
(2013) 08 P&H CK 0164
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 5267 of 1995 (O and M)

Gram Panchayat and another	Vs	APPELLANT
The State of Punjab and others		RESPONDENT

Date of Decision : 21-08-2013

Acts Referred:

Punjab Municipal Act, 1911 — Section 5(2)

Citation : (2014) 1 PLR 142

Hon'ble Judges : Mahesh Grover, J

Bench : Single Bench

Advocate : Nitin Sarin, for the Appellant; Rajni Gupta, Additional A.G., Shri Arun Palli and Shri Tushar Sharma, for the Respondent

Judgement

Mahesh Grover, J.—The petitioners are aggrieved of the orders Annexures P-1, P-2 and P-3. Petitioner No. 1 is the Gram Panchayat of

Village Neelpur, Rajpura, District Patiala. Two notifications were issued by the State of Punjab appended to the writ petition as Annexures P-1

and P-2 expressing its inclination to include within the municipal limits of the Municipal Council, Rajpura, the areas specified in the notifications.

The notifications having been issued u/s 5(2) of the Punjab Municipal Act, 1911 as amended, would require the respondents to solicit objections

from the persons residing in the affected villages/areas.

2. The grievance of the petitioners is that in the said notifications Annexures P-1 and P-2, the names of their villages were not mentioned and it only

referred to khasra numbers while describing the schedule of boundaries and in view of this, they were prevented from filing the objections and

thereby prejudicing their rights. In support of their plea, the learned counsel for the petitioners has relied upon two judgments of this Court in Vee

Kay Oils Pvt. Ltd. Vs. The State of Punjab and Others, and Sewa Singh Vs. State of Punjab,

3. The factual aspect of the matter has not been controverted by the respondents. A perusal of the notification would indeed bear out, that the

name of the village of the petitioner i.e. Neelpur has not been indicated in the said notification.

4. If that be so, then this Court is of the opinion that soliciting objections from the parties can be rendered illusory, as the people from the affected

area may possibly remain in the dark about the areas of their village being included in the municipal limits.

5. A Division Bench of this Court in Ms. Vee Kay Oils Pvt. Ltd. v. The State of Punjab (supra) has observed as follows:-

After hearing learned counsel for the parties, we are of the view that the writ petition deserves to be allowed on the short ground that the name of

village Akbarpura does not find mention either in the preliminary notification or in the final notification issued by the government and in the absence

of the same, it is difficult to accept the stand of the respondents that khasra nos. 470,471 and 472 onwards, in fact, pertain to village Akbarpura

and not to village Jagera and Jandali Khurd. In fact, the respondents have been complacent in not advertng to the specific averments made by the

petitioner vide notice of caveat dated 23.9.1989 in which it was specifically mentioned that though preliminary notification issued does not relate to

village Akbarpura, yet the petitioner apprehends that in case a notification is issued including the area owned or possessed by the petitioner and

situate within the revenue estate of village Akbarpura, the same would affect his financial and proprietary rights. For this, the petitioner craved the

right of hearing before issuance of a notification. There is no denying the fact that despite notice of caveat issued by the petitioner, no opportunity

was afforded to him by the respondents. It is only on 15.4.93 (Annexure P-1) that the Executive Officer, Municipal Committee, Ahmedgarh,

informed the petitioner that his mill now falls within the municipal limits of Ahmedgarh which notice has been termed to be wholly illegal and unjust

by the petitioner.

6. To a similar effect is the judgment rendered in Sewa Singh and others v. State of Punjab (supra). Consequently, the writ petition is accepted and

the impugned notifications Annexures P-1 and P-2 and the consequential orders Annexure P-3 are quashed qua the petitioner. The respondent/State would, however, be at liberty to issue a fresh notification after following the due process of law.