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**IN THE COURT OF REGISTRAR, COOPERATIVE SOCIETIES,  
JHARKHAND, RANCHI.**

**Appeal Case No.- 11/2023**

(Arising out of Order dated 28.04.2023 passed by Joint Registrar, Cooperative Societies, South Chhotanagpur Division, Ranchi in Election Dispute case no 01/2022 )

**UNDER SECTION - 48 (6)**

Dr. B.P. Sinha, S/O- Late Hari Shankar Lal, resident of C-39, Road no.- 1, Ashoknagar, P.O.- Doranda, P.S.- Argora, Dist.- Ranchi (Jharkhand)..... Appellant/Petitioner.

**-vers-**

Joint Registrar, Cooperative Societies, South Chhotanagpur Division, Ranchi & Others..... Respondents.

Petitioner Advocate - Mr. Sameer Sourabh (9431173009) & Nitesh Krishna (9504387883)

Respondent No-1,3,4 - Self

Respondent No-2 & 4 - Self

Name of Society - Services Housing Cooperative Society Ltd.  
Ashoknagar, P.O.- Doranda, P.S.- Argora,  
Dist.- Ranchi (Jharkhand)

Coram - Suraj Kumar (IAS), Registrar, Co-operative Societies, Jharkhand, Ranchi.

**-Order-**

**Dated- 22-05-2025**

This order arises out of Appeal Case No. 11/2023 filed under Section 48(6) of the Jharkhand Co-operative Societies Act, 1935, challenging the decision dated 28.04.2023 passed by the Joint Registrar, South Chhotanagpur Division, Ranchi in Election Dispute Case No. 01/2022. The appellant, Dr. B.P. Sinha, contested the election for Chairman of the Services Housing Cooperative Society Ltd., Ashok Nagar, Ranchi and lost by a margin of two votes.

The appeal challenges the validity of the election result on two principal grounds:

1. Alleged irregularities in the counting of votes for the post of Chairman;
2. Alleged violation of Section 14(2) of the Jharkhand Cooperative Societies Act, 1935 regarding mandated reservation for women and SC/ST women.

**SCOPE OF REGISTRAR'S JURISDICTION UNDER SECTION 48(6)**

Section 48(6) provides the Registrar with appellate authority over decisions passed by subordinate officers such as the Joint Registrar in election disputes. The Registrar has wide appellate jurisdiction and is empowered to:

- Examine questions of law and fact;
- Call for and re-evaluate records;
- Overturn findings based on misapplication of law or lack of evidence;
- Ensure compliance with the principles of natural justice and constitutional mandates.

In light of this expansive scope, this authority is duty-bound to correct errors that materially affect the outcome of elections, particularly in cooperative societies where statutory reservations and transparency are fundamental to democratic functioning.

**I. PRAYERS, ARGUMENTS AND COUNTER-ARGUMENTS BEFORE THIS COURT**

**Appellant's Prayers:**

- To set aside the **order dated 28.04.2023** passed in Election Petition No. 01/2022;
- To set aside the election of Respondent No. 5 as Chairman of the Society;
- To direct a recount of votes for the post of Chairman;

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- To declare the election process void on grounds of violation of Section 14(2);
- To pass such further or other orders as may be deemed just and proper.

**Appellant's Arguments:**

- The counting process lacked transparency, particularly as videography was allegedly turned off during the counting of votes for Chairman.
- An unauthorized person, not the appointed Election Officer, conducted the counting.
- Ballots with markings in margins (common among elderly voters) were incorrectly counted in favour of Respondent No. 5.
- Formal representations for recount were submitted on 20.06.2022 and 23.06.2022 but not acted upon.
- The election violated the 50% women reservation mandated under Section 14(2), with only 4 women elected out of 11, and one SC/ST woman seat left vacant.

**Respondents' Counter-Arguments:**

- The appellant was physically present throughout the counting and did not object at the time.
- The request for recount is a post-defeat reaction and lacks merit.
- Proper public notices were issued for SC/ST women nominations; however, no valid candidate came forward.
- One ST woman was elected, and efforts to fill the second SC/ST woman seat were made in good faith.
- The counting was done in accordance with election norms and observed by multiple stakeholders.

**Reference to JR Court Proceedings:**

- The Joint Registrar rejected the plea for recount, citing absence of objection at the time of counting and lack of material proof and also recounting provisions are not part of the election disputes in Cooperative Societies.
- While the issue of Section 14(2) was raised in the pleadings, on the first look it was clear that the Joint Registrar **did not frame any issue or pass any reasoned finding** on the alleged violation of mandatory women reservation norms.
- The JR's final order does not contain any legal interpretation or factual assessment of whether the Society met the 50% reservation requirement.
- This amounts to a **complete omission to adjudicate** a legally substantial ground raised by the petitioner.

**Chronological Order of Events**

Date	Event
May-June 2022	Election notification issued for 11 posts of the Managing Committee of Services Housing Cooperative Society, Ashok Nagar, Ranchi.
19.06.2022	Elections held. Counting and declaration of results on same day. <ul style="list-style-type: none"><li>• 312 votes cast.</li><li>• For post of Chairman:<ul style="list-style-type: none"><li>— Dr. Madhaw Sharan Singh: 140 votes (declared elected)</li><li>— Dr. B.P. Sinha: 138 votes</li><li>— Shri Basant Prakash: 34 votes</li></ul></li><li>• 4 women elected to Board.</li><li>1 SC/ST woman seat remained vacant.</li></ul>
20.06.2022	Dr. B.P. Sinha submitted a written representation to the Assistant Registrar (Election Officer) alleging irregularities in counting and requesting recount.
23.06.2022	Second representation submitted by Dr. Sinha reiterating the recount request. Letter No. 210 issued by Assistant Registrar stating: <ul style="list-style-type: none"><li>• Records preserved</li><li>• No administrative power to order recount</li><li>• Advised to file an election dispute under Section 48.</li></ul>
08.07.2022	Election Dispute No. 01/2022 filed by Dr. B.P. Sinha before the Joint

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	Registrar, Co-operative Societies, Ranchi.
19.07.2022	Joint Registrar directed production of election records and videography for perusal.
23.08.2022	Follow-up order passed for production of video footage and record documents.
02.12.2022	Joint Registrar granted liberty to the Appellant to file supplementary affidavit on the violation of Section 14(2).
28.04.2023	Joint Registrar passed final order: <ul style="list-style-type: none"><li>• Dismissed petition citing lack of evidence and non-joinder of parties</li><li>• Did <b>not adjudicate Section 14(2)</b> violation issue</li><li>• Denied recount request.</li></ul>
May 2023	Appeal Case No. 11/2023 filed by Dr. B.P. Sinha before Registrar, Co-operative Societies, Jharkhand, under Section 48(6).
May 2023 – Apr 2025	Appellate hearing conducted. Submissions received from Appellant and Respondents. Examination of original record and legal grounds undertaken.

### Introduction and Background

1. This order disposes of **Appeal Case No. 11/2023** filed under Section 48(6) of the Jharkhand Co-operative Societies Act, 1935, wherein the Appellant, *Dr. B.P. Sinha*, has challenged the decision dated **28.04.2023** of the Joint Registrar, Co-operative Societies, South Chotanagpur Division, Ranchi (Respondent No.1). The impugned decision had dismissed the Appellant's election dispute (Election Dispute No. 01/2022) concerning the **Board of Directors election of the Services Housing Co-operative Society Ltd., Ashok Nagar, Ranchi**, held on 19.06.2022.

2. **Factual Matrix:** The Services Housing Co-operative Society's Board consists of 11 members as per its bye-laws. As mandated by law, **five (as per election mandate) of these eleven posts were reserved for women**, including **two seats for women belonging to Scheduled Castes/Scheduled Tribes (SC/ST)**. In the 2022 election process, nominations were invited for all 11 positions; however, only one nomination was received for the two SC/ST-reserved women seats, resulting in one SC/ST woman being elected unopposed and **one reserved seat remaining vacant**. Elections were thus held for the remaining 10 posts, and results were declared on 19.06.2022 for those ten positions. One general seat (Director) was also filled unopposed, leaving the Board constituted with **10 elected members and 1 vacancy**. The Society's bye-laws explicitly allow the Board to function despite any vacancy, and accordingly the newly elected Board assumed charge with 10 members (4 of whom were women).

3. **Contested Chairman Election:** The post of *Chairman* was keenly contested. The Appellant, Dr. B.P. Sinha, was a candidate for Chairman, as was Respondent No.5, *Dr. Madhaw Sharan Singh* (a retired I.A.S. officer), and one Shri Basant Prakash. **Dr. Madhaw Sharan Singh was declared elected as Chairman by a narrow margin of 2 votes**, having secured **140 votes** to the Appellant's **138 votes**, with the third candidate Shri Basant Prakash receiving **34 votes**. Out of 508 total members, 312 votes were cast for each post, meaning the Chairman's race was decided by an extremely slim margin of <1% of the total votes.

