
(1978) 10 P&H CK 0026
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 7041 of 1976

Gram Panchayat, Moranwali

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 23-10-1978

Acts Referred:

Citation : (1978) PLJ 390 : (1985) RRR 474

Hon'ble Judges : J.M.Tandon, J

Advocate : Mr. S.P. Jain, Advocate., Advocates for appearing Parties

Judgement

J.M. Tandon, J.

1. In this writ petition, the Gram Panchayat, Moranwali, has challenged the Notification dated May 10, 1976, under subsection (1) of section 5 of the Punjab Municipal Act, 1911 (hereinafter referred to as the Municipal Act), a copy of which is annexure P5 to the writ petition, declaring its intention to include within the Municipality of Sunam, district Sangrur, certain areas, and the Notification dated August 2, 1976, under sub section (3) of section 5 of the Municipal Act, a copy of which is annexure P6 to the writ petition, including that area within the said Municipality.

2. According to the petitioner, the disputed area vested in it and has been wrongly included within the municipal limits of Sunam. The Notifications annexures P5 and P6 have been challenged on two grounds, namely, (1) that there is an inconsistency between the two inasmuch as in Notification annexure P5, Killa No. 22 of Mustatil No. 358 has been shown as Killa No. 22 of Mustatil No. 355 in annexure p6; and (2) the land which vested in the petitioner Gram Panchayat could not be vested in Municipal Committee, Sunam, without payment of compensation to the former.

3. The State of Punjab as also Municipal Committee, Sunam, in their separate written statements, denied that the petitioner was entitled to any compensation for being divested of certain land which, as a consequence of Notifications

annexures P5 and P6, stood vested in Municipal Committee, Sunam. About the inconsistency in the specification of land in Killa No. 22, it was averred that it was rectified by a corrigendum Notification No. 5888 A/DSLGI76/34350, dated november 12, 1976.

4. The learned counsel for the petitioner did not challenge the point of inconsistency in the Mastatil numbers in the two Notifications in view of the corrigendum notification dated November 12, 1976, issued by the State.

5. The only point argued by the learned counsel for the petitioner is that once the Gram Panchayat, Moranwali, had been vested with certain property it could not be divested of it without payment of compensation. I find no force in this contention. Section 4 of the Punjab Gram Panchayat Act, 1952, reads as under :

"4. Demarcation of Sabha areas. Government may, by notification, declare any village or group of villages with a population of not less than one hundred to constitute a Sabha area :

Provided that neither the whole nor any part of,

(a) A Notified Area under section 241 of the Punjab Municipal Act, 1911 ; or

(b) a Cantonment ; or

(c) a Municipality of any class ;

shall be included in a Sabha area unless the majority of voters in any Notified Area or Municipality of the Third Class desire the establishment of a Gram Sabha in which case the assets and liabilities, if any of the Notified Area Committee or the Municipal Committee, as the case may be, shall vest in the Gram Panchayat of that Gram Sabha thereafter established, and the Notified Area Committee or the Municipal Committee shall cease to exist ;

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

(3) If whole of the Sabha area is included in an urban estate to which the provisions of the Punjab Municipal Act, 1911, are applicable or in a City, Municipality, Cantonment or Notified Area under any law for the time being in force, the Sabha and the Gram Panchayat for the area shall cease to exist and the assets and liabilities of the Gram Panchayat shall be disposed of in the prescribed manner."

It is clear that under subsection (2), the Government is competent to include any area in or exclude any area from the Sabha area. It is further clear that neither the whole nor any part of a Municipality can be included in a Sabha area and further under the circumstances explained in the proviso to subsection (1), if it is so done, the assets and liabilities of the Municipal Committee shall vest in the Gram Panchayat of that Gram Sabha. Subsection (3) further clarifies that if whole of the Sabha area is included within the municipal limits, then the Sabha

and the Gram Panchayat for that area shall cease to exist and the assets and liabilities of the Gram Panchayat shall be disposed of in the prescribed manner. In the instant case, a part of the land which vested in Gram Panchayat, Moranwali, has been included within the municipal limits of Sunam. The petitioner would thus stand divested of that area and it shall vest in Municipal Committee, Sunam. The disputed area vested in Gram Panchayat, Moranwali, by virtue of law and similarly it stands divested of it. The Gram Panchayat, Moranwali, did not pay any compensation when the area in dispute was vested in it and for the same reasons the question of payment of compensation to it for being divested of such area does not arise.

6. No other point has been pressed.

7. In the result, the present peition fails and is dismissed. No order as to costs.