
(1973) 09 MP CK 0001
In the Madhya Pradesh High Court
Case No : M.P. No. 47 of 1971

Sayeblal

APPELLANT

Vs

State of M.P. and others

RESPONDENT

Date of Decision : 03-09-1973

Acts Referred:

Constitution of India, 1950 — Article 213, 215, 226, 352

Madhya Pradesh Municipalities Act, 1961 — Section 2(1), 2(2)(i), 2(2)(ii), 2(i), 3(8)

Citation : (1978) ILR (MP) 1003 : (1975) JLJ 286 : (1974) MPLJ 502

Hon'ble Judges : G.G.Sohani, J;A.P. Sen, J

Bench : Division Bench

Advocate : M.A. Khan, for the Appellant; Y.S. Dharmadhikari, A.G. and S.S. Sharma, Govt. Advocate for Respondents No. 1 to 4 and B.L. Pavecha, for the Respondent

Final Decision : Allowed

Judgement

A.P. Sen, J.

This order will also govern the disposal of Miscellaneous petitions Nos. 48, 49, 50, 51 and 53, all of 1971.

These petitions involve the same question, and, therefore, they are disposed of by this common order.

The short question that arises in these petitions is, whether on or before 20th September 1965 any election proceedings in connection with general elections were in progress for the election of Councillors to the Municipal Council, Jaora, within the meaning of section 5 of the Madhya Pradesh Sthanika Pradhikaran (Nirvachan Sthagan) Adhiniyam, 1966, and consequently all such proceedings lapsed, including the directions issued by the High Court in Miscellaneous petitions Nos. 57, 58, 60 and 61, all of 1964, No. 59 of 1964, Nos. 12, 13, 18, 19, 20, 21, 23, 24, 25 and 29 all of 1965, Nos. 26 and 28, both of 1965 and No. 22 of 1965, in relation thereto. If is, whether the impugned order No. 5861/634-

XVIII-Urban/1 dated the 18th June 1969 of the State Government was ultra vires the State Government, and consequently order No. 14056/NP dated the 1st July 1969 passed by the Collector and the orders dated the 15th July 1969 and 8th January 1971 of the Supervising Officer, were wholly illegal, void and inoperative.

Section 5 of the Madhya Pradesh Sthanika Pradhikaran (Nirvachan Sthagan) Adhiniyam, 1965, reads as follows:

5. Consequences of postponement of general elections and bye-elections.

If immediately before the 20th day of September 1965 any election proceedings were in progress in connection with general election or a bye-election for filling a casual vacancy of any local authority, all such proceedings shall lapse and all moneys deposited by way of deposit for filing nomination paper shall be returned to the person concerned.

The crucial date was the 20th September 1965, the date on which an ordinance to the same effect was promulgated.

The expression "general election" as defined in section 2 (1) of the Act, reads as under:

2. In this Act, unless the context otherwise requires,

(1) "General Election" in relation to a local authority means an election to fill the office of a Councillor, Member, Sarpanch or Panch, as the case may be?

(i) Consequent on the expiry of the normal term fixed for--

(a) The local authority, or

(b) The office of the Councillor, Member, Sarpanch or Panch, as the case may be or

(ii) On account of the supersession or dissolution of a local authority; or

(iii) for the constitution of a local authority for the first time, under the law relating to local authority;

Clauses (i), (ii) and (iii) of section 2 (i) are disjunctive because they are each separated by the word "or". The words "under the law relating to local authority" qualify clause (iii) and not all the clauses.

The matter is squarely covered by clauses (i) (b) and (iii) of section 2 (i) of the Act. There can be no doubt whatever that the election proceedings, which were in progress in the Municipal Council, Jaora, were proceedings in connection with a "general election" without the definition of that term as contained in section 2 (1) of the Act. That conclusion of ours is based on two fold reasons. In the first place, it was admittedly an election held to fill the offices of the Councillors of the Municipal Council consequent on the expiration of their normal term under the repealed Act within the meaning of clause (i) (b). Secondly, such elections were

being held for the constitution of the Municipal Council, Jaora, for the first time, under the law relating to such local authorities, within the meaning of clause (iii). The expression "Law relating to local authority" as defined in section 2 (2) of the Act, means--

2 (a) xxxxxx

(b) in the case of a Municipal Council.....the Madhya Pradesh Municipalities Act, 1961 (No. 37 of 1961),

XXXXXXXX.

