

(1973) 01 GUJ CK 0008
In the Gujarat High Court
Case No : Spl Civil Appln No. 1849 of 1971

Hari Chaku

APPELLANT

Vs

Mamlatdar Lalpur and Others

RESPONDENT

Date of Decision : 18-01-1973

Acts Referred:

Constitution of India, 1950 — Article 14
Gujarat Panchayats (Amendment) Act, 1962 — Section 20(1)

Citation : AIR 1973 Guj 233 : (1974) GLR 64

Hon'ble Judges : S.H. Sheth, J;J.B. Mehta, J

Bench : Division Bench

Advocate : R.A. Mehta, for the Appellant; M.M. Dave, Addl. Govt. Pleader and B.J. Shelat, Asstt. Govt. Pleader of Purnanand and Co., for the Respondent

Judgement

J.B. Mehta, J.—The petitioner who is a registered voter in the village Khad--Khambhalia challenges in this petitioner the notification issued on September Gujarat Panchayat Act. 1961. hereinafter referred to as "the Act" by the competent authority dividing this Gram into three election wards and district three seats to each ward. The Khad--Khambhalia Gram Panchayat originally consisted of four village-- Khad--Khambhalia. Nava Dhunia Khatia and Rakka. From the inception of the Group Gram Panchayat in 1952. election was always uncontested and its 11 seats at that time had been divided as under:

Khad--Khambhalia --6 Khatia -- 2 Nava Dhunia --1 Rakka --2. Thus, as against 6 seats for Khad--Khambhalia. Nava Dhunia had only one seat for all these 18 to 20 years,. The old Gram Panchayat had passed unanimous resolution to have separate Panchayat for all the four villages. However, the State Government u/s 9 of the Act gave separate Panchayat by constituting only Khatia Rakka as new Grams. while Nava Dhunia, stilled remained joint with Khad--Khambhalia. Nava Dhunia therefore, did not get independent Panchayat and it was, therefore, given at the time of constituting these election wards a separate ward. The new Gram, was divided into three election wards. of which 6 seats in the first-two wards

were given under the impugned notification to the village Khad--Khambhalia while the remaining three seats were given to Nava Dhunia which was constituted into a separate wards. In each ward there was a reserved seat. There was one reserved seat for women and one was scheduled caste seat in the two wards in Khad--Khambhalia while the remaining women seat was reserved in the ward of Nava Dhunia village. As regard the voter's strength the population of the village Khad--Khambhalia of 1139 souls was divided into first and second wards respectively with 324 and 267 voters; while the population of 241 souls of Nava Dhunia was given Ward No. 3 with its 145 voters. The petitioner therefore challenges this imputed notification on the ground that it hits the recognised principle of "one person -- one vote" and thereby denims equal voting power to the Khad--Khambhalia votes by giving almost double weightage to these votes of Nava Dhunia village. The petitioner has not only challenged the notification but he challenges even Section 20 (1) itself on the ground that it confers arbitrary and unguided power, that there is no provision for giving any opportunity of hearing and, that therefore, it is ultra Article 14 of the Constitution. The Taluka Development Officer has in the affidavit pointed out that a meeting of the village people of both the village was called on July 8, 1971 where the representatives mentioned therein who were the leaders of the two respective village had after due consideration decided upon the formation of three wards after considering the population figures as per the relevant Census report. These wards were thus agreed upon after detailed discussion in the presence of the respective leaders of the village and even one seat which was reserved in each ward was agreed upon. A report to that effect was submitted on 4-8-1971 by Taulkar Panchayat to the District Collector stating that looking to the social and economic backwardness of the village Nava Dhunia, a separate ward should be given to that village. It was also stated in the report that distance from Nava Dhunia to Khad--Khambhalia was more than 4 miles and that fact should not that be borne in mind. It was also, pointed out that since establishment of the Panchayat Raj, village Nava Dhunia was under joint Panchayat and that there was no voice of the village as the entire administration was carried out by Khad--Khambhalia which was in majority. The two village were already separate viz. Khata and Rakka and no getting independent Panchayat they had not got minimum 9 seats each. whereas this village Nava Dhunia was now giving only two seat on account of the fact that it was backward and because its population had decreased. It was also observed in the report that giving only two seats to Nava Dhunia would result in injustice and it was therefore, necessary that independent ward of 3 seats should be given to Nava Dhunia , if not as independent Panchayat so that proper representation can be given to this village which was socially and economically backward. Therefore, even though population principle has been substantially a borne in mind,. that being not the only criterion,. those historical facts were duly taken into account to given 3 seats by a separate ward to this village Nava Dhunia as per the relevant Government circular of August 18, 1962, which was annexed and which lays down guidelines in this connection.

