision, recounting process was completed. Consequently, the Prescribed Authority has passed fresh order dated 21.3.2024 allowing the election petition and declared the respondent No. 3 as a returned candidate, which is under challenge before this Court.

4. In this backdrop of the facts, learned counsel for the petitioner, while assailing the order impugned dated 21.3.2024, has questioned the jurisdiction of the Prescribed Authority in passing the order dated 21.3.2024 on the ground that while passing the previous order dated 2.3.2024, whereby election petition has been allowed in part, the Prescribed Authority became functus officio, thus, he has inherent lack of jurisdiction to pass subsequent order impugned dated 21.3.2024 whereby the same election petition has been allowed second time and, consequently, respondent No. 3 has been declared as a returned candidate. He has laid emphasis on the final observation made by the Prescribed Authority in its previous order dated 21.3.2024 whereby election petition has been partially allowed. It is next submitted that once the election petition has been partially allowed without fixing any date for further proceeding or action, it amounts to final decision on the election petition and nothing remains to be decided in the said petition. Thus, subsequent order dated 21.3.2024 passed by the Prescribed Authority, who became functus officio, is nullity in the eye of law. In support of his submissions, learned counsel for the petitioner has placed reliance on the follwoing cases:

(i) Parshuram vs. State of UP and others (Matter under Article 227 No. 31424 of 2021), decided on 23.12.2022 by coordinate Bench at Lucknow of this Court, 2022 O Supreme (All) 1629,

(ii) Manoj Devi vs. State of UP and 20 others (Writ C No. 33777 of 2022), decided on 29.3.2023 by the coordinate Bench of this Court, Neutral Citation No. 2013:AHC:67092

(iii) Ram Kali vs. District Judge Hardoi and 10 others (Writ C No. 6852 of 2023), decided on 9.8.2023 by the coordinate Bench at Lucknow of this Court (Neutral Citation No. 2023: AHC-LKO 53074), and

(vi) Smt. Maneeta Devi vs. State of UP and 8 others (Writ C No. 10442 of 2022), decided on 13.4.2022 by the coordinate Bench of this Court (Neutral Citation No. 2022:AHC:54664)

5. Per Contra, learned counsel for the contesting respondent No. 3 has vehemently opposed the submissions as advanced by the learned counsel for the petitioner and contended that issuing a direction for recounting of the ballot papers is simply an aid to final decision on the election petition, therefore, order of recounting cannot be treated as a final order rather same is an interlocutory order, therefore, after recounting of ballot papers, final decision has rightly been taken on the election petition, vide order impugned dated 21.3.2024. It is next submitted that direction for recounting of the ballot papers amounts to pendency of the election petition subject to final outcome of the recounting. Thus, learned Tribunal has rightly allowed the election petition finally, having regard to the result of the recounting. In support of his contention, learned counsel for the respondents has placed reliance on the follwoing judgments:-

(i) Mohd Mustafa vs. U.P. Ziladhikari and others, 2007 103 RD 282,

(ii) Kusum Misra vs State of U.P., 2023 (5) AWC 4247, and

(iii) Jahida Begam vs State of U.P. and 8 others, 2023 AIR (All) 120.

6. Having considered the rival submissions advanced by learned counsel for the parties and perusal of record, it is manifested that point for consideration in the instant writ petition lies in a narrow compass as to whether the Prescribed Authority has become functus officio while partly allowing the election petition and issuing a direction for recounting of ballot papers, vide order dated 2.3.2024, thus, he has inherent lack of

jurisdiction to pass subsequent order dated 21.03.2024, having considered the final outcome of recounting, again allowing the same election petition finally and declaring the respondent No. 3 as a returned candidate?