4. **Alleged Irregularities in Counting:** The Appellant promptly raised objections to the counting process for the Chairman's election, alleging that the **counting was not conducted in a transparent or fair manner**. In particular, the Appellant asserts:

(a) although videography was arranged for the counting process, the **video recording was deliberately switched off precisely during the counting of votes for the Chairman's post**, and only switched on again after that count was completed;

(b) the official counting staff did not show each ballot paper to the candidates/agents during tallying and only verbally announced the marked choice, preventing verification – which is *prima facie* improper; and

(c) many society members are senior citizens, and some allegedly **marked their ballots incorrectly (placing the 'X' mark outside the designated box)**, yet the Election Officer **counted such**

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**doubtful ballots in favor of Respondent No.5** instead of rejecting them or clarifying the voter's intent.

These actions, according to the Appellant, wrongfully inflated Respondent No.5's tally and call into question the integrity of the declared result. The Appellant also claims the Election Officer may have been under **undue influence** of Respondent No.5 (given the latter's status as a senior ex-bureaucrat). No *untoward incident* was recorded during polling, and armed police were deployed for security; the crux of the Appellant's grievance centres on the post-poll counting procedure.

**5.Immediate Representations:** On **20.06.2022 (the very next day)** and again on **23.06.2022**, the Appellant submitted written representations to the Assistant Registrar, Co-operative Societies (Ranchi) – who had been the Conducting/Election Officer – **seeking a recount of the votes for the Chairman's post** in view of the above irregularities. In these representations, the Appellant detailed his "*doubts of miscalculation*" and the specific issues (the halted videography, mis-announced ballots, etc.), urging that a recount was necessary to uphold the true mandate. By **Letter No.210 dated 23.06.2022**, the Assistant Registrar replied to the Appellant, confirming that all election records (including ballots and any video footage) were preserved and informing him that **any post-election grievances must be pursued by way of an election dispute under Section 48 of the 1935 Act**. In other words, the department indicated it had no power to order a recount administratively and advised the Appellant to seek remedy before the competent legal forum. Having thus been directed, the Appellant promptly filed the requisite dispute within the statutory period (on 08.07.2022, i.e. within 30 days of result).

**6.Election Dispute No. 01/2022 before Joint Registrar:** The Appellant's election petition under Section 48 was taken up by the Joint Registrar, Co-operative Societies, South Chotanagpur Division (Respondent No.1 herein). In that petition, the Appellant sought **two principal reliefs:**

(i) a **recount of all votes for the post of Chairman** (and consequential declaration of the correct result for Chairman based on that recount), and

(ii) in the alternative, **setting aside of the entire Board election held on 19.06.2022** for being illegal and void. The alternative prayer was predicated on a distinct legal ground that emerged during the dispute: namely, that the composition of the elected Board **failed to comply with the mandatory reservations for women as required by law**, thus violating the constitutional and statutory mandate and rendering the election outcome unsustainable **in toto**.

**7.Section 14(2) – Women's Reservation Compliance Issue:** During the proceedings before the Joint Registrar, the Appellant was granted liberty (vide order dated 02.12.2022) to specifically elaborate on how the society's 2022 election violated Section 14(2) of the Jharkhand Co-operative Societies Act. It is noteworthy that the Jharkhand Legislature, pursuant to the 97th Constitutional Amendment (Part IXB of the Constitution), had **amended Section 14 of the 1935 Act in 2015 to incorporate new norms for cooperative governance**. Section 14(2) (as amended) provides that the management of a cooperative society shall vest in an elected managing committee **constituted in accordance with the Act, rules, and the society's bye-laws,**

*“Provided that the maximum number of directors shall not exceed 21, Provided further that at least 50% of the managing committee seats shall be reserved for women members, out of which two seats shall be reserved for SC/ST women”.*

This statutory mandate echoes the constitutional objective of ensuring adequate representation of women (and marginalized communities) in cooperative leadership. In the case of the Appellant's society (with an 11-member Board), **“not less than 50%”** reservation for women means **at least 6 women** must be on the Board. The Appellant pointed out that, as a result of the 2022 election, only **4 women** (Smt. Rita Lal, Smt. Shobha Kumari, Smt. Krishna Srivastava, and Smt. Zuby Zen (ST)) were on the Board. Even if the one vacant reserved seat were to be filled by nomination or by-election with a woman, that would make the count **5 women**, still below 50%. Thus, **the managing committee as constituted had less than 50% women**. The Appellant argued that this outcome **violated the mandatory second proviso of Section 14(2)** and the constitutional policy behind it, and therefore the entire election (being conducted without achieving the requisite composition) was **legally infirm and liable to be set aside**. The Appellant's stance was that the statute's use of “not less than 50%” means the requirement is absolute – under no circumstances can women's representation fall below half of the Board – and here that mandate was not met.

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**8.Proceedings and Impugned Order:** The Joint Registrar (Respondent No.1) heard the matter and ultimately, on 28.04.2023, **dismissed the Appellant's election dispute**, declining to order any recount or to interfere with the election result. From the record and submissions, it appears the Joint Registrar's **impugned order** rejected the Appellant's claims on, **inter alia**, the following bases:

(a) an objection that the **Appellant had not impleaded all necessary parties** in his petition – notably, the third candidate for Chairman (Shri Basant Prakash) and other elected Board members were not joined – which was held to “vitiating” the proceedings;

(b) a finding that the Appellant's allegations of miscount were “**not supported by any documentary or oral evidence**”, being merely *bald assertions* or “doubts” on his part;

(c) an observation that the Appellant **had not raised any objections at the time of counting on 19.06.2022** before the Election Officer or observer, and in fact **left the counting hall apparently satisfied with the result**, even congratulating the winning candidate (Respondent No.5) – hence the **later challenge was an afterthought** and lacking bona fides; and

(d) an implicit view that **no provision in the Act/Rules explicitly permits recounting of votes** once results are declared, coupled with the principle that secrecy of ballots should not be lightly violated. Crucially, the Joint Registrar's order did **not substantively address the Section 14(2) reservation compliance issue** at all – the final order is silent on whether the deficit in women members was considered to affect the validity of the election. The Joint Registrar thus dismissed the dispute in entirety, effectively **upholding the election of Respondent No.5 as Chairman and the constitution of the Board**, without ordering any corrective action. It is against this dismissal that the present statutory appeal has been preferred.

#### **Prayers and Contentions of the Parties**

##### **Appellant's Prayers and Submissions (Before the Joint Registrar and in Appeal)**

9. In his election petition and subsequent appeal, the **Appellant's primary prayers** were two-fold: **firstly**, he sought an **order of recounting of all votes for the Chairman's post**, including scrutiny of rejected/invalid votes, videographic evidence, and any other pertinent records, so as to ascertain the correct outcome of the Chairman election; **secondly**, in the alternative, he prayed for the **entire election of the Society's managing committee (conducted on 19.06.2022) to be set aside and fresh elections held**, on account of the breach of the mandatory women-reservation requirement and the alleged serious malpractices in counting. (It is acknowledged that these two prayers lead to different scopes of relief – one confined to the Chairman's result, and the other affecting all positions – and the Appellant clarified that the broader relief was urged in view of the legal infirmity in composition, while the immediate relief sought was a recount for the post he contested.)

10.**Arguments on Irregularities and Recount:** The Appellant forcefully argues that **the counting process for Chairman was vitiated by procedural irregularities and possible manipulation**, thereby clouding the true electoral mandate. He reiterates that the **videography of counting was intentionally stopped** during the critical period when Chairman votes were being tallied, which he contends was done to prevent creation of evidence of miscount. He also states that **ballot papers were not exhibited openly** to the candidates or their agents during counting (in contravention of fair election practices), and that the counting staff simply announced votes, leaving no transparency. According to the Appellant, several votes that were **marked with an 'X' outside the proper box** (especially by elderly voters) were questionably **counted in favour of Respondent No.5** instead of being treated as invalid or clarified. Had those dubious votes been discarded or counted differently, the result could well have changed given the **2-vote margin**. The Appellant contends that these *specific and material irregularities* warranted a thorough inquiry and recount by the dispute adjudicating authority, in line with legal precedents that uphold the sanctity of each vote and the principle of free and fair elections. He emphasizes that he raised these issues at the earliest opportunity – evidenced by his written complaints on **20.06.2022 and 23.06.2022** immediately after the election – demonstrating that his concerns were genuine and not an afterthought. The Appellant submits that **a recount, alongside scrutiny of rejected ballots and the video recording, is the only effective way to verify the true result** in such a close contest, and that refusing to recount in the face of prima facie irregularities amounts to a failure of the adjudicatory process. In the appeal, it is pointed out that **Rule 21(J)** of the Jharkhand Co-operative Societies Rules, 1959 expressly permits **any dispute relating to an election to be decided under Section 48**, which by necessary implication **includes disputes seeking recounting of votes**. There is **no rule or law prohibiting a recount** in cooperative society elections; on the contrary, a vote recount is

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a form of relief squarely within the scope of an election dispute under the Act. The Appellant thus argues that the Joint Registrar **misdirected himself in thinking there was no power to order a recount**, and in applying an unduly rigid standard that effectively shielded potential counting errors from scrutiny.