2. Mr. Mehta has raised two points in this petition:--

(1) That Section 20 (1) is ultra vires Article 14 as it confers arbitrary and uncanalised power and as no opportunity of hearing is provided therein before right of the concerned voters are sought to be affected while notifying various election wards.

(2) That in any event the impugned notification violates the recognised principle to one person one vote and thereby denies equal treatment to all the voters by giving almost double weightage to the votes of the village Nava Dhunia as compared to the voters of the village Khad--Khambhalia and, therefore, in any even, the notification must be struck down under Article 14.

3. As regards the first question, an identical question has been concluded by the Division Bench consisting of the learned chief Justice and P. D. Desai, J. in the decision in Sp. C. A. No. 456 of 1971 dated July 26/17. 1971. (Guj) in the context of Section 452-A of the Bombay Provincial Municipal Corporation Act as amended by the 1970 amendment, The learned Chief Justice speaking for the Division Bench vehemently relied upon the decision in Jyoti Pershad Vs. The Administrator for The Union Territory of Delhi, and pointed out that it was not essential for the legislation to comply with the rule as to equal protection that the rules for the guidance of the designates authority which is to exercise the power or which is vested with the discretion should be laid down in express terms in the statutory provision itself. Such guidelines may be gathered from the circumstance that led to the enactment of the law in question. That is, the mischief that was intended to be remedied. the preamble of the Act. its scheme and provisions and even from surrounding circumstance and other well-known facts which may be brought to the notice of the Court. In the context of Section 452-A(1) in question, the learned Chief Justice pointed out that the object of the provision was to give representation to the newly included area on the Corporation and two mode were provided for giving such presentation. If the mode of election is adopted, there could be no doubt that the number of additional members to be elected from the included area must be proportionate to the population of such are. It was an elementary requirement of the principle underlying representation by elective process that each voter should be worth as much as another's . That principle has been judicially recognised by the United States Supreme Court in several decisions commencing from Wesberry v. Sanders, 376, US 1 = 11. L Ed. (Second Edition) 481 and there was no reason why it should not be accepted as a valid principle by our Courts.

It is fact a concomitant of the equality clause which frames the bed-rock of the great principle of rule of law enshrined in our Constitution. Even apart from the high policy of Constitutional law. It is difficult to see how a really representative body can be constituted by elective process unless every vote in given the same weight as any other. This requirement of the elective process necessarily involves acceptance to the principle that representation must be proportionate to the strength of the elector subject. of course, to any reservations which may have to

be made in order to protect the interests of the weaker section of the community. The numbers of additional councillors to be elected to represent the included areas which is required to be fixed on the basis of this objective standard. would have to be proportionate to the strength of voters in such area. The learned Chief Justice further pointed out in the contest of the section that the mode of appointment which was provided in that enactment being alternative to the mode of election and the object of both being to give representation to the included area, it was apparent that the same principle must also guide the fixation of the number of the additional members of the purpose of appointment. therefore, it was held that there were guidenlines provided by the Legislature to the State Government in from the are included. Even the power to select persons to be appointed as additional members was not held to be unguided or unregulated power. The legislature had provided in the enactment for both the modes of giving the representation by election and by appointment and had left it to the State Government to determine which should be adopted having regard to the exigencies of the situation and the object of the section. namely, to give proper and effective representation to the included area. such discretion could not be said held to be unguided or unregulated discretion as it had to be exercised for the purpose of effecting the object of the statutory provision and the State Government in making its choice between the two modes of giving representation would have to be guided by the principle that it must so act as to give the most effective representation to the included area in the circumstance of the case. The State Government would have to ask itself the question what in the circumstance of the case, would be the most effectivemode f giving and control the discretion of the State Government. In view of this settled principle we would have to consider the vires of the present section.

4. At this stage we would consider the relevant scheme of our Act. the preamble provides that it is an Act to consolidate and amend the law relating to village Panchayat and district local boards in the State of Gujarat with a view to reorganise the administration pertaining to local Government in furtherance of the object of the democratic decentralisation of powers in favour of difference classes of Panchayat. In Section 2 (23) "population" is defined as in relation to gram. nagar, talukar or district, to mean the population therefore as ascertained at the last pricing chance. Chapter II provided for establishment of Panchayat of three difference area viz. Gram Panchayat . Talukar Panchayat and District Panchayat . Section 8 provided for subordination of Panchayat amongst themselves and there powers, function and duties. Section 8 (3) in terms provides that subject to the control of the State Government and the competent authority -- (a) a gram panchayat shall be subordinate to the Talukar Panchayat and the District Panchayat Section 11 (1) profiles for the Panchayat organisation and the exercise of control over Panchayat by State Government sub-section (2) provides that the State Government shall exercise it control over the Panchayat either directly or though such officer of officer as it may by general or special order appoint for the purpose. Section 9 (1) provides that after