7. In view of the point involved in the instant matter, as mentioned above, it would be befitting to define the phrase "Functus Officio". Needless to say that any judge or quasi-judicial authority would be considered as functus officio in the eventuality that he/she has performed his/her duty finally in its official capacity and nothing remains to be decided/considered/revisit on the said subject matter unless there is a legal provision to do so. In the recent judgment of **Orissa Administrative Tribunal Bar Association vs. Union of India and others, 2003 SCC OnLine SC 309,** Hon. Supreme Court has discussed the phrase "functus officio". The relevant paragraphs of the aforesaid judgment are quoted herein below:-

> ***107. P. Ramanath Aiyer's The Law Lexicon (1997 edition) defines the term functus officio as:-***
>
> ***"A term applied to something which once has had a life and power, but which has become of no virtue whatsoever One who has fulfilled his office or is out of office an authority who has performed the act authorised so that the authority is exhausted"***
>
> ***108. Black's Law Dictionary (5th edition) defines the term as follows***
>
> ***"Having fulfilled the function, discharged the office or accomplished the purpose, and therefore of no further force or authority an instrument, power, agency, etc. which has fulfilled the purpose of its creation, and is therefore of no further virtue or effect***
>
> ***109. The doctrine of functus officio gives effect to the principle of finality. Once a judge or quasi-judicial authority has rendered a decision, it is not open to her to revisit the decision and amend. correct clarify, or reverse it (except in the exercise of the power of review, conferred by law) Once a Judicial or quasi-judicial decision attains finality, it is subject to change only in proceedings before the appellate court***

110. For instance, Section 362 of the Code of Criminal Procedure 1975 provides that a court of law is not to alter its judgment once it is signed

"362 Court not to alter judgment. Save as otherwise provided by this Code or by any other law for the time being in force, no Court, when it has signed its judgment or final order disposing of a case, shall alter or review the same except to correct a clerical or arithmetical error."

111. In Hari Singh Mann v. Harbhajan Singh Bajwa35, this Court recognized that Section 362 was based on the doctrine of functus officio

70. The section is based on an acknowledged principle of law that once a matter is finally disposed of by a court, the said court in the absence of a specific statutory provision becomes functus officio and disentitled to entertain a fresh prayer for the same relief unless the former order of final disposal is set aside by a court of competent jurisdiction in a manner prescribed by law. The court becomes functus officio the moment the official order disposing of a case is signed. Such an order cannot be altered except to the extent of correcting a clerical or an arithmetical error."

112. The doctrine of functus officio exists to provide a clear point where the adjudicative process ends and to bring quietus to the dispute. Without it, decision-making bodies such as courts could endlessly revisit their decisions. With a definitive endpoint to a case before a court or quasi-judicial authority, parties are free to seek judicial review or to prefer an appeal. Alternatively, their rights are determined with finality. Similar considerations do not apply to decisions by the state which are based entirely on policy or expediency.

115. Turning to the present case, the appellants' argument that the Union Government was rendered functus officio after establishing the OAT does not stand scrutiny. The decision to establish the OAT was administrative and based on policy considerations. If the doctrine of functus officio were to be applied to the sphere of administrative decision-making by the state, its executive power would be

> ***crippled. The state would find itself unable to change or reverse any policy or policy-based decision and its functioning would grind to a halt. All policies would attain finality and any change would be close to impossible to effectuate.***
>
> ***114. This would impact not only major policy decisions but also minor ones. For example, a minor policy decision such as a bus route would not be amenable to any modification once it was notified. Once determined, the bus route would stay the same regardless of the demand for say, an additional stop at a popular destination. Major policy decisions such as those concerning subsidies, corporate governance, housing, education and social welfare would be frozen if the doctrine of functus officio were to be applied to administrative decisions. This is not conceivable because it would defeat the purpose of having a government and the foundation of governance. By their very nature, policies are subject to change depending on the circumstances prevailing in society at any given time. The doctrine of functus officio cannot ordinarily be applied in cases where the government is formulating and implementing a policy.***
>
> ***115. In the present case, the State and Union Governments' authority has not been exhausted after the establishment of an SAT. Similarly, the State and Union Governments cannot be said to have fulfilled the purpose of their creation and to be of no further virtue or effect once they have established an SAT. The state may revisit its policy decisions in accordance with law. For these reasons, the Union Government was not rendered functus officio after establishing the OAT."***

8. In the matter of **Lalit Narayan Mishra vs. State of Himachal Pradesh and others, 2016 SCC OnLine HP 2866,** Division Bench of Hon'ble Himachal Pradesh High Court has held that "Functus officio" is a Latin term meaning having performed his or her office. With regard to an officer or official body, it means without further authority or legal competence because the duties and functions of the original commission have been fully accomplished. "Functus" means having performed and "officio" means office. Thus, the phrase functus officio means having

performed his or her office, which in turn means that the public officer is without further authority or legal competence because the duties and functions of the original commission have been fully accomplished.