11. In support of the recount request, the Appellant invokes the legal standards established by courts for granting a recount. He cites the Supreme Court's decision in **Udey Chand vs. Surat Singh & Anr.**, (2009) 10 SCC 170, which holds that **the secrecy of ballots, though sacrosanct, can be breached when two basic conditions are satisfied:**

(i) the election petition must plead "*an adequate statement of all the material facts*" alleging irregularity in counting, and

(ii) those allegations should be supported by evidence, such that the court is *prima facie* satisfied that an order of recount is "*imperatively necessary to do complete justice between the parties.*"

The Appellant contends that he met this threshold: his pleadings detailed concrete counting irregularities (not mere vague claims) and he promptly produced contemporaneous proof of his protest (the written complaints to authorities) to substantiate his concerns. Given the extremely slender victory margin (2 votes out of 312) and the specific lapses alleged, the Appellant submits that a recount was necessary "*to uphold the sanctity of each vote and the confidence in the electoral process*". He argues that the Joint Registrar **misapplied the Udey Chand principle** – instead of objectively assessing whether the nature of allegations and available evidence raised a reasonable probability of miscount (which would justify inspecting the ballots), the Joint Registrar erroneously demanded the Appellant to **already prove the miscount without granting a recount**, thus putting the cart before the horse. This, the Appellant submits, defeated the very purpose of an election dispute mechanism.

12. **Arguments on Statutory Non-compliance (50% Women on Board):** The Appellant also presses the fundamental legal issue that the **election results in a managing committee that does not conform to Section 14(2)** of the Act. He underscores that the law (as amended in 2015 following the 97th Constitutional Amendment) **mandates at least half of the Board members be women**. In the present case, only **4 out of 11** (~36%) of the Board are women (with one reserved seat unfilled), which is **undeniably below the 50% threshold**. The Appellant labels this a "**constitutional mandate**" that has been flouted – pointing to Article 243ZJ of the Constitution, which requires state laws to provide for at least **two women on every cooperative Board** (a minimum the State of Jharkhand has exceeded by statutorily requiring 50%). The failure to have the minimum number of women, in the Appellant's view, **strikes at the legitimacy of the Board's constitution**. He argues that an election process which yields a managing committee composition contrary to mandatory provisions of the Act cannot be sustained; the proper course in such scenario is to **set aside the election (in whole or at least to the extent of the non-compliant seats) and direct corrective measures (such as re-election or filling of seats) to ensure the law's mandate is fulfilled**. The Appellant notes that he raised this issue during the dispute proceedings (through an affidavit specifically on Section 14(2) compliance), yet the Joint Registrar **failed to address it entirely** in the final order. This non-consideration, he argues, is a grave error apparent on the face of the record. By **ignoring a pertinent statutory ground**, the Joint Registrar left a critical issue undecided, which by itself warrants remand for fresh adjudication.

13. **Rebuttal on Non-joinder of Parties:** Regarding the objection that not all contesting candidates or elected persons were made parties, the Appellant submits that this **technical plea was wrongly allowed to override the merits**. He explains that his petition did implead the primary contesting rival for the Chairman post (Dr. M.S. Singh, Respondent No.5) as a respondent from the outset. It is true that the third candidate for Chairman (Shri Basant Prakash) was not originally impleaded. However, the Appellant argues that in an election dispute, **the absence of one of the losing candidates (who in any event polled far fewer votes and was not the likely winner even in a recount) is not fatal**, especially when the main contest was clearly between the Appellant and Respondent No.5. Moreover, at the stage of final arguments before the Joint Registrar, the Appellant **expressly confined his relief to recounting of the Chairman's votes** (and did not press the prayer for setting aside the entire Board's election). By narrowing the scope to the Chairman result alone, the only necessary parties were the candidates for Chairman – both of whom (the Appellant and Respondent No.5) were very much before the Court. The Appellant submits that **the Joint Registrar should have, in the interest of substantial justice, either directed the formal joinder**

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of any other necessary party (like Shri Basant Prakash) if he deemed it indispensable, or proceeded to decide the matter between the parties present, rather than dismissing the petition outright. He cites the principle that “no case shall be defeated by reason of non-joinder of parties, and the Court is required to deal with the matter in controversy so far as regards the rights and interests of the parties actually before it.” The Appellant thus contends that the Joint Registrar’s heavy reliance on the non-joinder issue was misplaced – particularly when the controversy (recount of Chairman election) could be adjudicated with the parties on record. In this appeal, the Appellant seeks that any remand should permit inclusion of any inadvertently omitted necessary parties so that the dispute can be decided on merits, rather than being thwarted on technical grounds.

#### **Respondents’ Submissions (Joint Registrar’s Defence and Contesting Candidate’s Case)**

14. Respondent No.1 (Joint Registrar, original adjudicating authority) did not file a point-by-point reply in this appeal (being the appellate forum itself), but Respondent No.5 (Dr. Madhaw Sharan Singh, the successful candidate for Chairman) has filed a detailed Counter Affidavit opposing the appeal. The **sum and substance of the Respondents’ stance** (including the official respondents and the contesting candidate) is as follows:

- **Validity of the Impugned Order:** The Respondents submit that the Joint Registrar’s order dated 28.04.2023 is a **well-reasoned and correct order passed after due consideration of all contentions and evidence**. They urge that the order **requires no interference** by this appellate authority, as it allegedly addresses the issues and reaches a just conclusion. In their view, the Appellant’s appeal is an attempt to re-argue facts that were rightly decided, and no material error is shown in the impugned decision.
- **Multiple/Contradictory Reliefs & Non-Maintainability:** The Respondents highlight that the Appellant, in his petition, sought mutually inconsistent reliefs – on one hand a recount (implying acceptance of the election process if the count is corrected), and on the other hand a wholesale cancellation of the election. They argue that such “**multiple and contradictory prayers**” cannot be granted together. According to Respondent No.5, this reflects the frivolous and vexatious nature of the challenge – the Appellant is allegedly unsure of his own case and is fishing for outcomes. Furthermore, because the Appellant sought to set aside the entire election without joining the other successful candidates (e.g. the other elected Board members) as parties, the Respondents assert that the petition was **not maintainable for non-joinder of necessary parties** and was rightly dismissed at the threshold on that ground. They contend that any decision to annul the general body’s election would inherently affect all the elected members, and proceeding in the absence of those persons would violate principles of natural justice. In particular, Respondent No.5 notes that the third candidate for Chairman (Basant Prakash) was not impleaded, even though the Appellant’s plea for setting aside the Chairman’s election or recounting votes ought to involve all candidates for that post. Thus, the Respondents maintain that the **Joint Registrar was correct to treat the petition as vitiated by non-joinder** and on that short ground dismiss it to protect the integrity of the process.
- **Fairness of Election and Counting:** The contesting Respondent vehemently **denies all allegations of misconduct or irregularity in the counting process**. It is submitted that the **elections were conducted fairly and strictly in accordance with the Act, Rules and Bye-laws**, under the supervision of an authorized Election Officer and even an observer. All candidates (including the Appellant) and many members were present during the counting, and **no objection was raised by anyone at that time**. The Respondent points out that the Appellant **did not object during the count or immediately after the Chairman result was announced**, and in fact “*came out of the hall and congratulated*” Dr. M.S. Singh on his victory. This, they argue, demonstrates that the Appellant accepted the result initially and only later, perhaps due to outside influence or dissatisfaction, decided to lodge a protest. The lack of any on-the-spot protest is characterized as evidence that **the counting was transparently conducted and the Appellant had no genuine grievance at the time**. The Respondents label the subsequent complaints as an **afterthought aimed at maligning the Society’s democratic process**. They also note that **other candidates who lost by similarly narrow margins (e.g. one Smt. Gunjan Singh, who lost a Director post by a few votes) did not challenge the outcome**, implying that close results are part of any election and not itself proof of wrongdoing.
- **Videography and Alleged Non-Disclosure of Ballots:** Respondent No.5 specifically **refutes the**

