

(1978) 12 SHI CK 0004

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 250 of 1978

Dev Dutt

APPELLANT

Vs

State of Himachal Pradesh and Another

RESPONDENT

Date of Decision : 26-12-1978

Acts Referred:

Himachal Pradesh Gram Panchayat Rules, 1971 — Rule 5, 6, 6(2), 6(3), 6(4)

Citation : (1978) 7 ILR HP 706

Hon'ble Judges : T.U. Mehta, C.J

Bench : Single Bench

Advocate : Inder Singh, for the Appellant; M.G. Chitkara, General, for the Respondent

Judgement

T.U. Mehta, C.J.—The case of the Petitioner is that his name and the names of his family members were entered in both the parts of Family Register of village Chakli. However, certain persons took objection to the inclusion of their names in the said Family Register with the result that without affording any opportunity to him these names were taken out of the Family Register of village Chakli and included in the Family Register of some other village Jaindi Kathara situated in the Gram Panchayat Kiari. The case of the Petitioner is that on the objections of other persons his name should not have been taken out of the Family Register of village Ghakli without affording him any opportunity to be heard. It is pointed out by the Petitioner that since his name is taken out of the Family Register of village Chakli, the said omission also appears in the electoral roll of village Chakli which is, according to law, required to be prepared in accordance with the Family Register, Part-II.

2. The Respondents have admitted that the name of the, Petitioner and his family members did appear in the Family Register of village Chakli which originally belonged to Gram Panchayat Nehog. However, the said Nehog Gram Panchayat was bifurcated into two Gram Sabhas, namely, Chakli and Kiari as per notification of the Government dated March 20, 1978. Thereafter the Family

Registers concerned were kept for inspection of the general public under the Himachal Pradesh Gram Panchayat Rules, 1971, and one Shri D.S. Rathore, Horticulture Inspector, was appointed as Authorised Officer "to hear objections against these Family Registers. On 27-7-1978 Pradhan and Up-Pradhan of Gram Panchayat Nehog objected to the inclusion of the names of the Petitioner and his family members in Part-II of the Family Register of village Chakli by raising a contention that the Petitioner was residing in village Jaindi Kathara. This objection was upheld. However, the Respondents have not given any explanation as to why before upholding the objection above referred the Petitioner was not given any hearing.

3. Rule 6 of the Himachal Pradesh Gram Panchayat Rules, 1971, has been substituted by Government notification dated 6-7-1978. According to this substituted rule the register under Rule 5 is required to be prepared by the Panchayat Secretary and verified by the Block Development Officer. Under Sub-rule (3) of the substituted Rule 6 the Family Register is required to be revised and brought up-to-date under Sub-rule (2) by the 31st January of each year and a public notice inviting objections is required to be posted in the office of the Gram Panchayat and at other conspicuous places. Then follows Sub-rule (4) which is important for our purpose. It is as under:

"The revised entries made in the register under Sub-rule (2) and the objections received under Sub-rule (3) shall be taken into consideration, disposed of and verified by the Block Development Officer and in his absence by the District Panchayat Officer or by their nominees.

It is under Sub-rule (4) that the objections which are received against the inclusion of the name of any person are required to be considered and disposed of. Sub-rule (4) does not specifically mention that these objections shall be disposed of after hearing: the person interested. However, the rule of natural justice requires that before disposing of such objections the person against whom the objections are raised and whose name already stands included in the Register must be heard. Therefore if the objections filed by others against the inclusion of the name of the Petitioner in the Family Register of village Chakli have been disposed of without affording any opportunity to the Petitioner to submit his contentions regarding these objections, that procedure was obviously against the rule of natural justice and hence illegal.

4. According to Sub-rule (2) of Rule 6, at the end of each calendar year, the entries in the Family Register prepared under Rule 5 are required to be revised and all the changes resulting from births and deaths which have occurred by 31st December of that calendar year are required to be noted. One of such changes as occurred by 31st December, 1977, is the subject matter of dispute in this writ petition. But as stated above the omission of the names of the Petitioner and his family members from the Family Register of village Chakli was illegal as the rules of natural justice were not complied with. Now the whole of the current Calendar year 1978 has passed away and, therefore, the revised Family Register for village

Chakli will have to be prepared with reference to the actual position as on 31st December, 1978. It is, therefore, ordered that this revised Family Register to the calendar year 1978 shall be prepared by the authorities concerned after hearing the Petitioner on the question whether his name and the names of his family members should be included in both the parts of the Family Register in village Chakli.

5. This writ petition is accordingly disposed of and the rule is made absolute accordingly without any order as to costs.