From a narration of the salient events, it would be amply clear that the normal term of the Councillors had already expired and they were, in effect, enjoying their extended term, by legislation or otherwise. The matter was still at the stage of holding of a general election in the then Municipal Committee, Jaora, which was a municipality constituted under the Madhya Bharat Municipalities Act, 1954 (1 of 1954) for the election of the Councillors was held in the year 1958. u/s 17 of that Act, the term of the Councillors was ordinarily to be three years. But the Government could extend it for a period not exceeding one year. After the expiration of their term, the State Government extended in 1962 the term of the Councillors by one year. Before any general election could be held, there was outbreak of hostilities with China, and consequently the President of India issued a Proclamation of Emergency under Article 352 of the Constitution. As a result of this, the State Legislature enacted the Madhya Pradesh Local Authorities (Postponement of Elections) Act, 1962 (25 of 1962). Section 3 (1) of that Act provided that notwithstanding anything contained in any law relating to a local authority and the rules made thereunder, no general election of a Councillor shall be held during the period, the Proclamation of Emergency issued by the President of India remained in operation and for such period thereafter not exceeding one year, as the State Government might, by notification, so direct. u/s 3 (2), where the term of office of a Councillor had immediately before the coming into force of the Act, already expired, or was, during the period specified in sub-section (1) due to expire, the said term was, for all purposes of such law, to be deemed to be and always to have been extended till the expiry of the period specified in sub-section (1). The proviso to sub-section (2) direction that every councillor shall continue to hold office until his successor entered upon his office, unless that State Government might otherwise direct. On the State of Emergency being brought to an end by the President of India, the said Act stood repealed by the Madhya Pradesh Local Authorities (Postponement of Elections) Repealing Act, 1963 (28 of 1963)., which was brought into force w. e. f. 2nd November 1963, by section 3 thereof. However, by virtue of the Proviso to section 3 of the repealing Act, the Councillors were to continue in office until their successors entered upon their offices, notwithstanding anything in any law relating to such local authorities.

The impediment to the holding of general elections to local authorities having

been removed, the Collector, Ratlam, proclaimed an election programme on 7th July 1964, On 27th July 1964, i. e. on the date of scrutiny, the Supervising officer rejected all the nomination papers, either on the ground that the candidates had not written the name of the respective wards or that they had failed to disclose the choice of their symbols. These orders of the Supervising Officer were struck down by the High Court in the petitions filed under Article 226 of the Constitution. These petitions were heard by this Court in different batches. The first batch, consisting of Miscellaneous Petitions Nos. 57, 68, 60 and 61, all of 1964, was disposed of by a common order delivered on 21st January 1965 in Miscellaneous Petition No. 57 of 1964. That decision is reported in *Kanakmal v. Supervising Officer, Jaora* 1968 MPLJ 413 : 965 JLJ Note 80.

The learned Judges constituting the Division Bench allowed the petitions and quashed the rejection of the nomination papers, and directed the Supervising Officer to accept the nomination papers, and where the petitioner was the only validly nominated candidate, to declare him as having been duly elected from his ward. The operative part of the order passed by the Division Bench reads as follows:

For the foregoing reasons, all these petitions are allowed and the decisions of the Supervising Officer and the Sub-Divisional Officer of Jaora rejecting the nomination papers of the petitioners are quashed. The Supervising Officer is directed to accept the nomination papers of each of the petitioners and declare him as having been duly elected unopposed from his ward, if he is the sole candidate.

The second batch of petitions, consisting of Miscellaneous Petitions No. 59 of 1964, and 12, 13, 18, 19, 20, 21, 23, 24, 25 and 29, all of 1965, was disposed of by a common Order dated the 7th August 1965 in Miscellaneous Petition No. 59 of 1964 passed by another Division Bench of this Court. Following the decision in *Kanakmal's* case (*supra*), the Division Bench observed as under:

