



CGHC010380242024

2026:CGHC:33378

AFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****Order Reserved on : 07.07.2026****Order Delivered on : 03.08.2026****WPC No. 5555 of 2024**

Mohammad Salman S/o Mohammad Subhan Aged About 32 Years R/o
Gandhi Chowk, Camp-2, Bhilai, Tehsil And District Durg, Chhattisgarh.

--- Petitioner**Versus**

- 1 - State of Chhattisgarh, through Secretary, Department of Urban Administration and Development, Mantralay, Mahanadi Bhawan, Atal Nagar, Naya Raipur, District Raipur, Chhattisgarh.
- 2 - Division Commissioner Durg, District Durg, Chhattisgarh
- 3 - Municipal Corporation Through Commissioner, Bhilai, District Durg, Chhattisgarh.
- 4 - Bhojram S/o Late Kushnaji Aged About 46 Years, Parshad, Ward No. 17, R/o Street No. 1, Paanch Rasta, Supela, Bhiali, Tehsil And District Bhilai, Chhattisgarh
- 5 - Chandan Yadav S/o Late Shankar Lal Yadav Aged About 33 Years R/o Sharda Para, Camp-2, Bhilai, Tehsil And District Bhilai, Chhattisgarh.
- 6 - Chhattisgarh State Election Commission, Through Secretary, Sector-19, Kotara Bhantha, Atal Nagar, Nava Raipur, District Raipur Chhattisgarh (Intervenors).
- 7 - District Election Officer, Durg, District Durg Chhattisgarh.

--- Respondents

(Cause-title taken from Case Information System)

For Petitioner	: Mr. B.P. Singh and Mr. Roshan Singh Lamba, Advocates
For State/Respondents No.1 and 2	: Mr. Rajkumar Gupta, Additional Advocate General
For Respondent No.3	: Mr. Rajesh Kumar Kesharwani, Advocate
For Respondents No.4 and 5	: Mr. Animesh Verma, Advocate
For Respondents No.6 and 7	: Mr. Ranbir Singh Marhas, Senior Advocate assisted by Ms. Shruti Bariar, Advocate

WPC No. 1808 of 2025

Chandan Yadav S/o Shankar Lal Yadav Aged About 34 Years R/o H.No. 394, Kishan Chowk, Shardapara, Camp 2, Sector 1, Bhilai, District Durg, Chhattisgarh- 490026.

---Petitioner

Versus

1 - State of Chhattisgarh Through The Secretary, Department of Urban Administration, Mahanadi Bhawan, Naya Raipur, Atal Nagar, Post Office Rakhi, District Raipur, Chhattisgarh.

2 - Divisional Commissioner Division Durg, District Durg, Chhattisgarh.

3 - Collector-Cum-District Election Officer District Durg, Chhattisgarh.

4 - Municipal Corporation Bhilai through its Commissioner, Bhilai, District Durg, Chhattisgarh.

5 - Shri Neeraj Pal Mayor, Municipal Corporation Bhilai, District Durg, Chhattisgarh.

6 - Mohammad Salman alias Engineer Salman S/o Mohammad Subhan Aged About 32 Years R/o 115, Sharda Para, Naya Ward 35, Camp 2, Bhairaw Basti, Near Janta School, Bhilai, Tehsil And District Durg, Chhattisgarh.

--- Respondents

(Cause-title taken from Case Information System)

For Petitioner	: Mr. Animesh Verma, Advocate
For State/Respondents No.1 to 3	: Mr. Rajkumar Gupta, Additional Advocate General
For Respondent No.4	: Mr. Ranbir Singh Marhas, Senior Advocate assisted by Ms. Shruti Bariar, Advocate
For Respondent No.6	: Mr. B.P. Singh and Mr. Roshan Singh Lamba, Advocates

Hon'ble Shri Amitendra Kishore Prasad, Judge

CAV Order

1. Since both the writ petitions arise out of the same set of facts, involve an interconnected controversy, and raise common questions of law and facts, they are being heard together and are being decided by this common order. For the sake of convenience and clarity, the parties shall be referred to by their respective names instead of their array in the respective writ petitions.
2. In Writ Petition (C) No.5555 of 2024, Mohammad Salman is the petitioner, whereas in Writ Petition (C) No.1808 of 2025, he has been arrayed as respondent No.6. Similarly, Chandan Yadav, who is the petitioner in Writ Petition (C) No.1808 of 2025, was arrayed as respondent No.5 in Writ Petition (C) No.5555 of 2024. The State authorities are common parties in both the writ petitions; however, their array differs in the respective petitions. In Writ Petition (C) No.5555 of 2024, the State of Chhattisgarh is arrayed through respondents No.1 and 2, whereas in Writ Petition (C) No.1808 of 2025, the State authorities have been arrayed as

respondents No.1 to 3. The Municipal Corporation, Durg, is respondent No.3 in Writ Petition (C) No.5555 of 2024. The State Election Commission has been impleaded as respondents No.6 and 7 in Writ Petition (C) No.5555 of 2024 and as respondent No.4 in Writ Petition (C) No.1808 of 2025.

3. The controversy involved in the present writ petitions centres around the election to the office of Councillor of Ward No. 35, Sharda Para, Bhilai Municipal Corporation, District Durg (C.G.), and the subsequent proceedings culminating in the removal of the returned candidate, Mohammad Salman, on the allegation that the Social Status (Other Backward Class) Certificate on the strength of which he contested the election was fraudulently procured and had never been issued by the competent authority.
4. The controversy involved in the present writ petitions pertains to the election to the office of Councillor of Ward No.35, Sharda Para, Bhilai Municipal Corporation, District Durg (C.G.). Mohammad Salman, being a citizen of India, participated in the said democratic process and contested the election for the post of Councillor from the aforesaid ward, claiming himself to belong to the Kunjda caste, which is recognized as a caste falling under the category of Other Backward Class (OBC). On the basis of the said caste status and eligibility, Mohammad Salman contested the election and was declared elected by the voters of Ward No.35. The subsequent challenge to his caste status, the proceedings

initiated pursuant thereto, and the consequential actions taken by the authorities constitute the subject matter of the present litigation. After participating in the democratic process, Mohammad Salman was declared elected by the electorate and assumed the office of Councillor of Ward No.35. He thereafter continued to discharge his duties and functions as an elected representative.

5. Subsequently, an objection was raised by Chandan Yadav and another person before the competent authority challenging the entitlement of Mohammad Salman to hold the office of Councillor. It was alleged by them that Mohammad Salman did not actually belong to the Kunjda caste and that the caste certificate relied upon by him for contesting the election had been obtained fraudulently and by misrepresentation of facts. On the basis of the said complaint/appeal, proceedings were initiated against Mohammad Salman before the competent authority for verification of his caste status of the complaint made against him.
6. After completion of the proceedings, the competent authority, vide order dated 06.05.2024, directed removal of Mohammad Salman from the post of Councillor of Ward No.35. Aggrieved by the said order, Mohammad Salman preferred an appeal before the competent appellate authority. However, the said appeal was dismissed vide order dated 04.09.2024, thereby affirming the order dated 06.05.2024 passed by the competent authority. The

challenge to the aforesaid orders dated 06.05.2024 and 04.09.2024 forms the subject matter of Writ Petition (C) No.5555 of 2024, filed by Mohammad Salman.

7. During the pendency of the aforesaid controversy, Chandan Yadav, who had raised the dispute regarding the election and caste status of Mohammad Salman, approached this Court by filing Writ Petition (C) No.1808 of 2025. The grievance raised by Chandan Yadav in the said writ petition is that despite his being declared as the returned candidate in the election process and despite the removal of Mohammad Salman from the office of Councillor, the authorities have failed to conduct and permit the oath-taking ceremony of Chandan Yadav as Councillor of Ward No.35, Sharda Para, Bhilai Municipal Corporation.
8. Chandan Yadav has contended that after completion of the election process, he was declared elected in accordance with law and his name was duly notified in the official Gazette. According to him, the mandate given by the voters through a democratic election process cannot be defeated by the inaction of the authorities. He has further challenged the action of the respondents in issuing the communication/order dated 18.03.2025, whereby Mohammad Salman, despite having been removed from the post of Councillor, was nominated as a member of the Mayor-in-Council. According to Chandan Yadav, such action of the authorities is arbitrary, illegal, contrary to the statutory

scheme, and amounts to permitting a person who has ceased to hold the office of Councillor to continue enjoying the benefits and privileges attached to the said office.

9. Thus, while Mohammad Salman, in Writ Petition (C) No.5555 of 2024, has questioned the legality and validity of the orders dated 06.05.2024 and 04.09.2024 whereby he was removed from the office of Councillor, Chandan Yadav, in Writ Petition (C) No.1808 of 2025, has questioned the subsequent inaction of the authorities in recognizing and administering oath to him as the elected Councillor and has also challenged the consequential action of permitting Mohammad Salman to continue as a member of the Mayor-in-Council.
10. Both the writ petitions, therefore, arise from the same election dispute concerning Ward No.35, Sharda Para, Bhilai Municipal Corporation, involve the same set of parties, and the reliefs claimed by the parties are directly connected with each other. The decision in one petition would have a direct bearing upon the adjudication of the other. Accordingly, both the writ petitions are clubbed together and are being decided by this common order.
11. In Writ Petition (C) No.5555 of 2024, the petitioner has prayed for following relief(s) :-

“10.1 That this Hon'ble Court may kindly be pleased to quash the order dated 04/09/2024 (ANNXURE P1) and Order dated 06/05/2024

(ANNEXURE P2) passed by the respondent no. 1 and 2 against the petitioner.

10.2 That any other relief which this Hon'ble Court deems fit and proper may also be granted in favor of the petitioner safeguarding their interest.”

- 12.** In Writ Petition (C) No.1808 of 2025, the petitioner has prayed for following relief(s) :-

“10.1 That, this Hon'ble Court may kindly be pleased to issue an appropriate writ, order, direction thereby calling for the records of the entire case.

10.2 That, this Hon'ble Court may kindly be pleased to issue an appropriate writ, order, direction in the form of mandamus thereby directing the respondents to immediately arrange for oath taking ceremony of the petitioner for taking oath as Councillor of Ward No.35, Shardapara Ward of Bhilai Municipal Corporation, District Durg (C.G.).

OR ALTERNATIVELY

That, this Hon'ble Court may kindly be pleased to issue an appropriate writ, order, direction thereby directing the respondents to take decision on the representation of the petitioner for taking oath dated 13/03/2025 within stipulated period.

10.3 That, this Hon'ble Court may kindly be pleased to issue an appropriate writ, order,

direction in the form of certiorarified mandamus thereby quashing and setting aside the letter dated 18/03/2025 and further directing the respondents to permit joining of the private respondent as Councillor of Ward No.35, Shardapara Ward Bhilai Municipal Corporation, District Durg (C.G.).

10.4 Any other relief, which this Hon'ble Court deems fit and proper, may also kindly be granted to the petitioner, in the interest of justice.”

Common Facts of Writ Petition (C) No.5555 of 2024 and Writ Petition (C) No.1808 of 2025

13. The facts, in brief, are that the Municipal Corporation, Bhilai consists of elected Councillors and is governed by the provisions of the Chhattisgarh Municipal Corporation Act, 1956 (for short, 'Act of 1956'). In exercise of the powers conferred under the relevant provisions of the Act and the rules framed thereunder, the State Government issued a Gazette Notification dated 22.03.2021, notifying the ward-wise reservation for the election of Councillors of Municipal Corporation, Bhilai. As per the said notification, Ward No.35, Sharda Para Ward, was reserved for candidates belonging to the Other Backward Class category.
14. Pursuant to the election programme, Mohammad Salman, also known as Engineer Salman, submitted his nomination form for contesting the election to the post of Councillor from Ward No.35,

Sharda Para, on 02.12.2021 along with the requisite documents. In his declaration submitted along with the nomination form, Mohammad Salman claimed himself to be belonging to the Other Backward Class category, namely Kunjda caste. Chandan Yadav also submitted his nomination form for contesting the said election from the same ward.

