

GAHC040005752025

undefined



**THE GAUHATI HIGH COURT**  
**(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**

**Case No. : CRP/35/2025**

Ashok Doka and 2 ors  
Son of Late Chapung Doka, resident of Daath Village, Jollang, PO RK Mission and  
PS Chimpu, Itanagar, Papum Pare District, Arunachal Pradesh.

2: Biki Tania @ Higang  
Age:  
Occupation :  
Son of Late Biki Tacha  
a resident of Ganga Lake Road  
Itanagar  
PO RK Mission  
PS Chimpu  
Papum Pare District  
Arunachal Pradesh.

3: Gokia Tame  
Age:  
Occupation :  
Son of Shri Gokia Tagung  
a resident of Lorr Nallah  
Near Biological Park (Zoo)  
PO RK Mission  
PS Chimpu  
Papum Pare District  
Arunachal Pradesh

VERSUS

Lezen Gyadi and 9 Ors  
Son of Late Gagung Gyadi, resident of Chimpu-I, PO RK Mission, PS Itanagar,  
Papum Pare District, Arunachal Pradesh.

2: Yurum Tamin  
Age: 0

Occupation :  
Chief Election Commissioner  
16th General Conference cum Election of All Nyishi Students Union (ANSU)  
resident of Nyokum Lapang  
PO and PS Itanagar  
Papum Pare District  
Arunachal Pradesh.

3:Techi Sanjay  
Age: 0  
Occupation :  
Returning Officer  
16th General Conference cum Election of All Nyishi Students Union (ANSU)  
resident of F Sector  
Lapang  
PO and PS Itanagar  
Papum Pare District  
Arunachal Pradesh.

4:Tadar Baro  
Age: 0  
Occupation :  
Presiding Officer  
16th General Conference cum Election of All Nyishi Students Union (ANSU)  
resident of Pachin Colony  
Naharlagun  
Papum Pare District  
Arunachal Pradesh.

5:Akiong Yangfo  
Age: 0  
Occupation :  
the Polling Officer  
16th General Conference cum Election of All Nyishi Students Union (ANSU)  
resident of Chimpu  
PO R K Mission  
PS Itanagar  
Papum Pare District  
Arunachal Pradesh.

6:Lingdum Kioda  
Age: 0  
Occupation :  
Art and Culture Secretary  
ANSU  
Chairman Election Enrolment Committee  
16th General Conference cum Election of All Nyishi Students Union (ANSU)  
resident of Modirijo

Six Kilo  
PO and PS Itanagar  
Papum Pare District  
Arunachal Pradesh.

7:Lokam Andrew Tajo

Age: 0

Occupation :

IPR Secretary

ANSU

Vice Chairman

Electoral Enrollment Committee

16th General Conference cum Election of All Nyishi Students Union (ANSU)

resident of Chimpu

PO RK Mission

PS Itanagar

Papum Pare District

Arunachal Pradesh.

8:Nabam Sera

Age: 0

Occupation :

Member

Electoral Enrollment Committee

16th General Conference cum Election of All Nyishi Students Union (ANSU)

resident of Ganga Village

C/o Nabam Dodum

PO RK Mission

PS Itanagar

Papum Pare District

Arunachal Pradesh.

9:Bamang Gungma

Age: 0

Occupation :

Member Electoral Enrollment Committee

16th General Conference cum Election of All Nyishi Students Union (ANSU)

resident of Lower Putung

PO RK Mission

PS Itanagar

Papum Pare District

Arunachal Pradesh.

10:Nabam Dodum

Age: 0

Occupation :

Ex President of All Nyishi Students Union (ANSU)

resident of Tallang Hira Memorial Complex

Itanagar  
PO and PS Itanagar  
Papum Pare District  
Arunachal Pradesh

**Advocates for the Petitioners : Mr. S. Sarma, Sr. Advocate  
Mr. A. Gautam, Adv.**

**Advocates for the Respondents : Mr. D. Majumdar, Sr. Adv.  
Mr. T. Tama, Adv.  
Mr. D. Soki, Adv.  
Mr. S. K. Deori, Adv.**

**Date on which Judgment was reserved : 23.12.2025**

**Date of pronouncement of Judgment : 19.03.2026**

**Whether the pronouncement is of the  
operative part of the Judgment ? : NA**

**Whether the full Judgment has been  
pronounced ? : Yes**

**::BEFORE::  
HON'BLE MR. JUSTICE ANJAN MONI KALITA**

**JUDGMENT & ORDER**

Heard Mr. S. Sarma, learned Senior Counsel assisted by Mr. A. Gautam, learned counsel appearing on behalf of the Petitioners. Also heard Mr. D. Majumdar, learned Senior Counsel assisted by Mr. K. Tama, learned counsel for the Respondent no. 1 and Mr. D. Soki, learned counsel for the Respondent no. 2 & 6 to 10 as well as Mr. S. K. Deori, learned counsel for the Respondent nos. 3, 4 & 5.

**2.** The instant application, under Section 115 of the CPC, 1908, read with Article 227 of the Constitution of India, has been filed assailing the legality,

validity and propriety of the impugned Judgment and Order dated 24.03.2025, passed by the learned Civil Judge (Sr. Division), Yupia, allowing Civil Misc. Appeal Case No. 02/2025, whereby setting aside and quashing the temporary injunction order dated 28.01.2025, passed by the learned Civil Judge (Jr. Division), Yupia, in Misc. (J) Case No. 25/2024 in Title Suit No. 21/2024.

3. The Petitioner no. 1 in the instant case was one of the Presidential Candidates for the post of President, All Nyishi Students' Union (In short ANSU) for the term 2024-2027 in the recently concluded 16<sup>th</sup> General Conference-Cum-Election ANSU-2024 held at Itanagar. The Petitioner nos. 2 & 3 are duly elected President and General Secretary of All Palin, Chambang, Yangte, Gangte and Tarak Lengdi Students' Union (in short APCYGTUSU), which is a Branch Student's Union and a federal unit of ANSU. The Respondent no. 1 was also one of the Presidential Candidates who has been declared elected to the post of President ANSU, vide impugned notification dated 29.11.2024, issued by the Chief Election Commissioner and Returning Officer, which was published in Arunachal Times on 03.12.2024. The Respondent nos. 2 to 9 are the persons who were appointed to conduct the 16<sup>th</sup> General Conference-cum-Election of ANSU-2024.

4. The Petitioners' summary of facts leading to filing of the instant revision petition is as follows: -

I. That the Petitioners, as Plaintiffs, jointly filed a suit, being Title Suit No. 21/2024, against the Respondents in the Court of learned Civil Judge (Jr. Division), Yupia, being aggrieved by the declaration of ANSU Election 2024, by which the Respondent no. 1 has been declared as the President of ANSU for the term 2024-2027 by the Chief Election Commissioner & the Returning

Officer. By the aforesaid Suit, the Petitioners have challenged the entire election process, as the same was conducted in violation of Court's order and the Constitution of ANSU. Along with the aforesaid Title Suit, the Petitioners have filed a petition which was registered and numbered as Misc. (J) No. 25/2024 under Order 39 Rule 1 & 2 read with Section 151 of the Code of CPC, 1908, praying for temporary injunction for suspending the operation and effect of the impugned election result declared, vide notification dated 29.12.2024 and also for restraining the Respondent no. 1 (Defendant no. 10 in the suit) from representing himself as the President of ANSU and/or using seal, sign, emblem of ANSU as well as exercising the power and function of the President of ANSU by the Respondent no. 1.

II. The aforesaid suit was filed by the Petitioners on the ground that, vide an injunction order dated 25.10.2024, passed in Title Suit No. 01/2024, the learned Civil Judge (Jr. Division), Ziro, recognized the Petitioner nos. 2 & 3, namely, Shri Biki Tania and Shri Gokia Tame as well as other Executive Members of the Union as the duly constituted representative body of the aforesaid APCYGTSU. Vide the aforesaid order, the Court had directed one Shri Rei Taha and his party from interfering with the rights of the Petitioners (Petitioner nos. 2 & 3) and gave exclusive rights to the Petitioners' group to represent the Union. Article 17 & 20 of the Constitution of ANSU, APCYGTSU being the federal unit of the ANSU was entitled to send delegates to participate in the election. Accordingly, the Petitioner nos. 2 & 3 submitted a list of 51 delegates and requested the Election Enrolment Committee to allow them to vote in the election. However, there request was refused by the Election Enrolment Committee and therefore, Title Suit No.

17/2024 was filed before the learned Civil Judge (Jr. Division), Yupia, and vide an order dated 14.11.2024, passed in Misc. (J) Case No. 18/2024, the learned Court directed the Petitioner nos. 2 & 3 and their delegates to be allowed to participate in the election. Vide the aforesaid order dated 14.11.2024, the delegates list of 54 members submitted by the aforesaid Shri Rei Taha and his party, were specifically restrained by the learned Court from participating in the election process. However, despite the aforesaid order, the Election Enrolment Committee and others, including the Chief Election Commissioner and others, refused to comply with the aforesaid order. Consequently, the learned Court, vide order dated 21.04.2024, passed in Misc. (J) No. 19/2024, directed the Deputy Commissioner and Superintendent of Police, Capital Complex, Itanagar to provide assistance to the Petitioners in ensuring the compliance of the aforesaid order dated 14.11.2024.

III. The Deputy Commissioner, Capital Complex and Superintendent of Police, Capital Complex failed to ensure compliance of the aforesaid Court's order. Subsequently, the Superintendent of Police informed the Deputy Commissioner about the non-compliance and therefore, withdrew the No Objection that was issued for holding the ANSU Election. Subsequently, vide order dated 24.11.2024, issued by the Deputy Commissioner and the Superintendent of Police, they formally withdrew the permission to proceed further with the election process and the Deputy Commissioner directed the Superintendent of Police to immediately stop the election process.

IV. Despite the aforesaid orders of the learned Trial Court and the orders of the Deputy Commissioner and the Superintendent of Police, the Election

proceeded and concluded the election which held in between November 21<sup>st</sup> to November 25<sup>th</sup>, 2024. Subsequently, the results of the election were declared, vide notification dated 29.11.2024, announcing the Respondent no. 1, Shri Lezen Gyadi has been elected as the President of ANSU. As per the results, the Petitioner no. 1, Shri Ashok Doka had secured 2231 votes while the Respondent no. 1, Shri Lezen Gyadi had secured 2322 votes.

V. In the election, the Petitioner nos. 2 & 3 and their delegates, comprising 51 votes, have been denied their rights to cast votes despite the Court's order directing their inclusion. When the Petitioners and their delegates attempted to enter the election venue at Siddhartha Hall to participate in the election, they were physically assaulted by the supporters of the Respondents, wherein the Petitioner no. 2 suffered serious injuries. The aforesaid violence or obstruction happened in the presence of the police force who failed to intervene and stop such violation. However, the 54 delegates of the rival party, i.e., Shri Rei Taha and associates who were the supporters of the Respondent no. 1 and who had been exclusively restrained by learned Court's order from participating were allowed to cast their votes in violation of the Court's order and administrative directions. The aforesaid fact, materially affected the election results as, if those 54 votes had been disallowed and the Petitioner nos. 2 & 3 and their delegates had been allowed to vote in terms of the Court's order, the Petitioner no. 1 would have won the election by a margin of at least 14 votes. Therefore, being highly aggrieved, the Title Suit No. 21/2024 was filed to secure a fresh, free and fair election especially for the post of President.

VI. The learned Civil Judge (Jr. Division), Yupia, after hearing the

Petitioners and Respondents, passed the order dated 28.01.2025 in Misc. (J) Case No. 25/2024, granting temporary injunction in favor of the Petitioners, thereby directions were issued for suspension of operation of the election result dated 29.11.2024, restraining the Respondent no.1 from representing himself as the President of ANSU for the term 2024-2027, restraining him from any power and function of President of ANSU and using any seal, sign and emblem of the office of ANSU till the disposal of the main Title Suit.

VII. The Respondent no. 1, namely, Shri Lezen Gyadi, being aggrieved by the aforesaid order dated 28.01.2025, preferred a Civil Misc. Appeal No. 02/2025 before the learned Civil Judge (Sr. Division), Yupia, for quashing and setting aside the aforesaid interim injunction order dated 28.01.2025. Along with the aforesaid Civil Misc. Appeal No. 02/2025, the Respondent no. 1 has also filed an application being I.A. No. 11/2025, before the learned Civil Judge (Jr. Division), Yupia, praying for suspension of the temporary injunction order dated 28.01.2025 during the pendency of the aforesaid Misc. Appeal. However, the said prayer of the Respondent no. 1 was dismissed by the learned Appellate Court, vide it's order dated 10.02.2025, holding that the Trial Court before passing the impugned order had discussed all the settled principles relating to the grant of temporary injunction order.

VIII. The Respondent no. 1, during the pendency of the aforesaid Civil Misc. Appeal No. 02/2025, filed a Civil Revision Petition being CRP No. 15/2025, before the Gauhati High Court, challenging the order dated 10.02.2025, passed by the Appellate Court in Civil Misc. Appeal No. 02/2025. However, the Hon'ble Gauhati High Court dismissed the said revision petition, vide order dated 07.03.2025, by upholding that there is no illegality, irregularity,

lack of jurisdiction or any perversity in passing the order by the learned Appellate Court.