In view of the decision of this Court in *Kanakmal v. Supervising Officer*, the decisions of the Supervising Officer and the Sub-Divisional Officer, Jaora, rejecting the petitioners' nomination papers cannot be upheld. But it would be really purposeless to quash the decisions of the aforesaid authorities and to issue to the Supervising Officer directions to accept the petitioners nomination papers. The reason is that the general election was never held according to the programme of election announced in July 1964. Learned counsel appearing for the parties stated before us that the general election has been stayed by an order of the Government. Now u/s 32 (3) of the M.P. Municipalities Act, 1961, an electoral roll prepared u/s 32 has to be revised six months before every general election. It is obvious that if a general election is now to be held, it cannot be held on the basis of the electoral roll prepared in early 1964 and on the basis of which a general election was intended to be held in August 1964. The whole process of preparation of electoral roll, appointment of fresh dates for filing nomination papers, their scrutiny, publication of the list of validly nominated

persons, the fixation of the date of withdrawal of candidature and the date of polling will have to be gone through if a general election is intended. The question of the issue of a direction for the acceptance of the petitioner's nomination papers for the election intended in August, 1964, which has not yet taken place, does not, therefore, arise.

However, the possibility of the opponents deciding to hold a general election on the basis of the nomination papers invited in July 1964 cannot be ruled out. In order, therefore, to meet that contingency, and to prevent the petitioners being driven to the necessity of filing fresh petitions seeking the same relief as he had been sought in these applications, we quash the decisions of the Supervising Officer and the Sub-Divisional Officer of Jaora rejecting the petitioners' nomination papers and direct the Supervising Officer to accept them if he chooses to proceed with the election on the basis of the nomination papers received according to the programme of election announced in July, 1964. With these observations, these petitions are allowed.

The third batch of petitions, consisting of Miscellaneous Petitions Nos. 26 and 28, both of 1965, was disposed of by a common order dated the 9th September of 1965 in Miscellaneous Petition No. 26 of 1965. While allowing the petitions, a Division Bench of this Court observed--

We would, therefore, make it clear that the ground of rejection of the nomination papers by the Supervising Officer cannot be supported. Whether as a consequence there should be a direction for their acceptance for the election intended for 1964 is another question. Normally once it is found that the rejection of the paper is unjustified, such a direction would automatically follow; but in the instant case that direction will be meaningless because time having lapsed it is impossible now for the authorities to hold the election on the basis of the Electoral Roll prepared early in 1964 and time tabled for July and August 1964. Thus it is just sufficient for the guidance of the Supervising officer to point out that the rejection was unjustified. The direction sought is refused.

Nevertheless, following the decision in Miscellaneous Petition No. 59 of 1964, the Division Bench allowed the petitions.

The last, namely, Miscellaneous Petition No. 22 of 1965, was also allowed by this Court's order dated the 7th January 1966 to the following effect--

The order of the Supervising Officer and Sub-Divisional Officer, Jaora, rejecting the nomination papers of the petitioner is hereby quashed. The Supervising Officer, Jaora, is directed to accept the nomination papers of the applicant and declare him as having been duly elected unopposed from the Ward No. 2 if he is the sole candidate.

From a narration of these events, it is clear that the matter was still at the stage of holding of general election. That was because the High Court in the above petitions, set aside the orders of the Supervising Officer rejecting the nomination

papers of some candidates. The directions issued by the Court under Article 226 of the Constitution were different in different petitions. In some, the Court quashed the rejection of the nomination papers and directed the Supervising officer to accept them, and, where the petitioner was the only validly nominated candidate, to declare him as having been duly elected from his ward. That direction remained to be complied with by the supervising officer. The declaration of result from a particular ward is but a step in the process of election. In other petitions, the Court stopped short of making any direction. It rested its content by quashing the decision of Supervising officer. That was because the Court was of the view that a general election could not be held on the basis of electoral rolls prepared early in 1964, and that the whole process of preparation of electoral roll, appointment of fresh dates for filing nomination papers, their scrutiny, publication of the list of validly nominated candidates, fixation of the date of withdrawal of candidature and the date of polling, would have to be gone through afresh, if a general election was intended to be held.

These directions issued by the Court could not, however, be carried out by the Supervising officer. In the year 1965, Pakistan launched a massive attack on India. The President of India accordingly issued another Proclamation of Emergency under Article 352 of the Constitution. On 20th September 1965, the Governor of Madhya Pradesh promulgated an Ordinance entitled the Madhya Pradesh Sthaniya Pradhikaran (Nirvachan Sthagan) Adhyadesh, 1965 (6 of 1965), in exercise of the powers conferred on him by Article 213 of the Constitution. In due course, the ordinance was replaced by the Madhya Pradesh Sthaniya Pradhikaran (Nirvachan Sthagan) Adhiniyam, 1966 (10 of 1966) i. e. the Act in question. The object of this legislation was to secure postponement of elections to all local authorities in the State during the period the Proclamation of Emergency issued by the President remained in operation, and for such period thereafter, not exceeding one year, as the State Government might, by notification, so direct. As a result of the promulgation of the Ordinance, no effect could be given to the directions of the High Court.