15. After completion of the election process and declaration of results, Mohammad Salman was declared as the returned candidate for Ward No.35, Sharda Para, and his election was notified in the official Gazette dated 24.12.2021. Thereafter, he joined as Councillor and continued to discharge his duties as an elected representative. Chandan Yadav was declared as the candidate securing the second highest number of votes, immediately next to Mohammad Salman.
16. Subsequently, allegations were raised against Mohammad Salman regarding his caste status. It was alleged that although Ward No.35 was reserved for Other Backward Class candidates, Mohammad Salman did not possess a valid caste certificate issued by the competent authority and, therefore, was not eligible to contest and hold the office of Councillor from the said reserved category. On the basis of such allegations, Chandan Yadav and others initiated proceedings seeking removal of Mohammad Salman from the office of Councillor under the provisions of the Act of 1956.

- 17.** As no effective action was taken on the representation/application filed by Chandan Yadav, he approached this Court by filing Writ Petition (C) No.1015 of 2024. This Court, vide order dated 19.02.2024, directed the Divisional Commissioner, Durg, to consider and decide the proceedings initiated under Section 19(1) (a-1) of the Act of 1956 within a stipulated period. The said order was subsequently challenged by Mohammad Salman by filing Review Petition No.78 of 2024, however, the same was dismissed vide order dated 25.04.2024, and the proceedings before the Divisional Commissioner were permitted to continue.
- 18.** During the pendency of the proceedings before the Divisional Commissioner, Durg, Mohammad Salman also approached this Court by filing Writ Petition (C) No.1309 of 2024, questioning the initiation and continuance of proceedings under Section 19(1)(a-1) of the Act of 1956. However, the said writ petition was disposed of by order dated 05.03.2024, and thereafter the review petition and writ appeal preferred against the said order were also dismissed/withdrawn.
- 19.** Thereafter, the Divisional Commissioner, Durg proceeded with the matter, recorded the statements and affidavits of the respective parties, and after hearing both sides, passed an order dated 06.05.2024, whereby the application preferred by Chandan Yadav and others was allowed and Mohammad Salman was removed from the post of Councillor of Ward No.35, Sharda Para, Bhilai

Municipal Corporation.

- 20.** Aggrieved by the aforesaid order of removal, Mohammad Salman approached this Court by filing Writ Petition (C) No.2642 of 2024. However, this Court, vide order dated 11.06.2024, declined to interfere with the order passed by the Divisional Commissioner and granted liberty to Mohammad Salman to avail the statutory remedy of appeal before the competent authority.
- 21.** Pursuant thereto, Mohammad Salman preferred an appeal before the competent appellate authority. After considering the rival submissions and material available on record, the appellate authority, vide order dated 04.09.2024, dismissed the appeal preferred by Mohammad Salman and affirmed the order of removal passed by the Divisional Commissioner. The appellate authority recorded that Mohammad Salman failed to establish his entitlement to contest the election from the reserved category and also failed to produce a valid caste certificate issued under the provisions of the Chhattisgarh Scheduled Castes, Scheduled Tribes and Other Backward Classes (Regulation of Social Status Certification) Act, 2013 (for short, 'Act of 2013').
- 22.** The aforesaid orders dated 06.05.2024 and 04.09.2024 have been challenged by Mohammad Salman in Writ Petition (C) No.5555 of 2024, wherein he has questioned the legality, validity and correctness of the proceedings resulting in his removal from the post of Councillor.

- 23.** After removal of Mohammad Salman, the office of Councillor of Ward No.35, Sharda Para, fell vacant. The vacancy was thereafter communicated to the State Election Commission, which issued an election programme for filling up the vacant post of Councillor in accordance with Article 243 of the Constitution of India and Section 14(1) of the Act of 1956. Pursuant to the election notification dated 20.01.2025, the election process was initiated for Ward No.35.
- 24.** In the said election process, Chandan Yadav submitted his nomination form and participated in the election. He was declared elected by the Returning Officer, and an election certificate in Form-14 under Rule 39(1) of the Chhattisgarh Municipal Corporation Rules, 1994 (for short, 'Rules of 1994'), dated 31.01.2025, was issued in his favour declaring him as the elected Councillor of Ward No.35, Sharda Para. The election of Chandan Yadav was thereafter notified by the State Election Commission through Gazette Notification dated 24.02.2025.
- 25.** However, despite being declared elected and his election having been notified in the official Gazette, Chandan Yadav was not permitted to take oath and assume charge as Councillor of Ward No.35. According to Chandan Yadav, such inaction on the part of the authorities has resulted in denial of the mandate given by the electorate and has prevented him from discharging his constitutional and statutory duties as an elected representative.

- 26.** It is also the grievance of Chandan Yadav that during the pendency of the proceedings, Mohammad Salman, after challenging his removal, obtained interim protection in Writ Petition (C) No.5555 of 2024. However, upon the Court being apprised of the subsequent election process and the constitutional bar contained under Article 243-ZG of the Constitution of India, it was clarified that the interim order would operate only in respect of the benefits claimed by Mohammad Salman on the basis of OBC status and would not affect the election process.
- 27.** Chandan Yadav has further challenged the subsequent action whereby, despite removal of Mohammad Salman from the post of Councillor and withdrawal of all charges and responsibilities from him, the Mayor of the Municipal Corporation, vide communication dated 18.03.2025, nominated Mohammad Salman as an in-charge member of the Culture, Tourism, Entertainment and Heritage Production Department under the Mayor-in-Council. According to Chandan Yadav, such nomination is contrary to Section 37 of the Act of 1956, as members of the Mayor-in-Council can only be nominated from amongst elected Councillors.
- 28.** Thus, while Mohammad Salman, in Writ Petition (C) No.5555 of 2024, has questioned the orders dated 06.05.2024 and 04.09.2024 whereby he was removed from the post of Councillor, Chandan Yadav, in Writ Petition (C) No.1808 of 2025, has sought enforcement of his rights as an elected Councillor and has

challenged the failure of the authorities to administer oath to him as well as the consequential nomination of Mohammad Salman in the Mayor-in-Council despite his removal.

Submissions on behalf of Mohammad Salman (Petitioner in W.P. (C) No.5555/2024 and Respondent No.6 in W.P.(C) No.1808/2025)

29. Mr. B.P. Singh and Mr. Roshan Singh Lamba, learned counsel appearing for Mohammad Salman, the petitioner in Writ Petition (C) No.5555 of 2024 and respondent No.6 in Writ Petition (C) No.1808 of 2025, would submit that the entire controversy in the present batch of writ petitions arises out of the election held for the post of Councillor of Ward No.35, Sharda Para, Bhilai Municipal Corporation, District Durg (C.G.), which was reserved for candidates belonging to the Other Backward Class (OBC) category. It is submitted that Mohammad Salman, who belongs to the Kunjda caste, a community recognized as falling within the OBC category, contested the election from the said reserved ward after due verification of all requisite documents by the competent election authorities and was duly declared elected by the electorate. It is submitted that his election was conducted strictly in accordance with law and after scrutiny of his nomination papers, including the documents relating to his caste status. Therefore, there was no occasion for any subsequent authority to question his eligibility to contest the election merely on the basis of vague and unsubstantiated allegations. They would further

submit that Mohammad Salman has been a resident of Bhilai, District Durg, Chhattisgarh, and belongs to the Kunjda caste. The said caste has been recognized as an Other Backward Class community under the applicable Government notifications. It is submitted that Mohammad Salman has never attempted to obtain any undue benefit by creating a false caste identity, as there was no occasion for him to do so. It is argued that a person belonging to the Kunjda caste would have no reason whatsoever to fabricate a caste certificate of the same caste, particularly when his caste status is consistently reflected in his educational and other contemporaneous documents.

- 30.** Learned counsel would submit that the caste claim of Mohammad Salman is not based on any recent declaration made only for the purpose of contesting the election. It is submitted that the school records and other documents pertaining to Mohammad Salman clearly mention his caste as Kunjda. Thus, the allegation levelled by the private respondents that Mohammad Salman has fraudulently projected himself as belonging to the Kunjda caste is wholly baseless and contrary to the documentary evidence available on record. It is further submitted that Mohammad Salman was elected as Councillor of Ward No.35, Sharda Para in the year 2021, and at the relevant point of time there was no objection raised by any person regarding his caste status. His nomination papers were accepted only after scrutiny by the Returning Officer and the competent election authorities. Learned

counsel would submit that had there been any defect or alleged invalidity in the caste certificate produced by Mohammad Salman, his nomination itself would have been rejected at the initial stage and he would not have been permitted to contest the election.

- 31.** Learned counsel would contend that after Mohammad Salman successfully completed his tenure as an elected Councillor for a substantial period, the private respondents, who were unsuccessful candidates in the election, initiated proceedings after an unexplained delay of nearly three years. It is submitted that such proceedings are nothing but an abuse of the process of law, initiated with an ulterior motive to remove an elected representative after losing the democratic mandate. The challenge raised by the private respondents is not based upon any genuine grievance but is motivated by personal rivalry and political considerations. It is further submitted that the proceedings initiated against Mohammad Salman before the Divisional Commissioner were wholly without jurisdiction. Learned counsel would submit that the issue relating to validity, genuineness and cancellation of a caste certificate is governed by the provisions of the Act of 2013 and the Rules framed thereunder. Under the statutory scheme, only the competent Caste Scrutiny Committee is empowered to examine the correctness of a social status certificate and to declare the same to be false or invalid after following the prescribed procedure. The Divisional Commissioner, while exercising powers under the Act of 1956 could not have

assumed the role of a Caste Scrutiny Committee and could not have adjudicated upon the caste status of Mohammad Salman.

- 32.** Learned counsel would submit that under Section 6(3) of the Act of 2013, the District Level Certificate Verification Committee is required to examine the relevant material and thereafter refer the matter to the High Power Certification Scrutiny Committee wherever necessary. Unless the caste certificate is cancelled by the competent Scrutiny Committee, the same continues to hold validity and the holder of such certificate cannot be treated as disqualified. It is submitted that, in the present case, the caste certificate of Mohammad Salman has never been cancelled by the District Level Verification Committee or by the High Power Caste Scrutiny Committee. Therefore, the very foundation of the proceedings initiated by the Divisional Commissioner is legally unsustainable. Learned counsel would submit that the Divisional Commissioner has proceeded on an erroneous assumption of jurisdiction and has passed the order of removal without there being any declaration by the competent authority that Mohammad Salman does not belong to the OBC category.
- 33.** Learned counsel would further submit that Section 19(1)(a-1) of the Act of 1956, which empowers removal of a Councillor in certain circumstances, can be invoked only when it is established that the Councillor has incurred disqualification in accordance with law. The expression “if it is found that” occurring in the said

provision necessarily requires a prior lawful determination by the competent authority regarding the alleged disqualification. In the absence of any order passed by the Caste Scrutiny Committee declaring the caste certificate of Mohammad Salman to be false, the Divisional Commissioner had no authority to remove him from the elected office of Councillor. They would submit that the impugned orders dated 06.05.2024 passed by the Divisional Commissioner and 04.09.2024 passed by the appellate authority are therefore liable to be set aside as being without jurisdiction, contrary to the statutory provisions and violative of the principles of natural justice. The authorities have failed to appreciate that the caste dispute could not have been decided in proceedings relating to removal of a Councillor and that such determination falls exclusively within the domain of the Caste Scrutiny Committee. It is further submitted that the election of Mohammad Salman could not have been questioned by filing proceedings before the Divisional Commissioner after expiry of the prescribed period. Learned counsel would submit that the Constitution of India, under Article 243-ZG of the Constitution of India, creates a specific bar against interference by Courts or authorities in electoral matters except through the mechanism of an election petition. The validity of an election to a Municipality can only be challenged before the competent Election Tribunal in the manner prescribed by law.