IX. Thereafter, the Appellate Court, i.e., the learned Civil Judge (Sr. Division), Yupia, upon hearing both the parties in Civil Misc. Appeal No. 02/2025 had passed the impugned order dated 24.03.2025, whereby the learned Appellate Court had quashed and set aside the temporary injunction order dated 28.01.2025, passed by the learned Civil Judge (Jr. Division) in Misc. (J) Case No. 25/2025, arising out of Title Suit No. 25/2024.

X. Being highly aggrieved by the impugned order dated 24.03.2025, passed by the learned Civil Judge (Sr. Division), the instant revision petition has been filed by the Petitioners before this Court.

5. The Petitioners have filed the instant revision petition, amongst others, mainly on the following grounds: -

i. The Appellate Court while passing the impugned Judgment and Order dated 24.03.2025, has failed to specify as to how the 3(three) golden principles, i.e., prima facie case, balance of convenience or irreparable injury have not been considered by the learned Civil Judge (Jr. Division), Yupia. The Appellate Court has wrongly and erroneously passed the impugned judgment & order dated 24.03.2025, without appreciating the observations made by the learned Civil Judge (Jr. Division), Yupia, while passing the interim order dated 28.01.2025 on finding a prima facie case based on undisputed evidence of the election proceedings conducted in violation of a pre-existing court order, which was not a mere pre-determination of allegations, but supported by substantial evidence. The Appellate Court failed to consider the official

election observer's report dated 30.11.2024, which documented numerous irregularities including money distribution inside the election hall, facilitation of proxy voters and deliberate exclusion of legitimate voters. The Appellate Court has also disregarded the documentary evidence of multiple orders and actions taken by the Deputy Commissioner and Superintendent of Police to enforce compliance with the Court's order dated 14.11.2024, including their withdrawal of permission for the election and subsequent orders to stop the proceeding, which were defied by the Respondents, clearly establishing that order dated 14.11.2024 was deliberately and intentionally violated while holding the aforesaid election.

**ii.** The Appellate Court has failed to appreciate the overwhelming materials on record while passing the impugned Judgment and Order dated 24.03.2025 that the entire process was carried out in flagrant violation of the injunction order dated 14.11.2024, passed in Title Suit No. 17/2024 and order dated 21.11.2024, passed by the learned Civil Judge (Jr. Division), Yupia. The evidence clearly established that the Petitioner nos. 2 & 3 and their 51 delegates were forcibly prevented from participating in the election, despite the court's order directing their participation. Whereas, 54 delegates of rival faction who have been specifically barred by the learned Court were allowed to vote. The evidences of such violations were placed before the Appellate Court, however, the same were ignored without giving any reason or explanation. The learned Appellate Court was misconceived in law by concluding that the determination of violation of the injunction order dated 14.11.2024 can only be decided after a full trial under Order 39 Rule 2-A of the CPC and thereby, effectively nullifying the Trial Court's power to grant

interim relief based on prima facie findings.

**iii.** The impugned Judgment and Order dated 24.03.2025, passed by the learned Appellate Court is contradictory to its own findings made in the order dated 10.02.2025, wherein, it had clearly observed that the learned Trial Court had discussed all 3(three) golden principles, i.e., prima facie case, balance of convenience and irreparable loss in granting the temporary injunction order. The aforesaid impugned Judgment & Order dated 24.03.2025 of the learned Appellate Court is also in conflict with the observations made by the Hon'ble Gauhati High Court, in it's order dated 07.03.2025, passed in CRP No. 15/2025, wherein, the Hon'ble Court has categorically held that the learned Trial Court while passing the temporary injunction order had thoroughly discussed the 3(three) golden principles governing the grant of temporary injunction order.

**6.** The Petitioners in the instant case have filed an additional affidavit, whereby, they have brought on record certain documents filed by the Respondents in the connected Title Suit No. 21/2024, pending before the learned Civil Judge (Jr. Division), Yupia. It was contended by the Petitioners that the Respondent no. 1 filed his separate written statement. Similarly, the Respondent nos. 6, 7, 8 & 9 have also filed joint written statements, wherein, they have unequivocally admitted of their failure to abide by the interim injunction order dated 14.11.2024, passed by the learned Civil Judge (Jr. Division), Yupia in Title Suit No. 17/2024 while conducting the ANSU Election 2024. By the additional affidavit, the aforesaid written statements were brought on record of the instant case in hand.

**7.** Mr. S. Sarma, learned Senior Counsel appearing for the Petitioners submits that the root cause giving rise to the present dispute goes back to the year 2023. He

submits that All Nyishi Student's Union (ANSU) is a Nyishi Student's body formed under Article 1 of the ANSU Constitution, which also defines a "Federal Unit" as "Branch Students' Union" (In short BSU). The All Palin, Chambang, Yangte, Gangte, and Tarak Lengdi Students' Union (APCYGTSU) is a BSU or a federal unit of ANSU as defined and recognized under Article 3(4) and 17 of the ANSU Constitution. He submits that after the expiry of the tenure of the earlier Executive Members of APCYGTSU, the 7<sup>th</sup> General Conference-Cum-Election of APCYGTSU was held from 15<sup>th</sup> to 17<sup>th</sup> September, 2023, under the supervision of ANSU. The General Conference was held on 15.09.2023 and in absence of rival contenders, the Petitioner nos. 2 & 3 were elected unopposed as the President and General Secretary of APCYGTSU along with other Executive Members. The election was declared by the Chief Election Commissioner, vide election result dated 16.09.2023. Thereafter, the elected Executive Members of APCYGTSU took oath and since then, they have been lawfully and continuously discharging their duties. However, the ANSU President issued an order dated 10.11.2023, declaring the election of the post of President, Vice President, General Secretary and Assistant General Secretary were dissolved and directed for holding fresh election. However, except the aforesaid 4 posts, the election of the rest of the Executive Members remained valid. He submits that in view of the aforesaid, the Petitioner nos. 2, 3 and other two Executive Members filed a Title Suit No. 19/2023 before the Civil Judge (Sr. Division), Ziro, challenging the aforesaid order dated 10.11.2023 of the then ANSU President and a temporary injunction petition was also filed along with the Title Suit being numbered as I.A. No. 46/2023 for suspending the operation of the order dated 10.11.2023. He submits that after hearing the application, the aforesaid I.A. No. 46/2023 was allowed for temporary

injunction, vide order dated 10.11.2023, which was subsequently made absolute, vide order dated 29.02.2024. However, during the pendency of the aforesaid Title Suit No. 19/2023, the then President ANSU issued a fresh notification dated 13.06.2024 by appointing a new election team to conduct fresh APCYGTSU election for the aforesaid 4 posts in contravention of Article 31(a) of the Constitution/by-law of APCYGTSU, which prescribes the tenure of 3 years for the Executive Members. He submits that being aggrieved by the aforesaid notification dated 13.06.2024, the Petitioner nos. 2, 3 and other two Executive Members filed a Title Suit, i.e., Title Suit No. 09/2024 before the learned Civil Judge (Sr. Division). Along with the same, Misc. Case No. 36/2024 was also filed for granting temporary injunction. In the meantime, pending disposal of the aforesaid Title Suit and injunction petition, some of the defendants in the aforementioned Title Suit No. 19/2023, filed a revision petition, i.e., CRP No. 25/2024 before the Hon'ble Gauhati High Court for quashing of the Title Suit No. 19/2023, which was disposed of by the Hon'ble Gauhati High Court, vide order dated 14.10.2024, directing the learned Civil Judge (Sr. Division) to return the Title Suit No. 19/2023 to the plaintiffs to be instituted before the Court of the learned Civil Judge (Jr. Division). Accordingly, vide order dated 16.10.2024, the Title Suit No. 19/2023 was returned. The learned Senior Counsel submits that following the aforesaid direction, the Petitioner nos. 2, 3 and two other Executive Members immediately filed a fresh suit being Title Suit No. 01/2024 and I.A. No. 04/2024 before the Civil Judge (Jr. Division) Palin/Ziro, Kra-Daadi District, challenging the aforesaid impugned order dated 10.11.2023 and also prayed for temporary injunction against the defendants. He submits that the learned Civil Judge (Jr. Division) was pleased to pass interim temporary injunction order dated 25.10.2024, suspending the operation and effect of the impugned order dated 10.11.2023 and also directed the

defendants not to interfere to the day to day activities of the Petitioner nos. 2, 3 and the other two Executive Members (who were the plaintiffs in the aforesaid Title Suit).

8. The learned Senior Counsel submits that as per Article 17(1) (vii) of the Constitution of ANSU, each federal unit is entitled to recommend 4 aspiring candidates from its area in the General Election of ANSU and such recommendation shall be issued by the President and General Secretary of the concerned BSU. Further, as per Article 20(2) (iv), the elected BSU shall send the list of delegates for voting as per Article 20(2) (vii) of the Constitution of ANSU. Therefore, the Petitioner nos. 2 & 3 being the President and General Secretary of APCYGTSU, submitted the delegates' list, vide their letter dated 13.10.2024 for inclusion of their names in the enrolment list for the ensuing ANSU election in 2024. He submits that vide a notification dated 18.09.2024 and order dated 13.10.2024, issued by the then President ANSU, the Chairman, Vice Chairman, Members of Enrolment Committee and the Chief Election Commissioner, Returning Officer and Assistant Returning Officer etc., and other officers have been appointed for conducting the ANSU Election. Thereafter, vide order dated 09.11.2024, issued by the Presiding Officer, the tentative election schedule for 16<sup>th</sup> General Election of ANSU has been issued. He submits that some of the members of APCYGTSU namely, Shir Rei Taha, Shri Gokia Tayum, Shri Tai Takum and Shri Rido Gakik, inspite of having full knowledge of the injunction order passed by the learned Civil Judge (Jr. Division), Ziro against them, for interfering in the activities of the Petitioner nos. 2 & 3 and others as the elected Executive Body, have been carrying out illegal activities by representing themselves as the Executive Body of APCYGTSU and they have also recommended candidates for

the election. The Petitioner nos. 2, 3 and other two Executive Members, vide their representations dated 29.10.2024 and 02.11.2024 submitted objections against the candidates recommended against the aforesaid four persons to the Chief Election Commissioner, the Returning Officer and other members of the Election Committee.

9. The learned Senior Counsel submits that though the Petitioner nos. 2, 3 and other two Executive Members were expecting that they would be allowed to participate in the ensuing ANSU election in view of the injunction order dated 25.11.2024. However, to their surprise, it was found that the Chairman and the Vice Chairman of the Electoral Enrolment Committee had issued a notification dated 09.11.2024, whereby it was stated that Enrollment process was completed, however, the names of voters recommended by the APCYGTSU, the matter was referred to the Chief Election Commissioner and declined to enroll the names of the Petitioner nos. 2, 3 and other two Executive Members as well as the delegates sent by them were not included in the list of voters. Subsequently, on 09.11.2024, the aforesaid Chairman of the Election Enrolment Committee submitted the list of BSUs and school delegates for the ensuing election to the Chief Election Commissioner, wherein the names of the Petitioner nos. 2, 3 and other two Executive Members and the delegates sent by them were not included. The Chief Election Commissioner also following the impugned notification dated 09.11.2024, issued another notification dated 12.11.2024 denying the rights of the Petitioner nos. 2, 3 and other two Executive Members and the delegates sent by them to participate in the ensuing ANSU election. Vide the aforesaid notification, it was also stated that APCYGTSU headed by Shri Rei Taha and his party has been recognized by ANSU and they would be allowed to participate in the ANSU

election.

**10.** The learned Senior Counsel submits that faced with the aforesaid situation, the Petitioner nos. 2, 3 and other members who have been denied participation, had filed the Title Suit No. 17/2024 before the Civil Judge (Jr. Division), Yupia. The learned Civil Judge (Jr. Division), Yupia, vide order dated 14.11.2024, passed in Misc. (J) Case No. 18/2024, directed that Petitioner nos. 2, 3 and their delegates be allowed to participate in the election. It was further directed that the delegates' list of 54 members submitted by Shri Rei Taha and his party were restrained by the learned Court from participating in the election process. The learned Senior Counsel submits that despite the aforesaid clear order, the Chief Election Commissioner and other Respondents refused to comply with the same and therefore, the aforesaid learned Court, vide order dated 21.11.2024, passed in Misc. (J) Case No. 11/2024, directed the Deputy Commissioner and Superintendent of Police of Capital Complex, Itanagar, to provide assistance to the Petitioners in ensuring compliance with the said order. The learned Senior Counsel submits that in spite of the aforesaid directions, the Deputy Commissioner and the Superintendent of Police failed to ensure the compliance of the aforesaid Court's order.

**11.** The learned Senior Counsel submits that ultimately, the Superintendent of Police informed the Deputy Commissioner about the non-compliance and accordingly, withdrew the NOC that was issued for holding the ANSU election. He submits that consequently, vide an order dated 24.11.2024, issued by the Deputy Commissioner and the Superintendent of Police, they formally withdrew the permission to proceed further with the election process. He submits that the Deputy Commissioner also directed the Superintendent of Police to immediately

stop the election process. The learned Senior Counsel submits that in spite of such repeated orders of the Trial Court and the orders of the Deputy Commissioner and the Superintendent of Police, the Chief Election Commissioner and his team proceeded further with the election process and concluded the same, which was held in between November 21<sup>st</sup> to November 25<sup>th</sup>, 2024. The result was subsequently declared vide notification dated 29.11.2024, announcing the Respondent no. 1, Shri Lezen Gyadi as the elected President of ANSU.