However, one of the successful petitioners moved the High Court under Article 215 of the constitution of drawing up proceedings for contempt against the Supervising officer. The Supervising officer pleaded the the Ordinance as a justification for his non-compliance. The matter was decided by this Court in *Kanakmal v. Shri Ramashankar and others* M.C.C. No. 9 of 1968, decided on 18th November 1968, Supervising officer was held guilty of contempt. While dealing with the question, the Court observed

The Ordinance, which is also pleaded as a justification, came even after the decision in M.P. No 59 of 1964 and, therefore, there remains no reason for non-compliance with the directions of this Court given in M.P. No. 57 of 1964 for all this period.

The observation has, however, to be read in the context in which it was made. There was a considerable time lap between the making of the directions by this

Court under Article 226 of the Constitution and the promulgation of the Ordinance by the Governor. The question as to whether the Ordinance and thereafter the Act, particularly section 5 thereof was applicable or not, did not fall for consideration of the Court in proceeding under Article 215 of the Constitution, and, therefore was left undecided.

The State Government, however, as a result of these proceedings, felt compelled to issue directions to the Collector by their order No. 5361/634-XVIII-Urban/1 dated 18-6-1969, who, in turn, by order No. 14056 N.P. dated 1-7-1969, directed the Supervising Officer to comply with the directions of the High Court under Article 226 of the Constitution. The impugned order of the Supervising officer dated 15-7-1969 reads as follows:

The other impugned order of the Supervising Officer, dated the 8th January 1971, was more or less in similar terms. The directions contained in order No. 5861/634-XVIII-Urban/1 dated 18 6-1969 were clearly ultra vires the State Government, being in breach of the provisions of section 5 of the Act. Consequently the impugned orders of the Supervising Officer were also void and inoperative, and must be struck down.

In support of the impugned orders, the learned Advocate General advanced two contentions. First, he strenuously contends that the observations made by the Court in Miscellaneous Civil Case No. 9 of 1968, referred to above, operate as res-judicata. The contention is, in our opinion, wholly devoid of any substance. As already stated, the question of the applicability of section 5 of the Ordinance or the Act was not gone into, and indeed, a decision thereon was not necessary for purposes of those proceedings under Article 215 of the Constitution. The only question that arose there was whether there was a non-compliance of the directions of the Court under Article 226 of the Constitution. "Res-judicata" by its very word means a matter on which the Court has exercised its judicial mind and has, after due consideration, come to a decision. There must be an actual adjudication of a question directly and substantially in issue. When there was no finding as to the applicability of section 5 of the Act, we fail to see how the observations would operate as res judicata. The observations, quoted above, must be read in the context in which they were made. The Court found that the Ordinance could not be pleaded in justification for the non-compliance because there was sufficient time-lag between the issue of the directions by the Court under Article 226 of the Constitution and the promulgation of the Ordinance.

Secondly, it was contended that the expression "general election", as defined in section 2 (1) of the Act, meant an election to fill the office of Councillors consequent on the expiry of their normal term fixed for the authority under the law specified in sub-section (2) relating to such local authority. It was also urged that the "normal term" of the Municipal Council, Jaora, was fixed under the Madhya Bharat Municipalities Act, 1954, under which it was constituted, and the expression "law relating to local authority", as defined by section 2 (2) did not include within its ambit the Madhya Bharat Municipalities Act, 1954, and

consequently, the elections that were being held could not be regarded as "general election", within the meaning of section 2 (1) of the Act. In support of the contention, the learned Advocate General placed reliance on *Manaklal Lila Sao Vs. Collector, Seoni and others*, . There is a fallacy in the argument. The submission proceeds on the assumption that the words "law relating to local authority" control all the preceding clauses of section 2(1). Such a construction would lead to manifest absurdity. The words "law relating to local authority", appearing in clause (iii), qualify that clause alone because all the clauses are disjunctive and are each separated by the word "or". Even other-wise, the contention is without any substance. The decision in *Manaklal's case (supra)* is not an authority for the proposition contended for. In that case, a general election had already been held before the promulgation of the *Madhya Pradesh Sthaniya Pradhikaran (Nirvachan Sthagan) Adhyadesh, 1965*. In these circumstances, the Court held that section 3 (1) of the Ordinance did not stand in the way of the selection of Councillors and the notification of the elected and selected Councillors. That decision proceeded on the view that though the term "general election" was wide enough to mean the process by which elected Councillors are returned, it did not include within its purview the notification in the Gazette u/s 45 of the *Madhya Pradesh Municipalities Act, 1961*, because that was not a step in that process, nor the selection of Councillors. The decision relied on is, therefore, entirely distinguishable and has no bearing on the controversy in question.