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- claim that the video recording was turned off during counting of Chairman votes.** He asserts that **no such incident occurred**, and that the Appellant has produced **no concrete evidence** to substantiate this allegation. All election materials, including any videography, are in official custody, and **no candidate had access to tamper or review them privately**, so the Respondent casts suspicion on how the Appellant even formed the assertion about the video being off. In fact, the Respondent insinuates that the Appellant's claim to know about the contents (or gaps) of the videography "*reeks of foul play*" on the Appellant's part, since by rule such records aren't accessible to individual members without authorization. The Respondents maintain that **there is no requirement in the Act or Rules mandating that the entire counting process be video-recorded**. The videography was an additional measure, but any brief interruption in recording (which is not admitted) would not be illegal per se. As to the **showing of ballots during counting**, the Respondents contend that standard procedure was followed – the counting personnel announced each vote aloud for the candidates/agents to hear, which sufficed. There is no specific rule cited that each ballot must be individually exhibited, and no one objected during counting that ballots were not visible. Thus, the Respondents consider this grievance to be insubstantial.
- Marked Votes by Senior Citizens:** The Respondents also dispute the allegation regarding ballots marked in the margins. They submit that the voters of the Society, including senior citizens, are well-educated (many being senior government employees or their family) and **fully conversant with how to cast a valid vote**. The insinuation that these voters improperly marked ballots is portrayed as an affront to those members' competence. In any case, the Respondents argue that the Appellant has presented no evidence (such as specific ballot numbers or a pattern) to prove that votes were counted wrongly – it is a speculative claim. The ballot papers are preserved and, according to Respondent No.5, if the Appellant truly believed some were wrongly counted, he could have sought inspection of those specific ballots in the dispute (subject to legal standards) but **he failed to produce any supporting proof or contemporaneous objection**. On the contrary, the fact that the Appellant *implicitly* references some ballots (by claiming knowledge of marks in margins) suggests he might have accessed ballot information improperly after the election, which the Respondents hint would be unlawful. In summary, the Respondents maintain that **the counting was correct and the declared result accurately reflected the votes**.
- No Legal Basis for Recount:** The Respondents align with the Joint Registrar's view that a **recount of votes cannot be claimed as a matter of right**. They cite the well-settled principle that **secrecy of the ballot is paramount and cannot be lightly breached**. An order of recount, they argue, requires strict fulfilment of criteria – there must be clear pleadings of irregularity and credible evidence supporting those allegations. In the present case, Respondent No.5 asserts that the Appellant's petition was lacking on both counts: it contained only **unsubstantiated allegations without "an iota of evidence"**, and thus failed to make out a prima facie case. They emphasize that **mere closeness of margin is not a sufficient ground** for recount; some affirmative proof of miscount or fraud is required, which was not demonstrated. The Respondents endorse the Joint Registrar's finding that the Appellant's claims were based on "*doubts and mis-calculation*" on his part and **not on hard evidence**. They argue that accepting such a basis would set a dangerous precedent where any narrow loser could cast unwarranted aspersions and demand a recount, destabilizing the finality of cooperative elections. Additionally, Respondent No.5 notes that the Appellant **failed to utilize the opportunity to object at the time of counting** when any alleged irregularity could have been immediately addressed. By not doing so, and coming up with objections only after seeing the final outcome, the Appellant undermined the credibility of his own claims. They quote the Joint Registrar's observation that **if the Appellant truly had concerns about transparency, he ought to have protested during the count or to the Observer, which he admittedly did not**. Hence, raising those issues later was rightfully deemed *frivolous*. The Respondents argue that the **absence of a contemporaneous objection is effectively a waiver or indication that no irregularity was perceived at the time** – and they agree with the court below that there is also **no specific rule barring a post-count challenge in absence of an immediate objection**, but insist that it goes to the weight of the evidence and bona fides of the petitioner.
- Reservation Issue – Substantial Compliance:** On the issue of women's representation, the

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official Respondents (and Society's management, if heard) submit that **due compliance was attempted** with Section 14(2) by reserving the prescribed number of seats for women (five out of eleven, per the Society's registered Bye-laws). The shortfall of one woman arose only because an insufficient number of women from the SC/ST category came forward to contest, leaving one reserved seat vacant. It is contended that this vacancy **does not invalidate the election**; rather, it is a situation to be remedied separately (for instance, by holding a by-election or co-opting a qualified woman member). The Respondents point out that the Society's bye-laws explicitly provide that **the Board's proceedings remain valid despite any vacancy**. In their view, the election of the other 10 members (including 4 women) was conducted properly and those results should not be disturbed due to one unfilled seat. They argue that the law's intent is to encourage women's participation, but it would be counter-productive to void a whole election (and disenfranchise the voters' choice) when the vacant reserved seat can be filled by other means. The Respondents thus likely assert that **there was substantial compliance** with Section 14(2) – women hold a significant portion of seats and one seat remained open only for lack of a candidate – and that the matter does not warrant overturning the entire democratic exercise. (It is noted that this specific argument was not extensively discussed in the Joint Registrar's order, which did not give a finding on Section 14(2); however, the Respondents raise it in defence at the appellate stage to contend that the Appellant's legal point is without merit.)

In sum, the Respondents urge that the **Appellant's appeal be dismissed**. They maintain that the **original order is sound in law and fact**, that the Appellant's grievances are either **technical, unsubstantiated, or self-inflicted**, and that no interference is called for.

#### Points for Determination

15. On careful consideration of the record and rival submissions, this Appellate Authority (Registrar, Co-operative Societies, Jharkhand) finds that the appeal raises the following key **issues for determination**:

(i) Whether the Joint Registrar failed to adjudicate the question of compliance with **Section 14(2)** of the Jharkhand Co-operative Societies Act, 1935 (as amended in 2015) – specifically, the mandatory requirement that at least 50% of the Board be women – and if so, whether this amounts to a material irregularity vitiating the impugned order.

(ii) Whether the Joint Registrar correctly applied the **legal standards governing recounting of votes** in an election dispute (as per precedent and the cooperative societies law), or whether he misdirected himself by refusing recount based on erroneous assumptions (e.g. “no provision for recount” or overly stringent requirements of proof).

(iii) Whether there was **non-consideration of crucial evidence** and material in the original proceedings – such as failure to summon or examine the available **documentary/videographic evidence** of the counting process, and disregard of the Appellant's contemporaneous complaints – thereby leading to an incomplete and unjust fact-finding.

(iv) Whether the Joint Registrar's dismissal of the petition on the ground of **non-joinder of parties** (i.e. not impleading all contesting candidates or elected members) was justified in the circumstances, or whether it was an **improper reliance on a technical ground** especially given that the main necessary party (the winning candidate for Chairman) was already before the court; and the extent to which this non-joinder issue can be cured or managed in the interest of justice.

Each of these points is addressed in turn below, in light of the submissions and the applicable law.

#### Discussion and Findings

##### (i) Non-Adjudication of Section 14(2) Compliance (Women's Reservation)

16. It is **undisputed** that the Appellant explicitly raised the issue of non-compliance with Section 14(2) of the Act during the original dispute proceedings, and was even allowed to file an affidavit on this issue. Section 14(2), as amended, requires **“not less than 50%”** of the managing committee members to be women (with two seats reserved for SC/ST women). In the case at hand, the outcome of the election left the Board with **4 women out of 11 members**, which is clearly below 50%, and even if the lone vacant reserved seat were filled by a woman, that would make **5 women out of 11** (**≈45%**), still short of the mandated half. These figures have not been disputed by the Respondents. The statutory mandate for women's representation in cooperative societies is a **peremptory requirement**, introduced to fulfil the constitutional objective of encouraging gender-inclusivity in economic democracy. The use of the phrase **“not less than 50%”** in the State Act (Jharkhand Act 5 of 2015 amending the 1935 Act) emphasizes that falling below the specified proportion is not

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permitted.

17. The **impugned order**, however, **completely omits any finding or discussion on this issue**. On perusal of the Joint Registrar's order (as reflected in the records before this authority), it is apparent that the decision focused solely on the conduct of counting and maintainability points, and **did not address Section 14(2) compliance at all**. This Court finds such non-adjudication to be a significant lapse. When a specific legal issue that could **invalidate the entire election** is raised, the adjudicating authority is duty-bound to consider and decide it with reasons. By ignoring the Section 14(2) contention, the Joint Registrar failed to decide an **important "issue of law" arising in the dispute**, rendering the decision incomplete and non-speaking to that extent. This amounts to a failure to exercise jurisdiction and a **failure to adjudicate a material issue**, which is per se a ground for remand.