**12.** The learned Senior Counsel submits that during the aforesaid election, it came to the light that the Petitioner no. 1 Shri Ashok Doka secured 2233 votes, while the Respondent no. 1 secured 2322 votes, thereby winning by a margin of 91 votes. He submits that the Petitioner nos. 2, 3 and their delegates comprising of 51 voters had been deliberately denied the right to cast their votes, despite the Court's order directing their inclusion. He submits that when the Petitioners and their delegates attempted to enter the election venue at Siddhartha Hall, Itanagar, to participate in the election process as per the Court's order, they were physically assaulted by the supporters of the Respondents, wherein the Petitioner no. 2 suffered serious head injuries. He submits that the aforesaid violence happens in presence of the police and during the election, 54 delegates of the rival party, i.e., Shri Rei Taha and associates who were the supporters of Respondent no. 1, i.e., Lezen Gyadi were allowed to participate though there was a standing order restraining them. He submits that the aforesaid mischievous activities materially affected the election results as those 54 illegal voters were allowed to vote and on the other hand, the Petitioner 2 & 3 and their delegates were denied of casting their votes. He submits that if the Petitioner nos. 2, 3 and their delegates were allowed to vote, there was a high chance of the Petitioner no. 1 being elected as the

President of ANSU.

**13.** The learned Senior Counsel submits that faced with the aforesaid situation, the Petitioners had filed the Title Suit No. 21/2024, praying for fresh, free and fair election especially for the post of the President. He submits that the Petitioners established a prima facie case as there was clear and documented violation of the Court's prior injunction order dated 14.11.2024 and the election process proceeded despite explicit withdrawal of permission by the administrative authorities. He submits that official Election Observers who were neutral bodies appointed for the ANSU election, submitted a ground report dated 30.11.2024, detailing the numerous serious irregularities during the election process, which included incidences like, election volunteers openly distributing money inside the election hall, proxy voters being facilitated through secret routes to cast votes while genuine voters were denied, open defiance of administrative and Court's order and declaration of results for some positions without proper vote counting. He submits that the official Observers, in fact, recommended declaration of the election null and void. He submits that in view of the aforesaid materials placed before it, the learned Civil Judge (Jr. Division), Yupia, after hearing the Petitioners and Respondents, passed the order dated 28.01.2025 in Misc. (J) Case No. 21/2024, granting temporary injunction in favour of the Petitioners, thereby, suspended the operation and effect of the election result dated 29.11.2024, restraining the Respondent no. 1 from representing himself as the President of ANSU for the term 2024-2027 as well as restraining him from exercising powers and functions of the President, using any sign, seal emblem of any other symbols of the office of the ANSU till the disposal of the main suit.

**14.** The learned Senior Counsel submits that the aforesaid temporary injunction

order was challenged by Respondent no. 1 by filing Civil Misc. Appeal No. 02/2025, before the learned Civil Judge (Sr. Division) for quashing and setting aside of the interim injunction order. However, the Appellate Court in I.A. No. 11/2025 in Misc. Appeal Case No. 02/2025, praying for suspension of the temporary injunction order dated 28.01.2025, dismissed the IA, vide its order dated 10.02.2025, holding that the learned Trial Court, before passing the impugned order had discussed all the three golden principles relating to grant of temporary injunction order.

**15.** The learned Senior Counsel further submits that being not satisfied by the aforesaid impugned order, during the pendency of the Civil Misc. Appeal No. 02/2025, the Respondent no. 1 had filed CRP No. 15/2025 before the Hon'ble Gauhati High Court against the order dated 10.02.2025, passed by the Appellate Court in Civil Misc. Appeal No. 02/2025 and the same was also dismissed by the Hon'ble Gauhati High Court, vide order dated 07.03.2025, holding that there was no illegality, irregularity, lack of jurisdiction or perversity in passing the order by the learned Trial Court, i.e., learned Civil Judge (Jr. Division), Yupia. The learned Senior Counsel submits that in spite of the aforesaid orders and on the face of the orders passed by the learned Civil Judge (Sr. Division), dated 10.02.2025, as well as the order dated 07.03.2025, passed by the Hon'ble Gauhati High Court, had passed the impugned order dated 24.03.2025, whereby, the learned Civil Judge (Sr. Division) had quashed and set aside the temporary injunction order dated 28.01.2025, passed by the learned Civil Judge (Jr. Division) in Misc. (J) Case No. 02/2025, arising out of Title Suit No. 21/2024.

**16.** The learned Senior Counsel submits that the learned Appellate Court, i.e., Civil Judge (Sr. Division), Yupia, has erred in law and fact in passing the

impugned order dated 24.03.2025, as it failed to specify as to how the three golden principles, i.e., prima facie case, balance of convenience or irreparable injury have not been considered by the learned Civil Judge (Jr. Division), Yupia. He submits that the learned Civil Judge (Jr. Division), Yupia had passed the interim injunction order dated 28.01.2025, finding a prima facie case based on undisputed evidence of the election proceeding conducted in violation of a pre-existing Court's order and the same was not a mere pre-determination of allegations, but supported by substantial evidence. He submits that in addition to the injunction order dated 14.11.2024, which barred the participation of the aforesaid Shri Rei Taha and his nominated delegates, the administrative directions of the Deputy Commissioner and the Superintendent of Police and their subsequent withdrawal of NOC granted for the ANSU election for the term 2024-2027 and the official Election Observer's Report dated 30.11.2024, were placed before the learned Civil Judge (Jr. Division), Yupia and on the basis of the aforesaid materials, the learned Civil Judge (Jr. Division), Yupia being satisfied that there is prima facie case for interim injunction, the aforesaid interim injunction order dated 28.01.2025 was passed. Therefore, he submits that there was no error or perversity or arbitrariness in passing the aforesaid interim injunction order dated 28.01.2025. He submits that the learned Civil Judge (Sr. Division), Yupia without appreciating the aforesaid facts, had passed the impugned order dated 24.03.2025, most arbitrarily and illegally and therefore, the same is liable to be set aside and quashed.

**17.** The learned Senior Counsel submits that the learned Civil Judge (Sr. Division), Yupia had failed to consider the fact that a separate application for contempt under Order 39 Rule 2-A of Code of Civil Procedure, 1908, though was pending, that shall not negate existence of a prima facie case that was already on

record. He submits that existence of an application for contempt would not bar the Court in passing an injunction order on the basis of materials brought on record, which fulfills the conditions for passing a temporary injunction. The learned Senior Counsel submits that it is a settled proposition of law that an appeal against temporary injunction under Order 43 Rule 1 (r) of Code of Civil Procedure is only an appeal in principle and is not considered a regular appeal and therefore, the scope and power of the Appellate Court is very limited in such cases. He submits that the Appellate Court will not generally interfere with the existence of discretion of the Court at the first instance and substitute it's own discretion except where the discretion has been shown to have been exercised arbitrarily or capriciously or purposely or where the court has ignored the settled principles of law, regulating the grant or refusal of the interlocutory injunction. He submits that in the instant case, the Appellate Court, without providing any reasons has negated the discretions used by the learned Civil Judge (Jr. Division) and thereby, substituted his own discretion without showing any arbitrariness, capriciousness or pervasiveness of the learned Civil Judge (Jr. Division) while passing the impugned order dated 24.03.2025. Therefore, he submits that the impugned order dated 24.03.2025 is untenable under the settled law and therefore, is liable to be set aside and quashed.

**18.** The learned Senior Counsel submits that the Appellate Court has miserably failed to appreciate the fact that the impugned temporary injunction granted by the learned Civil Judge (Jr. Division) was based on sound legal principles and settled law by the Hon'ble Apex Court, which provides that violation of prior interim injunction orders cannot be allowed to stand and thereby, give undue benefit to someone who is not entitled for such benefit. The learned Senior Counsel further

submits that the holding of the Appellate Court in its impugned order dated 24.03.2025, that whether there was a violation of injunction order dated 14.11.2024 was actually there or not, could only be decided after the full Trial under Order 39 Rule 2-A of Code of Civil Procedure, 1908 and since the application filed under that was yet to be adjudicated, there cannot be a case made out for any temporary injunction by the Civil Judge (Jr. Division), Yupia, is totally unjustified and against the settled laws.

**19.** The learned Senior Counsel submits that subsequently in the pending trial, i.e., Title Suit No. 21/2024, on 23.06.2025, the present Respondent no. 2, i.e., the Chief Election Commissioner for the 16<sup>th</sup> ANSU General Election and Respondent nos. 6 to 9, i.e., the Election Enrolment Committee Members for the said election, filed written statements, wherein, they admitted that the injunction order dated 14.11.2024 was not complied with in conducting the 16<sup>th</sup> General Election for ANSU. They admitted that the Election Enrolment Committee while submitting the list of delegates had excluded the names of 51 numbers of delegates nominated by the Petitioner nos. 2 & 3. They also admitted the fact that the Chief Election Commissioner issued a notification dated 25.11.2024, which was contrary to the final list of delegates submitted by the Election Enrolment Committee. The learned Senior Counsel submits that in the aforesaid written statements filed by the aforesaid Respondent nos. 6 to 9, they have annexed the Polling Register No. 3, where the names of voters who have casted their votes appeared and on perusal of the same, it is found that the names of voters from Serial No. 5682 to Serial No. 5736, who were also defendants in the Title Suit No. 17/2024, were also arrayed as defendant Nos. 9 to 63 in the Title Suit No. 21/2024. Meaning thereby, the persons who were debarred from voting, vide the injunction order dated 14.11.2024, had in

fact, voted in the election. Therefore, he submits that admittedly, there is a clear violation of the injunction order dated 14.11.2024 and the illegal voters definitely influenced ANSU election and thereby, effecting the election of the President. Therefore, the same is liable to be set aside and quashed.

**20.** In support of his submissions, the learned Senior Counsel has relied on the following case laws, which will be discussed on a later stage:

*(1) Ramakant Ambalal Choksi Vs. Harish Ambalal Choksi, reported in (2024) 11 SCC 351;*

*(2) Chief Election Commissioner, Ajmer and Another Vs. Radhey Shyam Dani, reported in 1956 SCC OnLine SC 107;*

*(3) Pasupuleti Venkateswarlu Vs. Motor & General Traders, reported in (1975) 1 SCC 770;*

*(4) Nawab Burul Islam Vs. Khagaru Sekh, reported in 1991 (2) GLR 153;*

*(5) Yeshwant Sakhalkar & Another Vs. Hirabat Kamat Mhamai & Another, reported in (2004) 6 SCC 71;*

*(6) State of West Bengal Vs. Manilal Batta & Others, reported in 1991 SCC OnLine Cal 188*

*(7) Delhi Development Authority Vs. Skipper Construction Co. (P) Ltd. & Another, reported in (1996) 4 SCC 622.*

**21.** Per contra, Mr. D. Majumdar, learned Senior Counsel appearing for the Respondent no. 1 submits that the instant revision petition is not maintainable under the law, as the same has been filed under Section 115 of the Code of Civil Procedure, 1908. He submits that though the petition has been filed under Section 115 read with Article 227 of the Constitution of India, the same is, in fact, a

petition under Section 115 of the CPC. He submits that after amendment of the CPC in the year 2002, which brought in the proviso to the aforesaid section, specifically bars any revision petition against an order disposing of an appeal against an order passed under Order 39 Rule 1 & 2. He submits that the remedy of the Petitioners lie in a statutory appeal under Order 43 Rule 1(r) of the CPC in the instant case and therefore, the instant revision petition being not maintainable under the law, the same should be rejected on that ground alone.

**22.** In this connection, the learned Senior Counsel has referred to the case of *Surya Dev Rai Vs. Ram Chander Rai & Others*, reported in (2003) 6 SCC 675. He submits that in the case of Surya Dev Rai(supra), the Hon'ble Apex Court in Paragraph-4 of the aforesaid judgment has specifically laid down that Section 115 of CPC (as amended) does not permit a revision petition being filed against an order disposing of an appeal against the order of the Trial Court whether confirming/reversing or modifying the order of injunction granted by the Trial Court.

**23.** The learned Senior Counsel submits that the Respondent no. 1 was not a party in the Title Suit No. 17/2024 and Misc. (J) Case No. 18/2024, before the Civil Judge (Jr. Division), Yupia, wherein, the interim injunction order dated 14.11.2024 was passed and therefore, the same is not binding upon him. Therefore, he submits that the Respondent no. 1 is not involved in any violation of the aforesaid interim injunction order. He submits that since the Chief Election Commissioner was duly appointed by the then President ANSU as per the Constitution of ANSU and after being elected as the President of ANSU vide a democratic election process, the Respondent No. 1 cannot be restrained by any such temporary injunction order from carrying out his duties as an elected

President. Therefore, he submits that the restrain order passed by the learned Civil Judge (Jr. Division), Yupia is patently illegal and therefore, the same cannot be sustained. Accordingly, he submits that the impugned Judgment and Order dated 24.03.2025, passed by the learned Civil Judge (Sr. Division), Yupia, does not suffer from any infirmities and therefore, the same does not merit any interference by this Court.

