
(1988) 01 P&H CK 0020
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 3366 of 1986

Harbans Singh and others	Vs	APPELLANT
State of Haryana and others		RESPONDENT

Date of Decision : 13-01-1988

Acts Referred:

Haryana Municipal Act, 1973 — Section 4(1)

Citation : (1988) 01 P&H CK 0020

Hon'ble Judges : D.V. Sehgal, J

Bench : Single Bench

Advocate : J.C. Verma with Mr. Dinesh Kumar, for the Appellant; N.K. Kapoor for Respondent No. 1 and Mr. H.L. Sibal with Mr. S.C. Sibal, for the Respondent

Final Decision : Allowed

Judgement

D.V. Sehgal, J.—The petitioners have their business establishments in village Rajpura, tehsil Naraingarh, district Ambala, away from the boundaries of Municipal Committee, Sadhaura. Respondent No. 1 vide notification dated 7.1.1985 Annexure P. 4 published in the Haryana Government Gazette dated 29.1.1985 declared its intention to include within the Municipal Committee of Sadhaura, the area lying between the existing boundary as defined in the Haryana Local Government Department notification No. (sic)/27281 dated (sic) and the boundaries proposed as specified in the Schedule appended to the notification. This notification was issued u/s 4(1) of the Haryana Municipal Act, 1973 (for short "the Act") Respondent No. (sic) later issued another notification dated 20.8.1985 invoking the powers conferred by sub-section (3) of section 4 of the Act and with reference to the notification Annexure P.4 it included within the limits of Sadhaura Municipality the area already mentioned in the notification Annexure P.4. The notification dated 20.8.1985 was published in the Haryana Government Gazette dated 15.10.1985 and a copy of the same is (sic) P.5 The petitioners submit that the notification Annexure P.4 was never published in the locality nor the manner of its being published other than the publication in the

Government Gazette was decided as contemplated by section 4(1) of the Act. They contend that they received notices like the one dated 8.5.1986 Annexure P. 8 from the Secretary, Municipal Committee. (sic) respondent No.2, informing them that the limits of the town have been extended and they were required to pay octroi and the taxes levied by the said Municipality as per rules and the bye-laws.

2. The notifications Annexures P.4 and P.5 have been challenged by the petitioners by way of the present writ petition and they have sought quashing of the same, inter alia, the ground that the notifications Annexures P.4 and P.5 are vague, indefinite and do not describe clearly the local area which was sought to be included within the municipal limits. They contend that the notification dated (sic) to which a reference has been made in the notifications Annexures P.4 and P.5 was quashed by this Court vide judgment dated 9.9.1982 in C.W.P No. (sic) (M/s Chakwal Crusher etc. v. State of Haryana, C.W. No. 5225 of 1974.). Therefore, the existing boundaries of the Municipality, Sadhaura. described in the notification dated 26.7.1974 were in fact not its existing boundaries because the said notification has no existence in the eyes of law.

3 There next contention is that section 4(1) of the Act provides that the State Government may by notification and in such other manner as it may determine declare its intention to include within a municipality a local area in the vicinity of the same and defined in the notification. However, apart from publication of notification annexure P.4 in the Government Gazette no other manner of publication of the said notification and declaration of the intention of the Government contained therein was decided and in fact neither this notification was published in the vicinity of the said local area nor any copy of the same was affixed at any prominent place in the locality. Thus the mandatory provisions of section (sic) of the Act were not complied with.

4. The petition has been opposed by respondents Nos. 1 and 2 and separate written statements have been filed on their behalf. Respondent No. 1 has, (sic), averred that the notification Annexure P.4 is quite valid and gives definite boundaries of the area to which the municipal limits were proposed to be extended. It is further averred that the manner of publication of the notification Annexure P.4 in the locality was decided and mentioned in the notification itself. The notification was published in the locality by pasting copies of the same at conspicuous places in the locality. A proclamation to this effect was also required to be made by beat of drum. All these steps were taken and a report to this effect was submitted. The same stand has been taken by respondent No. 2 in its defence.

5. I have heard the learned counsel for the parties. I find that the notifications Annexures P.4 and P.5 are liable to be quashed on the first ground taken by the learned counsel for the petitioners. It is no longer in dispute that vide notification dated 26.7.1974 Annexure P.2 the limits of the erstwhile notified area of Sadhaura were extended and certain areas including the business establishments

of the petitioners were included within its limits. The notification was, however, quashed by a judgment of this Court in *M/s Chakwal Crusher's* case (*supra*). Thus, the notification dated 26.7.1974 no longer existed in the eyes of law and the extended limits of notified area of Sadhaura mentioned therein could not be described as the existing limits of Municipality, Sadhaura, vide notification dated 7.1.1985. Annexure P.4 but in spite of this it was so done. The same existing limits notified vide notification dated 26.7.1984 were again incorporated in the final notification Annexure P.5. No. doubt respondent No. 1 tried to remedy the situation by issuing a corrigendum dated 22.4.1986 Annexure R. 1/1 the text of which is to the following effect:-

No. 25/1/84-2CI-In the Haryana Government, Local Government Department (Committees) Notification No. 25/1/84-2CI dated the 24th August 1985, published in Haryana Government Gazette, Part I, dated the 15th October, 1985, for "1712-5CI-74/2781, dated the 26th July, 1974" read "notification No. 405-C-37/ 5615, dated the 17th February, 1987.

6. The corrigendum Annexure R.1/1 reporduced above, however, does not cure the ambiguity and the mistake in the existing limits of the municipality defined in the notification Annexure P.4. In fact the notification Annexure P.4 was neither amended by the corrigendum Annexure R.1/1 nor could it be so amended for obvious reasons.

7. The purpose of declaration of its intention by the Government by issuance of a notification u/s 4(1) of the Act to include within municipality any local area in the vicinity of the same and defined in the notification is that the inhabitants of the local area concerned in respect of which the notification has been published under sub-section (1) may, should they object to the alteration proposed, submit their objections in writing within six weeks from the publication of the notification, under sub-section (2) of section 4 of the Act. The State Government is required to take such objections into consideration before issuing a final notification under sub-section (3) of section 4 *ibid*. However, the existing boundaries of Municipality, Sadhaura, having been defined as those mentioned in the notification dated (sic) Annexure P.2 which had already been quashed the local area which was sought to be included within the municipal limits by extending its existing boundaries became vague and indefinite. This denied statutory opportunity to the affected persons in the local area concerned to make objections under sub-section (2) of section 4 *ibid*. The vital importance of an unambiguous and definite declaration by notification under sub-section (1) of section 4 of the Act to precede the final notification under sub-section (3) of section 4 *ibid* needs no emphasis. It has been discussed in detail in *Ram Singh v. State of Haryana* (1978) 80 P.L.R. 208.

8. In view of the success of the writ petition on the first point I need not dilate on the second point. Consequently, I allow this writ petition and quash the impugned notifications dated 7.1.1985 and 20.8.1985 Annexures P.4 and P.5 respectively. The petitioners shall also get the costs of this writ petition from the

respondents which are assessed at Rs. 300/-.