18. From a substantive standpoint, the **Appellant's contention under Section 14(2) appears prima facie substantial**. If the law required at least 6 women on the Board and only 4 or 5 resulted, there is a legal non-compliance. The Respondents have argued that because the Society attempted to implement reservations (and one seat fell vacant due to lack of a candidate), the election should not be set aside. They point to a bye-law allowing the Board to function with a vacancy. While a vacancy per se may not invalidate the functioning of a Board (as a general corporate principle), **the vacancy in this case is of a reserved seat that is part and parcel of a mandatory representation quota**. The spirit of the law suggests that if an election fails to populate the reserved seats as required, the proper course might be to hold a special drive or by-election to fill those seats, or other measures to ensure compliance (perhaps co-option, if legally allowed). The Joint Registrar, however, gave no consideration to any such remedy. This appellate forum refrains from making a final determination on whether the appropriate consequence is to quash the whole election or only to direct filling of the vacancy – that is an issue the **original authority must consider and decide afresh**, after hearing both sides on the law and facts. Nevertheless, it is clear that **compliance with Section 14(2) is a mandatory legal question that cannot be glossed over**. By **not adjudicating this issue at all**, the Joint Registrar's order is rendered legally infirm. On this ground alone, the matter would warrant remand for a fresh decision addressing the Section 14(2) question with a clear finding.

19. This Appellate Authority also notes that the Section 14(2) mandate is rooted in the **constitutional reforms introduced by the 97th Amendment**, which inserted Part IXB in the Constitution. Article 243ZJ of the Constitution requires reservation of (at least) **one seat for SC/ST and two seats for women** on the Board of every cooperative society. The State of Jharkhand chose to mandate an even higher representation (50% women, including SC/ST women) through its legislation. Such provisions give effect to constitutional values of inclusion and equality. **Election authorities are under an obligation to uphold these provisions**. The Joint Registrar, as a quasi-judicial authority under the Act, ought to have been cognizant of the **public policy importance** of the reservation rule. Even if the Appellant had not raised it, the authority could have examined *suo motu* whether the election results complied with the mandatory provisions of the Act (especially since the issue was brought to its attention). Not doing so is a serious omission. Therefore, in re-adjudication, **the Joint Registrar is directed to specifically determine whether the 2022 election of the Society's Board fulfilled the requirements of Section 14(2)** and, if not, what legal consequence should follow (e.g. whether the election of the non-compliant Board can stand, or whether any directions are needed to enforce the mandate). This appellate forum makes no prejudgment on that outcome; it will be for the lower authority to decide in accordance with law after proper analysis.

**(ii) Misapplication of Legal Standards on Recounting (Udey Chand Principle)**

20. The next major issue is whether the Joint Registrar correctly applied the law relating to **recounting of votes**. It is well-settled that **an order for recount of votes in an election is not to be granted routinely**; certain stringent conditions must be met to justify breaching the secrecy of the ballot. The Supreme Court and High Courts have delineated these conditions in a catena of judgments. As noted earlier, **Udey Chand v. Surat Singh** lays down two basic requirements:

- (1) the election petition must contain a **clear and adequate statement of material facts** alleging irregularities or illegality in the counting process; and
- (2) there must be **reliable evidence adduced** in support of those allegations, sufficient to prima facie satisfy the court that a recount is *"imperatively necessary"* for resolving the dispute and doing

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complete justice.

These principles have been reiterated in multiple cases and effectively require the petitioner to **make out a prima facie case** that something was likely amiss in the count, before the court will disturb the ballot secrecy. At the same time, it is equally true that **if such a prima facie case is made out, a recount should be allowed** because ensuring the correct ascertainment of voter choice is paramount – *“each vote has its own value irrespective of its effect on the final outcome... Its sanctity has to be protected.”* The aim is to balance ballot secrecy with electoral justice: baseless or fishing attempts at recount are barred, but genuine doubts backed by evidence must be investigated to uphold election integrity.

21. In the present case, the Joint Registrar’s reasoning (gleaned from the record) was that the Appellant’s recount request was not maintainable because (a) *“no provision of law”* allowed a recount in cooperative society elections, and (b) the Appellant had not demonstrated, by evidence, any error in counting, his claims being *“bald statements”* and *“doubts”* unsupported by proof. This Appellate Authority finds both these aspects of the reasoning **flawed or misapplied**:

- **First**, the notion that there is “no provision” for recount in the co-operative election context is incorrect. While it is true the Jharkhand Co-operative Societies Act, 1935 and the 1959 Rules do not explicitly spell out a recount procedure (unlike, say, the Representation of People Act which allows a candidate to request recount from the Returning Officer before declaration in certain cases), **the scheme of Section 48 and Rule 21X** indicates that any dispute arising out of an election can be raised and decided by the Registrar or his nominee. This certainly encompasses disputes alleging miscounting and praying for a correction of results. In essence, a recount is a *form of relief* that the adjudicating authority can grant if the facts so warrant; it is not barred. The **Appellant rightly pointed out Rule 21X**, which states that *“any dispute relating to election of a Cooperative Society may be raised within 30 days from the date of declaration of the result and such disputes shall be decided under Section 48 of the 1935 Act”*. A dispute seeking recount of votes **unquestionably “relates to election”** and thus falls within the ambit of Section 48. Moreover, there is **no prohibition in the Act/Rules against recounting**; the law is simply silent and thus subject to the general principle that the court should exercise prudence and follow judicial guidelines (like Udey Chand) before ordering a recount. Therefore, the Joint Registrar’s suggestion that he lacked power to order a recount (if that indeed was his understanding) is **erroneous in law**. An election dispute court in the cooperative context does have the power to permit inspection and recount of ballots, provided the case meets the requisite threshold. By **concluding or implying that recount was beyond authority**, the Joint Registrar **abdicated a responsibility** vested in him under the dispute mechanism.
- **Second**, on the application of the threshold test: the Joint Registrar’s order essentially held that the Appellant **failed to prove any irregularity because he produced no evidence**. This approach, in the view of this Appellate Authority, reflects a **misapplication of the recount standard**. The Udey Chand test does not require the petitioner to prove the irregularity conclusively at the outset; it requires sufficient prima facie showing (through **pleaded facts and supporting affidavits/documents**) to warrant the step of opening ballots. Here, the Appellant did plead detailed facts: he itemized specific lapses (videography stoppage, non-display of ballots, questionable ballot marks, etc.) and supported these by referencing contemporaneous evidence – for instance, he annexed copies of his written complaints dated 20.06.2022 and 23.06.2022 (filed immediately after the election) which document these allegations. Those contemporaneous complaints are **part of the record** and constitute at least some evidence that the Appellant perceived and reported irregularities in real time. Furthermore, the very fact of a **2-vote margin** in a small election, combined with the allegation of mishandling of a handful of doubtful ballots, gives credence to the possibility that the result could be affected. The Joint Registrar, however, appears to have **disregarded the Appellant’s early complaints and did not call for any evidence from the election records**. Instead, he faulted the Appellant for not producing “an iota” of evidence beyond his statements. This is somewhat circular: crucial evidence such as the sealed ballots and the videography were in the custody of the election officials (Respondent No.4, the conducting officer). The truth or falsity of the Appellant’s claims could only be tested by *examining those very materials*, which the Appellant could not do on his own without an order from the adjudicator. By **declining to requisition the election records**

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**or video** and simultaneously holding that the Appellant had no evidence, the Joint Registrar set a virtually unreachable bar. Essentially, the original forum required the Appellant to somehow produce proof of miscount while denying him access to the primary evidence (ballots, video) that could yield such proof. This **defeats the purpose of an election dispute inquiry**. The correct approach would have been: examine whether the allegations, if true, are serious enough to cast doubt on the result (they are), and whether the supporting materials (like the immediate protest letters, and possibly witness affidavits if any) are enough to make a *prima facie* case. If yes, the court should then proceed to allow inspection of ballots or other records to verify the allegations. Here, the threshold for prima facie case was arguably met by the detailed allegations and the prompt protests (indicating the objections were not afterthoughts). The Joint Registrar, however, **gave undue weight to the fact that no formal complaint was lodged at the counting table** and to the Appellant's congratulatory gesture to the winner, labelling the later dispute as frivolous. This Authority finds that stance to be **too rigid and somewhat divorced from practical realities** – a candidate might not realize the full extent of anomalies in the heat of the counting moment or may not want to create a scene without being sure; taking a day to verify and then formally complaining (as the Appellant did) is not so egregious as to nullify his claims. Indeed, the Appellant's letters on 20th and 23rd June indicate he did act promptly once he gathered himself. There is **no rule requiring an objection at the instant of counting on pain of waiver** (especially when an observer or proper forum was available to hear it later). The appellate record explicitly notes that *"there is no provision under the Act and Rules that unless an objection has been made at the time of counting, no question can be raised on the counting process thereafter."* The Joint Registrar's reliance on the absence of immediate objection as a ground to outright reject the recount request was, in view of this Authority, **unreasonable and not supported by any rule**.