Learned counsel for the contesting respondents adopted the submissions of the learned Advocate General, and supplemented them by urging that in any event by reason of section 2 (2) (ii) of the *Madhya Pradesh Municipalities Act, 1961* read with proviso (e) thereto, the term of the Councillors was made co terminus with that of the Municipal Council by virtue of the legal fiction contained therein, and, therefore, their term having been extended, the extended term was their normal term within the meaning of section 2(1) , and consequently, the elections were not being held on the expiry of the term within the meaning of section 2 (1) of the *Madhya Pradesh Sthaniya Pradhikaran (Nirvachan Sthagan) Adhiniyam, 1966*. The contention of his proceeds on a misconstruction of section 2(2)(ii) read with provisos (b) and (e), of the *Madhya Pradesh Municipalities Act, 1961*, and can hardly be accepted.

Section 2(i) and (ii), along with the relevant provisos (a), (b) and (e) of the *Madhya Pradesh Municipalities Act, 1961* read as follows:

2 (2) Notwithstanding such repeal--

(i) all Municipal Committees, Municipal Councils, Municipal Boards and Notified Area Committees constituted, committees or sub committees constituted, or appointed, limits defined, appointments, rules, orders, bye-laws made, notifications and notices issued, taxes imposed or assessed, fees fixed, contracts entered into, suits instituted and proceeding undertaken or any other things done or action taken under the said Acts or any enactment thereby repealed shall in so

far as they are not inconsistent with the provisions of this Act, be deemed to have been respectively constituted, appointed, defined, made, issued, imposed or assessed, fixed, entered into, instituted, undertaken, done or taken under this Act;

(ii) The Committees, Councils, Boards and sub-Committees referred to in sub-clause (i) and the Presidents, Vice-Presidents, Presiding Officers by whatever designation known, members and Councillors thereof shall continue to function until the expiry of their respective terms under the repealed Act applicable to them before the commencement of this Act. and any vacancy, including a casual vacancy, in the office of the President, Vice-President, other Presiding Officer, member or Councillor, as the case may be, in any of the said bodies, occurring before the expiry of the term of the body concerned, may be filled in the manner provided in such repealed Act and the rules made thereunder;

Provided that:

(a) the State Government may, by a general or special order, determine the term earlier;

(b) the term of the Municipal Committees, Municipal Councils and the Municipal Boards shall, notwithstanding the expiration of their terms, be deemed to extend to and expire With, the day immediately preceding the date appointed under sub-section (2) of section 65 for the first meeting of the Councils constituted under the Act for the first time in their respective places;

(e) Subject to the provisions of clauses (a) and (d) above, the term of Councillors or members shall not extend beyond the term of the Committee, Council or the Board, as the case may be, as specified in clause (b) or clause (c).

The words of this section are plain and unambiguous and admit no other construction than this. Section 3 (8) of the Act defines "Council" as "Municipal Council constituted by or under the Act". u/s 2 (2)(i), all Municipal Committees, Municipal Councils, Municipal Boards etc., constituted under any repealed Act, are "deemed to have been respectively constituted" under the Act of 1961. Thus the deemed bodies, though they are not bodies constituted under the Act, have been fictionally treated as bodies so constituted. The Municipal Committees, Municipal Councils, Municipal Boards etc., deemed to have been constituted under the Act, are u/s 2 (2) (ii) to continue to function until the expiry of their respective terms under the repealed Act applicable to them. That section also provides that the Councillors shall continue to function until the expiry of their term under the repealed Act. The scheme of the Act is, therefore, clear u/s 2 (2) (i) , a Municipal Committee constituted under the repealed Act is deemed to be a Municipal Council under the Act of 1961. The whole purpose of the legal fiction contained in section 2 (2) (i) is to prevent a hiatus. But that does not mean that such a deemed Council or the Councillors for the time being shall continue to function indefinitely. By section 2 (2) (ii) of the Act, their respective terms are fixed i. e. their term under the repealed Act. That is their "normal term".