making such inquiry as may be prescribed that State Government may be notified in the Official Gazette. declare any local area comprising of a revenue village or a group of revenue villages or hamlets forming part of a revenue village or such other administrative unit or part thereof (b) to see a gram, if the population of such local area does not exceed 10,000. Section 9 (2) provides that after consultation with the Taluka Panchayat the District Panchayat and the nagar or gram panchayat concerned. the State Government may be like notified at any time declare the limits of gram by including or eliding from any nagar or gram and local area therefrom. Section 12 (1) provides that a Gram Panchayat shall subject to the provisions of sub-section (3) consist of such number of members, no less than 9 and not more than 15 as the district panchayat may determine elected from amongst the qualified voters of the gram. Section 12 (3) provides that out of the seats of members to be determined under sub-section (1):-- (a) two seats shall be reserved for women and (b) one more seat, or in the case of any gram if the State Government. having regard to the population of Scheduled castes in the gram, specifies more seats in this behalf, the seats so specified shall be reserved for Scheduled castes..... Therefore, u/s 12 (1) the numbers of members of the Gram Panchayat is to be fixed by the District Panchayat between these two limits of 9 and 15 for the every Gram Panchayat from amongst the qualified voters of Gram. Out of these, seats, two seats have to be reserved for women. u/s 12 (3) (a) and one more for scheduled castes of scheduled tribes. According 9 minimum seats have been notified for this Gram Panchayat which included 3 reserved seats as aforesaid. At this stage it may be noted that the so far as the Scheduled Castes or Scheduled Tribes reservation is concerned u/s 12 (3) (b) and (c) the population basis has been in terms mentioned in this relevant provision as per the guidelines given by the statute. The relevant provisions is Section 20 (1) which runs as under:--

"For the purposes of election to a gram panchayat and a nagar panchayat, each gram and nagar shall be divided into wards. The number of wards and the number of members to be elected from each ward shall be such as the competent authority may determine.

This Section 20 (1) is challenged as ultra vires on the ground that for delimitation of the electoral divisions, the section has conferred arbitration power on the competent authority without any guidelines. Applying the ratio laid down by the learned Chief Justice in the aforesaid decision even though guidelines are not express they are obviously to be implied looking to the salutary object of Section 20 (1), read with Section 12 (1), of giving representation by resorting to elective process. Such a representative local self Government unit when it is required to be constituted by elective process. that provision of elective process itself necessarily involves acceptance of the principle that representation must be proportional to the strength of the electorate, subject of course to any reservation which has to be made to protect interest of the weaker section of the community. Therefore the guidelines are implicit that in such elective process each

voter should be worth as much as another's so that there would be equal voting capacity of all the voters in this gram area constituting a local Self-Government unit. This principle would have to be followed as a necessary guideline looking to the scheme and object of this provision of giving representation to this population in this Panchayat unit by an elective process. The Act relies on bringing democracy to the doors of the village people. As pointed out in the preamble a large measure of democratic decentralisation of power had been sought to be achieved in favour of these Panchayats so that the Panchayat administration serves as a primary school of democracy by training people in a democratic way of life giving them an opportunity to participate effectively in the local self-Government. Therefore, according to this salutary purpose, the guideline of "one person -- one vote" which is the most effective mode of giving representation to the electorate would surely guide and control the discretion of the competent authority. Such power therefore, could never be said to be arbitrary and unguided. but it is a power therefore could never be said to be arbitrary unguided. but it is a power which has to be exercised as per the legislative mandate which is implicit in these provisions. If the competent authority takes into consideration any extraneous or relevant factor which defeats this statutory purpose and does not fix electoral wards in accordance with the statutory guidelines, the determination of the competent authority would be ultra vires the plain mandate of this provision of Section 20 (1) and would be subject to the writ jurisdiction of this Court.

5. Mr. Mehta, however, vehemently argued that there is no provision providing any opportunity to be heard. Mr. Mehta ignores the fundamental principle that an opportunity of hearing in accordance with the principle of natural justice is the requirement of exercise of a quasi-judicial power. Even in administrative power if decision is to be reached to the prejudice of the person affected or so as to impose on person affected or so as to impose on him serious civil or penal consequences, such a decision making function would have to be exercised in accordance with the principle of natural justice. However, it could never apply when there is no decision making function at all so as to affect any individual right. The power of the competent authority is a statutory power which has to be exercised as per the statutory guidelines so that the constituency can vote as required by the Act as the relevant statutory election. In such a function which is not a decision making function, there would be no question of any requirement of principle of natural justice. Therefore, no that scope Section 20 (1) could never be attacked. Therefore, the vires of this provision in Section 20 (1) could never be attacked on the ground that it is hit by Article 14. Equal treatment to the voters is implicit in the relevant guidelines and implicit in the relevant guidelines and therefore, the first ground raised by Mr. Mehta must obviously fail.