34. In this regard, learned counsel has placed reliance upon the

judgment of the Hon'ble Division Bench of this Court in ***Babita Balmiki Vs. Amrika Bai & Others, reported in 2017 (1) CGLJ 603***, and submitted that the issue regarding qualification or disqualification of an elected candidate, including whether such candidate belongs to the reserved category for which the seat was notified, can only be examined by the Election Tribunal in an election petition.

35. Learned counsel would submit that the private respondents neither challenged the election of Mohammad Salman by filing an election petition under Section 441 of the Act of 1956, nor approached the competent Election Tribunal within the prescribed period of limitation. Instead, after a delay of nearly three years, they initiated proceedings before the Divisional Commissioner, which was impermissible in law. They would further submit that the reliance placed by the private respondents on certain alleged discrepancies in the records maintained by the revenue authorities is wholly misplaced. It is argued that Mohammad Salman cannot be held responsible for any alleged mistake or discrepancy in the official records maintained by the revenue department. The burden cannot be shifted upon the elected Councillor for any alleged administrative error committed by the authorities maintaining such records. It is also submitted that the caste documents produced by Mohammad Salman and his ancestors clearly demonstrate that the caste of his family has consistently been recorded as Kunjda. Several documents

pertaining to his father, grandfather and forefathers, including old documents dating back decades, reflect the same caste status. Therefore, there was no basis to conclude that the caste certificate obtained by Mohammad Salman was fabricated or forged.

36. Learned counsel would further submit that the subsequent developments during the pendency of Writ Petition (C) No.5555 of 2024 are also relevant. This Court, after hearing all the parties, including Chandan Yadav, passed an interim order dated 28.01.2025 staying the operation and effect of the orders dated 06.05.2024 and 04.09.2024 whereby Mohammad Salman had been removed from the post of Councillor. Pursuant thereto, Mohammad Salman resumed his duties as Councillor of Ward No.35. It is submitted that after restoration of the status of Mohammad Salman as Councillor pursuant to the interim order passed by this Court, the election process initiated for filling up the said seat could not have been proceeded with. The authorities themselves acknowledged the effect of the interim order and stayed the election process. Therefore, Chandan Yadav cannot seek a direction for oath-taking as Councillor when Mohammad Salman continues to hold the office by virtue of the interim protection granted by this Court.

37. Learned counsel would submit that permitting Chandan Yadav to take oath as Councillor would result in a situation where two

persons would simultaneously claim the office of Councillor for the same ward, which is legally impermissible. Any such direction would virtually nullify the interim order passed by this Court in Writ Petition (C) No.5555 of 2024. It is further submitted that the subsequent nomination of Mohammad Salman as a member of the Mayor-in-Council was made only after he resumed the office of Councillor and was legally holding the said office. Therefore, the challenge raised by Chandan Yadav to the said nomination is misconceived and based upon an incorrect assumption that Mohammad Salman had ceased to be a Councillor.

- 38.** Learned counsel would lastly submit that Chandan Yadav has not approached this Court with clean hands and has deliberately suppressed the material facts relating to the interim order dated 28.01.2025 passed in Writ Petition (C) No.5555 of 2024 and the subsequent proceedings. It is submitted that the writ petition filed by Chandan Yadav is nothing but an attempt to indirectly nullify the orders passed by this Court and to secure a relief which would defeat the interim protection granted to Mohammad Salman. Therefore, learned counsel prays that Writ Petition (C) No.5555 of 2024 filed by Mohammad Salman be allowed and the orders dated 06.05.2024 and 04.09.2024 be quashed, and consequently Writ Petition (C) No.1808 of 2025 filed by Chandan Yadav be dismissed as being devoid of merit and contrary to the settled legal position.

**Submissions on behalf of the State/Respondents No.1 to 2 in W.P.
(C) No.5555 of 2024 and Respondents No.1 to 3 in W.P.(C) No.1808
of 2025**

39. On the other hand, Mr. Rajkumar Gupta, learned Additional Advocate General, appearing on behalf of the State authorities/respondents No.1 and 2 in Writ Petition (C) No.5555 of 2024 and respondents No.1 to 3 in Writ Petition (C) No.1808 of 2025, would submit that the writ petitions preferred by the respective petitioners are devoid of merit and no interference under Article 226 of the Constitution of India is warranted in the facts and circumstances of the present case. He would submit that the present controversy has arisen out of the election conducted for the post of Councillor of Ward No.35, Sharda Para, Bhilai Municipal Corporation, which was reserved for the candidates belonging to the Other Backward Class category. It is submitted that Mohammad Salman contested the election from the said reserved ward claiming himself to belong to the Kunjda caste, which falls under the OBC category, and was declared elected as Councillor. However, subsequently, a complaint was made before the competent authority raising serious objections regarding his caste status and alleging that he was not entitled to contest the election from the reserved category.
40. Learned Additional Advocate General would submit that the proceedings initiated against Mohammad Salman were not

initiated arbitrarily or without authority of law. The same were commenced on the basis of the complaint made by the aggrieved persons and were conducted by the competent authority in exercise of the powers conferred under the provisions of the Act of 1956. It is submitted that the Divisional Commissioner, Durg, after providing adequate and sufficient opportunity of hearing to all concerned parties, considered the material available on record and thereafter passed a detailed order dated 06.05.2024, whereby Mohammad Salman was removed from the post of Councillor. It is further submitted that the order passed by the Divisional Commissioner was challenged by Mohammad Salman before the competent appellate authority and the said appeal was also considered in accordance with law. After examining the entire material available on record, the appellate authority, vide order dated 04.09.2024, dismissed the appeal and affirmed the order passed by the Divisional Commissioner. Therefore, according to the learned Additional Advocate General, both the orders impugned in Writ Petition (C) No.5555 of 2024 are well-reasoned quasi-judicial orders passed after due consideration of the relevant facts and applicable statutory provisions.

- 41.** Learned Additional Advocate General would submit that the scope of interference under Article 226 of the Constitution of India against an order passed by a quasi-judicial authority is limited. Unless the petitioner demonstrates patent illegality, jurisdictional error, violation of principles of natural justice, or perversity in the

decision-making process, this Court would not substitute its own view in place of the findings recorded by the competent authorities. It is submitted that Mohammad Salman was granted adequate opportunity during the proceedings before the Divisional Commissioner as well as the appellate authority. All relevant documents relied upon by him were taken into consideration and he was permitted to place his defence. Therefore, the allegation that the proceedings were conducted in violation of the principles of natural justice is wholly misconceived. The authorities have followed the procedure prescribed under law and have passed the orders after affording full opportunity of hearing to the petitioner.

- 42.** Learned Additional Advocate General would further submit that Mohammad Salman, while invoking the extraordinary jurisdiction of this Court, has not approached with clean hands and has suppressed material facts. It is submitted that a person seeking equitable relief under Article 226 of the Constitution of India must disclose all relevant facts and cannot seek discretionary relief while withholding material information from the Court. It is submitted that the order passed by the State Government/appellate authority dated 04.09.2024 was passed after considering the entire factual background, including the fact that Mohammad Salman failed to establish his entitlement to hold the reserved post of Councillor. The appellate authority found that there was no valid caste certificate produced by Mohammad Salman which could establish his entitlement to contest the

election from the OBC reserved category.

- 43.** Learned Additional Advocate General would submit that the contention raised by Mohammad Salman regarding the jurisdiction of the Divisional Commissioner is misconceived. It is submitted that the proceedings were not merely relating to verification of caste status but were proceedings under the provisions of the Act of 1956 concerning the continuance of an elected Councillor who was alleged to have incurred disqualification. The competent authority was therefore justified in examining whether Mohammad Salman was legally entitled to continue on the post of Councillor. It is further submitted that the argument regarding the necessity of reference of the matter to the High Power Caste Scrutiny Committee is also misconceived in the present proceedings. According to the learned Additional Advocate General, the authorities were required to examine whether Mohammad Salman possessed the necessary qualification and eligibility for holding the office of Councillor from the reserved category, and after considering the material available on record, the competent authorities rightly arrived at the conclusion that he was not entitled to continue.
- 44.** Learned Additional Advocate General would submit that the subsequent events are also required to be taken into consideration while deciding both the writ petitions. It is submitted that after removal of Mohammad Salman from the post of

Councillor, the post of Councillor of Ward No.35 became vacant. Consequently, the vacancy was communicated to the State Election Commission, which initiated the process of by-election for filling up the vacant seat. It is submitted that pursuant to the election notification issued by the Chhattisgarh State Election Commission, Chandan Yadav participated in the election process and was declared elected as Councillor of Ward No.35, Sharda Para, Bhilai Municipal Corporation. His election was duly notified by the State Election Commission through Gazette Notification dated 24.02.2025. Therefore, according to the learned Additional Advocate General, the grievance raised by Chandan Yadav in Writ Petition (C) No.1808 of 2025 has arisen out of subsequent developments and deserves to be considered in that background.

- 45.** Learned Additional Advocate General would submit that Writ Petition (C) No.1808 of 2025 filed by Chandan Yadav has become infructuous in view of the subsequent order dated 28.01.2025 passed in Writ Petition (C) No.5555 of 2024, whereby this Court stayed the effect and operation of the orders dated 06.05.2024 and 04.09.2024 passed against Mohammad Salman. It is submitted that the said interim order was passed without the complete factual position regarding the initiation of the by-election process being brought to the notice of the Court. It is submitted that the interim order dated 28.01.2025 was passed purely as an interim measure and the same cannot be construed as conferring any final right upon Mohammad Salman to continue as Councillor.

The validity and effect of the said interim order would be subject to the final adjudication of Writ Petition (C) No.5555 of 2024.

- 46.** Learned Additional Advocate General would further submit that in view of the interim protection granted to Mohammad Salman, the authorities were placed in a difficult situation as the election process had already commenced pursuant to the vacancy caused by his removal. The subsequent election notification and declaration of result in favour of Chandan Yadav were statutory acts performed in accordance with law. It is submitted that the constitutional scheme under Article 243-ZG of the Constitution of India provides a specific mechanism for challenging municipal elections and the Court may consider the effect of such constitutional provisions while examining the reliefs claimed by the parties.
- 47.** Learned Additional Advocate General would submit that so far as the challenge raised by Chandan Yadav regarding the oath-taking ceremony is concerned, the same cannot be considered in isolation and has to be examined in the light of the interim order passed by this Court in Writ Petition (C) No.5555 of 2024. Any direction permitting Chandan Yadav to take oath would have the effect of rendering the interim order passed in favour of Mohammad Salman ineffective, which cannot be permitted unless the interim order itself is modified or vacated. It is further submitted that the nomination of Mohammad Salman as a

member of the Mayor-in-Council was a consequential administrative action taken on the basis of the then existing status and position of Mohammad Salman. Since the order of removal had been stayed by this Court, Mohammad Salman was treated as continuing in office, and therefore, no illegality can be attributed to the action of the authorities.

- 48.** Learned Additional Advocate General would lastly submit that both the writ petitions deserve to be considered in the light of the subsequent developments and the statutory framework governing municipal elections. It is prayed that Writ Petition (C) No.5555 of 2024 filed by Mohammad Salman be dismissed as no jurisdictional error or illegality has been demonstrated in the orders passed by the competent authorities, and consequently, Writ Petition (C) No.1808 of 2025 filed by Chandan Yadav also does not call for any interference. Alternatively, the matters may be decided keeping in view the interim order passed by this Court and the subsequent election process undertaken by the State Election Commission.

Submission on behalf of Municipal Corporation, Bhilai
Respondent No.3 in W.P.(C) No.5555/2024

- 49.** Mr. Rajesh Kumar Kesharwani, learned counsel appearing for respondent No.3/Municipal Corporation, Bhilai, would submit that the Municipal Corporation, Bhilai is only a formal party in the present proceedings and no substantive relief has been claimed

against it by the petitioner. Learned counsel would submit that the grievance raised by the petitioner is essentially against the actions and orders passed by respondent Nos.1 and 2/State authorities, and the answering respondent-Municipal Corporation has neither passed any order adverse to the petitioner nor taken any independent action against him. It is further submitted that the Municipal Corporation, Bhilai is an autonomous statutory body having its own independent identity and functions within the framework of the Act of 1956. Since no relief has been sought against the answering respondent and no specific allegation has been made against it, the Municipal Corporation has chosen not to file any detailed reply.