Trayner's Latin Maxims, 4th Edn. gives the expression functus officio the following meaning “Having discharged his official duty. This is said of any one holding a certain appointment, when the duties of his office have been discharged. Thus a Judge, who has decided a question brought before him, is functus officio and cannot review his own decision.”

In Wharton's Law Lexicon, 14th Edn., the expression functus officio is given the meaning: "a person who has discharged his duties, or whose office or authority is at an end."

P. Ramanatha Aiyar's Law Lexicon gives the expression the meaning: "A term applied to something which once has had a life and power, but which has become of no virtue whatsoever. Thus when an agent has completed the business which he was entrusted his agency is functus officio."

In Black's Law Dictionary Tenth Edition, meaning of functus officio is: "having performed his or her office (of an officer or official body) without further authority or legal competence because the duties and functions of the original commission have been fully accomplished." In other words, the authority, which had a life and power, has lost everything on account of completion of purpose/activities/act.

(Emphasis added)

9. Dealing with the execution proceedings, Hon’ble Single Bench of Madras High Court in the matter of **VG Naidu vs. Pahalraj Gangaram, 2016 SCC OnLine Mad 9710** has observed that till the time of limitation subsists, there can be any number of execution applications and if statute, provides power to correct certain account of certain kinds of errors, then the doctrine of functus officio would be subject to such qualification and its applicability would dependent upon the nature and extent of power conferred on the authority functioning. It is further observed that “principle of finality is attached to the doctrine of functus officio, but, there are exceptions to the principle of finality. However, the court's inherent power to set aside the judgment only be invoked in exceptional

circumstances to avoid miscarriage of justice. Fraud as is a genuine, albeit limited, exceptions to the important principle of finality of litigation.

(Emphasis added)

10. To apply the proposition of law qua functus officio, as discussed above, in the given circumstances of the present matter, it would be befitting to refer and discuss the final observation made by the Prescribed Authority in his order dated 2.3.2024, which is quoted herein below:

> **अतः उक्त विवेचना के आधार पर चुनाव याचिका राजकुमारी की आंशिक रूप से स्वीकार की जाती है। मतपत्रों की पुर्नगणना हेतु दिनांक 09-03-2024 नियत की जाती है। पुर्नगणना की कार्यवाही विकास खण्ड रामनगर तहसील आंवला जिला बरेली में करायी जायेगी ।**
>
> **"Thus, in view of the discussion as above, election petition of Raj kumari is partly allowed. Date 9.3.2024 is being fixed for recounting of ballot papers. Proceeding of recounting will be conducted in Vikas Khand, Ram Nagar, Tehsil Aonwla, District Bareilly."**
>
> **(Tranlation by Court)**

11. It is evident from the first order dated 2.3.2024 passed by Prescried Authority that the election petition has been allowed partially fixing the date for recounting, without fixing any date for further hearing in the election petition, which resulted into final termination of the proceeding in election petition filed on behalf of respondent No. 3 under section 12-C of the Act, 1947. There is nothing on record to demonstrate that further date has been fixed for hearing in the election petition intending to decide it finally after final outcome of the recounting. Thus, a genuine question has arisen as to what remains to be decided in the election petition while it has been allowed, even partially, without fixing any further date for the purposes of further hearing in the election petition? Recounting of ballot papers was the consequential effect of the order dated 2.3.2024. However, declaring the respondent No. 3 as a returned candidate in consequence to the final outcome of the recounting may be a ministerial/procedural issue, but, same cannot be made an integral part of the such judicial proceedings under Section 12-C of the Act, 1947, which has already been terminated