**24.** The learned Senior Counsel submits that there was no prima facie ground for passing the temporary injunction order dated 28.01.2025 by the learned Civil Judge (Jr. Division), Yupia, even if, there was a violation of prior interim injunction order. He submits that since an application under Order 39 Rule 2-A was also filed before the same Court without adjudicating the same and without coming to a conclusion that there was a violation of the prior temporary injunction order, the learned Civil Judge (Jr. Division) could not have passed the instant interim injunction order. He submits that in the instant order of the learned Civil Judge (Jr. Division), he has pre-determined the existence of violation of the prior interim injunction order before actually adjudicating the application under Order 39 Rule 2-A of the CPC. Therefore, he submits that there is a blatant violation of the settled principles of law that without coming to a finding that there is a violation of prior interim injunction order, the interim injunction order was passed on that ground alone. He submits that while hearing Civil Misc. Appeal No. 02/2025, the learned Civil Judge (Sr. Division) has rightly considered these aspects of the matter and therefore, correctly set aside the aforesaid interim injunction order dated 28.01.2025.

**25.** The learned Senior Counsel submits that while passing of an interim order, in addition to the ground of prima facie case, there are two other grounds which are

necessary to be fulfilled in passing an interim injunction order. In the instant case, though there was an attempt to conclude that there was a prima facie case, however, the other two grounds, i.e., balance of convenience and irreparable injury were not discussed at all. He submits that while passing an order of interim injunction all the aforesaid 3 (three) golden principles, i.e., prima facie case, balance of convenience and irreparable injury have to be fulfilled. He submits that in the instant case, no such discussion of fulfillment was done by the learned Civil Judge (Jr. Division) while passing the interim injunction order dated 21.08.2025. He further submits that in the instant case, while passing the interim injunction order, the learned Civil Judge (Jr. Division) has committed an error in coming to the conclusion that a prima facie case was made out by the Petitioners while passing the interim injunction order dated 21.08.2025. He submits that “prima facie case” means that there is a serious disputed question to be tried in the suit and on the facts before the Court, there is probability of the plaintiffs being entitled to the relief asked for. He submits that in the instant case, the Petitioners did not make any pleadings as to any allegations or violations committed by the Respondent no. 1, rather, the pleadings were against the Election Commissioner as well as the Election Enrolment Committee, which conducted the election. Therefore, getting a relief against the Respondent no. 1 in the aforesaid Title Suit is very remote. However, the learned Civil Judge (Jr. Division) did not consider these aspects of the matter while passing the interim injunction order dated 21.08.2025. Therefore, he submits that the learned Civil Judge (Sr. Division), Yupia has rightly set aside the interim injunction order dated 28.01.2025. In this connection, the learned Senior Counsel has referred to the case of *Seikh Dada Mia Vs. S. Ziabar*, reported in *2025 SCC OnLine AP 6783*.

26. The learned Senior Counsel submits that it is a settled law that while passing an interim injunction order, the Court has to weigh the risk, i.e., plaintiff vis-a-vis the defendant. The Court has to judiciously examine where the more risks lies, whether in granting interim injunction order or in not granting interim injunction. He submits that if the risk is more that an irreparable loss will be caused to a party if interim injunction is granted and ultimately, upon final hearing, the suit goes against that party, then the other party suffers irreparable loss, which cannot be compensated by any means. In those situations, the Court has to exercise its discretion very cautiously to see on the basis of the materials, probability of getting the suit in favour of the person who was granted the interim injunction. He submits that in the instant case, that aspect was not taken into account by the Civil Judge (Jr. Division), Yupia as an interim injunction was granted to restrain a duly elected President. It was not considered in the event, the suit goes in favour of the elected President then the kind of irreparable loss the President had to suffer. He submits that, in fact, there was no such allegation against the Respondent no. 1 in the plaint. Therefore, in absence of those, the learned Civil Judge (Jr. Division) could not have passed the interim injunction order dated 28.01.2025. In this connection, the learned Senior Counsel has referred to the case of *Dalpat Kumar & Another Vs. Prahlad Singh & Others*, reported in (1992) 1 SCC 719, wherein the Hon'ble Supreme Court has discussed the golden rules of temporary injunction, i.e., prima facie case, irreparable injury and balance of convenience. In this connection, he referred to the case of *Thiru K. Palaniswami Vs. M. Shanmugan*, reported in 2023 SCC OnLine SC 177, wherein the Hon'ble Supreme Court held that in a matters of grant of relief, satisfaction of the Court only about existence of prima facie case in favour of the suitor is not enough. The other elements, i.e., balance of convenience and likelihood of irreparable injury are

not of an empty formality and carry their own relevance and therefore, while exercising its discretion in the matter of interim relief and adopting a particular course, the court needs to weigh risk of injustice, if ultimately, the decision of main matter runs counter to the course being adopted at the time of granting or refusing interim relief.

27. The learned Senior Counsel submits that the Petitioners had contended in their Title Suit No. 21/2024 that the Petitioner no. 1 had secured 2231 votes and was defeated by a margin of 91 votes only. He submits that the Petitioners also contended that out of 91 votes, 54 votes of the delegates of the rival party as they were prevented from participating in the election process and the 51 delegates nominated by Petitioner nos. 2 & 3 were not allowed to participate in the election process, thereby, depriving the Petitioner no. 1 to have those 51 votes casted in favour of him. He submits that this kind of calculation after the election is totally unwarranted as the same is based only on presumption. He submits that such presumption cannot be the ground for getting an interim injunction order as there is no certainty that all the 54 voters as mentioned above had actually voted for the Respondent no. 1, whereas, if allowed, the aforesaid 51 delegates would be certainly voted for the Petitioner no. 1. He submits that this kind of presumption is not allowed to be a basis for passing an interim injunction order. In this connection, he referred to the case of *Kalyan Kumar Gogoi Vs. Ashutosh Agnihotri & Another*, reported in (2011) 2 SCC 532.

28. The learned Senior Counsel submits that by way of an additional affidavit, the Petitioners have brought on record 2 (two) written statements filed in the pending Title Suit before the learned Civil Judge (Jr. Division), Yupia. He submits that those documents were not before the Appellate Court, i.e., Civil Judge (Sr.

Division) and the same were filed subsequent to passing of the impugned order dated 24.03.2025 and therefore, the same cannot be considered at this stage.

**29.** In view of the aforesaid submissions, the learned Senior Counsel submits that the impugned Judgment and Order dated 24.03.2025, passed by the learned Civil Judge (Sr. Division), whereby the interim injunction order dated 28.01.2025, passed by the learned Civil Judge (Jr. Division) was set aside, is neither illegal nor arbitrary and the same is, in fact, based on the settled principles, whereby, the correctness of an interim injunction order should be examined by an Appellate Court. Hence, he submits that the impugned Judgment and Order dated 24.03.2025, does not suffer from any infirmities and therefore, the instant revision petition is liable to be dismissed and the order dated 24.03.2025 should be retained untouched.

**30.** Mr. D. Soki, learned counsel appearing for the Respondent no. 2 and 6 to 10, who are the Chief Election Commissioner, Chairman of Electoral Enrolment Committee, Vice Chairman of Electoral Enrolment Committee, Member of Electoral Enrolment Committee, Member of Electoral Enrolment Committee respectively, submits that they had to change and submit the new written statement due to the fact that the earlier written statement was filed by a counsel who was also the counsel of Respondent no. 1. They realized that the two written statements filed on behalf of the Respondent no. 1 as well as Respondent no. 2 and 6 to 10 were filed with the similar stand which was not agreeable to them. They realized the mistake and therefore, after changing the counsel, with due permission from the Court, they had filed their last written statement. He submits that the official delegates of the Petitioner nos. 2 & 3 were deliberately rejected and on the contrary the delegates of the rival party were accepted. However, these aspects

were brought to the notice of the Chief Election Commissioner by them and therefore, they have not committed any wrong in the instant case. He submits that the Respondent no. 2 and 6 to 10 were approached by the delegates and the Petitioner nos. 2 & 3 to allow them to participate in the voting and to debar the 54 delegates of the rival group in terms of the temporary injunction order dated 14.11.2024 and the subsequent order dated 21.11.2024, but the same could not be done due to the prevailing circumstances at that time. He submits that there was a violation in preparing the Electoral Rolls as the 51 delegates, duly nominated by the Petitioner nos. 2 & 3 were not allowed, whereas, 54 nos. of delegates of the rival group who were debarred, vide the temporary injunction order dated 14.11.2024 were allowed.

**31.** Since the facts involved in the instant case, giving rise to filing of the instant application have been already discussed in details, the same are not repeated herein again for the sake of brevity. However, as and when the facts are required to be referred to, the same shall be done during the course of the discussion.

**32.** The instant application has been filed, under Section 115 of the Code of CPC, 1908, read with Article 227 of the Constitution of India, whereby the legality and validity of the impugned Judgment & Order dated 24.03.2025, passed by the learned Civil Judge (Sr. Division), Yupia, allowing the Civil Misc. Appeal No. 02/2025 and setting aside and quashing of the temporary injunction order dated 28.01.2025, passed by the Civil Judge (Jr. Division) in Misc. (J) Case No. 25/2024 in Title Suit No. 21/24 has been challenged.

**33.** The learned Senior Counsel appearing for the Respondent no. 1 has taken a preliminary objection about the maintainability of the instant civil revision petition. It is contended that after the amendment of the CPC, 1908, in the year

2002, which specifically bars revision petition under Section 115 of the Code of CPC. He referred to the case of *Surya Dev Rai (supra)* in this connection, relying on paragraph-4 of the aforesaid case. It would be convenient for this Court if paragraph-4 of *Surya Dev Rai's* case is extracted herein below for ready reference:

-

*“4. Section 115 of the Code of Civil Procedure as amended does not now permit a revision petition being filed against an order disposing of an appeal against the order of the trial court whether confirming, reversing or modifying the order of injunction granted by the trial court. The reason is that the order of the High Court passed either way would not have the effect of finally disposing of the suit or other proceedings. The exercise of revisional jurisdiction in such a case is taken away by the proviso inserted under sub-section (1) of Section 115 of the CPC. The amendment is based on the Malimath Committees’ recommendations. The Committee was of the opinion that the expression employed in Section 115 CPC, which enables interference in revision on the ground that the order if allowed to stand would occasion a failure of justice or cause irreparable injury to the party against whom it was made, left open wide scope for the exercise of the revisional power with all types of interlocutory orders and this was substantially contributing towards delay in the disposal of cases. The Committee did not favour denuding the High Court of the power of revision but strongly felt that the power should be suitably curtailed. The effect of the erstwhile clause (b) of the proviso, being deleted and a new proviso having been inserted, is that the revisional jurisdiction, in respect of an interlocutory order passed in a trial or other proceedings, is substantially curtailed. A revisional jurisdiction cannot be exercised unless the requirement of the proviso is satisfied.”*

34. From the above discussion in paragraph-4, it is seen that the Hon'ble Supreme Court emphasizes that after the coming into effect of the newly inserted proviso in Section 115 (1), the powers under Section 115 of the High Courts have been curtailed to the effect that the same cannot be exercised unless the requirement of the proviso is satisfied, i.e., the condition of disposing of the petition finally. This Court does not find any ambiguity in Section 115 as well as the observations of the Hon'ble Supreme Court in the aforesaid paragraph-4. However, as we have seen, the instant petition has been filed under Section 115 of CPC, 1908, read with Article 227 of the Constitution of India. Therefore, the applicability of Article 227 of the Constitution of India also needs to be discussed as have been done in the case of *Surya Dev Rai (supra)*. The Hon'ble Supreme Court in the preceding paragraphs, after the aforesaid paragraph-4, has elaborately discussed the power under Article 227 of the Constitution of India. In the case of *Surya Dev Rai (supra)* also, the issue was the impact of amendment of Section 115 CPC in 2002 on the power and jurisdiction of the High Court to entertain petitions seeking a writ of certiorari under Article 226 of the Constitution of India or invoking the power of superintendence under Article 227 of the Constitution as against similar orders, acts or proceedings of Courts subordinate to the High Courts, against which, earlier, the remedy of filing Civil Revision Petition, under Section 115 of the CPC was available to the person aggrieved. Therefore, the question which specifically arose before the Hon'ble Supreme Court was "*whether an aggrieved person is completely deprived of the remedy of judicial review if he has lost at the hands of the Original Court and Appellate Court, though a case of gross failure of justice has been occasioned can be made out?*" In the aforesaid case, the Hon'ble Supreme Court, after an elaborate discussion on the power under Articles 226/227 of the Constitution, has come to the conclusion

at *paragraph 34* that the curtailment of the revisional jurisdiction of the High Court does not take away--and could not have taken away--the constitutional jurisdiction of the High Court to issue a writ of certiorari to the Civil Court nor is the power of superintendence confirmed on the High Court, under Article 227 of the Constitution taken away or whittled down. It has held that the power exists, untrammelled by the amendment in Section 115 of the CPC and is available to be exercised subject to rules of discipline and practice which are well settled.

