
(2019) 11 MP CK 0120

In the Madhya Pradesh High Court

Case No : Writ Petition No. 23785 Of 2019

Amar Singh And Another

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 15-11-2019

Acts Referred:

Constitution Of India, 1950 — Article 243K, 243(O), 243ZG

Citation : (2019) 11 MP CK 0120

Hon'ble Judges : Sanjay Dwivedi, J

Bench : Single Bench

Advocate : S.D. Gupta, Devika Singh

Final Decision : Dismissed

Judgement

By the instant petition, the petitioner is seeking quashment of the order dated 22.08.2019 (Annexure-P-6) whereby de-limitation of Gram Panchayat Samri Bonda has been done thereby three villages namely, Samari Bonda, Umardad and Kotiyanala have been merged.

The learned counsel for the petitioner submits that said proceeding is illegal and without considering the objection raised by the villagers, final notification has been issued.

However, Smt. Devika Singh, learned Government appearing for the respondents/ State has relied upon an order of Division Bench of this Court passed in W.P. No.16889/2014 (PIL), wherein it is held by the Court that after finalization of de-limitation proceedings, writ petition is not maintainable, although petitioner has remedy to raise aforesaid ground by way of election petition. It is pointed out by the learned Government Advocate that this Court can also not entertain this petition because if the objection raised by the petitioners is not considered, then they should have immediately approached this Court before finalization of notification, but once final notification is issued, writ petition is not maintainable. In support of her contention, she has also placed reliance upon a decision of the

Supreme Court rendered in the case of State of U.P. and reported others vs. Pradhan Sangh Kshettra, wherein Samiti and the Supreme Court has observed 1995 Suppas (2) under: SCC- 305

" . It is for the Government to decide in what manner the 44 panchayat areas and the constituencies in each panchayat area will be delimited. It is not for the court to dictate the manner in which the same would be done. So long as the panchayat areas and the constituencies are delimited in conformity with the constitutional provisions or without committing a breach thereof, the courts cannot interfere with the same. We may, in this connection, refer to a decision of this Court in Hingir-Rampur In this Coal case, Co. Ltd. the petitioners. State of mine owners, Orissa AIR 1961 had SC among 459. others, challenged the method prescribed by the legislature for recovering the cess under the Orissa Mining Areas Development Fund Act, 1952 on the ground that it was unconstitutional. The majority of the Bench held that the method is matter of convenience and, though relevant, has to be tested in the light of other relevant circumstances. It is not permissible to challenge the vires of a statute solely on the ground that the method adopted for the recovery of the impost can and generally is adopted in levying a duty of excise."

Quite apart from the above, Smt. Devika Singh has drawn attention of this Court towards Articles 243-O and 243-ZG of the Constitution of India and for ready reference the same are reproduced herein below:-

243-O. Bar to interference by courts in electoral matters.-Notwithstanding anything in this Constitution, (a) the validity- of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under Article 243-K, shall not be called in question in any court;

(b) no election to any Panchayat shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State.]

243-ZG. Bar to interference by courts in electoral matters.-Notwithstanding anything in this Constitution, (a) the validity- of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under Article 243-ZA shall not be called in question in any court;

(b) no election to any Municipality shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State.]

Considering the enunciation of law so also the provisions of aforesaid Articles, quoted herein above, I do not find any substance in the contentions raised by the learned counsel for the petitioner and I find that the present petition is not maintainable.

Accordingly, the petition filed by the petitioners is hereby dismissed.