by previous order dated 2.3.2024. Partly allowing the election petition and fixing the date for recounting, vide order dated 2.3.2024 passed by Prescribed Authority, is a paramount consideration for the purposes to decide as to whether, after said order being passed, the Prescribed Authority became functus officio or not. Dealing with this question, the coordinate Bench at Lucknow of this Court in the case of **Parshuram** (supra) has held that once the final order has been passed in an election petition, the Prescribed Authority became functus officio and cannot pass any order subsequent thereto even if election petition has been decided finally for recounting of votes. The relevant paragraphs No. 6, 36 and 37 of the aforesaid judgment are quoted in hereinbelow:-

> ***"6. The legal question which has arisen in the instant petition is whether the Prescribed Authority has erred in law in directing for re-counting of votes while finally deciding the election petition inasmuch as to whether the Prescribed Authority could pass any further order on receipt of the result of the re-counting of votes once the election petition had been finally decided and consequently the Prescribed Authority became 'functus officio'?***
>
> ***36. As already indicated above, the Apex Court in the case of Hari Vishnu Kamath (supra) has held that after the Election Tribunal finally pronounces its decision, it becomes 'functus officio' meaning thereby that it would not have any power to pass any order in the election petition after it pronounces its order. In the instant case what the Election Tribunal headed by the Prescribed Authority has done is that it has finally allowed the election petition and has directed for a recounting. Even if the result of recounting of the votes is to be either way, the Election Tribunal having become 'functus officio' after pronouncement of its decision/allowing the petition, it would not be able to pass any further orders. As such keeping in view the settled proposition of law, Article 243-O of the Constitution of India categorically providing that only by means of an election petition the election to the Panchayat can be called in question and the election petition having been finally decided, the Prescribed Authority/Election Tribunal, thus became functus officio and cannot pass any further orders in the matter. As such, the impugned order has to be treated as a final order in all respects and accordingly it is apparent that the Prescribed***

> ***Authority has passed a patently perverse order and has failed to exercise jurisdiction vested in him i.e. of finally deciding an election petition either way.***
>
> ***37. Keeping in view the aforesaid discussion, the legal question which has arisen in the instant petition is answered below:-***
>
> ***The Prescribed Authority on finally deciding an election petition becomes functus officio and can not pass any order subsequent thereto even if the election petition has been decided finally calling for the re-counting of votes."***

12. In the case of **Mohd. Mustafa (supra)**, the Division Bench of this Court has discussed scope of maintainability of the revision under Section 12-C (6) of the Act, 1947 in the event where order of recounting has been passed by the Prescribed Authority. The questions, which were referred to Hon'ble Division Bench, as mentioned in paragraph No.2 of the aforesaid judgement, are quoted herein below:-

> ***"[2] The learned Single Judge hearing the writ petition pointed out the conflict in the view taken by the learned Single Judge in Abrar's case (supra) with that of the decisions relied on by the learned Counsel for the petitioner and framed the following questions to be answered by a larger Bench:***
>
> ***(I) Whether the revision under Section 12-C (6) shall lie only against a final order passed by Prescribed Authority deciding the election petition under Section 12-C(1)_or a writ petition can be filed against an order of recount, which has been passed after deciding certain issues raised in the election petition?***
>
> ***(II)Whether the judgment or learned Single Judge in Abrar v. State of U.P., 2004 5 AWC 4088 and Ors. lays down correct law?"***