22. In conclusion on this point, the Appellate Authority holds that the **legal standard for considering a recount was not properly applied by the Joint Registrar**. He appears to have (a) wrongly presumed he lacked power to order a recount – whereas Rule 21X/Section 48 empowered him to do so in a proper case, and (b) imposed an unfairly high burden on the petitioner to prove irregularities without facilitating access to the proof. This is a misdirection in law. The result is that a potentially meritorious request (given the minimal victory margin and specific complaints) was not seriously evaluated on merits. This calls for interference. On remand, the Joint Registrar (or appropriate adjudicator) will be directed to **reconsider the request for recounting of votes for Chairman by applying the correct legal criteria**: i.e., assess the material facts pleaded and **summon/inspect the relevant evidence (ballot papers, tally sheets, video, etc.) as needed to determine if the allegations are substantiated**. Only after such proper inquiry can a decision be reached to allow or deny recount. The prior summary dismissal of the recount prayer is therefore set aside as legally erroneous.

**(iii) Non-Consideration of Documentary/Videographic Evidence**

23. This aspect overlaps somewhat with the discussion above but is worth addressing separately. The Appellant asserts that the Joint Registrar **ignored crucial evidence**, specifically the **videography of the counting process** and other documented material, which could have corroborated or disproven the claims of irregularity. Having reviewed the case file, this Authority notes that the **videographic recording** of the election counting (if available in full) is indeed a vital piece of evidence. The Appellant's allegation was that the recording was **intentionally halted during the Chairman count**. If true, that fact itself could raise an inference of malfeasance; if false, the continuous video would lay the matter to rest. Despite the Appellant's request to "call for the entire records with recorded videography" during the dispute, the Joint Registrar did not order the production or viewing of the video footage. In the Counter Affidavit before this forum, Respondent No.5 confirmed that the Appellant had made this request, but it was essentially dismissed, as Respondent No.1 reasoned that **"no law mandated full videography of counting"** and faulted the Appellant for somehow having knowledge of the footage. In the appellate proceedings, the Respondent argued that *no adverse inference can be drawn from an alleged gap in the video as there was no legal requirement to record the entire counting*.

24. In the opinion of this Authority, the Joint Registrar's failure to **even examine the available video evidence** (partial or whole) is another instance of **insufficient inquiry**. The videography was arranged by the election officials themselves; it was part of the official record of the election.

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Whether or not its continuous recording was mandated, the fact is a recording exists (at least for portions of counting). If the Appellant alleges a specific period was not recorded, the logical step would be for the court to **ask the Election Officer/Respondent No.4 to produce the video file or feed**. Viewing that would immediately confirm if there was a blackout during the Chairman's vote counting. If there was none (video continuous), that would directly refute the Appellant's claim, strengthening the defence. If there was a break in recording, it would lend credence to Appellant's contention and warrant further explanation from the Election Officer. In either scenario, consulting the video is a probative exercise. By **choosing not to review this readily available evidence**, the Joint Registrar essentially decided the matter on assumptions (either assuming the video had no probative value or accepting Respondent's word that nothing improper happened). This is not the ideal course in a fact-intensive inquiry like an election dispute. A "speaking order" in such a case should demonstrate that all relevant evidence was considered. Not addressing the video evidence – which was a focal point of the Appellant's complaint – leaves a gap in the factual findings.

25. Similarly, the **ballot papers and counting sheets** themselves were critical primary evidence. The Appellant alleged certain ballots were improperly counted for a candidate despite markings in wrong places. The ultimate way to verify that is to **inspect those ballots**. The Joint Registrar did not do so (likely because he summarily declined recount). He also seemingly did not consider the **official Final Count Sheet or Form (if any) summarizing votes** which might have been on record. The Appellant had annexed **Annexure B (Letter No.17 dated 19.06.2022 of the Alternative Election Officer, reflecting the vote totals)** and **Annexure C (Certificate/Memo No.18 Camp dated 19.06.2022 declaring the elected candidates)** to his petition. These documents confirm that the Chairman result was 140-138-34 and also note the unopposed and vacant seats. While the Joint Registrar had those figures, he did not delve into whether any **discrepancy existed between announced count and recorded count**. In the present case, the Appellant did not claim a numerical discrepancy in forms, but claimed wrongful inclusion/exclusion of certain votes. The **Joint Registrar made no reference to any documentary evidence or form** in concluding that everything was in order. He relied solely on the lack of protest and lack of presented proof by Appellant. This, in effect, means that **pertinent documentary evidence was not evaluated**.

26. Additionally, the **Appellant's contemporaneous representations (complaints) dated 20.06.2022 and 23.06.2022** were part of the case record (as annexures). These letters corroborate that the Appellant made specific claims (about video off, etc.) immediately after the election. They undermine the notion that his grievances were fabricated much later. However, the Joint Registrar's order does not mention these letters at all, and instead accepts the Respondent's contention that no protest was made at the time and thus the petition was an afterthought. By ignoring the written complaints lodged within 1-4 days of the election, the impugned order made a factual error. The **Assistant Registrar's reply letter dated 23.06.2022** (advising the Appellant to file a dispute) was also on record and evidences that the Appellant did approach authorities promptly. The Joint Registrar did not factor this in; had he done so, he might not have so readily dismissed the Appellant's credibility. This non-consideration of relevant correspondence further indicates that the decision-making process was incomplete.

27. In view of the foregoing, this Appellate Authority finds that the **original adjudication suffered from non-consideration of critical evidence**. The **videography**, the **ballot papers/count records**, and the **Appellant's immediate written protests** should all have been scrutinized to reach a well-founded decision. The failure to do so not only prejudiced the Appellant's case but also leaves the factual findings open to question. On remand, it shall be imperative for the adjudicating authority to **call for and examine all relevant evidence** – including playing the video recording (if available) for the disputed segment, physically inspecting the challenged ballots (if a recount is to be undertaken or even to decide if one is needed), and considering the effect of the Appellant's prompt complaints. Only by doing so can a fresh decision lay claim to being a **"speaking order" based on evidence** rather than conjecture.

**(iv) Improper Reliance on Non-Joinder of Parties**

28. The last major issue is the way the Joint Registrar handled the **non-joinder of parties objection**. The impugned order clearly treats the absence of the third Chairman candidate, *Basant Prakash*, as a fatal defect: it states that because all contesting candidates were not impleaded, **"the entire proceeding... [is] vitiated on account of non-joinder of a necessary party."** It is true as a proposition that in election disputes, the **returned candidate is a necessary party**, and typically all

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candidates who stood for the contested post are considered proper, if not necessary, parties (since the outcome may affect their rights). In the context of cooperative society elections under Section 48, the Act or Rules do not explicitly enumerate who must be made party, but by analogy to principles in wider election law, joining all candidates for the specific office in question is advisable. Furthermore, if the relief sought is to **set aside the entire election of the Board**, certainly all persons who were declared elected could be seen as having an interest in the outcome and ideally should be given notice/opportunity to be heard. So the **Respondents were not wrong to flag** the non-joinder of Basant Prakash (and other board members). The question is whether the Joint Registrar was correct to outright dismiss the petition on that basis without recourse.

29. This Authority is of the view that the Joint Registrar took an **unduly harsh approach** in this regard, failing to utilize available procedural mechanisms to cure the defect. The record reflects that the Appellant's petition did name the key adversary (the successful Chairman candidate, Respondent No.5). The omission of the third candidate (who finished third in votes) might have been an oversight. If the Joint Registrar considered him a **necessary party**, the proper course would have been to **invoke relevant rule of the Jharkhand Co-operative Societies Rules, 1959 (analogous to Order 1 Rule 10 CPC)** or use inherent powers to direct the Appellant to implead the missing party, or to send notice to that candidate before proceeding further. There is no indication that the Joint Registrar ever directed such joinder or that the Appellant refused to comply. Instead, it appears the Joint Registrar simply treated non-joinder as an incurable defect and dismissed the case. This is **inconsistent with the general principles of adjudication**, which favour deciding matters on merits rather than technical knockouts. The **Appellant's argument invoking Order I Rule 9 of the Code of Civil Procedure** (which states no suit shall be defeated by reason of non-joinder, and the court should deal with the matter with respect to the rights of parties before it) is apposite. Although CPC is not strictly applicable to these quasi-judicial proceedings unless adopted, its salutary principle on non-joinder is often followed. *One person can sue or defend on behalf of all in the same interest* – meaning if the main contest is effectively between two individuals (as here for Chairman), the absence of a third who stood no realistic chance might not prejudice the core issue.