Submissions on behalf of the Respondents No.4- Bhojram and Respondent No.5-Chandan Yadav in W.P.(C) No.5555 of 2024 and Petitioner-Chandan Yadav in W.P.(C) No.1808 of 2025

50. Mr. Animesh Verma, learned counsel appearing for respondent Nos. 4 and 5 in Writ Petition (C) No.5555/2024 and petitioner in Writ Petition (C) No.1808/2025, would submit that the controversy involved in the present batch of writ petitions is required to be examined from two perspectives. Firstly, the legality of the removal of the private respondent from the post of Councillor of Ward No.35, Sharda Para, Municipal Corporation Bhilai, and secondly, the consequential right of the petitioner, who has been duly elected in the by-election conducted pursuant to the vacancy

created thereafter, to assume office and discharge his duties as Councillor. He submits that the petitioner in Writ Petition (C) No.1808/2025 has been elected after following the complete statutory procedure prescribed under the Act of 1956 and the election programme notified by the Chhattisgarh State Election Commission. The election was conducted under the supervision and control of the State Election Commission, and thereafter, the petitioner was declared elected as Councillor of Ward No.35, Sharda Para, Municipal Corporation Bhilai, vide Gazette Notification dated 24.02.2025 issued under Section 22 of the Act of 1956. Therefore, the petitioner has acquired a statutory and constitutional right to hold the office and discharge the functions attached thereto.

- 51.** Learned counsel submits that despite such declaration, the petitioner has not been permitted to take oath and assume charge only on account of the pendency of Writ Petition (C) No.5555/2024 and the interim order dated 28.01.2025 passed therein. It is submitted that the said interim order cannot be interpreted as conferring any automatic right upon the removed Councillor to continue in office or as nullifying the election process which had already commenced and culminated in the declaration of the petitioner as elected Councillor. He further submits that the effect and operation of the orders dated 06.05.2024 passed by the learned Divisional Commissioner and dated 04.09.2024 passed by the appellate authority were stayed by this Court only as an

interim measure, but the said order does not amount to restoration of the earlier Councillor to office. Once the order of removal had been acted upon, the seat had fallen vacant, the vacancy was notified by the State Election Commission and a fresh election was conducted, the petitioner having been declared elected cannot be denied the benefit of such democratic process.

52. Learned counsel submits that the entire election process is governed by the constitutional mandate contained under Article 243-ZA of the Constitution of India. The State Election Commission has the exclusive authority of superintendence, direction and control over municipal elections. Therefore, once the election process was completed and the petitioner was declared elected, the executive authorities were bound to recognise and give effect to such declaration. In support of the aforesaid submission, learned counsel places reliance upon the judgment of the Hon'ble Supreme Court in ***Election Commission of India v. Ashok Kumar, (2000) 8 SCC 216***, wherein the Hon'ble Supreme Court has held that the Courts should not ordinarily interfere with the election process once it has commenced and the process must be permitted to culminate in accordance with law. Learned counsel submits that the principle underlying the said judgment is that the sanctity of the electoral process has to be maintained and the mandate expressed by the electorate cannot be defeated by administrative action.

53. Learned counsel further places reliance upon the judgment of the Hon'ble Supreme Court in ***Mohinder Singh Gill v. Chief Election Commissioner, (1978) 1 SCC 405***, wherein the Hon'ble Supreme Court has recognised the wide powers of the Election Commission to ensure free and fair elections and has held that the electoral process is a matter of constitutional importance. It is submitted that the election conducted pursuant to the vacancy of Ward No.35 was within the exclusive domain of the State Election Commission and the declaration of the petitioner as elected Councillor cannot be rendered ineffective by any administrative inaction.
54. Learned counsel further relies upon the judgment of the Hon'ble Supreme Court in ***Lakshmi Charan Sen v. A.K.M. Hassan Uzzaman, (1985) 4 SCC 689***, wherein the Hon'ble Supreme Court has observed that the democratic process must be protected and Courts should not adopt an approach which results in frustrating the mandate of the electorate. Learned counsel submits that the residents of Ward No.35 have exercised their franchise and elected the petitioner, and therefore, denying him the opportunity to function as Councillor amounts to denying representation to the electorate.
55. Learned counsel submits that the private respondent cannot claim automatic restoration merely on the basis of the interim order passed in Writ Petition (C) No.5555/2024. The interim order only

suspends the operation of the impugned orders and does not create a positive direction restoring the private respondent to office. The petitioner, on the other hand, derives his right from a completed election process. He places reliance upon the judgment of the Hon'ble Supreme Court in ***State of Assam v. Barak Upatyaka Damsanghathan, (2015) 3 SCC 628***, wherein the Hon'ble Supreme Court has held that an interim order must be understood in the context in which it is passed and cannot be construed to grant substantive relief which has not been finally adjudicated. Learned counsel submits that applying the said principle, the interim order dated 28.01.2025 cannot be interpreted to revive the office of the removed Councillor or nullify the subsequent election.

56. Learned counsel further submits that if the private respondent was aggrieved by the election of the petitioner, the remedy available to him was by way of an election petition as provided under Section 441 of the Act of 1956. The writ jurisdiction under Article 226 of the Constitution of India, cannot be utilised to indirectly challenge the election of a returned candidate. In support of this submission, learned counsel relies upon the judgment of the Hon'ble Supreme Court in ***Jyoti Basu v. Debi Ghosal, (1982) 1 SCC 691***, wherein it has been held that the right to challenge an election is purely a statutory right and can be exercised only in the manner prescribed by law. Learned counsel submits that respondent No.6 cannot bypass the statutory remedy of election petition and seek to

obstruct the functioning of the petitioner through collateral proceedings.

57. Learned counsel further submits that the allegations regarding the caste status of the private respondent are already the subject matter of adjudication in Writ Petition (C) No.5555/2024. However, even assuming that the private respondent succeeds in the said writ petition, such proceedings cannot automatically confer any right upon him to displace the petitioner, who has already been elected through a fresh election conducted by the competent constitutional authority. He further submits that the challenge raised by the private respondent regarding the caste certificate is also without substance. The learned Divisional Commissioner had not undertaken any exercise of determining the caste of the private respondent. The enquiry was limited only to ascertain whether the private respondent possessed a valid caste certificate issued by the competent authority. Upon verification, the concerned SDO (Revenue) informed that the alleged caste certificate relied upon by the private respondent was not issued from his office and the revenue case number mentioned therein related to another person.
58. Learned counsel submits that the provisions of the Act of 2013 and the judgment of the Hon'ble Supreme Court in ***Kumari Madhuri Patil v. Additional Commissioner, Tribal Development, (1994) 6 SCC 241***, would have no application in

the present case. It is submitted that the directions issued in ***Madhuri Patil*** (supra) apply where a caste certificate has been duly issued by the competent authority and thereafter its validity is required to be verified. In the present case, the very issuance of the certificate is disputed and the competent authority has stated that no such certificate was ever issued in favour of the private respondent. He further places reliance upon the judgment of the Hon'ble Supreme Court in ***Bhubaneswar Development Authority v. Madhumita Das, 2023 SCC OnLine SC 644***, wherein the Hon'ble Supreme Court has held that protecting an ineligible person results in perpetuation of illegality and adversely affects the rights of eligible persons. Learned counsel submits that the same principle would apply conversely in the present matter, as the petitioner is a duly elected candidate and his right cannot be defeated on account of an interim order obtained in collateral proceedings. He also places reliance upon the judgments of the Madhya Pradesh High Court in ***Bharat Singh Batham v. Life Insurance Corporation of India, (2021) 3 MPLJ 337***, ***Hemant Batham v. State of Madhya Pradesh (W.P. No.30444/2025)*** and ***Abhishek Agariya v. State of Madhya Pradesh (W.P. No.28917/2021)***, wherein it has been held that where the very foundation of a caste certificate is under challenge and the document itself is alleged to be forged or fabricated, the matter stands on a different footing and the procedure applicable to verification of a genuine caste certificate would not apply.

- 59.** Learned counsel submits that the present case is not a case of cancellation of a genuine caste certificate but a case where the alleged certificate relied upon by the private respondent was never issued by the competent authority. Therefore, the private respondent cannot claim protection under the law meant for genuine certificate holders. He further submits that the petitioner in Writ Petition (C) No.1808/2025 has no connection with the dispute regarding caste certificate and is only seeking enforcement of his right flowing from a valid election. The petitioner has been elected by the voters of Ward No.35 and his oath-taking cannot be withheld indefinitely on account of a dispute between the private respondent and the authorities. It is also submitted that the continuation of the present situation would result in Ward No.35 remaining without effective representation, thereby causing prejudice to the residents of the ward. The elected representative cannot be prevented from functioning unless there exists a valid order setting aside his election.
- 60.** Therefore, learned counsel prays that Writ Petition (C) No.1808/2025 filed by the petitioner be allowed and the respondents be directed to administer oath to the petitioner as Councillor of Ward No.35, Sharda Para, Municipal Corporation Bhilai, and permit him to discharge his duties in accordance with law. It is further prayed that Writ Petition (C) No.5555/2024 filed by the private respondent challenging the orders dated 06.05.2024 and 04.09.2024 be dismissed and the interim order

passed therein be suitably modified so as not to obstruct the functioning of the duly elected Councillor.

**Submissions on behalf of the Respondents No.6 and 7-
Chhattisgarh State Election Commission in W.P.(C) No.5555 of
2024 and Respondent No.4 in W.P.(C) No.1808 of 2025**

61. Mr. Ranbir Singh Marhas, learned Senior Advocate assisted by Ms. Shruti Bariar, learned counsel appearing for respondent Nos. 6 and 7 in Writ Petition (C) No.5555/2024 and respondent No.4 in Writ Petition (C) No.1808/2025, would submit that the writ petition filed by Mohammad Salman in Writ Petition (C) No.5555/2024 is devoid of merit and deserves to be dismissed, whereas the writ petition filed by Chandan Yadav in Writ Petition (C) No.1808/2025 is also not maintainable in view of the subsequent developments and the statutory bar contained under the Constitution of India. It is submitted that both the petitions arise out of the dispute relating to the post of Councillor of Ward No.35, Sharda Para, Municipal Corporation, Bhilai, and the subsequent election conducted pursuant to the vacancy created after the removal of petitioner Mohammad Salman from the said post.
62. Learned Senior Counsel would submit that Mohammad Salman, who was elected as Councillor from Ward No.35, Sharda Para, Municipal Corporation, Bhilai, had contested the election from an OBC reserved seat. However, on the basis of proceedings initiated under Section 19(1)(a-1) of the Act of 1956, the Divisional

Commissioner, Durg, after due consideration of the material available on record, passed an order dated 06.05.2024 removing him from the post of Councillor. The said order was thereafter affirmed by the appellate authority vide order dated 04.09.2024. It is submitted that pursuant to the removal of Mohammad Salman, a vacancy arose in Ward No.35, Sharda Para, Municipal Corporation, Bhilai. The said vacancy was duly communicated to the Chhattisgarh State Election Commission, which, in exercise of its constitutional powers under Article 243-ZA of the Constitution of India, initiated the process for conducting a bye-election. Accordingly, the State Election Commission issued election notification dated 20.01.2025.

63. Learned Senior Counsel would further submit that during the pendency of Writ Petition (C) No.5555/2024 preferred by Mohammad Salman, this Court passed an interim order dated 28.01.2025 staying the effect and operation of the orders dated 06.05.2024 and 04.09.2024. However, the fact regarding issuance of election notification dated 20.01.2025 and commencement of the election process was not brought to the notice of this Court by the petitioner. Therefore, Mohammad Salman cannot claim any advantage on the basis of an interim order obtained without placing the complete factual position before the Court.