13. While answering the quetion referred in the matter of **Mohd. Mustafa** (supra), Hon'ble Division Bench has shown its inability to circumscribe to the view taken by the learned Single Judge in the matter of **Abrar v. State of U.P. and others, 2004(5) AWC 4088** that the disposal of an application for recount would amount to be a final order as it disposes of

the application for recounting finally. It is observed that the finality comes only after the disposed of the election application as the relief of setting aside an election or dismissing an election application comes at the final stage and not by mere disposal of an application of recount or ordering recount on deciding the issue framed for this purpose. Discussing the facts and circumstance of the **Mohd. Mustafa** (supra) case, it has been observed that only the order of recount has been passed by the Prescribed Authority and other issues were remained to be decided after recounting of ballot papers, as to whether the election had been held in accordance with law and as to whether the votes casted in favour of contesting respondents have been mixed up with the votes of the returned candidate and on the basis of which the petitioner has been declared elected. It was further to be decided as to whether election petition is to be allowed or dismissed. In this backdrop of the facts, Hon'ble Division Bench of this Court has observed that by no stretch of imagination it can be held that the order of recounting of votes has finally disposed of the election petition. In such specific facts and circumstances of the case, wherein simply order for recounting has been passed and original election petition was kept pending to be decided, Hon'ble Division Bench of this Court answered to the questions referred that revision under Section 12-C(2) of Act 1947 is always preferred against the final order passed by the Prescribed Authority, and the order for recounting is an interlocutory order, therefore, revision is not maintainable. Relevant paragraphs No. 24, 25, 26 and 27 of the aforesaid case are quoted herein below:

> ***"[24] The order impugned in the writ petition cannot be held to have disposed of the election application for the reason that the Election Tribunal framed following three issues:***
>
> ***(1) Whether the counting in the election on the post of Praonan of village Handia was conducted in accordance with law?***
>
> ***(2) Whether the agents of the applicant in election application, were forcibly removed from the place of counting and the votes cast in favour of the election applicant had been mixed up with the votes of the returned candidate (present petitioner) and on the basis of which opposite party No. 1 (present petitioner) was declared elected? And***

(3) Whether on the facts and circumstances of the case, the recounting of votes is permissible and the election had been held in accordance with law?

[25] It is evident from the order impugned that only the order of recount has been passed. However, the other issues are yet to be decided after recount of ballot papers as to whether the -election had been held in accordance with law and as to whether the votes cast in lavour of the contesting respondent has been mixed up with the votes of the returned candidate and on the basis of which the petitioner has been declared elected. It is further to be decided as to whether the election application is to be allowed or dismissed, Therefore, by no stretch of imagination, it can be held that the order of recount of votes has finally disposed of the election application.

[26] We are, therefore, with the utmost respect, not able to circumscribe to the view taken by the learned Single Judge in the Abrar's case (supra) for the reasons aforesaid and, therefore, we nave no hesitation in holding that the said decision does not lay down the law correctly on the question of the maintainability of revision under Section 12-C(6) of the Act in respect of an application disposed of by the Prescribed Authority for recount. We further approve the law lald down in the cases relied upon by the learned Counsel for the petitioner,

[27] We answer the questions referred to by the learned Single Judge as follows:

(I) A revision under Section 12-C(6) of the Act shall lie only against a final order passed by the Prescribed Authority deciding the election application preferred under Section 12-C(1) and not against any interlocutory order or order of recount of votes by the Prescribed Authority.

(II) The judgment of the learned Single Judge in the case of Abrar v. State of U.P. and Ors., 2004 5 AWC 4088 does not lay down the law correctly and is, therefore, overruled to the extent of the question of maintainability of a revision petition, as indicated hereinabove.

> ***(III) As a natural corollary to the above, we also hold that a writ petition would be maintainable against an order of recount passed by the Prescribed Authority while proceeding in an election application under Section 12-C of the U.P. Panchayat Raj Act, 1947."***