30. Moreover, as brought out in the appeal, during the hearing before the Joint Registrar, the Appellant **withdrew or did not press his broader prayer to set aside the entire Board's election, and confined his case to recount of Chairman's votes**. The Joint Registrar's order does not explicitly record this, but the appellate documents credibly assert it occurred (and Respondents have not seriously disputed that the Appellant primarily pressed for recount at final argument). If indeed the scope had narrowed to "who is the rightful winner for Chairman?", then **Basant Prakash's presence was arguably not essential**. Basant Prakash polled only 34 votes and could not emerge winner in any scenario of recount between the top two (at best, a recount could swap the order of the top two, but the third place would remain third). His legal interest might be minimal – nonetheless, courtesy would dictate he be heard if available. However, absence of a marginally interested party, when both principal parties (the petitioner and the winning candidate) are present, should **not have derailed the adjudication of the core issue**. The Joint Registrar's rigid stance on this gave undue advantage to a technical objection.

31. Similarly, regarding other Board members not being parties: since the Appellant effectively dropped the all-board challenge (and none of the other positions' results were specifically challenged on any wrongdoing basis), it was unnecessary to consider non-joinder of those members once the relief was confined to Chairman's recount. Even if the Appellant had not formally abandoned the board-wide challenge, the Joint Registrar could have exercised discretion to **refuse relief that affects third parties not before the court**, rather than dismiss the entire petition. For instance, the Joint Registrar could have said: "I will not consider setting aside the whole election as those members are not parties, but I will consider the recount issue for Chairman which involves the parties present." However, no such calibrated approach was taken. Instead, the Joint Registrar seemed to use the non-joinder as one of multiple grounds to simply dispose of the case. This approach is **disapproved**. Election disputes in cooperatives should not be decided in an overly technical fashion; the aim is to resolve the real controversy while giving proper notice to affected parties.

32. The Appellate Authority therefore finds that the Joint Registrar **improperly relied on non-joinder to dismiss the petition**, rather than addressing it through remedial measures. On remand, directions will be given to ensure **all necessary parties are impleaded** so that this objection will no

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longer cloud the proceedings. Specifically, **Shri Basant Prakash (the third candidate for Chairman)** should be added as a respondent in the dispute (if the Appellant has not already impleaded him in the appeal stage; the record in appeal suggests he might have been belatedly added as Respondent No.4 or so). Likewise, if any relief affecting other elected Board members (e.g. voiding the election) is to be considered, those members must be given notice and an opportunity to be heard. The Appellant has expressed willingness to proceed with only the recount relief in the interest of focus. If he sticks to that limited relief, the presence of the winning candidate suffices. In any event, the remanding authority (Joint Registrar) should **ascertain at the outset which parties ought to be before it** for a comprehensive adjudication, and allow **amendment of the petition/party array if required**, rather than using non-joinder as a shortcut to avoid decision. This will align the procedure with **principles of natural justice** without sacrificing substantive justice.

**33.** In summary, all four identified lapses – **(a)** failure to decide the Section 14(2) issue, **(b)** misapplication of recount law, **(c)** non-consideration of evidence, and **(d)** overemphasis on non-joinder – render the impugned order of the Joint Registrar legally unsustainable. The cumulative effect is that the dispute was not decided on merits after a full and fair inquiry, but rather disposed of on technical and insufficient grounds. Consequently, the Appellant has made out a case for interference. Given that crucial issues remain undecided and evidence unexamined, the appropriate course is not for this Appellate Authority to attempt to decide those issues in the first instance, but to **remand the matter for a de novo adjudication** by the competent authority, with clear instructions to address all relevant aspects.

#### **Conclusion and Order**

**34.** For the reasons discussed above, the **appeal is allowed**, and the order dated 28.04.2023 of the Joint Registrar, Co-operative Societies, South Chotanagpur Division, Ranchi in Election Dispute No. 01/2022 is hereby **set aside**. In exercise of powers under Section 48(6) of the Jharkhand Co-operative Societies Act, 1935, the Appellate Authority **remands the case for fresh adjudication** to the original forum with the following **directions** for the **de novo** proceeding:

**a. Restoration and Joinder:** The election dispute (No.01/2022) shall be **restored to the file** of the Joint Registrar forthwith. The Appellant and Respondents shall appear on a date fixed by that authority at the earliest. The **first task** shall be to ensure that **all necessary and proper parties are on record**. In particular, **Shri Basant Prakash** (the third candidate for Chairman in the 2022 election) **must be impleaded as a Respondent** in the dispute if not already added. Similarly, if the Appellant intends to press the prayer regarding the entire Board's election (Section 14(2) issue), then **all persons who were declared elected to the Board on 19.06.2022 and whose positions would be affected by such relief should be joined** as respondents (unless any of them were already parties in the original proceeding). The Joint Registrar is empowered to **order such joinder of parties suo motu** in the interest of justice and to issue notices to them. However, if the Appellant confines his claim to only the Chairman's election (recount/declaration of that result), and explicitly gives up challenge to other posts, the joinder of other Board members may not be necessary; the Joint Registrar should record whatever election outcomes remain under challenge and tailor the parties accordingly. In any case, no portion of the dispute shall be dismissed for non-joinder without first providing an opportunity to correct it.

**b. Framing of Issues:** The Joint Registrar shall frame clear **issues for determination** in the dispute, covering **all material questions**, including but not limited to:

**(i)** whether the conduct of counting for Chairman was vitiated by irregularities, and if so whether a recount of votes for the post of Chairman should be ordered;

**(ii)** whether, on facts and evidence, the Appellant or Respondent No.5 secured a majority of valid votes for Chairman (depending on outcome of recount, if any);

**(iii)** whether the election of the managing committee held on 19.06.2022 complied with Section 14(2) of the Act regarding women reservation, and if not, what is the effect and relief to be granted (for instance, whether the election of the entire Board or any part thereof should be set aside, or any directions issued to fill the statutory requirement); and

**(iv)** to what reliefs the parties are entitled. These issues cover both the factual disputes and legal contentions raised by the Appellant. The Joint Registrar should ensure that **none of the contentions (prayers or arguments) raised by either side is left unaddressed** in the rehearing.

**C. Evidence and Inquiry:** The Joint Registrar is directed to conduct the **inquiry afresh, allowing**

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**both sides to lead evidence (documentary and oral) as needed.** Given that the core of the dispute relates to the counting of votes, the **following evidence must be called for and examined** as part of the de novo proceeding:

- The **sealed ballot papers** and any **relevant election materials** for the Chairman post (and any other post under challenge) from the 19.06.2022 election. These should be secured from the custody of the Election Officer/Authority. If a recount is to be undertaken (subject to the court being satisfied of the grounds), the ballot papers will need to be opened and counted in presence of the parties. Even if the court initially is assessing whether to recount, a preliminary inspection of some randomly selected ballots, especially those considered “doubtful” or improperly marked, may be done (ensuring the secrecy of voting is maintained to the extent possible) to gauge the veracity of allegations.
- The **videography recordings** of the counting process (or as much of it as exists). The Election Officer or department in charge of the election should produce the video footage file/recording for the counting of votes on 19.06.2022. The Joint Registrar shall view the footage, particularly focusing on the period when Chairman votes were counted, to ascertain whether there was any interruption in recording and whether anything on the video corroborates or disproves the Appellant’s claims. The parties may be allowed to make submissions on what the video shows. If needed, the video can be played in presence of the parties. The content of the video (e.g., whether continuous, whether it shows all ballots being held up, etc.) should be noted in the evidence. If no videography is available or it has been lost, an affidavit from the responsible officer should be taken explaining the situation.
- The **original counting sheets, tabulation records, or result forms** (such as Form 17 or 18 Camp, etc.) prepared by the Election Officer on 19.06.2022 for the Chairman election and other posts. These official documents should be scrutinized for any signs of discrepancy or corrections. They often contain the number of valid votes, invalid votes, etc. If the Appellant alleges certain votes were improperly counted as valid, the total number of invalid votes in the record (if any) versus what Appellant contends might be illuminating.
- The **Appellant’s contemporaneous complaints/representations** (dated 20.06.2022 and 23.06.2022) and any **response thereto** (e.g., the Assistant Registrar’s letter dated 23.06.2022). These are already exhibits in the case; the Joint Registrar should consider them as evidence of the Appellant’s immediate reaction to the election results. Similarly, if Respondents have any contemporaneous material (for instance, letters from other candidates or observers stating the election was fair), they may adduce the same.
- Any **witness testimony** that either party wishes to present. For example, the Appellant (or Respondent) may choose to examine the Election Officer (Mr. Ram Dev Mahto, the Alternative Election Officer) or the government Observer as a witness to the counting process. The Appellant himself may offer oral evidence reiterating what he observed during counting (noting that he was present). Respondent No.5 or any other candidate may also testify to their observations. The Joint Registrar should permit relevant witnesses and allow cross-examination, keeping the inquiry summary as far as possible but not at the expense of ascertaining truth.