35. The Hon'ble Supreme Court has, in fact, summed up their conclusion in a nutshell at paragraph-38, which is extracted herein below: -

*“38. Such like matters frequently arise before the High Courts. We sum up our conclusions in a nutshell, even at the risk of repetition and state the same as hereunder:*

*(1) Amendment by Act 46 of 1999 with effect from 1-7-2002 in Section 115 of the Code of Civil Procedure cannot and does not affect in any manner the jurisdiction of the High Court under Articles 226 and 227 of the Constitution.*

*(2) Interlocutory orders, passed by the courts subordinate to the High Court, against which remedy of revision has been excluded by CPC Amendment Act 46 of 1999 are nevertheless open to challenge in, and continue to be subject to, certiorari and supervisory jurisdiction of the High Court.*

*(3) Certiorari, under Article 226 of the Constitution, is issued for correcting gross errors of jurisdiction i.e. when a subordinate court is found to have acted (1) without jurisdiction by assuming jurisdiction by where there exists none, or (ii) in excess of its jurisdiction overstepping or crossing the limits of jurisdiction, or (iii) acting in flagrant disregard of law or the rules of procedure or acting in violation of principles of natural justice where there is no*

*procedure specified, and thereby occasioning failure of justice.*

*(4) Supervisory jurisdiction under Article 227 of the Constitution is exercised for keeping the subordinate courts within the bounds of their jurisdiction. When a subordinate court has assumed a jurisdiction which it does not have or has failed to exercise a jurisdiction which it does have or the jurisdiction though available is being exercised by the court in a manner not permitted by law and failure of justice or grave injustice has occasioned thereby, the High Court may step in to exercise its supervisory jurisdiction.*

*(5) Be it a writ of certiorari or the exercise of supervisory jurisdiction, none is available to correct mere errors of fact or of law unless the following requirements are satisfied: (i) the error is manifest and apparent on the face of the proceedings such as when it is based on clear ignorance or utter disregard of the provisions of law, and (ii) a grave injustice or gross failure of justice has occasioned thereby.*

*(6) A patent error is an error which is self-evident i.e. which can be perceived or demonstrated without involving into any lengthy or complicated argument or a long-drawn process of reasoning. Where two inferences are reasonably possible and the subordinate court has chosen to take one view, the error cannot be called gross or patent.*

*(7) The power to issue a writ of certiorari and the supervisory jurisdiction are to be exercised sparingly and only in appropriate cases where the judicial conscience of the High Court dictates it to act lest a gross failure of justice or grave injustice should occasion. Care, caution and circumspection need to be exercised, when any of the abovesaid two jurisdictions is sought to be invoked during the pendency of any suit or proceedings in a subordinate court and the error though calling for correction is yet capable of being corrected at the*

*conclusion of the proceedings in an appeal or revision preferred there against and entertaining a petition invoking certiorari or supervisory jurisdiction of the High Court would obstruct the smooth flow and/or early disposal of the suit or proceedings. The High Court may feel inclined to intervene where the error is such, as, if not corrected at that very moment, may become incapable of correction at a later stage and refusal to intervene would result in travesty of justice or where such refusal itself would result in prolonging of the lis.*

*(8) The High Court in exercise of certiorari or supervisory jurisdiction will not convert itself into a court of appeal and indulge in reappreciation or evaluation of evidence or correct errors in drawing inferences or correct errors of mere formal or technical character.*

*(9) In practice, the parameters for exercising jurisdiction to issue a writ of certiorari and those calling for exercise of supervisory jurisdiction are almost similar and the width of jurisdiction exercised by the High Courts in India unlike English courts has almost obliterated the distinction between the two jurisdictions. While exercising jurisdiction to issue a writ of certiorari, the High Court may annul or set aside the act, order or proceedings of the subordinate courts but cannot substitute its own decision in place thereof. In exercise of supervisory jurisdiction the High Court may not only give suitable directions so as to guide the subordinate court as to the manner in which it would act or proceed thereafter or afresh, the High Court may in appropriate cases itself make an order in supersession or substitution of the order of the subordinate court as the court should have made in the facts and circumstances of the case.”*

36. In addition to the aforesaid, the Hon’ble Supreme Court has also observed that though they tried to lay down broad principles and working rules, the fact

remains that the parameters of exercise of jurisdiction under Articles 226 or 227 of the Constitution cannot be tied down in a straitjacket formula or rigid rules. The Hon'ble Supreme Court observed that the power is there but the exercise is discretionary which will be governed solely by the dictates of judicial conscience enriched by judicial experience and practical wisdom of the Judge. In this connection, the learned Senior Counsel for the Petitioners has referred to the case of *Yashwant Shakalkar (supra)* to buttress his argument that the instant application, since has been filed under Article 227 along with Section 115 of the CPC, 1908, is maintainable. It is seen that in the case of *Yashwant Shakalkar (supra)*, the Hon'ble Supreme Court has followed the dictum that has been laid down by the Hon'ble Supreme Court in the case of *Surya Dev Rai (supra)*. Therefore, the same is not repeated herein again.

**37.** Therefore, it is clear and admitted fact that the scope under Article 227 of the Constitution is certainly limited and unless the inferior court or the learned Trial Court, passes an order which is patently illegal or perverse or miscarriage of justice or an error apparent to the jurisdiction in passing such order, this Court generally cannot exercise it's power under Article 227 of the Constitution of India. In view of the above discussion, this court does not find much merit on the argument on the maintainability of the instant application.

**38.** Having decided on the issue of maintainability, this Court would like to examine the merit of the instant petition filed by the Petitioners.

**39.** After giving a thoughtful consideration to the submissions made by the counsel appearing for the respective parties, it is discernable that the moot question that requires to be answered in the instant case is whether on the facts and circumstances of the case, the impugned Judgment and Order dated 24.03.2025,

passed by the learned Civil Judge (Sr. Division), Yupia, in Civil Misc. Appeal Case No. 02/2025, whereby, the learned Civil Judge (Sr. Division) has set aside and quashed the temporary injunction order dated 28.01.2025, passed by the learned Civil Judge (Jr. Division), Yupia, is a correct one as per law or the same is perverse and arbitrary on the face of the records?

**40.** In the Misc. (J) Case No. 25/2024, filed in Title Suit No. 21/2024, the Petitioners pleaded that 2 (two) official election observers for the election namely, Shri Tao Teti and Shri Phassang Kassung, appointed by the caretaker ANSU President, have submitted the Ground Report of the 16<sup>th</sup> General Election of ANSU, vide their report dated 30.11.2024 to the caretaker President ANSU, praying for declaring the recently concluded ANSU election as null & void and for a fresh election. In the aforesaid Ground Report, they had brought out various anomalies and illegalities which are as follows: -

(i) Election Volunteers were allowed by the Respondents/Contemnors to openly distribute money inside the election hall at the time of voting which influenced the election in a perverse and unethical manner;

(ii) Many proxy voters sponsored by the election volunteers were facilitated through secret route inside the election hall and allowed to cast votes by the Respondents/Contemnors and the genuine voters were denied voting rights;

(iii) The Respondents/Contemnors openly defied the orders dated 14.11.2024 & 21.11.2024, passed by learned Civil Judge (Jr. Division), Yupia, and the orders dated 21.11.2024, 24.11.2024 and 25.11.2024,

passed by the Deputy Commissioner and the Superintendent of Police, Itanagar, by denying the Petitioners and their delegates whereas allowing the defendant nos. 9 & 10 and their delegates to participate and vote in the election;

(iv) The Election Commission Team, committed undue delay in counting votes for the post of Vice President and the same remained uncounted. Later, without counting the votes, has declared the result of the post of Vice-President and proceeded further with the Oath taking ceremony of the elected executive members.

(v) Oath taking ceremony was organized in spite of the DC's order to hold up the oath taking ceremony due to the injunction order passed by the learned Civil Judge (Jr. Division), Yupia.

**41.** The Petitioners (plaintiffs) in the said Title Suit and Misc. (J) Case, have pleaded that the defendants who are the Chief Election Commissioner, Returning Officer, Polling Officer, Chairman of Electoral Enrolment Committee and other members responsible for conducting the aforesaid election and also one Shri Lezen Gyadi, who has been elected as the President of the ANSU after the declaration of the election result, have most illegally and arbitrarily violated the civil rights of the Petitioners and their delegates, provided under the ANSU Constitution, to have a fair election and selection of the presidential candidate. It is pleaded that they have made out a prima facie case to go for trial and have a merit in the case, which is likely to be decided in their favour under all probability. They have pleaded that the balance of convenience for temporary injunction lies in favour of the Petitioners (plaintiffs), inasmuch as, the entire election process, leading to the declaration of defendant no. 10 as the President of ANSU, has been conducted in

blatant violation of the injunction order of the Court. It has also been pleaded that the defendant no. 10 has been unlawfully and illegally acting and claiming himself as the duly elected President of ANSU on the basis of an illegal election, is reaping the benefits, which he is otherwise not eligible. In view of the aforesaid pleadings, the Petitioners (plaintiffs), prayed for suspending the operation and effect of the impugned election result notification dated 29.12.2024, issued by the Respondent No. 2 & 3 (defendant nos. 1 & 2), which was published in Arunachal Times on 03.12.2024, to the extent by which the Respondent no 1/defendant no. 10 has been declared the duly elected President of ANSU for the term 2024-2027 and also prayed for restraining the Respondent/defendant no. 10 from representing himself as the President, ANSU and/or using seal, sign, emblem of ANSU and exercising the power and function of the President, ANSU on the basis of the impugned election result during the pendency of the connected Title Suit.

42. While considering the aforesaid Misc. (J) Case No. 25/2024, on 28.01.2025, the learned Civil Judge (Jr. Division), Capital Complex, Yupia, after consideration of the submissions made by the plaintiffs and the defendants, had come to the following findings:

*“From the perusal of the above, it is evident that there was specific directions to Respondents 1 to 9, vide order dated 14.11.2024, regarding the applicants therein to be allowed to contest the election and the other party be barred from participating. The report of the official election observer and the orders of the Deputy Commissioner and superintendent of Police makes it evident that the order dated 14.11.2024 was not complied in toto by the Respondents 1 to 9. The said violation was even after several interventions by the said authorities.*

*So, from the above, it is crystal clear now that prima facie case is established*

*in favour of the applicants.*

*And as submitted by the counsel for the applicants that the nonintervention of the court could result in irreparable loss by the applicant as the same cannot be compensated in monetary terms. It is seen that applicant stands at losing his rights which otherwise would have accrued to him had the elections were conducted in fair and proper manner. And allowing the other party to enjoy the fruits of the illegal act by prejudicing the rights of the applicants would be travesty of justice. This right cannot be compensated by bestowing upon the applicant the by declaring the matter in its favour upon final adjudication of the suit at much later stage. Nor can the applicants be compensated in monetary terms later. Thus, it is also evident that the applicants have made out irreparable loss in his favour.*

*This court has carefully weighed and considered the harm that that could befall on either party if the injunction is granted in favour of either party. The court is also not oblivious to the harm the Respondents faces if the injunction is granted in favour of the applicant. At the same time, it is now, also aware that the Respondents have placed themselves in the way of harm by their own doing i.e., violation of this court's order dated 14.11.2024. By an act of their own doing, they have also prejudiced the rights of the applicants. As rightly opined by the counsel for the applicants, the Respondents ought to have complied the aforesaid order unless intervened by the appellate court. Nonintervention of the court in this matter would only legitimize the illegal act of the Respondents by which the Respondent no.10 has come to find himself in the position, to begin with. It appears that applicants face more harm if the injunction is not granted its favour than the Respondents does.*

*As such, in my considered opinion, the applicants have succeeded in making*

*out balance of convenience in its favour.*

*Resultantly, the prayer for injunction by the applicants is allowed.*

*The operation of result notification dated 29.12.2024 with respect to Respondent no. 10, Lezen Gyadi is suspended. Respondent no.10, Lezen Gyadi is also barred from representing himself as president All Nyishi Students Union for 2024-2027.*

*He is also barred from using any sign, seal emblem or any other symbols of the office of the Union.*

*He shall also refrain from exercising the powers and functions of president of the ANSU.*

*The instant order shall remain in force till pendency of main title suit.*

*The instant Misc. (J) application no. 25/24 stands disposed of with this order.”*

43. It has already been discussed in details as to how the order dated 14.11.2024, in Misc. (J) Case No. 18/2024 in Title Suit No. 17/2024, was passed by the learned Civil Judge (Jr. Division), Yupia. Hence, the facts relating to the passing of the aforesaid order dated 14.11.2024 are not repeated again. It is seen that, vide order dated 14.11.2024, wherein the Petitioner nos. 2 & 3 are the Plaintiff nos. 1 & 2, the following order was passed: -

*“As such, upon being satisfied with the submission made by the Petitioner/plaintiffs, I am inclined to allow the prayer of the Petitioners/plaintiffs and direct that the operation of notification dated 09.11.2024 and notification dated 12.11.2024 are suspended till further orders.*

*Further the defendants and in particular defendant nos. 1 to 8 are also directed to enroll the names of plaintiffs and delegates recommended by*

*plaintiff nos. 1 & 2 in the list of delegates for ANSU election 2024. And, that they be allowed to participate, contest and vote in the election.*

*Furthermore, plaintiff nos. 21 to 24 be allowed to file their nomination and contest in the ANSU election.*

*And, defendant nos. 9 to 12 and defendant nos. 13 to 63 be prohibited to participate in the ANSU election 2024 as members of APCYGTSU.*

*Further, in light of the circumstances, the requirement of Order 39 Rule 3 is hereby dispensed with. As the strict adherence to it shall defeat the purpose of the instant application.*

*The instant ex-parte ad interim order shall remain in force till further order.”*

44. Therefore, from the above order, it is seen that a clear direction was given to the defendants in the case, i.e., the Chief Election Commissioner, Returning Officer, Polling Officer, Presiding Officer, Chairman of Electoral Enrolment Committee, Vice-Chairman, Electoral Enrolment Committee and other members of the Electoral Enrolment Committee respectively, to allow the delegates recommended by the plaintiff nos. 1 & 2 (Petitioner nos. 2 & 3 herein) to allow to participate, contest and vote in the election. The order also specifically debarred the defendant no. 9 namely, Shri Rei Taha and his delegates from participation in the election.