64. Learned Senior Counsel would submit that the interim order dated 28.01.2025 passed in Writ Petition (C) No.5555/2024 did not

result in automatic restoration of Mohammad Salman as Councillor nor did it nullify the election process which had already commenced. Once the vacancy was notified and the constitutional authority i.e. the State Election Commission had commenced the election process, the same could not have been interfered with except in accordance with the procedure prescribed under the election law. It is submitted that as per the election programme, 28.01.2025 was the last date for filing nomination papers. Two candidates submitted their nomination forms and Mohammad Salman was not one of the candidates. Thereafter, on 31.01.2025, after withdrawal of nomination by one candidate, Chandan Yadav, petitioner in Writ Petition (C) No.1808/2025, was declared elected as Councillor of Ward No.35, Sharda Para, Municipal Corporation, Bhilai, by the Returning Officer. It is further submitted by learned Senior Counsel that Chandan Yadav, having been duly elected in the election conducted by the competent constitutional authority, cannot seek assumption of office through a writ petition when the very election and declaration of result are governed by the provisions of election law. Any challenge to the election can only be made by way of an election petition and not by invoking extraordinary jurisdiction under Article 226 of the Constitution of India.

- 65.** Learned Senior Counsel would place reliance upon the judgment of the Hon'ble Supreme Court in ***Election Commission of India Vs. Ashok Kumar, (2000) 8 SCC 216***, wherein it has been held

that once the election process has commenced, Courts should not interfere with the election proceedings and the jurisdiction under Article 226 of the Constitution must be exercised with restraint so as not to interrupt, obstruct or protract the election process.

66. Reliance is also placed upon the judgment of the Hon'ble Supreme Court in ***Anugrah Narain Singh & Another Vs. State of U.P. & Others, (1996) 6 SCC 303***, wherein the Hon'ble Supreme Court has held that matters relating to elections cannot be adjudicated in writ proceedings once the election process has commenced and the aggrieved person must avail the statutory remedy of election petition.
67. Learned Senior Counsel would further submit that Article 243-ZG(b) of the Constitution of India creates an express constitutional bar against interference by Courts in municipal elections except by way of an election petition. It is submitted that the word "election" includes the entire process commencing from issuance of election notification till declaration of result. Therefore, after commencement of the election process pursuant to notification dated 20.01.2025, no interference could have been made by this Court in exercise of writ jurisdiction. He would submit that Chandan Yadav, petitioner in Writ Petition (C) No.1808/2025, has an alternative statutory remedy under the Act of 1956, if he intends to question any aspect relating to the election. Therefore, a direction for conducting oath ceremony or

permitting him to function as Councillor cannot be issued in the present writ petition.

- 68.** Learned Senior Counsel would further submit that Mohammad Salman cannot claim restoration of his position merely on the basis of pendency of Writ Petition (C) No.5555/2024 because the post of Councillor had already fallen vacant, the vacancy had been notified, and the election process had culminated in declaration of Chandan Yadav as the returned candidate. The rights flowing from a valid election cannot be defeated by a mere interim order passed in collateral proceedings. It is lastly submitted that the State Election Commission and other authorities have acted strictly in accordance with the constitutional mandate and statutory provisions. The election of Chandan Yadav has been conducted in accordance with law and, therefore, no direction as sought by him in Writ Petition (C) No.1808/2025 is warranted. Similarly, the challenge raised by Mohammad Salman in Writ Petition (C) No.5555/2024 has become devoid of substance in view of subsequent events and the election conducted for filling up the vacancy.
- 69.** I have heard learned counsel appearing for the respective parties and perused the pleadings and material on record with utmost circumspection.
- 70.** From perusal of the order dated 04.09.2024 passed by the Secretary, Urban Administration and Development Department,

Government of Chhattisgarh, in an appeal preferred under Section 19(3) of the Act of 1956, it transpires that the appellate authority considered the challenge made by petitioner Mohammad Salman against the order dated 06.05.2024 passed by the Divisional Commissioner, Durg, whereby he was removed from the post of Councillor of Ward No.35, Sharda Para, Municipal Corporation, Bhilai, on the ground that he failed to establish that he belonged to the OBC reserved category. The appellate authority, after considering the material available on record, including the Social Status Certificate relied upon by the petitioner and the report of the Sub-Divisional Officer (Revenue), Durg, recorded a finding that no valid caste certificate under Section 4 of the Act of 2013 had been issued in favour of the petitioner. It was further observed that in terms of Section 14 of the Act of 2013, the burden of proving the claim of belonging to the reserved category was upon the petitioner, which he failed to discharge. Consequently, the appellate authority upheld the order dated 06.05.2024 passed by the Divisional Commissioner, Durg, removing the petitioner from the post of Councillor under Section 19(1)(a-1) of the Act of 1956.

- 71.** Further, from perusal of the order dated 06.05.2024 passed by the learned Divisional Commissioner, Durg Division, Durg in Case No.133/B-128/2023-24, it appears that the proceedings were initiated on an application filed by Bhojraj and Chandan Yadav under Section 19(1)(a-1) of the Act of 1956, seeking removal of

the petitioner Mohd. Salman, elected Councillor of Ward No.35, Sharda Para, Municipal Corporation, Bhilai, on the ground that he had contested the election from an OBC reserved seat on the basis of an invalid caste certificate. The learned Divisional Commissioner, after granting opportunity of hearing to the parties and considering the material available on record, proceeded to examine the validity of the caste certificate relied upon by the petitioner.

- 72.** It is reflected from the order that the learned Commissioner relied upon the report submitted by the Sub-Divisional Officer (Revenue), Durg, whereby it was informed that the caste certificate issued is the basis of case bearing No.363/B-121/2015-16 dated 15.06.2016, relied upon by the petitioner, was not recorded in the relevant Daaira Register in the name of Mohd. Salman, but was found recorded in the name of one Nomita Deshmukh, daughter of Yuvraj Deshmukh. Taking note of the provisions of Section 14 of the Act of 2013, the learned Commissioner held that the burden to establish that the petitioner belonged to the reserved category was upon him and that the petitioner had failed to prove the genuineness and validity of the OBC certificate issued by the competent authority.
- 73.** While dealing with the objection raised by the petitioner regarding reference of the matter to the High Level Scrutiny Committee, the learned Commissioner considered the law laid down by the

Hon'ble Supreme Court in ***Kumari Madhuri Patil*** (supra), wherein the procedure for verification of caste certificates was prescribed. However, it was observed that the said mechanism would apply only when a caste certificate has been issued by the competent authority and the issue relates to its genuineness. The learned Commissioner further relied upon the judgment of the Madhya Pradesh High Court in ***Abhishek Agariya v. State of Madhya Pradesh & Others, W.P.(C) No.28917 of 2021, decided on 05.10.2023***, wherein it was held that all non-genuine documents cannot be treated as forged documents, but where the issuing authority itself certifies that the caste certificate was never issued from its office, the matter would not fall within the ambit of verification by the Scrutiny Committee as contemplated in ***Madhuri Patil*** (supra).

74. The learned Commissioner also considered the judgment of this Court in ***Smt. Babita Balmiki v. Amrika Bai & Others, 2017 (1) C.G.L.J. 603 (DB)*** and the judgment in ***Vidyadhar Aghariya v. State of Chhattisgarh & Others, AIR 2015 (NOC) 724 (Chhattisgarh)***, relied upon by the petitioner, but distinguished the same on facts. It was held that in the present case the very issuance of the caste certificate by the competent authority was in dispute and, therefore, the question of sending the matter for caste scrutiny did not arise.

75. Consequently, the learned Divisional Commissioner recorded a

finding that the petitioner had failed to establish that he belonged to the OBC category for which Ward No.35, Sharda Para, Municipal Corporation, Bhilai, was reserved and, exercising jurisdiction under Section 19(1)(a-1) of the Act of 1956, directed his removal from the office of Councillor. The said order was subsequently affirmed by the Secretary, Urban Administration and Development Department, Chhattisgarh, vide order dated 04.09.2024 passed in an appeal preferred under Section 19(3) of the Act of 1956.

- 76.** It transpires from the order dated 28.01.2025 passed by Co-ordinate Bench of this Court in Writ Petition (C) No.5555/2024 that an interim protection was granted in favour of the petitioner Mohammad Salman. The petitioner had challenged the order dated 06.05.2024 passed by the Divisional Commissioner, Durg Division, Durg, whereby he was removed from the post of Councillor of Ward No.35, Sharda Para, Bhilai, under Section 19(1)(a-1) of the Act of 1956, as well as the subsequent appellate order dated 04.09.2024 passed by the State Government. The Court, while considering the rival submissions, observed that the finding recorded by the Divisional Commissioner regarding the caste status of the petitioner was based solely on the report dated 07.03.2024 submitted by the Sub-Divisional Officer (Revenue), Durg. The Court further observed that the issue relating to the validity of the social status certificate ought to have been examined by the District Level Caste Scrutiny Committee

constituted under the Act of 2013, and that without such scrutiny, an adverse conclusion regarding the caste status of the petitioner could not have been drawn.

- 77.** Accordingly, considering the facts and circumstances of the case, the Court, as an interim measure, stayed the effect and operation of the order dated 06.05.2024 passed by the Divisional Commissioner, Durg, and the appellate order dated 04.09.2024 passed by the State Government, till further orders. Thus, the interim order dated 28.01.2025 operates in favour of the petitioner—Mohammad Salman by restoring interim protection against his removal from the post of Councillor.
- 78.** It is pertinent to note that although this Hon'ble Court, vide order dated 28.01.2025 passed in Writ Petition (C) No.5555 of 2024, had stayed the effect and operation of the order dated 06.05.2024 passed by the Divisional Commissioner, Durg Division, Durg, and the subsequent appellate order dated 04.09.2024 passed by the State Government, the said interim order could not be brought to the notice of the election authorities before completion of the election process. In the meantime, pursuant to the election notification dated 20.01.2025, the process for conducting the by-election had already commenced and the last date for filing nomination was 28.01.2025. Since no communication regarding the interim order passed by the Co-ordinate Bench of this Court was received by the concerned authorities at the relevant point of

time, the election proceedings continued in accordance with the notified election programme. Consequently, after withdrawal of nomination by one of the candidates on 31.01.2025, the Returning Officer declared the remaining candidate, namely Chandan Yadav, as the returned candidate for Ward No.35, Sharda Para, Bhilai, on the same day. Thus, the declaration of election result in favour of Chandan Yadav was not in defiance of the order dated 28.01.2025, but was a consequence of the election process which had already reached its concluding stage before receipt of intimation of the interim order by the election authorities.

- 79.** At this stage, it would be apposite to examine the statutory framework governing the controversy. The principal issue involved in the present batch of writ petitions centres around the scope and ambit of Section 19(1)(a-1) of the Act of 1956. The said provision confers power upon the Divisional Commissioner to remove an elected Councillor where it is found that the Councillor does not belong to the category for which the particular seat was reserved. The provision has been incorporated by the Legislature with the avowed object of preserving the sanctity of reservation in local self-government institutions and to ensure that a public office reserved for a particular class of citizens is not occupied by a person who is not legally entitled to claim such reservation.
- 80.** The legislative intent behind incorporation of Section 19(1)(a-1) of the Act of 1956 is manifest. Reservation in favour of Scheduled

Castes, Scheduled Tribes, Other Backward Classes and other reserved categories is a constitutional mechanism intended to secure adequate representation to historically disadvantaged sections of society. Such constitutional protection would become illusory if persons not belonging to the reserved category are permitted to occupy offices reserved exclusively for those communities by producing incorrect, fabricated or otherwise invalid documents. Therefore, the Legislature has consciously created a separate statutory remedy empowering the Divisional Commissioner to examine whether an elected Councillor possessed the requisite eligibility to contest from a reserved constituency.

