
(1986) 10 RAJ CK 0057
In the Rajasthan High Court
Case No : Civil Writ Petition No. 2074 of 1983

Gram Panchayat	Vs	APPELLANT
State of Rajasthan		RESPONDENT

Date of Decision : 01-10-1986

Acts Referred:

Rajasthan Municipalities Act, 1959 — Section 313

Citation : (1986) WLN 430

Hon'ble Judges : A.K. Mathur, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ashok Kumar Mathur, J.—The petitioner by this writ petition has challenged the notification dated 26-7-1983 (Annx. 6) whereby the revenue village Rawat Bhata has been declared as notified area u/s 313 of the Rajasthan Municipalities Act, 1959.

2. The petitions is Gram Panchayat, Rawat Bhata. In pursuance of a resolution of the petitioner Gram Panchayat Rawat Bhata an objection was made by the Sarpanch of the petitioner Gram Panchayat, Rawat Bhata on 11-3-1983 in regard to the establishment of the notified area before the State Government. Inspite of the objection filed by the Sarpanch of the petitioner Gram Panchayat a notification dated 26-7-1983 was issued declaring the revenue village Rawat Bhata to be a notified area and also appointing Chairman and 8 members of the notified area committee. The basic challenge is that the notification Annx. 6 suffers from the same infirmities as has been held by this Court in the case of this very Gram Panchayat 1980 WLN (UC) 301. It has been submitted that while disposing of the objection filed by the petitioner Gram Panchayat no speaking order was passed. In support of the above submission learned Counsel for the petitioner has drawn my attention to the Notified Area Committee Rawat Bhata and Anr. v. G.D. Mehta and Ors. 1980 WLN (UC) 297 and G.D. Mehta v. The State of Rajasthan and Ors. 1980 WLN (UC) 301. This writ petition has been supported

by the affidavit of the Sarpanch Shri S.N. Singh in which he has deposed that the has deposed that he has been authorised to file the present writ petition.

3. Mr. N.P. Gupta appeared by filing an application on behalf of the Ward Member Hem Raj. He contested the position and it has been submitted that Shri S.N. Singh Sarpanch has filed the present writ petition without there being any resolution of Gram Panchayat and contested the claim of the deponent Sarpanch that this writ petition was filed by the petitioner who has been authorised to file the same by a resolution of the Gram Panchayat. Thereafter, affidavits and counter affidavits were filed from both the sides. Since there was serious debate on this issue whether S.N. Singh Sarpanch was at all authorised to file the present writ petition or not. It was brought to my notice that meanwhile the Sarpanch has been suspended and he has filed a writ petition challenging his suspension. Certain allegations were made against the Sarpanch Shri S.N. Singh which I need not to go in the present writ petition. But N.P. Gupta has seriously contested the position about bonafides of filing the present writ petition. The Deputy Govt. Advocate was directed to produce all the record which was meanwhile seized by the police and the Deputy Block Development Officer. I summoned the original register of the Gram Panchayat and on 15-9-1986 Mr.Gupta showed me that the main register of the Gram Panchayat, in which it is said that a resolution passed was torn apart and a new resolution was written authorising the Sarpanch to file the writ petition. He showed me the two sheets which were actually torn away from the registered and after going through the contents of the torn sheets and the original left over sheets in the register of the Gram Panchayat it clearly transpires that a serious manipulation has been done. On 15-9-1986 I directed that all the Panchas, should be present in the court. In pursuance of this direction all the 8 Panchas appeared before me on 25-9-1986 and submitted that they want to prosecute the writ petition. An affidavit was also filed by Shri Kalyansingh, Assistant Secretary of Gram Panchayat, Rawat Bhata stating that the sheet was torn away because the proceedings were not recorded authorising to file the writ petition, therefore, the Panchas decided that a resolution to this effect may be recorded authorising the Sarpanch to file a writ petition and he has also deposed that Hemraj, Ward Panch told him that this is not necessary but he recorded a new resolution in the minute book and tore apart two pages. On 25-9-1986 the matter was heard and the petitioner was confronted with the position that there was a tearing of the papers and torn sheets were shown to him and the Sarpanch was present in the court and he resisted this allegation. But subsequently he came forward and admitted this fact of tearing of pages from the minutes book and came forward with a so-called plausible explanation to avoid the unavoidable situation. I may mention one important fact that when the case was called on 25-9-1986 Mr. N.P. Gupta, learned Counsel for Hemraj, brought before me the Ward Panch Hemraj who was thoroughly beaten and he received fractures in the hand at Jodhpur when both Panchas and Sarpanch were present. Mr. Gupta submits that one of the Panchas in order to shut the mouth of the Ward Panch gave him this beating. He submits

that a First Information Report of this incident was filed against the person and he also informed me that he telephoned to counsel for the petitioner that such kind of act is highly undesirable and it should be condemned. If the petitioner resorted to such kind of method for resolving their disputes then such practice will not be permitted and it should sound a warning that this rule of jungle of resolving the dispute by resorting to physical force is not permitted in the rule of law. I do not appreciate the incident and refrain from making any observation here as it might affect the criminal case, but the conduct of one of the members of the Gram Panchayat is certainly not very happy. According to the record which has been placed for my perusal. Some sheets of the minutes book were torn apart and this fact has been accepted by the petitioner by filing the affidavit of Shri Kalyan Singh, Assistant Secretary of the Gram Panchayat and an attempt has been made to explain the forgery committed in the minutes book of the Gram Panchayat. The allegation of tearing away the sheets from the minutes book gets complete support from the affidavit of Kalyansingh Assistant Secretary of the Gram Panchayat and I am inclined to affirm the contention of Mr. Gupta that at the time of filing the writ petition there was no authorisation in favour of the Sarpanch. The conduct of the petitioner of tearing pages from the minutes book and committing forgery cannot be allowed lightly.

4. The writ petition is dismissed on account of the fact that the petitioner has not come with clean hands.

5. In the result, the writ petition is dismissed with costs of Rs. 2000/-. The cost of Rs. 2000/- should be recovered from the Sarpanch Shri S.N. Singh and it should be paid to Shri Hemraj within a period of one month.