45. From the facts discussed above, it is seen that in spite of the Petitioner nos. 2 & 3 being elected as the President and General Secretary of APCYGTSU, which is the constitutional body having the power to send delegates from their unit to the ANSU election, the then ANSU President issued an order dated 10.11.2023, declaring the election of the Petitioner nos. 2 & 3 as null and void and directed for

holding a fresh election. The Petitioner nos. 2 & 3 along with 2(two) other executive members, filed the Title Suit No. 19/2023 before the Civil Judge (Sr. Division), Ziro, challenging the aforesaid order dated 10.11.2023, wherein their application for temporary injunction was allowed, vide order dated 10.11.2023, which was subsequently, made absolute, vide the order dated 29.02.2024. It is also seen that in spite of the aforesaid fact, the then President ANSU issued another notification dated 13.06.2024, appointing an election team to conduct a fresh APCYGTSU election for 4(four) posts including the post of President, Vice President, General Secretary and Assistant General Secretary. It is seen that being aggrieved by the aforesaid notification dated 13.06.2024, the Petitioner nos. 2 & 3 along with other executive members filed a Title Suit No. 21/2024 along with Misc. (J) Case No. 36/2024 before the Civil Judge (Sr. Division), Ziro. However, due to the order of Hon'ble Gauhati High Court, the same was withdrawn and a fresh Title Suit No. 01/2024 along with I.A. No. 04/2024 was filed before the learned Civil Judge (Jr. Division), Ziro, wherein the learned Civil Judge (Jr. Division), vide order dated 25.10.2024, passed an interim temporary injunction order, suspending the operation and effect of the order dated 10.11.2024 and also directed the defendants not to interfere the day to day activities of the Petitioner nos. 2 & 3 and two other executive members. Therefore, it is clear that the Petitioner nos. 2 & 3 along with two executive members have been recognized as the legally elected President and General Secretary of APCYGTSU and therefore, they are the authorized executives of the APCYGTSU, who can legally send the delegates as per the Constitution of ANSU. It is clear that the group of Shri Rei Taha and his delegates of 54 members cannot be recognized as delegates sent to ANSU election as per the Constitution of ANSU. Therefore, by allowing the delegates sent by the aforesaid Shri Rei Taha and disallowing the delegates sent by

Petitioner nos. 2 & 3 in ANSU election, there is a clear violation of the aforesaid temporary injunction order dated 25.10.2024. It is also seen that in spite of the aforesaid order dated 25.11.2024, the Chairman and the Vice Chairman of Electoral Enrolment Committee issued a notification dated 09.11.2024, wherein it was found that the voters/delegates recommended by the Petitioner nos. 2 & 3 were not included in the voter's list for ANSU election; and though the aforesaid Electoral Committee sent the matter to the Chief Election Commissioner but the Chief Election Commissioner also, vide a notification dated 12.11.2024, denied the rights of the Petitioner nos. 2 & 3, two other executive members and the delegates sent by them to participate in the ANSU election.

46. Faced with the aforesaid situation, the Petitioner nos. 2 & 3 and other executive members, who have been denied participation, have filed the Title Suit No. 17/2024 before the learned Civil Judge (Jr. Division), Yupia and accordingly, vide order dated 14.11.2024, passed in Misc. (J) Case No. 18/2024, the aforesaid learned Court directed the Petitioner nos. 2 & 3 and their delegates to be allowed to participate in the election. Whereas, directed that the list of 54 delegates sent by Shri Rei Taha and his party to be restrained from participating in the election process.

47. It is also not disputed that the report of 2(two) independent official election observers was also placed before the learned Civil Judge (Jr. Division), Yupia. It is also seen from the records that the Deputy Commissioner, Itanagar, vide his order dated 21.11.2024, directed the defendants, namely, Shri Yurum Tamin, Shri Tech Sanjay, Shri Tadar Baro, Shri Akiong Yangfo, Shri LingdumKioda, Shri Lokam Andrew Tajo, Shri Nabam Sera and Shri Bamang Gungma to allow the Petitioner nos. 2 & 3 to participate in the election process without fail. Similarly, the

Superintendent of Police, Itanagar, also, vide his order dated 24.11.2024, issued to Shri Yurum Tamin, the Chief Election Commissioner, directed to disqualify the delegates recommended by Shri Rei Taha and also directed to ensure that delegates' list submitted by Shri Biki Tania (Petitioner no. 2) and Shri Gokia Tame (Petitioner no. 3) to be allowed to participate and vote in the election. It is also seen from the aforesaid letter that a report was also directed to be submitted. Accordingly, the Superintendent of Police, Itanagar, further wrote a letter to the Deputy Commissioner, Itanagar, dated 24.11.2024, intimating him that the Chief Election Commissioner Shri Yurum Tamin did not comply with the earlier orders passed by the Deputy Commissioner and the Superintendent of Police and therefore, the NOC issued, vide order dated 14.11.2024, to conduct the 2024 ANSU election was to be withdrawn. Accordingly, the Deputy Commissioner, vide it's order dated 25.11.2024, had withdrawn the permission given to Shri Yurum Tamin, the Chief Election Commissioner to conduct the ANSU election, 2024.

**48.** So, it is clear from the aforesaid facts that several apparent violations, including the violation of the order dated 25.10.2024, passed by the learned Civil Judge (Sr. Division), Ziro, as well as the order dated 14.11.2024, passed by the learned Civil Judge (Jr. Division), Yupia, respectively, were committed by the defendants while conducting the election.

**49.** Now, coming back to the order dated 28.01.2025, in Misc. (J) No. 25/2024, passed by the learned Civil Judge (Jr. Division), Yupia, it is required to be examined whether the same has been passed in terms of the settled law in passing a temporary injunction order.

**50.** It may be worthwhile to mention herein that another order dated 21.11.2024,

passed in Misc. (J) Case No. 19/2024, which was filed by the Petitioner nos. 2 & 3 for execution of the order dated 14.11.2024 wherein the aforesaid learned Court had directed the Deputy Commissioner and the Superintendent of Police, Itanagar, to provide assistance to the Petitioners in ensuring compliance of the order dated 14.11.2024 and in view of the same, the above mentioned orders were passed by the Deputy Commissioner and the Superintendent of Police, Itanagar. All these facts were before the learned Civil Judge (Jr. Division), Yupia, while passing the order dated 28.01.2025.

**51.** In Civil Misc. Appeal No. 02/2025, the learned Civil Judge (Sr. Division), Yupia, vide order dated 10.02.2025, rejected the I.A. No. 02/2025, wherein the appellants' prayer for stay of the order dated 28.01.2025 was rejected. At this moment, it may be worthwhile to quote the operative part of the aforesaid order dated 10.02.2025 herein below: -

*“Heard both the Ld. Counsel. Perused the impugned order dated 28-01-2025. Seen that in the Impugned Order Ld. Civil Judge (Jr. Divn), Yupia has relied on the golden principles, that is, prima facie, balance of convenience and irreparable loss for grant of impugned temporary injunction order. Accordingly, at this stage this Court is of the considered opinion that sufficient cause is not made out to grant stay to the impugned order.”*

**52.** Therefore, it is seen that while rejecting the prayer for stay of the order dated 28.01.2025, the learned Civil Judge (Sr. Division), Yupia, has considered the impugned order and being satisfied that while passing the impugned order, the learned Civil Judge (Jr. Division) has taken into account the golden principles for passing the temporary injunction order.

**53.** Pursuant to the aforesaid rejection order by the learned Civil Judge (Sr.

Division),Yupia, the Respondent no. 1, namely, Lezen Gyadi has filed a petition under Section 227 of the Constitution read with Section 151 of the Code of CPC, 1908, before the Gauhati High Court, praying for setting aside and quashing of the aforesaid order dated 10.02.2025, passed by the learned Appellate Court of Civil Judge (Sr. Division),Yupia, in I.A. Case No. 11/2025, arising out of Civil Misc. Appeal No. 02/2025. The aforesaid petition was registered as CRP No. 15/2025 and the same was heard by the Gauhati High Court on 07.03.2025 and vide the order dated 07.03.2025, the petition of the Respondent no. 1 has been rejected at the motion stage itself. While passing the order, the Hon'ble Gauhati High Court has observed at paragraph-17 as follows: -

***“17. However, it is observed that while passing the injunction order, the learned Trial Court has discussed 3(three) golden principles in detail and the learned Appellate Court while rejecting the prayer for stay also indicated that the Trial Court had thoroughly considered those principles. Accordingly, the Appellate Court observed that no sufficient cause had been made out to grant the stay of the impugned order. To ensure a quick resolution, the appeal was fixed for hearing on 04.03.2025, with the intention to dispose of it. However, on 04.03.2025, the hearing could not proceed, and the next date for hearing is fixed on 13.03.2025. Thus, it is evident that the learned Appellate Court fixed a short date in the appeal with the aim of ensuring its prompt disposal.”***

**54.** From the aforesaid order passed by the learned Civil Judge (Sr. Division), Yupia, in Civil Misc. Appeal No. 02/2025 as well as the order of the Hon'ble Gauhati High Court in CRP 15/2025, the order dated 28.01.2025 in Misc. (J) Case No. 25/2024, passed by the learned Civil Judge (Jr. Division), Yupia, was discussed in details and both the aforesaid Courts found the order to have been passed as per the law and the temporary injunction order was passed in terms of

the golden principles for passing temporary injunction order. Therefore, on the face of the aforesaid order dated 07.03.2025, passed by the Hon'ble Gauhati High Court, it is difficult to understand how the learned Civil Judge (Sr. Division), Yupia, had passed the impugned order dated 24.03.2025, while disposing of the Civil Misc. Appeal No. 02/2025. Nevertheless, this Court shall examine the validity of the aforesaid impugned order dated 24.03.2025 passed by the learned Civil Judge (Sr. Division), Yupia.

55. In the context of the above, paragraph nos. 8, 9 & 10 of the impugned order 24.03.2025, being relevant, are extracted herein below for ready reference: -

*“8. Heard all the Ld Counsel. Perused the case record. Seen the impugned order dated 28.01.2025 passed by learned Civil Judge (Jr. Division), Capital Complex at Yupia in Misc. (1) Case No.25/2024, arising out of Title Suit No.21/2024, granting temporary injunction in favour of Respondents. Seen that the Ld Court below has mentioned/applied the three golden principles of prima facie case, balance of convenience and irreparable loss in granting the impugned temporary injunction order. Now, it is to be seen as to whether said discretion in granting of temporary injunction of the Ld Court below has been exercised reasonably and in a judicial manner or not.*

*It is observed that in the impugned order the learned Civil Judge (Jr. Div), Yupia, has stated that, "From the perusal of the above, it is evident that there was specific direction to the Respondents 1 to 9 vide order dated 14.11.2024 regarding the applicant's therein to be allowed to contest the election and the other party be barred from participating. The report of official election observer and orders of the Deputy Commissioner and Superintendent of Police makes it evident that the order dated 14.11.2024 was not complied in toto by the Respondents 1 to 9. The said violation was even after interventions by the said authorities. So from the above, it is crystal clear now that prima facie case is established in favour of the applicants." Further it*

*is also stated in the impugned order that, "At the same time, it is now, also aware that the Respondents have placed themselves in the way of harm by their own doing i.e., violation of this court's order dated 14.11.2024.*

*9. From the above it is observed that the Learned Civil Judge (Jr. Div.), Yupia in impugned order dated 28.01.2025 [Misc.(J)Case No.25/2024 of T.S No.21/2024] stated that Respondents (appellants here) have violated the another injunction order dated 14.11.2024 of another suit[Misc.(3)Case No.18/2024 of T.S No.17/2024] in order to come to the decision of prima facie case being made out by applicants (Respondents here), in order to grant impugned temporary injunction order. In addition, it is seen from order dated 09.12.2024 passed by the learned Court below in Misc.(J) case No.39/24, in Title Suit 17/24 (Page-72 & Annexure-VI, P-969) that with regard to allegation of violation of said injunction order dated 14.11.2024 by Respondents/appellants, said miscellaneous application filed under Order 39 Rule 2A R/W S.151 CPC is already pending before the Court.*

*Now, this Court is aware of the principle of the law that contemnor/violator of an order of a Court should not be allowed to enjoy or retain the fruits of his contempt/violation. However, the fact that appellants have violated or not the injunction order dated 14.11.2024 has to be decided after conducting a summary trial in the same suit by hearing the other side and recording of evidence etc as per provisions of Order 39 Rule 2A CPC by the Ld Court below. Thus, stating that the injunction order dated 14.11.2024 is violated by Respondents (appellants here) in impugned order dated 28.01.2025 would amount to predetermination of the allegation of violation of said injunction order dated 14.11.2024 and additionally coming to the decision that a prima facie case is made out to grant temporary Injunction in favour of the applicants (Respondents here) on the basis of the said predetermination, In the considered opinion of this Court cannot be considered as just and reasonable.*

*10. From the above, it is the considered opinion of this Court that the Learned Civil*

*Judge (Jr. Division), Yupia erred in law by stating/predetermining that the injunction order dated 14.11.2024 [Misc.(J)Case No.18/2024 of T.S No.17/2024] is violated by Respondents (appellants here) and therefore prima facie case is made out to grant temporary injunction, in impugned order dated 28.01.2025 [Misc. (J)Case No.25/2024 of T.S No.21/2024]. Hence, this court is of the considered opinion that the order dated 28.01.2025 passed by learned Civil Judge (Jr. Division), Yupia in Misc.J Case No. 25/2024 arising out of Title Suit No.21/2024 is not just and proper and needs interference. Accordingly, the order dated 28.01.2025 passed by learned Civil Judge (Jr. Division), Yupia in Misc. J Case No.25/2024 is hereby set aside and quashed.”*

56. What is discernible from the aforesaid paragraphs of the impugned Judgment & Order dated 24.03.2025 is that the learned Civil Judge (Sr. Division), Yupia, has admittedly held that while passing the order dated 28.01.2025, the learned Civil Judge (Jr. Division), Yupia, has complied with the three golden principles of prima facie case, balance of convenience and irreparable loss in granting the impugned temporary injunction. However, the learned Civil Judge (Sr. Division), Yupia, desired to examine whether the discretion in granting temporary injunction by the learned Civil Judge (Jr. Division), Yupia has been exercised reasonably and in a judicial manner or not. While examining the aforesaid, the learned Civil Judge (Sr. Division) has come to the finding that since the Miscellaneous Application filed under Order 39 Rule 2A read with Section 151 of the CPC was pending before the Court, without adjudication upon the same as to whether there was any violation of the injunction order dated 14.11.2024, the learned Civil Judge (Jr. Division), Yupia, could not have passed the order dated 28.01.2025 by pre-determining the violation of the said injunction order dated 14.11.2024. Therefore, it is clear that the learned Civil Judge (Sr. Division) has come to the conclusion that without first determining the Misc. application filed under Order 39 Rule 2A read with Section

151 of the CPC, no temporary injunction could have been passed, concluding thereby that there is a violation of the injunction order dated 14.11.2024.