- 81.** The principal contention advanced on behalf of Mohammad Salman is that the Divisional Commissioner lacked jurisdiction to examine his eligibility and that the dispute necessarily required reference to the District Level Verification Committee or the High Power Caste Scrutiny Committee constituted under the Act of 2013. This submission, though attractive at first blush, cannot withstand judicial scrutiny in the peculiar facts of the present case.
- 82.** In the present case, Ward No.35, Sharda Para, Municipal Corporation, Bhilai, stood reserved for candidates belonging to the Other Backward Class category. Mohammad Salman contested the election claiming himself to belong to the Kunjda caste, which is recognised as an OBC community in the State of

Chhattisgarh. It was only on the strength of such claim that he became eligible to contest the election from the said reserved ward. Consequently, once serious allegations were raised that the social status certificate relied upon by him had never been issued by the competent authority and did not genuinely belong to him, the statutory jurisdiction under Section 19(1)(a-1) of the Act of 1956 stood rightly invoked.

83. Section 19 of the Act of 1956 reads as under:-

“19. Removal of Councillors.-(1) The Divisional Commissioner may, at any time, remove any elected [...] councillor :-

(a) if his continuance as a councillor is not, in the opinion of the Divisional Commissioner, desirable in the interests of the public or the Corporation; or

(a-1) if it is found that he does not belong to the reserved category for which the seat was reserve, or;]

(b) if the Corporation has, by a resolution supported by at least two-third of the total number of councillors; recommend that a councillor is not fit to continue as a councillor on account of misconduct in the discharge of his duties or disgraceful conduct and should therefore be removed.

(2) The Divisional Commissioner may, while ordering the removal under sub-section (3) of Section 23 or this section, also order that

such councillor, shall not be eligible to become a councillor of a Corporation for a period which shall be specified in the order and which shall not exceed five years :

Provided that no resolution recommending the removal of any councillor shall be passed by the Corporation nor any such order of removal shall be passed by the Divisional Commissioner unless such councillor has been given a reasonably opportunity of showing cause why a recommendation should not be made for his removal or why he should not be removed from his office.

(3) An appeal against the order passed under sub-section (1) or sub-section (2) of this section or Section 18 shall lie to the State Government within 30 days of the date on which the order is conveyed to the aggrieved party. The State Government may after giving a reasonable opportunity of being heard, pass such order on the appeal as it may think fit.”

- 84.** A plain reading of the aforesaid provision makes it abundantly clear that the jurisdiction of the Divisional Commissioner is not intended to adjudicate election disputes in the conventional sense. Rather, the provision empowers the Commissioner to enquire into a statutory disqualification arising after or in relation to the election where it is found that the elected Councillor was never entitled to occupy the reserved office because he did not belong to the category for which the seat had been earmarked.

- 85.** The expression "if it is found" employed by the Legislature assumes considerable significance. The Legislature has advisedly not confined such enquiry to the findings of an Election Tribunal. Instead, it has authorised the Divisional Commissioner to independently enquire into the existence of the statutory disqualification after following principles of natural justice. Thus, whenever credible material is produced demonstrating that an elected Councillor does not belong to the reserved category, the Commissioner is duty-bound to examine the matter and arrive at an independent conclusion.
- 86.** Such power cannot be rendered otiose by importing limitations which the Legislature itself has consciously omitted. Acceptance of the contention advanced on behalf of Mohammad Salman that the Commissioner could not enquire into the issue at all would virtually defeat the very object behind insertion of Section 19(1)(a-1), for every person obtaining election from a reserved constituency by producing false documents would continue to hold office merely because no election petition had been filed. Such an interpretation would defeat both the statutory scheme and the constitutional mandate underlying reservation.
- 87.** Sub-section (3) of Section 19 further provides a statutory appellate remedy against every order passed by the Divisional Commissioner under Section 19(1)(a-1) of the Act of 1956. The appellate jurisdiction has been conferred upon the State

Government, thereby providing a complete mechanism of adjudication under the statute itself.

88. The jurisdiction conferred upon the Divisional Commissioner under Section 19(1)(a-1) of the Act of 1956 is neither incidental nor ancillary to the election process; rather, it is an independent statutory power intended to examine whether the very eligibility on the strength of which an elected representative occupied a reserved seat survives judicial and factual scrutiny. Once the competent authority, after affording due opportunity of hearing and after considering the material available on record, records a finding that the elected Councillor does not belong to the reserved category for which the seat was reserved, the statute itself mandates the consequence that such Councillor becomes liable to be removed from office. The provision, therefore, creates not merely a procedural mechanism but also a substantive statutory consequence.

89. Further, Section 23 of the Act of 1956 reads as under :-

*“23. Resignation of Speaker & Councillors.-
(1) The Speaker or any Councillor may resign his office by tendering his resignation in writing to the Mayor who shall forward the same to the Divisional Commissioner and if the Speaker or such Councillor, as the case may be, desires he may also send a copy of his resignation directly to the Divisional Commissioner.*

(2) On receipt of the resignation under sub-section (1), the Divisional Commissioner shall
;-

(i) if satisfied about its genuineness, accept the resignation and notify the fact of such resignation and the occurrence of casual vacancy by reason of such resignation in the Gazette;

(ii) if not satisfied about its genuineness, not accept the resignation for reasons to be recorded in writing.

(3) If it appears to the Divisional Commissioner that any Councillor having become liable for removal under Section 19 has tendered his resignation to escape such removal, then notwithstanding anything contained in this section, the Divisional Commissioner may order his removal in accordance with the provisions of the said section and thereupon the Councillor shall be deemed to have been removed from the date he resigned his office.”

- 90.** A bare perusal of Section 23 of the Act of 1956 makes it manifest that the resignation of the Speaker or a Councillor does not become effective merely upon submission of a written resignation. The statutory scheme envisages a complete procedure whereby the resignation is first tendered in writing to the Mayor, who is required to forward the same to the Divisional Commissioner. Upon receipt of such resignation, the Divisional Commissioner is

under a statutory obligation to satisfy himself as to its genuineness. It is only upon recording such satisfaction and accepting the resignation that the Divisional Commissioner is required to notify the fact of acceptance and the resultant casual vacancy in the Official Gazette. Conversely, if the Divisional Commissioner is not satisfied about the genuineness of the resignation, he is empowered to refuse acceptance by recording reasons in writing. Sub-section (3) further confers a special power upon the Divisional Commissioner to decline to give effect to a resignation where it appears that the Councillor has tendered the same with a view to escaping removal under Section 19, and instead to proceed with removal in accordance with law. Thus, the legislative intent is clear that a resignation under Section 23 attains legal efficacy only upon its acceptance by the Divisional Commissioner after due satisfaction regarding its genuineness and the consequential notification in the Official Gazette; until such statutory requirements are fulfilled, the resignation cannot be said to have become operative in the eyes of law.

- 91.** Equally significant is the scheme of Section 23(3) of the Act of 1956. The said provision makes it abundantly clear that once a Councillor incurs the statutory disqualification and an order of removal is passed by the competent authority, the office held by such Councillor cannot continue to remain occupied. The inevitable consequence is that the seat falls vacant and the vacancy is required to be filled in accordance with the election law

by the competent Election Commission. Thus, Sections 19 and 23 operate in complete harmony with each other, while Section 19 of the Act of 1956 identifies and adjudicates the statutory disqualification, Section 23 of the Act of 1956 provides for the legal consequence flowing from such adjudication. Both provisions constitute an integrated statutory scheme intended to maintain the purity of electoral representation in reserved constituencies.

92. This Court is of the considered opinion that the expression "does not belong to the reserved category" occurring in Section 19(1)(a-1) of the Act of 1956 is of wide amplitude. It is not confined merely to cases where the caste of a candidate is subsequently invalidated by a Scrutiny Committee. The expression is wide enough to include a situation where the very document on the basis of which the candidate claimed eligibility is demonstrated to be forged, fabricated or never issued by the competent authority. To hold otherwise would defeat the very object sought to be achieved by the Legislature and would permit an individual to continue occupying a constitutionally reserved public office on the strength of fraudulent documents until separate proceedings before another authority attain finality. Such an interpretation would not only frustrate the statutory object but would also encourage abuse of the reservation policy.

93. Applying the aforesaid statutory scheme to the facts of the present

case, this Court finds that the Divisional Commissioner has exercised the jurisdiction strictly within the four corners of Section 19(1)(a-1) of the Act of 1956. The proceedings were initiated pursuant to the liberty granted by this Court in Writ Petition (C) No.1015 of 2024. Notices were issued to all concerned parties; adequate opportunity of hearing was afforded; documentary as well as oral material was considered; and thereafter a categorical finding of fact has been recorded that the social status certificate relied upon by Mohammad Salman was never issued by the office of the competent Sub-Divisional Officer (Revenue). The competent issuing authority itself has unequivocally stated that no such caste certificate was ever issued in favour of Mohammad Salman and that the particulars contained therein relate to an altogether different person. The finding is further fortified by the registration of FIR No.103 of 2024 alleging use of forged documents.

- 94.** Once the competent issuing authority itself disowns the issuance of the caste certificate, the controversy no longer remains one requiring verification of social status by the High Level Caste Scrutiny Committee. The present case is fundamentally different from a case where a genuine caste certificate is issued by the competent authority but its correctness or validity is questioned. Here, the very existence and genuineness of the certificate stand demolished by the issuing authority itself. Therefore, the argument that the matter ought to have been referred to the District Level

Verification Committee or the High Level Caste Scrutiny Committee deserves outright rejection.

- 95.** Accordingly, after the Divisional Commissioner passed the order dated 06.05.2024 directing removal of Mohammad Salman from the office of Councillor, the petitioner availed the statutory remedy by preferring an appeal before the Secretary, Urban Administration and Development Department, Government of Chhattisgarh. The appellate authority re-appreciated the entire material available on record including the report submitted by the Sub-Divisional Officer (Revenue), Durg, the documents relied upon by Mohammad Salman and the findings recorded by the Divisional Commissioner.
- 96.** The appellate authority ultimately concurred with the findings recorded by the Commissioner that the petitioner failed to establish his entitlement to contest the election from an OBC reserved constituency. It further recorded that the Social Status Certificate relied upon by the petitioner was not traceable in the official records and the competent authority had specifically reported that no such certificate had ever been issued in favour of Mohammad Salman. Consequently, the appellate authority dismissed the appeal by order dated 04.09.2024. Therefore, both the original authority as well as the appellate authority have concurrently recorded findings of fact against Mohammad Salman after granting full opportunity of hearing. It is well settled that

concurrent findings recorded by statutory authorities, particularly findings based upon appreciation of documentary evidence, are not liable to be interfered with in exercise of writ jurisdiction unless demonstrated to be perverse, arbitrary or wholly unsupported by evidence. Upon careful examination of the records produced before this Court, no such perversity is demonstrated.

- 97.** The contention advanced on behalf of Mohammad Salman that the entire proceedings were not maintainable and that the only remedy available to the aggrieved parties was to institute an election petition under Section 441 of the Act of 1956 does not merit acceptance. This issue is no longer res integra.
- 98.** It is pertinent to notice that even before the proceedings culminating in the impugned order were initiated, Chandan Yadav had approached this Court by filing Writ Petition (C) No.1015 of 2024 seeking consideration of his complaint regarding the continuance of Mohammad Salman as Councillor despite his alleged ineligibility to contest from the reserved seat. A Coordinate Bench of this Court, by order dated 19.02.2024, while considering the statutory scheme of Section 19(1)(a-1) of the Act of 1956, categorically held that where the allegation is that an elected Councillor does not belong to the reserved category for which the seat stood reserved, the statute itself provides a specific remedy before the Divisional Commissioner.
- 99.** The Co-ordinate Bench further distinguished such proceedings

from an election dispute under Section 441 of the Act of 1956. The Court observed that a challenge to the validity of the electoral process and an enquiry into statutory disqualification arising from false claim of reserved status operate in entirely different fields. While an election petition questions the legality of the election process itself, proceedings under Section 19(1)(a-1) of the Act of 1956 examine whether the elected person possessed the essential eligibility prescribed by statute to continue in office.

