
(1989) 10 P&H CK 0009

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 9021 of 1988 and Civil Miscellaneous No. 13597 of 1988

Gurdial Singh and ors.

APPELLANT

Vs

State of Haryana and anr.

RESPONDENT

Date of Decision : 06-10-1989

Acts Referred:

Citation : (1990) 2 LJR 577 : (1989) PLJ 492 : (1989) 2 RRR 347

Hon'ble Judges : M.M.Punchhi, J and Ujagar Singh, J

Advocate : Lakhminder Singh, Advocate., Advocates for appearing Parties

Judgement

M.M. Punchhi, J. (Oral)

1. Before this court two Civil Writ Petitions No. 6153/88 and 7229/88 had earlier been brought by villagers of village Karera Khurd, Tehsil Jagadhri, District Ambala finding fault respectively with two notifications, issued on 30th June, 1988 and on 1st/2nd August, 1988. The State Government made effort to correct those notifications one after the other. Thus, nothing could be done under those notifications. Now the latest notification issued by the State under challenge is dated 27th September, 1988 which is annexure P.4 to the petition. We were apprised of the same while disposing of CWP No. 7229 of 1988 on 28th September, 1988.

2. The impugned notification speaks for itself. It is claimed by the petitioners that it is not in accordance with the provisions of section 5 of the Gram Panchayat Act, 1952.

3. The first objection is that there cannot be two panchayat in one village. The village is one undoubtedly and it is Karera Khurd. Section 4 of the Gram Panchayat Act (as applicable to the State Haryana) provides that the Government may by notification declare any village or group of contiguous villages with a population of not less than 500 to constitute one or more Sabha areas. Moreover, panchayats are corelated with Sabha areas and a village can have more than one

Sabha area and thus more than one Gram Panchayat. Therefore, creation of two Sabha areas in village is permissible under Section 4. The language of the section is plain and simple.

4. The next objection is that under section 3(q) of the Act, "Village" means any local area, recorded as a revenue estate in the revenue records of the district in which it is situated. In the event of there being more than one Sabha area therein the name of the village would obviously remain one as it is related to the revenue estate as recorded in the revenue record. All the same two Sabha areas therein may have different names not essentially the same as that of the village for purposes of separate identity.

5. The third objection is that in the impugned notification though two Sabha areas have been created but the name of the village has been used twice and this is impermissible. This contention too is without any force. Name of the village has been used but only to correlate the same with the name of the Sabha area. There is, thus no illegality. It may at best be an irregularity, not affecting the exercise of owner.

6. Now coming to the notification itself column No. 2 provides the name of the village constituting Sabha area and column No. 5 provides the name of the Panchayats. Since two Panchayats have been created in the village, the name of one Panchayat or the Sabha area is Kerara Khurd¹ and the other Karera Khurd². Separate areas have been identified which comprise the respective Sabha areas. Since both the Sabha areas by specific name are in the village known as Karera Khurd, the mention of the name of the village in column No. 2 twice, correlative with the name of the respective Sabha area, is not something which is violative of sections 4 and 5 of the Act. We hold it accordingly.

7. Lastly, it has been contended that in the impugned notification, though earlier notifications have been superseded, the notification issued under sections 4 and 5 of the Act in the year 1982 annexure P.5 has not been superseded. In the impugned notification, an expression has been used "In supersession of all previous notifications". Then numbers are given of the superseded notifications. The omission therein of supersession of the 1983 notification 'annexure P.5' would not be fatal to the impugned notification annexure P.4 firstly, because all previous notifications have been superseded and the mere nonmentioning of 1983 notification would make no difference and secondly the language of the notification is clear that two Sabha areas were being created in one village in place of one Sabha area which was earlier in the village.

8. To conclude, we are of the view that the impugned notification annexure P.4 does not suffer from any infirmity. Consequently, we dismiss the petition in limine.