
(1990) 02 P&H CK 0057
In the Punjab And Haryana At Chandigarh
Case No : L.P.A. No. 670 of 1989

Gram Panchayat, Bhorakh

APPELLANT

Vs

Amrik Singh and others

RESPONDENT

Date of Decision : 02-02-1990

Acts Referred:

Punjab Gram Panchayat Act, 1952 — Section 3, 4

Citation : AIR 1990 P&H 315 : (1990) 98 PLR 160

Hon'ble Judges : J.V. Gupta, Acting C.J.; M.S. Liberhan, J

Bench : Division Bench

Advocate : R.S. Mittal and R.K. Sharma, for the Appellant; S.S. Ahlawat, D.A.G. and Gobinder Singh Sandhu, for the Respondent

Judgement

M.S. Liberhan, J.—The appellant herein has challenged the order of the learned single Judge, dated April 4, 1989, reported in (1989) 1 Cur LJ 615 (Punj & Har), quashing the notification declaring two Sabha areas of one revenue estate.

2. We may appositely advert to the undisputed facts emerging from the writ petition, written statement and the notification in this case. The Haryana State vide Notification, dated July 4, 1988, Annexure P1, constituted two Sabha areas and thereby established two Gram Panchayats out of the one estate of village Harigarh Bhorakh.

3. The learned single Judge relying on State of Haryana v. Daya Ram (1985) 87 P LR 97, came to the conclusion that two Sabha areas cannot be carved out of a village having one revenue estate. Since village Harigarh Bhorakh bears one revenue estate, consequently there cannot be two Sabha areas and two Gram Panchayats in the same village.

4. The learned counsel for the appellant urged that the findings arrived at by the learned single Judge cannot be sustained in view of the provisions contained in Section 3(mmm), (q) read with S. 4 of the Punjab Gram Panchayat Act, 1952. The statutory provisions, referred to above, run as under:

"3(mmm) "Sabha area" means an area declared to be a Sabha area u/s 4.

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

4. Demarcation of Sabha areas. -- (1) Government may by notification, declare any village or group of contiguous village with a population of not less than -

five hundred to constitute one or more sabha areas:

Provided"

5. The contention of the counsel for the appellant is not *res integra*. The contention is squarely covered by a Division Bench judgment of this Court in Civil Writ Petition No. 10003 of 1988 (Jogi Ram and others v. The State of Haryana and another, decided on November 26, 1988), wherein almost on the same facts a similar notification constituting two Sabha areas out of a village in one revenue estate was considered and the Division Bench after taking into consideration Daya Ram's case (1985 (87) P LR 97) (*supra*), came to the conclusion that the Government was fully competent and was within its jurisdiction to constitute any number of Gram Sabha areas out of a village being in one revenue estate provided the Gram Sabha area is not constituted with a population of less than five hundred people.

6. In the abovesaid writ petition, it was held as under:

"..... In this case, the name of village Jakholi has been correctly mentioned at serial No. II and 2 Sabha areas have been constituted out of this village and both have been Jakholi has been repeated twice in column No. 2 of the notification this will not be sufficient to strike down the notification, because village Jakholi is recorded as a revenue estate and fulfils the definition of a village as given above"

7. In Daya Ram's case (1985 (87) P LR 97) (*supra*), the Division Bench was considering an entirely different proposition, though the contention urged by the counsel for the appellant in the case was some what overlapping. The question under consideration in the said case before the Division Bench was whether a Gram Sabha can be created with respect to a village being not a revenue estate. The Division Bench observed that on the facts of the case in hand, the named villages did not constitute separate revenue estates inasmuch as they were not so recorded in the revenue records. It was in view of these peculiar facts that the Sabha area was carved out of the village bearing no revenue estate and the same was falling outside the purview of the definition of "village" provided by the Act. The Division Bench came to the conclusion that notification of a separate Gram Sabha area was bad.

8. Herein, undisputably the Sabha area carved out of the same village does bear the revenue estate number. From a bare reading of the provisions, the only conclusion that can be drawn is that the Government is competent to carve out

any number of Gram Sabha areas in a village, which bears a revenue estate subject to the condition of the population of five hundred people. The relevant factor which has been kept in view is the population of the village which appears to be the main object while creating the Sabha area. We are in full agreement with the view taken by the Division Bench and relied upon by the counsel for the appellant and nothing can be gainfully added to it. With utmost respect to our brother, we are unable to accept the finding of the learned single Bench that the facts of this case are covered by the judgment in Daya Ram's case (supra) for the reasons recorded above. The judgment was delivered in the realm of its own facts and no such law was laid down that the State could not carve out Sabha areas out of one village with one revenue estate.

9. For the foregoing reasons, Letters Patent Appeal is allowed, judgment of the learned single Judge dated April 4, 1989 is set aside.

No order as to costs.

10. Appeal allowed.