100. The aforesaid distinction is of considerable significance. The Legislature itself has consciously created two distinct remedies dealing with two entirely different situations. Therefore, it is impermissible to obliterate the statutory distinction by insisting that every case involving fraudulent claim of reservation must necessarily be tried only through an election petition.

101. The submission that the Divisional Commissioner lacked jurisdiction to enquire into the caste status of Mohammad Salman also deserves to be rejected. It is required to be appreciated that the Commissioner has not undertaken an anthropological determination of the caste of Mohammad Salman nor has he adjudicated upon any disputed question relating to his genealogy or ethnic origin. The enquiry conducted by the Commissioner was confined to determining whether the petitioner had produced a valid and legally issued social status certificate entitling him to contest the election from an OBC reserved constituency.

- 102.** The foundation of the petitioner's eligibility rested entirely upon one social status certificate bearing Revenue Case No.363/B-121/2015-16 dated 15.06.2016. During enquiry, the competent Sub-Divisional Officer (Revenue), Durg, after verification of official records, categorically reported that the said certificate had never been issued from his office and that the concerned revenue case number related to another individual altogether, namely Nomita Deshmukh.
- 103.** Once the issuing authority itself certifies that the document relied upon by the elected candidate was never issued from its office, the Commissioner was fully justified in concluding that the petitioner had failed to establish his eligibility under Section 19(1) (a-1) of the Act of 1956. Such an enquiry cannot be equated with determination of caste by a Caste Scrutiny Committee.
- 104.** The distinction between a case involving verification of an admittedly issued caste certificate and a case involving a document which is alleged never to have been issued by the competent authority assumes decisive importance in the present matter.
- 105.** The elaborate procedure contemplated in *Kumari Madhuri Patil* (supra) and subsequently incorporated in the Act of 2013 is intended to examine the correctness of an existing caste certificate validly issued by a competent authority. Such procedure presupposes the existence of a genuine certificate requiring

verification. The present case stands on an entirely different footing. Here, the competent revenue authority itself has categorically certified that the caste certificate relied upon by Mohammad Salman was never issued from its office. Consequently, there existed no genuine certificate capable of being referred to the District Level Verification Committee or the High Level Caste Scrutiny Committee. In absence of an existing certificate, the question of its verification simply does not arise.

106. The Divisional Commissioner as well as the appellate authority have rightly relied upon this distinction while declining to refer the matter to the High Level Caste Scrutiny Committee. This Court finds no legal infirmity in the said approach. Acceptance of the contrary argument would lead to an anomalous situation where even documents found to be non-existent or fabricated in official records would necessarily require reference to the Scrutiny Committee, thereby defeating the purpose of the statutory provisions and encouraging fraudulent claims to public office.

107. Having considered the statutory framework and the rival submissions, this Court now proceeds to examine whether the findings recorded by the Divisional Commissioner, as affirmed by the appellate authority, suffer from any jurisdictional error, perversity or patent illegality warranting interference under Article 226 of the Constitution of India.

108. From a careful perusal of the order dated 06.05.2024 passed by

the Divisional Commissioner, Durg Division, it is evident that the authority did not proceed on mere suspicion or conjectures. Rather, the proceedings were conducted after issuing notice to all concerned parties, permitting them to file pleadings, affidavits and documentary evidence and thereafter affording adequate opportunity of hearing. The order demonstrates that the Divisional Commissioner has dealt with every contention advanced on behalf of Mohammad Salman and has assigned cogent reasons while arriving at the conclusion that the petitioner had failed to establish his eligibility to contest the election from a seat reserved for the Other Backward Class category.

- 109.** The principal basis of the claim of Mohammad Salman was the Social Status Certificate purportedly issued by the Sub-Divisional Officer (Revenue), Durg, bearing Revenue Case No.363/B-121/2015-16 dated 15.06.2016. During the enquiry, the Divisional Commissioner sought verification from the issuing authority itself. The Sub-Divisional Officer (Revenue), Durg, after examining the original revenue records and Daaira Register maintained in the office, categorically reported that the aforesaid certificate had never been issued in favour of Mohammad Salman. On the contrary, the revenue case number relied upon by him pertained to another individual, namely Nomita Deshmukh, daughter of Yuvraj Deshmukh. Thus, the very foundation on which Mohammad Salman asserted his eligibility stood demolished by the official records of the issuing authority itself.

- 110.** The petitioner was afforded full opportunity to rebut the said report. However, except making a general assertion that he belonged to the Kunjda community, he failed to produce any contemporaneous record issued by the competent authority substantiating that the disputed social status certificate had in fact been issued in his favour. No explanation worth acceptance was forthcoming as to how the revenue case number relating to another person came to be reflected on the certificate relied upon by him. Such a serious discrepancy goes to the root of the matter and strikes at the very legitimacy of the petitioner's claim to occupy a seat reserved for the OBC category.
- 111.** Much emphasis was laid by the learned counsel appearing for Mohammad Salman on the contention that the dispute essentially related to the determination of his caste and, therefore, the authorities ought to have referred the matter to the District Level Verification Committee or the High Level Caste Scrutiny Committee constituted under the Act of 2013. This submission, though attractive at first blush, cannot withstand judicial scrutiny when examined in the backdrop of the facts of the present case.
- 112.** It is trite that the mechanism prescribed under the Act of 2013, as well as the principles laid down by the Hon'ble Supreme Court in ***Kumari Madhuri Patil*** (supra) is attracted where there exists a social status certificate admittedly issued by the competent authority and the correctness of the caste claim is required to be

verified. Such verification may involve examination of genealogical records, anthropological traits, historical documents and other relevant evidence. However, the present case does not involve such an enquiry. Here, the issuing authority itself has categorically stated that the certificate relied upon by Mohammad Salman had never been issued from its office. Therefore, the controversy is not whether Mohammad Salman actually belongs to the Kunjda caste, but whether the document on the basis of which he claimed eligibility to contest from a reserved constituency is genuine at all.

113. These two issues operate in distinct legal fields. Where the existence of the certificate itself is denied by the issuing authority, the matter does not fall within the scope of "verification" contemplated under the Act of 2013. A verification proceeding presupposes the existence of a validly issued certificate. If the official records themselves disclose that no such certificate ever came into existence, there remains nothing which could be referred to the Scrutiny Committee for verification.

114. The distinction has rightly been appreciated by the Divisional Commissioner while placing reliance upon the decision of the Madhya Pradesh High Court in *Abhishek Agariya* (supra), wherein it has been held that cases involving non-existent or fabricated certificates stand on an entirely different footing from cases requiring verification of an existing certificate. This Court finds

itself in respectful agreement with the aforesaid principle.

- 115.** The submission that the Commissioner could not have relied upon the report submitted by the Sub-Divisional Officer (Revenue) also deserves to be rejected. The Sub-Divisional Officer (Revenue), Durg, was none other than the competent authority maintaining the original records relating to issuance of social status certificates. The report submitted by such authority was based upon verification of the official registers maintained in the ordinary course of official business. Such public records enjoy a presumption of correctness unless displaced by cogent evidence.
- 116.** Significantly, Mohammad Salman did not produce any original office record, dispatch register, certified extract or any communication issued by the competent authority demonstrating that the disputed certificate had actually been issued in his favour. Nor did he seek production of any contrary official record capable of discrediting the report submitted by the Sub-Divisional Officer.
- 117.** In writ proceedings, this Court does not sit as an appellate authority over factual findings recorded by statutory authorities. Unless such findings are shown to be perverse, arbitrary or based on no evidence whatsoever, interference would not be justified. In the present case, the conclusions recorded by both the Divisional Commissioner and the appellate authority are founded upon official records maintained by the issuing authority and cannot be characterised as either arbitrary or perverse. Consequently, this

Court finds no reason to substitute its own opinion for the concurrent findings recorded by the authorities below.

118. The next contention urged on behalf of Mohammad Salman is that the proceedings under Section 19(1)(a-1) of the Act of 1956 were barred in view of the remedy of an election petition available under Section 441 of the Act of 1956. This submission is equally devoid of merit. The Coordinate Bench of this Court, while deciding Writ Petition (C) No.1015 of 2024, has already examined the very same objection and has categorically held that proceedings under Section 19(1)(a-1) constitute an independent statutory remedy intended to deal with cases where an elected Councillor is alleged not to belong to the reserved category for which the seat stood reserved. The distinction drawn by the Coordinate Bench is both logical and legally sound.

119. An election petition ordinarily examines the legality of the election process, improper acceptance or rejection of nomination, corrupt practices or other grounds recognised by election law. On the other hand, Section 19(1)(a-1) deals with a statutory disqualification affecting the continuance of an elected Councillor in office. The Legislature, being conscious of the importance of preserving reservation in local bodies, has specifically empowered the Divisional Commissioner to enquire into such questions independently. If the argument of Mohammad Salman is accepted, Section 19(1)(a-1) of the Act of 1956 would become

redundant. Every case where a person occupies a reserved office by producing false or invalid documents would necessarily be relegated to the election tribunal, rendering the special statutory mechanism enacted by the Legislature wholly otiose. Such an interpretation cannot be accepted.

120. It is a settled principle of statutory interpretation that every provision enacted by the Legislature must be given meaningful effect and no provision should be interpreted in a manner that renders it nugatory. Therefore, this Court has no hesitation in holding that proceedings under Section 19(1)(a-1) of the Act of 1956 are independent of proceedings under Section 441 of the Act of 1956 and both operate in separate spheres.

121. Viewed from another angle, acceptance of the petitioner's contention would have serious consequences upon the constitutional scheme governing reservation in democratic institutions. Reservation of seats in favour of Scheduled Castes, Scheduled Tribes and Other Backward Classes is intended to secure meaningful political participation of the weaker sections of society. Such constitutional protection cannot be permitted to be diluted by allowing persons who fail to establish their eligibility to continue occupying reserved offices merely on technical pleas relating to jurisdiction.

122. The facts of the present case clearly reveal that Mohammad Salman derived his eligibility to contest the election exclusively

from the social status certificate relied upon by him. Once the competent authority itself reported that such certificate had never been issued and the petitioner failed to establish otherwise despite full opportunity, the inevitable consequence under Section 19(1)(a-1) of the Act of 1956 was that he could no longer continue to occupy the reserved office of Councillor. This Court, therefore, finds that both the Divisional Commissioner as well as the appellate authority have correctly appreciated the statutory provisions and the material placed on record. Their concurrent finding that Mohammad Salman failed to establish his entitlement to contest the election from the OBC reserved seat neither suffers from perversity nor from any jurisdictional infirmity. Consequently, the challenge laid to the orders dated 06.05.2024 and 04.09.2024 cannot be sustained.

123. Further, this Court is of the considered opinion that the determination made by the High Level Caste Scrutiny Committee with regard to the caste status of Mohammad Salman also cannot be sustained in the present proceedings, as the issue involved before this Court is not as to whether Mohammad Salman belongs to any particular caste on the basis of any subsequent enquiry conducted by the High Level Caste Scrutiny Committee, but the real controversy revolves around the validity and genuineness of the caste certificate submitted by Mohammad Salman along with his nomination papers at the time of contesting the election for the post of Councillor of Ward No.35, Sharda

Para, Bhilai.