There is, however, no rule that the first or enacting part is to be construed without reference to the proviso. The law is stated in Maxwell's "The Interpretation of Statutes" (10th Edition, page 162) thus--

The proper course is to apply the broad general rule of construction, which is that a section or enactment must be construed as a whole, each portion throwing light if need be on the rest.

The main enacting part i. e. section 2 (2) (i) and (ii) must, therefore, be construed together with provisos thereto. Proviso (a) is in the nature of a rider added to section 2 (2) (ii) ; the State Government is clothed with power to curtail the normal term. Then comes proviso (b) which, by another legal fiction, extends the normal term of a Municipal Council till the first meeting of the Council constituted under the Act. The Act clearly provides for the holding of a general election after it comes into force i. e. the election of the Councillors. Such a general election cannot, however, be held until the expiry of the normal term of the Councillors u/s 2 (2) (ii) , unless that period is curtailed by the State Government under proviso (a). The function of proviso (b) is to extend the normal terms of the Councillors until the first meeting of the newly elected and selected Councillors is held u/s 55 (2) . It is noteworthy that proviso (b) does not so extend the term of the Councillors. Their term remains the one fixed u/s 2 (2) (ii) of the Act. But since a Municipal Council cannot exist without Councillors, proviso (e) makes the term of the then Councillors co-terminus with that of the Council. As a result of this, the Councillors in the present case enjoy the ""extended term" There is a distinction between the "normal term" of the Councillors i. e. their term under the repealed Act, and their "extended term". The Legislature has deliberately used the expression "normal term" u/s 2 (i) of the Madhya Pradesh Sthaniya Pradhikaran (Nirvachan Sthagan) Adhiniyam, 1966. To accept the contention of the learned counsel that the extended term of the Councillor u/s 2(2)(ii) read with proviso (e), of the Madhya Pradesh Municipalities Act, 1961, was their "normal term" within the meaning of section 2 (i) of the Madhya Pradesh Sthaniya Pradhikaran (Nirvachan Sthagan) Adhiniyam, 1966 would frustrate the very object and purpose of the legislation. That would lead to the result that all fictional bodies, such as Municipal Committees, Municipal Councils, Municipal Boards etc. constituted under the repealed Act, would be outside the purview of the Act. In that event, despite the Proclamation of Emergency issued by the President under Article 352 of the Constitution, general elections vis-a-vis such bodies shall continue during the State of Emergency and for such period thereafter, not exceeding one year, as the State Government might, by notification, so direct, while general elections to all local authorities constituted under the Madhya Pradesh Municipal Corporation Act, 1956, Madhya Pradesh Municipalities Act, 1961, and the Bhopal State Town Area Act, 1954, would lapse. Such a construction, on the very face of it, can hardly be accepted.

Now that the Madhya Pradesh Sthaniya Pradhikaran (Nirvachan Sthagan)

Adhiniyam, 1966 stands repealed by the Madhya Pradesh Sthaniya Pradhikaran (Nirvachan Sthagan) Nirasan Adhiniyam, 1967, w.e.f. 23-12-1967, there is no legal impediment to the holding of general elections. It is unfortunate that the citizens of Jaora have not been able to elect their Councillors to the Municipal Council for the last so many years. This state of affairs cannot be allowed to continue any longer. We therefore, think it desirable to issue a direction to the Collector, Ratlam, to take immediate steps to hold general elections to the Municipal Council, Jaora.

In the result, all the petitions succeed and are allowed. The directions contained in order No. 5861/634-XVIII-Urban/1 dated the 18-6-1969 issued by the State Government, and the consequential order No. 14056/N. P. dated 1-7-1969 of the Collector, Ratlam, and those of the Supervising Officer, Jaora, dated the 15th July 1969 and 8th January 1971 are quashed in so far as the Supervising Officer has declared respondent No. 5 in each of these petitions, duly elected as Councillor from his respective ward.

A writ of Mandamus shall issue to the Collector, Ratlam, to hold general elections of Councillors to the Municipal Council, Jaora, forthwith after preparing the electoral rolls afresh.

There shall be no order as to costs. The balance of the security deposit, if any, shall be refunded.