
(2009) 11 UK CK 0040
In the Uttarakhand High Court
Case No : Writ Petition No. 1000 of 2007

Ashok Singh and Others

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 27-11-2009

Acts Referred:

Uttar Pradesh Panchayat Raj Act, 1947 — Section 11F

Citation : (2010) 1 UC 126

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Advocate : Rakesh Thapliyal, for the Appellant; K.P. Upadhyay, Addl. Chief Standing Counsel for State of Uttarakhand, for the Respondent

Judgement

Sudhanshu Dhulia, J.—Heard Mr. Rakesh Thapliyal, Advocate for the Petitioners and Mr. K.P. Upadhyay, Addl. Chief Standing Counsel for State of Uttarakhand / Respondents.

2. This writ petition has been filed by the Petitioners, who belong to a particular village in Uttarakhand with the following prayer:

I. Issue a writ, order or direction in the nature of certiorari quashing the order dated 7-8-2007 along with the list enclosed therein with a format 1-Ka only to the extent of inclusion of Village Moura in Village Panchayat Garhgaon.

II. Issue a writ, order or direction in the nature of mandamus directing to the Respondents to reconsider the grievance of the Petitioners for the purposes of giving the separate status of Village Panchayat to Village Maoura after taking into consideration the proposal of Block Development Officer Committee dated 21-07-2007 as well as the objections and the representations submitted by the Villagers and the decision to this extent may be taken within a stipulated period to be stipulated by this Hon"ble Court.

III. Issue any suitable writ, order or direction, which this Hon"ble Court may deem fit and proper on the basis of the facts and circumstances of the case.

IV. Award the cost of the petition to the Petitioner.

3. The Petitioners are aggrieved by the orders of the Respondents whereby their earlier "Gaon Sabha" namely Moura has been abolished and it has merged into another Village Panchayat by the name of Garhgaon. In short, the villagers of Gram Moura are aggrieved by inclusion of their Village with any another Village Panchayat.

4. From the perusal of the documents and the arguments advanced by the Learned Counsel for the Petitioners and the Respondents, it emerges that the reorganization/delimitation of the Village Panchayat has been done by the concerned authorities in accordance with Section 11-F of the U.P. Panchayat Raj Act, 1947 and the order passed by the Government under the said provision dated 4th July, 2007. In the said order at paragraph 2, it has been stated that in the Hill areas of Uttarakhand, a Village Panchayat is normally constituted for population of 300 persons and in the plain areas i.e. non hill areas, a "Village Panchayat" shall be constituted for population of 1000 persons.

5. Since as per the policy, a Village Panchayat can be constituted for population of about 300 and since admittedly as per the Learned Addl. Chief Standing Counsel, the population of Petitioners' village is 272, which is very near to 300, the Village Moura should have been given the status of an independent Village Panchayat and should not have been clubbed with the "Village Panchayat Garhgaon", as it has been done in the past.

6. Learned Counsel for the Petitioners further states that it is not just the population of the village, which has to be considered, but the geographical and topographical location of the area will also be considered while making such a delimitation/reorganization. It is contended that in the present case, between the Petitioners' village Moura and village Garhgaon, there is a dense forest of 48 hectares and not only this, the boundaries of both the villages are divided by a river, hence there is a geographical separation between the two villages and communication between the two villages is not easy and these villages are not easily accessible to each other and therefore, in the letter and spirit of the GO. dated 4-7-2007 separate status of village Panchayat should have been given to the Petitioners' village.

7. On the other hand, Learned Addl. Chief Standing Counsel for the State of Uttarakhand states that delimitation of Village Panchayat has been done in the State of Uttarakhand in the year 2007 as per law and G.O. to which the Petitioner is relying upon.

8. After the 73rd and 74th Amendment of the Constitution of India, the Village Panchayats have got a different status. This local body is representative of people, which is now entrusted under the Constitution of India as well as under the law for various developmental activities. The formation of Village Panchayat for the Village is of immense importance. Therefore, the authorities on whom the responsibility has been placed under the law for formation / delimitation of the

Village Panchayats from time to time are duty bound to consider all the relevant factors while constituting a Village Panchayat. In the present case, although 300 has been given as a figure for formation of Village Panchayat, yet, the G.O. itself says that it is not a rigid provision and deviations with this figure are possible as the words used are "as far as possible". Moreover, it is not only the population of the village and the geographical location of the village which has to be considered, and also the fact that the accessibility of the villages is not hampered in any manner if one village is clubbed with another village.

9. From the perusal of the said CO., averments of the writ petition as well as the counter affidavit, it appears that these factors have not been considered in the letter and spirit of the said GO. However, no interim relief can presently be granted, as is being prayed in the present writ petition.

10. It is a settled principle of law that once delimitation / reorganization has been done and the law has been framed accordingly, no interference of the Courts can be made.

11. However, this writ petition is disposed of with the directions to the concerned authorities that they shall consider not only the population of the Village Maura, but also the geographical location of this village and the accessibility of this village with Village Garhgaon while doing next delimitation / reorganization exercise, which the Addl. Chief Standing Counsel states is due in 2012 or as the case might be.

12. With the above observations, writ petition is disposed of. No order as to costs.