- 124.** The election of Mohammad Salman was based upon the caste certificate produced by him claiming himself to be belonging to Kunjda caste, which is included in the Other Backward Class (OBC) category. Therefore, the relevant consideration before the competent authority was whether the said caste certificate, on the basis of which Mohammad Salman claimed reservation benefit and contested the election from a reserved category seat, was genuine, valid and issued in accordance with the prescribed procedure or not.
- 125.** The subsequent exercise undertaken by the High Level Caste Scrutiny Committee for determination of caste status of Mohammad Salman cannot substitute or cure the illegality attached to the caste certificate which was produced at the time of filing nomination papers. The eligibility of a candidate to contest an election from a reserved category seat has to be examined on the basis of the statutory requirements and documents submitted by such candidate at the relevant point of time. If the very foundation, i.e. the caste certificate relied upon by the candidate, is found to be invalid or forged, the consequences prescribed under the Chhattisgarh Municipal Corporation Act, 1956 would automatically follow.
- 126.** The High Level Caste Scrutiny Committee is empowered to verify the caste status of an individual; however, such determination has

to be made strictly in accordance with the statutory procedure and by considering the relevant material placed before it. In the present case, since the controversy before this Court pertains to the legality of the caste certificate produced along with nomination papers and the consequential disqualification arising therefrom, the determination made by the High Level Caste Scrutiny Committee does not have any bearing on the issue which is required to be adjudicated in the present writ petition. The question before this Court is confined to examining whether Mohammad Salman had validly claimed the benefit of reservation on the basis of a genuine caste certificate at the time of election and whether the subsequent action taken by the competent authority under the Act of 1956 suffers from any illegality or not.

127. The second issue which falls for consideration before this Court is regarding the validity of the subsequent election process initiated for filling up the vacancy caused due to removal of Mohammad Salman from the office of Councillor of Ward No.35, Sharda Para, Bhilai.

128. From the material available on record, it is evident that after passing of the order of removal of Mohammad Salman under Section 23(3) of the Act of 1956, the Election Commissioner initiated proceedings for conducting a fresh election for filling up the vacant seat of Councillor. However, the fact regarding initiation of such election proceedings was not brought to the notice of this

Court when the order dated 28.01.2025 was passed.

- 129.** It is an admitted position that the order dated 28.01.2025 passed by this Court was limited in its scope, whereby the effect and operation of the orders dated 06.05.2024 and 04.09.2024 passed by the Commissioner were stayed. The said interim order was passed in relation to the challenge made to the removal proceedings initiated against Mohammad Salman and did not prohibit or restrain the statutory authorities from taking steps for conducting an election to fill up a vacancy which had already occurred on account of removal of an elected Councillor.
- 130.** Once the office of Councillor became vacant, the Election Commissioner, being the authority empowered under the relevant provisions of law, was required to initiate the election process for filling up the said vacancy. The initiation of election proceedings and conduct of election thereafter fall within the exclusive domain of the election authorities.
- 131.** It is a settled principle of law that once the election process has commenced, the constitutional bar contained under Article 329 of the Constitution of India comes into operation and the Courts ordinarily cannot interfere with the electoral process. Article 329(b) of the Constitution of India specifically provides that no election to Parliament or State Legislature shall be called in question except by an election petition, and the said principle has consistently been extended to ensure that the election process, once set in

motion, reaches its logical conclusion without judicial interference.

132. The object behind such constitutional restriction is to prevent disruption of the election process and to ensure that the democratic exercise is completed in accordance with law. Therefore, once the election proceedings for Ward No.35, Sharda Para, Bhilai were initiated by the competent authority, this Court cannot examine the legality of such proceedings in the present writ jurisdiction.

133. In view of the aforesaid legal position, the election conducted for filling up the vacant post of Councillor of Ward No.35, Sharda Para, Bhilai and the consequential declaration of Chandan Yadav as elected Councillor without contest cannot be said to be illegal or contrary to law. The order dated 28.01.2025 did not operate as a bar against conducting a fresh election, as the vacancy had arisen due to the statutory consequence of removal of Mohammad Salman and the election process was initiated by the competent election authority in accordance with law. Accordingly, this Court is of the considered opinion that the election process initiated for filling up the vacant seat of Councillor of Ward No.35, Sharda Para, Bhilai could not have been interdicted by this Court in exercise of jurisdiction under Article 226 of the Constitution of India, particularly in view of the constitutional mandate contained under Article 329 of the Constitution of India.

134. Once the caste certificate relied upon by Mohammad Salman for

claiming reservation benefit as a candidate belonging to Kunjda caste (OBC category) was found to be forged and invalid, the consequential action taken by the competent authority cannot be faulted. The submission of an invalid caste certificate for obtaining benefit of reservation strikes at the very root of the eligibility of a candidate to contest from a reserved category seat.

- 135.** The principal contention advanced on behalf of the petitioner is that once the petitioner had produced a Social Status Certificate claiming that he belonged to the Kunjda caste (OBC), neither the learned Divisional Commissioner nor the Sub-Divisional Officer (Revenue), Durg, could have recorded any adverse finding regarding the validity of the said certificate. According to the petitioner, in view of the law laid down by the Hon'ble Supreme Court in ***Kumari Madhuri Patil*** (supra), the question relating to the correctness or validity of a caste certificate can be adjudicated only by the competent Caste Scrutiny Committee constituted under the Chhattisgarh Social Status Certification Act, 2013. It is, therefore, contended that the report dated 07.03.2024 submitted by the Sub-Divisional Officer (Revenue), Durg, stating that the caste certificate relied upon by the petitioner was not traceable in the official records and stood recorded in the name of another person, was wholly without jurisdiction and could not have formed the sole basis for passing the order dated 06.05.2024 removing the petitioner from office of Councillor under Section 19(1)(a-1) of the Act of 1956.

- 136.** The aforesaid submission, though attractive at first blush, cannot be accepted in the facts and circumstances of the present case. The procedure contemplated in ***Kumari Madhuri Patil*** (supra) comes into operation where a caste certificate has in fact been issued by the competent authority and the dispute pertains to verification of the social status of the holder of such certificate. However, the present case stands on an entirely different footing. The report submitted by the Sub-Divisional Officer (Revenue), Durg, categorically records that the alleged caste certificate bearing Case No.363/B-121/2015-16 dated 15.06.2016, relied upon by the petitioner, was not found entered in the relevant Daaira Register in the name of Mohammad Salman; rather, the corresponding entry related to one Nomita Deshmukh, daughter of Yuvraj Deshmukh.
- 137.** Thus, the issue was not merely one of verification of caste status, but of the very existence and genuineness of the document relied upon by the petitioner. Once the issuing authority itself certified that no such certificate had ever been issued in favour of the petitioner, the matter ceased to be one requiring adjudication by the Caste Scrutiny Committee under the principles laid down in ***Kumari Madhuri Patil*** (supra). In such circumstances, the competent authority was fully justified in reporting that the document relied upon by the petitioner was not a genuine caste certificate, and the learned Divisional Commissioner was competent to consider such material while exercising jurisdiction

under Section 19(1)(a-1) of the Act of 1956 for determining whether the petitioner possessed the essential eligibility to contest the election from a ward reserved for the Other Backward Class category.

138. It is well settled that there exists a clear distinction between a false social status certificate and a non-genuine or fabricated social status certificate. A false certificate is one which has in fact been issued by the competent authority, but its issuance has been procured by the applicant by suppressing material facts or by furnishing incorrect or misleading information regarding his caste or social status. In such cases, the document is a genuine official certificate, though its procurement is alleged to be fraudulent, thereby requiring verification by the competent Caste Scrutiny Committee. On the other hand, where the competent authority itself certifies that the alleged caste certificate was never issued from its office or that the particulars contained therein do not correspond with the official records maintained by it, the dispute is not merely one of verification of social status but relates to the very authenticity and existence of the document relied upon by the claimant.

139. Applying the aforesaid principles to the facts of the present case, it is evident that the report dated 07.03.2024 submitted by the Sub-Divisional Officer (Revenue), Durg, categorically records that the Social Status Certificate bearing Case No.363/B-121/2015-16

dated 15.06.2016, relied upon by the petitioner Mohammad Salman, was not entered in the relevant Daaira Register in his name. On verification of the official records, the corresponding entry was found recorded in the name of Nomita Deshmukh, daughter of Yuvraj Deshmukh. Thus, the competent authority itself reported that no such caste certificate had ever been issued in favour of the petitioner. In such circumstances, the controversy did not relate to verification of the petitioner's caste status on the basis of a validly issued certificate, but to the genuineness of the very document relied upon by him for contesting the election from a ward reserved for the Other Backward Class category.

- 140.** Once the issuing authority itself reports that the alleged caste certificate was never issued from its office and that the official records do not support the petitioner's claim, the question of referring such a document to the District Level or High Power Caste Scrutiny Committee does not arise. The mechanism contemplated in ***Kumari Madhuri Patil*** (supra) is attracted only where a caste certificate has been issued by the competent authority and the dispute concerns verification of the social status of its holder. The said procedure cannot be invoked where the very issuance of the certificate is denied by the issuing authority itself. Therefore, the learned Divisional Commissioner committed no jurisdictional error in acting upon the report of the Sub-Divisional Officer (Revenue), Durg, while exercising powers under Section 19(1)(a-1) of the Act of 1956, for determining whether the

petitioner possessed the statutory eligibility to contest the election from an OBC reserved constituency.

141. The petitioner has also sought to contend that the issue relating to his social status ought to have been referred to the competent Caste Scrutiny Committee under the provisions of the Act of 2013. However, except making such a contention, no material has been placed on record to demonstrate that the petitioner's Social Status Certificate was ever pending for verification before the competent Scrutiny Committee or that any proceedings in that regard had been initiated. In the absence of any documentary material substantiating such a plea, the contention remains a mere assertion and cannot dislodge the findings recorded by the competent authorities on the basis of the official records. Consequently, this Court finds no merit in the submission that the impugned orders are vitiated for want of reference to the Caste Scrutiny Committee.

142. The provisions of Section 19(1)(a-1) of the Act of 1956 provide for disqualification in case a person is found to have been elected on the basis of false or invalid caste claim, whereas Section 23(3) of the Act of 1956 empowers the competent authority to remove such Councillor from office in accordance with law. Therefore, once the foundational document, i.e. the caste certificate, is found to be forged, the statutory consequences prescribed under the Act are bound to follow.

- 143.** The subsequent election conducted for filling up the vacancy created due to removal of Mohammad Salman was not only permissible but was a statutory requirement to ensure continuity of representation of the Ward. The election of Chandan Yadav as Councillor of Ward No.35, Sharda Para, Bhilai was conducted in accordance with the procedure prescribed under law and there is no illegality warranting interference by this Court.
- 144.** Accordingly, having considered the entire factual and legal position, this Court finds no merit in the challenge raised by Mohammad Salman. Consequently, **Writ Petition (C) No.5555 of 2024 is hereby dismissed.**
- 145.** As a consequence of dismissal of Writ Petition (C) No.5555 of 2024, the challenge made to the subsequent election conducted for Ward No.35, Sharda Para, Bhilai does not survive. The election conducted by the competent authority pursuant to the vacancy caused due to removal of Mohammad Salman was valid and in accordance with the provisions of law. Therefore, the claim raised by Chandan Yadav in Writ Petition (C) No.1808 of 2025 deserves acceptance.
- 146.** The subsequent election having been conducted in accordance with the statutory provisions and there being no legal impediment in declaration of the result, Chandan Yadav has rightly been declared elected as Councillor of Ward No.35, Sharda Para, Bhilai.

147. Accordingly, **Writ Petition (C) No.1808 of 2025 filed by Chandan Yadav is hereby allowed** and it is held that the election of Chandan Yadav as Councillor of Ward No.35, Sharda Para, Bhilai is valid and in accordance with law.

148. There shall be no order as to costs.

Sd/-
(Amitendra Kishore Prasad)
Judge

Yogesh

The date when the judgment is reserved	The date when the judgment is pronounced	The date when the judgment is uploaded on the website	
		Operative	Full
07.07.2026	03.08.2026	-----	03.08.2026

Head-Note

Removal of an elected Councillor from a reserved seat on the basis of a Social Status Certificate found to have never been issued by the competent authority and where the issuing authority itself disowns the certificate, reference to the Caste Scrutiny Committee under the Act of 2013 is not required. The Divisional Commissioner is competent to determine the statutory disqualification under Section 19(1)(a-1) of the Chhattisgarh Municipal Corporation Act, 1956, and the consequential election cannot be interfered with once the election process has commenced.