6. As regards the second question the material question which would arise is whether there can be a permissible deviation from the aforesaid recognised standard, which is to be followed in any election process, as far as it is possible.

any deviation would have to be justified as per the Constitutional provision. In the present case Mr. Mehta pointed out that the total population of 1380 souls of this group village in question had got 9 seats so that there was one seat for a population of 153 souls. On that basis, Nava Dhunia which has population of 241 would get only two seats including the reserved seat and the remaining seven seats should have gone Khad-khambhalia which has population of 1139. Even on the basis of 736 total voters, if there nine seat were to be distributed, the ratio would be of 83 of voters per seat. Therefore, 145 votes in Nava Dhunia would be entitled to get two seats out of nine; while 591 voters of Khad-khambhalia would be entitled to get seven seats. Mr. Mehta therefore, argued that the competent authority having allotted 3 seats no Nava Dhunia including reserved document seat, gave almost double weightage to Nava Dhunia voters. Mr. Mehta also supported his plea of prejudicial treatment of the voters of Khand-khambhalia by the alternative calculation submitted by him on the bias of the taking into consideration six general seats only on relation to the total number of population and total number of the voters as well. The same result is reached even on the basis of this alternative calculation. Therefore, it is not necessary in the present case to resolve the wider controversy as to how this ratio has to be worked out, whether by excluding the reserved seats and whether the ratio has to be applied to the population figure or to the voters figure. In any event, if the rule of one person one vote in to be strictly followed. Nava Dhunia could not by-law given separate ward of three seats, as on the aforesaid mathematical rule of uniformity Nava Dhunia be entitled to two seat only as against 7 seats, which would go to Khad-Khambhalia. The State Government therefore justified deviation on the ground not only of mere history but on the substantial legitimate ground that and peculiar circumstance and fact of this case justify this departure. If the salutary purpose of effective representation was to be secured to all the voters concerned. Therefore, the first question which has to be resolved is whether any such deviation can be constitutionally allowed. Mr. Mehta in this connection vehemently relied upon the decision in *Reynolds v. Sims* (1964) 377 US 533 :12 L. E 2. 506. At p. 536 Chief Justice Warren speaking for the majority in terms pointed out that if apportionment of seats was not on the equal population principle that would not necessarily mean that such a plan was irrational or involved something other than a "republican form of Government". Such a plan was impermissible for the State under the Equal Protection Clause. since perforce resulting. in virtually every case, in submergence of the equal-population principle. At p. 537 the learned Chief Justice further pointed out that history indicated, however that many States had deviated. to a greater or lesser degree. from the equal protection principle in the apportionment of seats in at least one house of their legislature. So long as the village divergence from a strict population standard were based on legitimate consideration incidental to the effectuation of a rational state policy, some deviation of from the equal-population principle are constitutionally permissible with respect to the apportionment of seats in either or both of the two house of a bicameral state legislature. But neither history alone, nor economic or other sorts of group

