
(1979) 10 P&H CK 0032
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 3054 of 1978

Daya Ram

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 19-10-1979

Acts Referred:

Gram Panchayat Act, 1952 — Section 3, 4, 5

Citation : (1980) 2 ILR (P&H) 17 : (1980) 82 PLR 79

Hon'ble Judges : Rajendra Nath Mittal, J

Bench : Single Bench

Advocate : Ram Sarup, for the Appellant; B.S. Malik, Additional A.G., for the Respondent

Final Decision : Allowed

Judgement

Rajendra Nath Mittal, J.—This judgment will dispose of Civil Writ Petition Nos. 3053, 3054 and 3055 of 1978, which contain common questions of law. The facts in the judgment are being given from Civil Writ Petition No. 3054 of 1978.

2. Briefly, the case of the Petitioner is that he was elected as Sarpanch, Gram Panchayat Kaushak during the elections of 1964 and 1971. The State of Haryana later issued a notification dated June 2, 1978, dividing the Gram Sabha Kaushak into seven Gram Sabhas namely, Kaushak, Joriabad, Bhawana, Achheja, Allahabad, Karimpur and Kudabadpur. It is alleged that the abovesaid villages except Kaushak were not villages but were Majras and the State could not create seven Gram Sabhas of different Majras in the revenue estate of Kaushak. He has, therefore, prayed that the impugned notification be quashed.

3. The only contention of the learned Counsel for the Petitioner is that there could not be 7 Gram Sabha areas in the names of Majras in one revenue estate. He argues that the 6 Majras, namely Ajouribad, Bhawana, Achheja, Allahabad, Karimpur and Kudabadpur were not villages as defined in the Act. He further argues that, therefore, the notification is liable to be quashed.

4. I have given due consideration to the argument of the learned Counsel and find force in it. Section 4 of the Gram Panchayat Act, 1952 (hereinafter referred to as the Act) relates to demarcation of Sabha areas and Section 5 to establishment and constitution of Gram Panchayat. The relevant portions of the said Sections are as follows: -

4(1) Government may, by notification declare any village or group of contiguous villages with a population of not less than five hundred to constitute one or more sabha areas.

* * * * *

Provided further that the Government may in particular case, relax the limit of five hundred.

5(1) Government may, by notification, establish a Gram Panchayat by name in every Sabha area.

From a reading of the aforesaid sections it is clear that the Government can declare any village with a population of not less than five hundred to constitute one or more Sabha areas. It can also declare a group of villages with a similar population to constitute one or more Sabha areas. The Government may also establish a Gram Panchayat by name in every Sabha area. Thus for constituting a Gram Sabha it is necessary that there should be a village or group of villages having population of five hundred or more. The word "village" has been defined in Section 3(q) of the Act as follows:

"village" means any local area, recorded as a revenue estate in the revenue records of the district in which it is situated.

The above definition shows that an area recorded as a revenue estate in the revenue records can be called a village. In other words, unless a village is recorded as a revenue estate it does not fall within the definition of a village.

5. In the impugned notification, Kaushak and the aforesaid villages have been shown as villages. The relevant part of the notification is reproduced below:

HARYANA GOVERNMENT DEVELOPMENT AND PANCHAYAT DEPARTMENT

NOTIFICATION

No. EP-HR-78/157, dated the 2nd June, 1978.

* * * * *

* * * * * the Governor of Haryana hereby declares the village or group of villages specified in column 2 of the schedule given below to be Sabha area by the name specified against each in column 5 of the said Schedule which shall consist of such number of Panches, including Sarpanch as is specified against each Gram Panchayat in column 6 thereof out of which the number of panches belonging to the scheduled castes shall be mentioned in column 7 of the said

schedule.

SCHEDULE

Sr. No.

Name(s) of Village(s) constituting

Tahsil

District

Name of Gram Panchayat

No. of panches including Sarpanch.

No. of panches belonging to Scheduled castes.

1

2

3

4

5

6

7

III

Kaushak

Palwal

Gurgaon

Kaushak

5

1

III-A

Joriabad

-do-

-do-

Joriabad

5

1

III-B

Bhawana

-do-

-do-

Bhawaaa

5

1

III-C

Achheja

-do-

-do-

Achheja

5

1

III-D

Allahabad

-do-

-do-

Allahabad

5

1

III-E

Karimpur

-do-

-do-

Karimpur

5

1

III-F

Kudabadpur

-do-

-do-

Kudabadpur

5

1

From the notification it is evident that Gram Panchayats in the name of the areas mentioned in column 5 have been constituted. In the revenue records only Kaushak has been shown to be a revenue estate and not the other areas namely, Joriabad, Bhawana, Achheja, Allahabad, Karimpur and Kudabadpur. These six places, therefore, do not fall within the definition of the word "village". Consequently, the Governor could not constitute Gram Sabha areas in the name of Joriabad, Bhawana, Achheja, Allahabad, Karimpur and Kudabadpur. Thus the notification is liable to be set aside.

6. The counsel for the Respondents has argued that the serial numbers in the notification show that the Gram Sabha areas have been constituted in village Kaushak but in order to give separate identity the names of other areas have been mentioned as III-A, III-B and so on. According to him, it can safely be inferred that all the Gram Sabhas have been constituted in village Kaushak. I regret my inability to accept the contention of the learned Counsel. In column No. 2 the places mentioned have been described as villages. In column No. 5, the names of the Panchayats are the same which have been described as villages in column No. 2. In the circumstances, it cannot be held that 7 Gram Sabhas have been constituted in village Kaushak. In the end, it may be mentioned that the learned Counsel for the Petitioner has fairly conceded and in my view rightly that the Governor could declare in village Kaushak more than one Sabha area if in each area the population was not less than five hundred.

7. No other argument was raised in the other writ petitions.

8. For the aforesaid reasons. I accept the writ petitions and quash the impugned notification. No order as to costs.