14. Facts and circumstances of the cited case viz. **Mohd. Mustafa** (supra) is distinguishable from the facts and circumstances of the present case wherein election petition has been allowed partly by order dated 2.3.2024. Prescribed Authority has decided all the eleven (11) issues as formulated in the election petition filed under Section 12-C of the Act, 1947 and nothing remains to be decided. It would not be befitting to discuss the issues at this juncture inasmuch as order dated 2.3.2024 is under challenge in revison under Section 12-C(6) of Act, 1947 which is still pending before revisional court. While dealing with an election petition, there would be two options available for the Prescribed Authority; either to decide the election petition finally leaving no issue to be decided in further proceeding or fix dates for further proceedings intending to decide the election petition finally. If the Prescribed Authority chose to keep the election petition pending and directs to recount of votes then it would be an interlocutory order, in view of the ratio decided by the Hon'ble Division Bench of this Court in the matter of **Mohd. Mustafa** (supra). However, on the flip side, if the Prescribed Authority passes an order allowing or dismissing the election petition, may be partly, without keeping the election petition pending, with direction for recounting of votes, then, in my considered opinion, it would tantamount a final order and to that extent, the Prescribed Authority would be treated as functus officio, who has finally terminated the proceeding of election petition without keeping it pending for further proceedings.

15. The case of **Mohd. Mustafa** (supra) was discussed by the coordinate Bench at Lucknow of this Court in case of **Parshuram** (supra) and concluded that Election Tribunal become functus offico after pronouncement of its decision on the election petition. Hon'ble Judge has considered the provisions under Article 243-O of the Constitution of India as well. In similar facts and circumstances, wherein election petition has been allowed and direction has been issued for recounting of ballot papers, co-ordinate Bench of this Court in the case of **Kusum Kumari**

(supra) and **Ram Kali** (supra) has finally upheld that such orders are final order in the eye of law subject to remedy of revision under Section 12-C (6) of the Act, 1947. It is apposite to mention that while entertaining the revision under Section 12-C (6) of the Act, 1947 against the order dated 2.3.2024, the revisional court, vide order dated 22.3.2024, has considered the order under revision as a final order to be revisable under Section 12-C (6) of the Act, 1947 and, accordingly, passed order for admission of the revision and its registration. While confronted with the counsel for the parties querying the pendency of the revision petition, they have admitted that said revision is still seized with the revisional court against the order dated 2.3.2024.

16. In this conspectus, as above, I found substance in the submissions advanced by the learned counsel for the petitioner that in view of allowing the election petition partly, vide order dated 2.3.2024, that too, without fixing any date for the further proceedings in the election petition intending to decide any issue or to take final decision on said election petition, the Prescribed Authority became functus officio and he has an inherent lack of jurisdiction to entertain such election petition again and allowed the same second time declaring respondent No. 3 as a returned candidate. It appears, prima facie, that learned Prescribed Authority has passed order dated 21.3.2024 in zeal, while the revision dated 12.3.2024 was seized with the revisional court to examine the legality and validity of the order dated 2.3.2024. Even assuming that no interim order was passed by the revisional court, the Prescribed Authority has not justified in passing the order dated 21.3.2024 while he had already laid his hands off from the election petition by terminating its proceeding finally vide order dated 2.3.2024. There is no provision under the Act, 1947 authorizing the Prescribed Authority to re-entertain the election petition, which has already been decided, and modify the previous order dated 2.3.2024 passed by him or to pass subsequent fresh order in furtherance of the previous order. The order under challenge, passed by the Prescribed Authority, is patently erroneous and perverse to the provisions of the Act, 1947 and same is liable to be qushed being illegal, unwarranted under the law, cryptic and suffers from infirmity warranting the indulgence of this Court in exercise of its extraordinary jurisdiction under Article 226 of the Constitution of India. The existence of such order beget prejudice and miscarriage of justice to the present petitioner, who is an elected representative in the democratic setup.

17. Resultantly, instant writ petition succeeds and is **allowed**. Order impugned dated 21.3.2024 passed by the Prescribed Authority/Sub-Divisional Officer, Aonwla (Annexure No. 1) is hereby quashed. Parties are already under litigation before the Revisional Court in revision filed on behalf of present petitioner assailing the order dated 2.3.2024. The final outcome of the recounting, subject to objection if any at the relevant time, shall be kept in the sealed cover and shall be subject to the final decision of the revisional court. The revisional court, before whom revison filed on behalf of the petitioner is pending consideration, is expected to decide the said revision strictly in accordance with law as early as possible.

Order Date :. 8.7.2024
vinay