**57.** It is seen from the above that various materials, such as the injunction order dated 14.11.2024 as well as the order dated 21.11.2024, passed in Misc. (J) No. 19/2024, by the learned Civil Judge (Jr. Division), Yupia, the aforesaid order dated 21.11.2024, passed by the Deputy Commissioner, Itanagar, the letter dated 24.11.2024 of Superintendent of Police, Itanagar to the Chief Election Commissioner ANSU, the letter dated 24.11.2024 of Superintendent of Police, Itanagar, to the Deputy Commissioner, Itanagar and the order dated 25.11.2024 passed by the Deputy Commissioner, Itanagar that sufficient materials of violation of the injunction order dated 14.11.2024 as well as 21.11.2024 were placed before the Civil Judge (Jr. Division), Yupia, to come to a prima facie conclusion of violation of the injunction order dated 14.11.2024. Therefore, it is not understood as to why an order could not have been passed in such a situation by the learned Civil Judge (Jr. Division), protecting the rights of the Petitioner nos. 2 & 3 and the other executive members. A prima facie case has surely been made out for the alleged violation in the injunction order dated 14.11.2024, though there was no adjudication of the Misc. application filed under Order 39 Rule 2A read with Section 151 of the CPC.

**58.** It is the view of this Court that though the aforesaid application under Order 39 Rule 2A read with Section 151 CPC is connected to the injunction order dated 14.11.2024, the same could have been decided in a later stage and the urgent need of the temporary injunction was required to be looked into by the learned Civil Judge (Jr. Division), Yupia. As far as granting of temporary injunction in pendency of an application filed under Rule 39 Rule 2A read with Section 151 CPC is

concerned, the Hon'ble Gauhati High Court in the case of *Nawab Burul Islam (supra)*, which has been relied on by the learned Senior Counsel appearing for the Petitioners, can be referred to.

Paragraph-28 of the aforesaid judgment being relevant is extracted herein below: -

*“28. Applying the principles laid down in the aforesaid decisions to the facts of the present case, I am of the opinion that it is one of those cases where relief by way of mandatory injunction is the only suitable remedy. The appellants cannot get due relief by resorting to Order 39 Rule 2A. They went through one round of litigation to establish their right and title over the land and to get possession thereof. They succeeded in all the courts, and got the decree which was also duly executed. But, thereafter, they were again dispossessed in violation of the perpetual injunction by the same persons against whom the decree had been obtained earlier. Under these circumstances, no other order except a mandatory injunction can undo the breach of obligation committed by the defendants and give due relief to the plaintiffs. That being so no technicality should be allowed to come on the way of the court in doing justice. Relief should, therefore, be granted under section 39 of the Specific Relief Act which specifically provides for issue of such injunction to prevent the breach of an obligation or to compel the performance of certain acts which the Court is capable of enforcing. Under the facts and circumstances of the case, I am therefore of the clear opinion that neither Order 39 Rule 2A or Order 21 Rule 32 or section 47 would operate as a bar to the exercise of power of the Court under section 39 of the Specific Relief Act to grant a mandatory injunction.”*

59. In the considered view of this Court, in the instant case also, in view of the clear violation of the injunction order dated 14.11.2024, also due to the fact that other materials brought before the Court, the learned Civil Judge (Jr. Division), Yupia, was definitely armed with enough materials regarding the violation of the injunction order and therefore, was in a position to pass the temporary injunction

order dated 28.01.2025, without waiting for the adjudication of the Misc. Application filed under Order 39 Rule 2A read with Section 151 of the CPC.

60. Another important issue which needs to be considered is that whether the learned Civil Judge (Jr. Division), Yupia, while passing the order dated 28.01.2025, exercised its jurisdiction arbitrarily, capriciously, perversely or in ignorance of any settled principles of law while passing the injunction order dated 28.01.2025. This is due to the fact that though the learned Civil Judge (Sr. Division) has observed that there was a need of examining whether the discretion of injunction was properly carried out or not, however, while a perusal of the impugned Judgment & Order dated 24.03.2025 of the learned Civil Judge (Sr. Division), Yupia, nothing relevant could be found to have been discussed in that regard.

61. The Hon'ble Supreme Court in the case of *Ramakant Ambalal Choksi (supra)*, which has been relied on by the learned Senior Counsel for the petitioners, can be referred to. Paragraph nos. 37 and 38 of the aforesaid case being relevant are extracted herein below: -

*“37. Seen in light of the aforesaid settled position of law, we are of the clear view that in the facts of the present case, the High Court overstepped its appellate jurisdiction under Order 43 CPC and substituted its own view for the one taken by the trial court without giving any categorical finding as to why the order of the trial court could be said to suffer from any perversity, capriciousness, arbitrariness, mala fides or having been passed in ignorance of the settled principles governing the grant of injunction under Order 39 CPC.*

*38. It appears from a reading of the impugned order that what weighed with the High Court in setting aside the order of the trial court was the existence of pending litigations between the contesting parties and the alleged misuse of political power by*

*the plaintiffs in creating hurdles for the defendants in the exercise of their lawful rights. The High Court failed to point out any perversity in the order of the trial court which occasioned it to set aside the grant of injunction. We are of the view that the High Court ought to have limited itself to adjudicating the correctness of the order of the trial court on the settled principles of law and should not have taken into consideration any other extraneous matters, more particularly when the suit is still pending for adjudication on merits before the trial court.”*

62. In view of the aforesaid settled law by the Hon’ble Supreme Court, this Court is convinced and in agreement with the argument of the learned Senior Counsel appearing for the Petitioners that in the instant case also, in the impugned order dated 24.03.2025, no such finding was given by the learned Civil Judge (Sr. Division), Yupia, about the injunction order dated 28.01.2025, passed by the learned Civil Judge (Jr. Division), Yupia. It is clear from the above that the learned Civil Judge (Sr. Division) has simply replaced his discretion over the discretion of the learned Civil Judge (Jr. Division) without legally giving any finding about the principles laid down by the Hon’ble Supreme Court.

63. In this connection, it may be relevant to refer to the case of *Seikh Dada Miah (supra)*, wherein, a Division Bench of the Hon’ble High Court of Andhra Pradesh has held that once the court of first instance exercises its discretion to grant or refuse to grant relief of temporary injunction and the said exercise of discretion is based upon objective consideration of the material placed before the Court and is supported by cogent reasons, the appellate court will be loath to interfere simply because on a *de novo* consideration of the matter, it is possible for the appellate court to form a different opinion on the issue of prima facie case, balance of convenience, irreparably injury and equity. In this connection, paragraph nos. 29 & 30 being relevant, are extracted herein below: -

*“29. In K. Ravi Prasad Reddy vs G. Giridhar, [92022 SCC OnLine AP 135:AIR 2022 AP 59] this court after referring to Wander Ltd (supra), Esha Ekta apartments CHS Ltd. v. the Municipal Corporation of Mumbai, [(2012(4) SCC 689)] and Skyline Education Institute (India) (P) Ltd. v. S.L.Vaswani, [(2010(2) SCC 142)] held that in appeals in relation to the exercise of discretion of the trial court in deciding an application for temporary injunction, the appellate court will not interfere with the exercise of discretion of the court of first instance and substitute its own discretion, except where the discretion has been shown to have been exercised arbitrarily or capriciously or perversely or where the court had ignored the settled principles of law regulating grant or refusal of interlocutory injunctions. An appeal against exercise of discretion is said to be an appeal on principle. The appellate court will not reassess the material and seek to reach a conclusion different from the one reached by the court below if the one reached by that court was reasonably possible on the material.*

*30. Paras 31 and 32 of K. Ravi Prasad Reddy (supra) are as under:*

*"31. With respect to the exercise of appellate powers in relation to the exercise of discretion by the trial court in deciding an application for temporary injunction, the Hon'ble Supreme Court in Wander Ltd. v. Antox India P. Ltd. (supra) held that in such appeals, the appellate court will not interfere with the exercise of discretion of the court of first instance and substitute its own discretion except where the discretion has been shown to have been exercised arbitrarily, or capriciously or perversely or where the court had ignored the settled principles of law regulating grant or refusal of interlocutory injunctions. An appeal against exercise of discretion is said to be an appeal on principle. Appellate court will not re-assess the material and seek to reach a conclusion different from the one reached by the court below if the one reached by that court was reasonably possible on the material. The appellate court would normally not be justified in interfering with the exercise of discretion under appeal solely on the ground that if it had considered the matter at the trial stage it would have come to a contrary conclusion. If the*

*discretion has been exercised by the trial court reasonably and in a judicial manner the fact that the appellate court would have taken a different view may not justify interference with the trial court's exercise of discretion.*

*32. In Esha Ekta Apartments Chs Ltd. v. Municipal Corpn. of Mumbai, the Hon'ble Supreme Court again considered the scope of appellate court power to interfere in an interim order passed by the court at the first instance and held in paragraphs Nos. 19, 20 and 21, which are re-produced, as under:-*

*19. We have considered the respective submissions and carefully scrutinised the record. The scope of the appellate court's power to interfere with an interim order passed by the court of first instance has been considered by this Court in several cases. In Wander Ltd. v. Antox India (P) Ltd., the Court was called upon to consider the correctness of an order of injunction passed by the Division Bench of the High Court which had reversed the order of the learned Single Judge declining the Respondent's Sprayer for interim relief. This Court set aside the order of the Division Bench and made the following observations: (SCC p. 733, para 14)*

*"14. In such appeals, the appellate court will not interfere with the exercise of discretion of the court of first instance and substitute its own discretion except where the discretion has been shown to have been exercised arbitrarily, or capriciously or perversely or where the court had ignored the settled principles of law regulating grant or refusal of interlocutory injunctions. An appeal against exercise of discretion is said to be an appeal on principle. Appellate court will not reassess the material and seek to reach a conclusion different from the one reached by the court below if the one reached by that court was reasonably possible on the material. The appellate court would normally not be justified in interfering with the exercise of discretion under appeal solely on the ground that if it had considered the matter at the trial stage it would have come to a contrary conclusion. If the discretion has been exercised by the trial court*

*reasonably and in a judicial manner the fact that the appellate court would have taken a different view may not justify interference with the trial court's exercise of discretion.*

\*\*\*\*\*”

**64.** A specific contention was raised by the learned Senior Counsel for the Respondent no. 1 is that since the Respondent no. 1 was not a part of the injunction order dated 14.11.2024, and there is no allegation against him about violation of such injunction order and since, he has been elected by an election process as per the provisions of the Constitution of ANSU, he cannot not be deprived of his legitimate right to hold the post of President of ANSU.

**65.** The rival contention of the learned Senior Counsel appearing for the Petitioners is that when an election was held in sheer violation of an injunction order and apparent violations of several administrative orders, the election being vitiated, the Respondent no. 1 has to be termed as elected, vide an illegal process of election and therefore, he cannot be allowed to reap the benefit of such illegal election process by allowing to hold the post of President ANSU.

**66.** From the materials as discussed above, it is seen that admittedly, the Electoral roll of the concerned election was not prepared as per the Constitution of ANSU, which has been admitted by the Respondents (Electoral Enrolment Committee) in their written statements submitted before the Trial Court. It has come to the light that the Electoral Roll was prepared in violation of the temporary injunction granted on 14.11.2024 as well as 28.01.2025. It is seen that the 51 nos. of delegates sent by the Petitioner nos. 2 & 3, who were the elected President and General Secretary of the APCYGTSU, were not allowed to vote, whereas 54 nos. of delegates sent by the aforesaid Shri Rei Taha, who was not authorized to send

any delegates, have been allowed to take part in the election process by including their names in the electoral roll. This Court is of the considered opinion that whatever be the result of the election, the process of election has been vitiated by such acts of not allowing the legal delegates whereas allowing the unauthorized delegates to vote in the election.