It is emphasized that **the Joint Registrar shall not refuse to look at any evidence on a mistaken notion of lack of power or procedural technicality.** The goal is to get to the truth of the Appellant’s claims and the validity of the election, within the bounds of law. Since this is essentially an extension of the earlier dispute inquiry, the strict rules of evidence may be relaxed, but principles of fairness and relevance must be observed.

**d. Recount Decision & Result:** After considering the pleadings and evidence, the Joint Registrar shall determine **afresh** whether a recount of votes for the Chairman’s post is justified. In doing so, the authority **must apply the legal test laid down by higher courts** – i.e., is there an adequate statement of material irregularities in counting supported by prima facie evidence? If the test is satisfied, a **recount (and/or scrutiny of ballots) should be ordered** forthwith under controlled conditions. If a recount is ordered and conducted, the Joint Registrar shall record the new count result and declare whether the Appellant or Respondent No.5 (or even the third candidate, hypothetically) secured the highest votes. The final outcome for the Chairman post should then be determined in accordance with the recount findings. If, on the other hand, the Joint Registrar finds that the threshold for recount is not met (for reasons to be stated), he may reject that relief – but

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such decision must be supported by cogent reasons, making reference to the evidence that led to that conclusion (for example, if the video and documents show no anomaly, etc.).

**e. Decision on Section 14(2) Issue:** The Joint Registrar shall also render a specific finding on the **Section 14(2) compliance issue**. If it is found that the election resulted in less than 50% women on the Board (which seems evident), the Joint Registrar must decide **the consequence**. This may involve interpreting the Act and Rules – whether the legislature intended non-compliance to cause the election to be void *ipso facto* or if any remedial steps can cure it. The Joint Registrar should consider the submissions of the parties: the Appellant’s stance that the election is “*against the constitutional mandate and hence fit to be set aside*”, and the Respondents’ stance that the vacancy doesn’t invalidate the rest of the election (relying on the bye-law allowing functioning despite a vacancy). The Joint Registrar may also consider if the Act or Rules provide any mechanism for filling such reserved vacancies (e.g., co-option or special election) and whether such mechanism was followed or could be ordered. Ultimately, the Joint Registrar must rule whether: **(i)** to uphold the election notwithstanding the deviation (perhaps directing that the vacant reserved seat be filled by nomination/election as per law without disturbing the others), or **(ii)** to set aside the election of the entire Board (or at least declare that the Board as constituted is not valid due to the statutory violation) and order a fresh election. This is a significant determination with policy implications, and the Joint Registrar should give a well-reasoned order on this, citing the Act, Rules, and any relevant precedents or government instructions on cooperative society elections post-97th Amendment.

**f. Speaking Order with Reasons:** The remand proceedings should culminate in a **fresh, reasoned order** by the Joint Registrar. This order must **discuss all the issues and evidence**. It should, at a minimum, contain: findings on whether any irregularity in counting occurred (and its impact on result), the decision on recount (with reasons as to why granted or refused, referencing the Udey Chand standard), the outcome of any recount (if conducted), the decision on validity of the Board’s composition under Section 14(2), and the final reliefs granted or denied. The order should address each prayer of the Appellant and specify which are allowed or denied and why. In short, it should be a comprehensive “**speaking order**” that **responds to all contentions** so that no party is left in doubt about the basis of the decision.

**g. Timeframe:** Given that the dispute pertains to an election of June 2022, and considerable time has already elapsed (now 2025), it is in the interest of all parties and the cooperative society that the matter be expedited. Accordingly, the Joint Registrar is directed to **conclude the de novo proceedings and deliver the fresh decision within 24 (twenty four) weeks from the date of receipt of a copy of this remand order**. The schedule should allow for prompt service of notices to newly added parties (if any), speedy gathering of evidence, and focused hearings. Adjournments should be avoided except for good cause. If for any reason the matter cannot be disposed within 24 weeks, the Joint Registrar must record reasons in writing and in no case take more than **an additional 4 weeks** beyond the initial period.

**h. Compliance and Monitoring:** To ensure compliance with these directions, **Respondent No.1 (the Joint Registrar)** shall submit a **compliance report** to the undersigned Registrar (Appellate Authority) within **one week of passing the fresh order**. The compliance report should include a copy of the fresh order and a brief description of the steps taken in pursuance of this remand (e.g., dates of hearing, evidence examined). Additionally, the Appellant and contesting Respondents are given the liberty to approach this Appellate Authority by appropriate application in the event that there is any undue difficulty or **non-compliance with the remand directions or timeline**. For instance, if the proceedings are unduly delayed or the directions herein are not being followed, the parties may bring it to the notice of the Registrar for suitable instructions or intervention. This liberty, however, shall not be construed as leave to file a fresh appeal on the merits (which would lie in accordance with law if aggrieved by the eventual fresh order). It is mainly to monitor that the remand is carried out properly and promptly.

**35. Order accordingly.** The Election Dispute No.01/2022 is remanded for de novo adjudication as per the above directions. The parties shall cooperate with the proceedings and no unnecessary adjournments shall be sought or granted. The aim is to arrive at a final determination of the Appellant’s grievances with due regard to law and evidence, thus serving the ends of justice in this cooperative society election matter.

**36.** Before parting, this Appellate Authority observes that free, fair, and transparent elections are the cornerstone of cooperative governance. Dispute adjudicatory bodies must balance the need to

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respect the democratic verdict with the duty to correct genuine errors or illegalities. Technicalities should not frustrate substantive justice, especially in social-interest litigation like cooperative elections. This remand is made in that spirit – to give a fair opportunity for all issues to be examined and justice to be done in accordance with law.

No costs.

The order could not be passed earlier due to other engagements.

Pronounced in Ranchi on this 22th day of May, 2025.

Sd/-

Registrar,

Co-operative Societies, Jharkhand, Ranchi.

Memo No. (Appeal. Case No. 11/ 2023) 1064.19/Ranchi.

Date ..22/05/2025

Copy forwarded to- Petitioner-

1. Dr. B.P. Sinha, S/O- Late Hari Shankar Lal, resident of C-39, Road no.- 1, Ashoknagar, P.O.- Doranda, P.S.- Argora, Dist.- Ranchi (Jharkhand) Mr. Sameer Sourabh (9431173009)& Nitesh Krishna (9504387883)

Respondents -

1. Joint Registrar, Cooperative Societies, South Chhotanagpur Division, Ranchi.
2. Services Housing Cooperative Society Ltd. Ashoknagar, P.O.- Doranda, P.S.- Argora, Dist.- Ranchi (Jharkhand)
3. Uday Kumar Sinha, Cooperative Extension Officer. -Cum- Election officer, Services Housing Cooperative Society Ltd. Ashoknagar
4. Assistant Registrar, Cooperative Societies, Ranchi Circle, Ranchi for information
5. Dr. Madhav Sharan Singh, resident of B-339, Road no.- 4/B, Ashoknagar, P.O.- Doranda, P.S.- Argora, Dist.- Ranchi & Others for information & necessary action.

Joint Registrar (L),

Co-operative Societies, Jharkhand, Ranchi.

(18)

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No costs.

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Sd/-

Registrar,

Co-operative Societies, Jharkhand, Ranchi.

Memo No. (Appeal Case No. 11/ 2023) <sup>1064/23</sup> Ranchi.

Date ...22/05/2025

Copy forwarded to- Petitioner-

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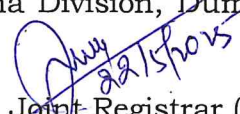
  
Joint Registrar (L),

Co-operative Societies, Jharkhand, Ranchi.

Memo No. (Appeal Case No. 11/ 2023) <sup>1064/23</sup> Ranchi.

Date .....22/05/2025

Copy forwarded to- Joint Registrar, Cooperative Societies, South Chhotanagpur Division, Ranchi/Joint Registrar, Cooperative Societies, North Chhotanagpur Division, Hazaribagh/Joint Registrar, Cooperative Societies, Santhal Pargana Division, Dumka (Jharkhand) for information & necessary action.

  
Joint Registrar (L),

Co-operative Societies, Jharkhand, Ranchi.