
(1999) 07 P&H CK 0099

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 18401 of 1998

Gram Panchayat Beas Block Rayya

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 15-07-1999

Acts Referred:

Citation : (1999) 4 ICC 690 : (1999) 2 PLJ 163 : (1999) 4 RCR(Civil) 478

Hon'ble Judges : Mehtab Singh Gill, J and G.S.Singhvi, J

Advocate : Mr. Rupinder Khosla, Deputy Advocate General, Punjab., Mr. D.S. Pheruman, Advocate., Advocates for appearing Parties

Judgement

Mehtab Singh Gill, J.—PetitionerGram Panchayat through its Sarpanch Savita Rani has filed this petition for issuance of a writ in the nature of Mandamus directing the officialrespondents 1 to 4 to distribute the assets/property of respondent No. 5 which was joint prior to June, 1998. The relevant facts for deciding this petition may be, briefly, noticed.

2. PetitionerGram Panchayat has stated that upto November 1997, there was a Gram Panchayat in the Revenue Estate of Budha Theh bearing hadbast No. 9 situated in the area of Tehsil Baba Bakala, Block Rayya, District Amritsar. Vide notification, Annexure P2 dated Nil October, 1997, out of this one village, another two Panchayats were formed, namely Bias and Guru Nanak Pura. This notification was issued under Section 3 of the Punjab Panchayat Raj Act. 1994 (hereinafter referred to as the "Act"). Further the petitioner has alleged that as per the Act, the properties, i.e. the liabilities and the assets of the Gram Panchayat Budha Theh have got to be distributed proportionately amongst the petitioner No. 1, i.e., Gram PanchayatBias and respondent No. 6, i.e., Gram PanchayatGuru Nanak Pura. Section 3 and its subsections (2) and (3) of the Act are reproduced as under :

"3 : Establishment of Gram Sabha areas. (1) The State Government may, by notification, declare any village or group of contiguous villages with a population of not less than two hundred to constitute a Gram Sabha area:

Provided that a new Gram Sabha area may be constituted for any village or group of contiguous villages in respect of a separate distinct abadi or group of abadis having a population of not less than two hundred taking into consideration its physical distance from the main village or villages, as the case may be and other relevant facts;"

(a) xx xx xx xx

(b) xx xx xx xx

(c) xx xx xx xx

(d) xx xx xx xx

"(2) That State Government may, by notification, include any area in or exclude any area from the Gram Sabha area."

"(3)(i) Where any area excluded from any Gram Sabha area under subsection (2) is either included in any other Gram Sabha area or is constituted into a new Gram Sabha area, the assets and liabilities of the Gram Panchayat of the Gram Sabha area from which such area is so excluded (hereinafter referred to as the existing Gram Panchayat) shall be apportioned between the successor Gram Panchayats in the manner specified hereinafter.

(ii) All lands and all stores, articles and other goods belonging to the existing Gram Panchayat shall:

(a) If within the Gram Sabha area of that Gram Panchayat pass on to the successor Gram Panchayat in whose Gram Sabha area they are situated;

(b) If outside the Gram Sabha area of that Gram Panchayat be apportioned between the successor Gram Panchayats according to population ratio;

(iii) the Gram Fund, Bank Balances, grants received from the State Government from time to time shall be apportioned between the successor Gram Panchayats according to the population ratio:

Provided that a grant given by the State Government for the development of an area which forms part of the Gram Sabha area of any of the successor Gram Panchayats shall be transferred to that successor Gram Panchayat.

(iv) The right to recover arrears of any tax on property shall belong to the successor Gram Panchayat in whose Gram Sabha area the property is situated and the right to recover any other tax imposed by the existing Gram Panchayat shall belong to the successor Gram Panchayat in whose Gram Sabha area the place of assessment of that tax is situated.

(v) Where before the date of exclusion of Gram Sabha area the existing Gram Panchayat has made any contract for the purposes of that Gram Panchayat, that contract shall be deemed to have been made

(a) If the purposes of the contracts are on and from the day of exclusion of the Gram Sabha area, exclusively purposes of any one of the successor Gram Panchayat, by that successor Gram Panchayat; and

(b) If the purposes of the contract are on and from that day not exclusively purposes of any one of the successor Gram Panchayats, by all the Gram Panchayats;

and the rights and liabilities which have accrued or may accrue, under any such contract, shall to the extent to which they would have been the rights and liabilities of the existing Gram Panchayats, be the rights and liabilities of the successor Gram Panchayats according to their population ratio.

(vi) Where the existing Gram Panchayat is a party to any legal proceedings with respect to any property, rights or liabilities subject to apportionment under this section, the successor Gram Panchayat which succeeds to, or acquire a share, in that property or those rights or liabilities, shall be deemed to be substituted or added as a party to those proceedings, the proceedings may continue accordingly.

(vii) The benefit or burden of any assets and liabilities of the existing Gram Panchayat, not dealt with in the forgoing provisions of this section shall, pass on to the successor Gram Panchayats in the manner agreed upon between them and in case no such agreement is reached within a period of one year from the date of exclusion of the Gram Sabha area the State Government shall be competent to determine the same at the request of either of the Gram Panchayats."

We have heard learned counsel for the parties and gone through the record available on the file.

3. Section 3 of the Act quoted above, makes it abundantly clear that all the liabilities and assets have got to be distributed proportionately between the original Gram Panchayat and the Gram Panchayats or Gram Sabhas which have been later constituted from that panchayat.

4. Petitionerpanchayat (Bias) and respondent No. 6 Gram Panchayat Guru Nanak Pura filed joint petition vide representation Annexure P3 dated 5.8.1998 to the Deputy Commissioner, Amritsar who has been arrayed as a partyrespondent No. 3, but in spite of this representation, no action has been taken till date.

5. For the reasons stated above, the writ petition is allowed. We direct respondents 1 to 4 to distribute proportionately the assets and liabilities amongst the three panchayats, namely, Budha Theh, Beas and Guru Nanak Pura in accordance with section 3 of the Act. We further direct respondents 1 to 4 to prepare the hadbast of the petitionerpanchayat and the respondent No. 6Gram Panchayat Guru Nanak Pura.