67. Now, the question arises as to whether a candidate who has been elected, vide such election process which is not conducted as per the terms of the Constitution of ANSU, as well as in violation of injunctions orders of competent courts having jurisdiction, could be allowed to reap the benefit by allowing him to hold the post of President of ANSU.

68. This Court hastens to add that the Respondent no. 1 though is not a contemnor in the instant case, but the Chief Election Commissioner and other officials as well as officials of Electoral Enrolment Committee, who are defendants in the Title Suit No. 21/2024 as well as in Misc. (J) No. 25/2024, have clearly conducted the election in *prima facie* violation of the injunction order.

69. In this connection, the case of *D.D.A. (supra)*, which has been referred to by the learned Senior Counsel for the Petitioners being relevant for the issue in hand, the paragraph nos. 17, 18, 19, 20 & 21 are extracted herein below: -

*“17. The principle that a contemner ought not to be permitted to enjoy and/or keep the fruits of his contempt is well settled. In Mohd. Idris v. Rustam Jehangir Babuji, this Court held clearly that undergoing the punishment for contempt does not mean that the court is not entitled to give appropriate directions for remedying and rectifying the things done in violation of its orders. The Petitioners therein had given an undertaking to the Bombay High Court. They acted in breach of it. A learned Single Judge held them guilty of contempt and imposed a sentence of one month's imprisonment. In addition, thereto, the learned Single Judge made appropriate*

*directions to remedy the breach of undertaking. It was contended before this Court that the learned Judge was not justified in giving the aforesaid directions in addition to punishing the Petitioners for contempt of court. The argument was rejected holding that "the Single Judge was quite right in giving appropriate directions to close the breach (of undertaking)".*

18. *The above principle has been applied even in the case of violation of orders of injunction issued by civil courts. In Clarke v. Chadburn Sir Robert Megarry V-C observed:*

*"I need not cite authority for the proposition that it is of high importance that orders of the court should be obeyed. Willful disobedience to an order of the court is punishable as a contempt of court, and I feel no doubt that such disobedience may properly be described as being illegal. If by such disobedience the persons enjoined claim that they have validly affected some charge in the rights and liabilities of others. I cannot see why it should be said that although they are liable to penalties for contempt of court for doing what they did, nevertheless those acts were validly done. Of course, if an act is done, it is not undone merely by pointing out that it was done in breach of the law. If a meeting is held in breach of an injunction, it cannot be said that the meeting has not been held. But the legal consequences of what has been done in breach of the law may plainly be very much affected by the illegality. It seems to me on principle that those who defy a prohibition ought not to be able to claim that the fruits of their defiance are good, and not tainted by the illegality that produced them."*

19. *To the same effect are the decisions of the Madras and Calcutta High Courts in Century Flour Mills Ltd. v. S. Suppiah and Sujit Pal v. Prabir d Kumar Suns. In Century Flour Mills Ltd., it was held by a Full Bench of the Madras High Court that where an act is done in violation of an order of stay or injunction, it is the duty of the court, as a policy, to set the wrong right and not allow the perpetuation of the*

*wrongdoing. The inherent power of the court, it was held, is not only available in such a case, but it is bound to exercise it to undo the wrong in the interest of justice. That was a case where a meeting was held contrary to an order of injunction. The Court refused to recognise that the holding of the meeting is a legal one. It put back the parties in the same position as they stood immediately prior to the service of the interim order.*

*20. In Sujit Pal, a Division Bench of the Calcutta High Court has taken the same view. There, the defendant forcibly dispossessed the plaintiff in violation of the order of injunction and took possession of the property. The Court directed the restoration of possession to the plaintiff with the aid of police. The Court observed that no technicality can prevent the court from doing justice in exercise of its inherent powers. It held that the object of Rule 2-A of Order 39 will be fulfilled only where such mandatory direction is given for restoration of possession to the aggrieved party. This was necessary, it observed, to prevent the abuse of process of law.*

*21. There is no doubt that this salutary rule has to be applied and given effect to by this Court, if necessary, by overruling any procedural or other technical objections. Article 129 is a constitutional power and when exercised in tandem with Article 142, all such objections should give way. The court must ensure full justice between the parties before it.”*

**70.** From the above observations of the Hon’ble Supreme Court and taking into account the facts involved in the instant case, this Court is also of the considered view that if the act is done in violation of an order of stay or injunction, it is the duty of the Court, as a policy, to set the wrong right and not allow the perpetuation of the wrong doing. Therefore, in the instant case also when the election was found to be *prima facie* not conducted as the Constitution or rather, *prima facie*, conducted in violation of the provisions of its own Constitution, i.e., the Constitution of ANSU as well as, in violation of a specific injunction order of a

competent Court, the result of such election cannot be allowed to hold the field, at least, till the time the whole issue is adjudicated upon by the learned Civil Judge (Jr. Division), Yupia, wherein the case is the pending. Therefore, this Court is of the considered view that the *prima facie* case was rightly found to be existing by the learned Civil Judge (Jr. Division) while deciding the Misc. (J) Case No. 25/2024, in exercising of his competent jurisdiction to pass a temporary injunction order dated 28.01.2025.

**71.** From the facts that have been detailed above, it is seen that in a written statement was filed by the Respondent nos. 6, 7, 8 & 9 (defendants nos. 5,6,7 & 8 in the Title Suit No. 21/2024), they have admitted that in the electoral roll prepared by them, they have excluded the delegates of the Petitioner nos. 2 & 3 and the matter was sent to the Respondent no. 2, i.e., the Chief Election Commissioner before taking the final call about their inclusion in the electoral roll. However, the Respondent no. 2 intimated them that the implementation of the order dated 14.11.2024, might cause problems in the peaceful conduct of the election. Therefore, admittedly, the delegates sent by Petitioner nos. 2 & 3 were left out, whereas, the delegates who have been debarred from the election, have been allowed to vote during the election.

**72.** It is also seen that the Respondent no. 6, 7, 8 & 9 have regretted their violation of the injunction order dated 14.11.2024. They further admitted that the names of voters in Serial nos. 5682 to Serial No. 5736, who were also the defendants in the Title Suit No. 17/2024, wherein the temporary injunction order dated 14.11.2024 was passed, arrayed as defendant nos. 9 to 63, have casted their votes. The aforesaid admission of facts clearly demonstrates that the delegates sent by the Petitioner nos. 2 & 3, who are actually the delegates sent as per the

provision of Constitution of ANSU, were disallowed in the election process but the list of 54 delegates sent for the election, not as per the provision of the constitution of ANSU, were allowed. Though the written statement has been filed subsequent to the passing of the temporary injunction order dated 28.01.2025, sufficient other materials, *prima facie*, showing the fact that delegates of Petitioner nos. 2 & 3 were disallowed whereas delegates sent by the aforesaid Shri Rei Taha were allowed to vote. Therefore, it cannot be said that temporary injunction order dated 14.11.2024 was not violated. Armed with the aforesaid facts of violation of the order dated 14.11.2024, it seems, the learned Civil Judge (Jr. Division) had passed the temporary injunction order dated 28.01.2025.

73. A contention has been raised by the learned Senior Counsel for the Respondent no. 1 that the aforesaid written statement was filed subsequent to the passing of the impugned injunction order dated 28.01.2025, therefore, the same cannot be taken into account while deciding the instant petition, the same being a subsequent fact. This Court is not very much impressed by the aforesaid submission due to the settled law that if a material fact comes to the knowledge of the Court which shall have a bearing on the issue to be decided, the Court cannot keep its eyes closed of the aforesaid fact. In this connection, the case of *Pasupuleti Venkateswarlu(supra)* can be referred to and the paragraph-4 being relevant, the same is extracted herein below: -

*“4. We feel the submissions devoid of substance. First about the jurisdiction and propriety vis-a-vis circumstances which come into being subsequent to the commencement of the proceedings. It is basic to our processual jurisprudence that the right to relief must be judged to exist as on the date a suitor institutes the legal proceeding. Equally clear is the principle that procedure is the handmaid and not the mistress of the judicial process. If a fact, arising after the lis has come to court*

*and has a fundamental impact on the right to relief or the manner of moulding it, is brought diligently to the notice of the tribunal, it cannot blink at it or be blind to events which stultify or render inept the decretal remedy. Equity justifies bending the rules of procedure, where no specific provision or fairplay is violated, with a view to promote substantial justice subject, of course, to the absence of other disentiing factors or just circumstances. Nor can we contemplate any limitation on this power to take note of updated facts to confine it to the trial Court. If the litigation ends, the power exists, absent other special circumstances repelling resort to that course in law or justice. Rulings on this point are legion, even as situations for applications of this equitable rule are myriad. We affirm the proposition that for making the right or remedy claimed by the party just and meaningful as also legally and factually in accord with the current realities, the Court can, and in many cases must, take cautious cognizance of events and developments subsequent to the institution of the proceeding provided the rules of fairness to both sides are scrupulously obeyed. On both occasions the High Court, in revision, correctly took this view. The later recovery of another accommodation by the landlord, during the pendency of the case, has as the High Court twice pointed out, a material bearing on the right to evict, in view of the inhibition written into Section 10(3) (iii) itself. We are not disposed to disturb this approach in law or finding of fact.”*

74. In view of the aforesaid observations of the Hon’ble Supreme Court, this Court is of the opinion that in the instant case, the fact existed at the time of filing of the Title Suit No. 21/2024, however, the same was brought to the concerned Court at a later stage and the same cannot be over looked by this Court at the stage of hearing of a petition, wherein, the issue of the validity of the temporary injunction order dated 28.01.2025 has been raised.

75. Another issue that has been raised by the learned Senior Counsel appearing for the Respondent no. 1 is that the Petitioners pleading that if their 51 delegates were allowed to vote, probably, the Petitioner no. 1 would have won the election,

cannot be taken into account due to the fact that election results cannot be presumed calculating the prospective voters. He has submitted that presumption in an election process about winning or losing is a futile exercise and the same cannot be relied on in any cost. In this connection, the learned Senior Counsel referred to the case of *Kalyan Kumar Gogoi (supra)*. However, taking into account of the facts and issues involved in the instant case, this Court is of the opinion that at this stage, this issue is not required to be gone into, as for adjudication of the instant petition, the same is not relevant.

**76.** Having discussed the facts and circumstances involved in the instant case in details and in consideration of the judicial pronouncements of different courts, including the Hon'ble Supreme Court, cited by the learned counsel appearing for the respective parties, this Court has come to the following findings:-

(i) The learned Civil Judge (Sr. Division), Yupia, has not given any convincing findings as to why the impugned temporary injunction order dated 28.01.2025 is bad in law, having admittedly stated to have been passed in consideration of the golden principles of injunction, i.e., prima facie case, balance of convenience, irreparable injury. It is also seen that no finding have been given by the learned Civil Judge, (Sr. Division), Yupia, in his conclusion that the temporary injunction order dated 28.01.2025, passed by the learned Civil Judge (Jr. Division), Yupia, is pervasive or capricious or arbitrary or the Court had ignored the settled principles of law, regulating grant or refusal of interlocutory injunctions.

(ii) The learned Civil Judge, (Sr. Division), Yupia, has simply substituted it's own discretion by the discretion of the learned Civil Judge (Jr. Division), Yupia, in passing the temporary injunction order dated 28.01.2025, bereft of

any convincing reasons as mentioned in the preceding paragraph.

(iii) There is *prima facie* no pre-determination of facts by the learned Civil Judge (Jr. Division), Yupia, while passing the temporary injunction order 28.01.2025, as sufficient materials were placed before it to come to a *prima facie* finding for passing a temporary injunction order. There is no need to wait for adjudication of the application under Order 39 Rule 2A of CPC, 1908, to come to a finding of a *prima facie* case in favour of the Petitioners.

(iv) In the event of sheer apparent violation of an injunction order passed earlier by a competent Court and the same is apparent from the materials placed before the Court, the Court is competent to pass an appropriate order to stop such violation.

(v) Since the President (Respondent no. 1) has been elected by way of an election process, which is *prima facie* not conducted as per the Constitution of ANSU, he cannot be allowed to retain the benefit which he has gained through a manner which is not allowed as per law.

(vi) In the facts and circumstances of the instant case, it is the considered opinion of this Court that the temporary injunction order dated 28.01.2025 carried lower risk than not granting the injunction order in favour of the Petitioners.

(vii) The learned Civil Judge (Jr. Division), Yupia, has not violated any of the golden principles of injunction in passing the temporary injunction order dated 28.01.2025, in the instant case.

77. In view of the aforesaid findings, this Court is of the considered opinion that

the instant civil revision petition merits to be allowed and therefore, the impugned Judgment & Order dated 24.03.2025 passed in Civil Misc. Appeal No. 02/025, by the Civil Judge (Sr. Division), Yupia, Papumpare is set aside and quashed. Consequently, the temporary injunction order dated 28.01.2025 in Misc. (J) No. 25/2024 in Title Suit No. 21/2024 is restored and the learned Civil Judge (Jr. Division) shall decide the pending Title Suit, i.e., Title Suit No. 21/2024 on its own merits as per law.

**78.** In terms of the aforesaid findings and directions, the instant civil revision petition is disposed of as allowed.

**79.** TCR to be sent back immediately.

**JUDGE**

**Comparing Assistant**