interest, are permissible factors in attempting to justify disparities from population based representation. Consideration of area alone provide an insufficient justification for deviations from the equal population principle. Again, people not land or trees or pastures vote. Modern development and improvements in transportation and communication made rather hollow in the mid-1960's most claims that deviate from population-based representation can validly be based solely on geographical considerations. At page 534 the learned Chief Justice had pointed out that federal allege was inapplicable as a sustaining precedent for state legislative apportionment's. It is one conceived out of compromise and concession indispensable to the establishment of federal republic. Even in the latest decision in Della Hadley v. Junior College District AIR 1971 SC 3 where Balck J. delivered majority oppose extending the principle of "one person one vote". to even a junior Collegiate District where trustees are to be elected by an elective process. it was in terms pointed out at page 6 that as a general rule whenever a state or local Government decides to select persons by popular election to perform Governmental functions, the Equal Protection Clause of the Fourteenth Amendment required that each qualified voter must be given an equal opportunity to participate in that election. and when members of an elected body were chosen from separate districts, each district must be established on a basis which would ensure. as far as is practicable that equal number of voters could vote for proportionally equal numbers of officials. At page 7 it was further pointed out that mathematical exactitude was not required but a plan that did not automatically discriminate in favour of certain districts was the material requirement. Further proceeding Black J. in terms pointed out : "In holding that the guarantee of equal voting strength for each voter applies in all elections of governmental officials. we do not feel that the States will be inhibited in finding ways to insure that legitimate political goals of representation are achieved. We have previously upheld against constitutional challenge an election scheme which required that candidates be residents of certain districts which did not contain equal numbers of people". Further illustrations were given where such deviations were held to be justified. "Viable local Governments may need many innovations, numerous combinations of old and new devices, great flexibility in municipal arrangements to meet changing urban conditions". There was nothing in the constitution to prevent experimentation". A rider was however added that once a state has decided to use the process of popular election and `once the class of voters is chosen and their qualifications specified. we see no constitutional way by which equality of voting power may be evaded". In the dissenting opinion Mr. Justice Harlan with whom the Chief Justice and Mr. Justice Stewart agreed, at page 7 it was pointed out that Reynolds established that rule for the apportionment of state legislatures. thereby denying States the right to take into account in the structuring of their legislatures any historical, geographical. economic or social considerations. or any of the other many practical and subtle factors that have always been recognised as playing a legitimate part in the practice of policies. At page 8 it was pointed out that the Court's rule was that "one man. one vote" applied only to local bodies having

general Governmental powers over the entire geographic area served by the body. Even the majority view had conceded that the States might use means other than apportionment "to insure that legitimate political goals of representation were achieved". The minority view then pointed out various reasonable state objectives or important countervailing interests which should not be sacrificed on the altar of numerical equality. At page 9 it was in terms pointed out that where there is participation of smaller and larger school districts in the joint formation of a junior college district. it represented a pragmatic choice by all concerned from among a number of possible courses of action. Insistence upon a simplistic mathematical formula as the measure of compliance with the Equal Protection Clause in all cases involving the electoral process had resulted in such cases in a total disregard of the salutary purposes underlying the statutory.

7. Mr. Mehta relying on the aforesaid majority view pointed out that mere history or geographical consideration would never be a justifying ground for such a deviation from the normal rule of 'one person one vote'. In the present case, however. it would be important to consider the relevant historical facts, particularly in the context of a village oriented society so that the legitimate political goal of representation was duly achieved. without in any manner sacrificing or submerging the one person one vote principle. For the last 20 years, the old Gram Panchayat was consisting of four villages Khad-khambhalia, Nava Dhunia, Khatia and Rakka which had its 11 seats distributed between them as 6:1:2 and 2 respectively. The old Group Gram Panchayat had passed an unanimous resolution to have separate Panchayats for all the four villages. Aspirations of the village people of Khatia and Rakka which had only two seats each, out of 11 in the old group Gram Panchayat, were fulfilled by having new independent Panchayats as per the population basis. They therefore got instead of 2, 9 seats when the new Grams were reconstituted. It is only this Nava Dhunia, whose aspirations were roused for an independent Panchayat as per the population vote expressed by unanimous resolution of the old Group Gram Panchayat that could not get an independent Panchayat by formation of a separate Gram Panchayat for this different administrative village unit. Therefore, when it was made the component of the new Group Gram Panchayat by joining it with Khad-khambhalia once again, this village entity which had its own aspirations had a rightful grievance and this legitimate grievance had to be considered so that when this union was ordered by the State Government by declaration u/s 9, it was given an effective representation in the new group Gram Panchayat. That is why even the leaders when they met from the two villages to ascertain the popular wishes in the meeting held on July 8, 1971. felt the injustice which would accrue to this Nava Dhunia villages, if it was not given a separate ward of 3 seats. It did not get an independent Panchayat of 9 members but it was considered just even by the leaders of both the villages that for keeping its proper representation Nava Dhunia must have a separate ward at least of 3 seats. Khad-khambhalia village had even in the older complex only 6

seats as against remaining 5 seats which were with three other component villages. Its representation now in the new group gram was to remain at the same level of six out of nine seats. and that is why these village-leaders agreed by a compromise and concession to meet the aspirations of this smaller component of Nava Dhunia by agreeing to its constitution as a separate ward of three seats. The only concession which was made by the Khadi-Khambhalia was of one seat which it would have got in addition to its old six seats even when the total number was now only nine. Therefore, this effective representation of Khad-khambhalia which had so substantially increased was not going to be diluted. As for the Nava Dhunia village, however, it was the question of its identity being completely lost, unless it was given some weightage so that its representation would be effective. In the affidavit of the State Government it is also pointed out that the fact was duly taken into account that Nava Dhunia was the village socially and economically backward as compared to Khad-khambhalia, and the further fact which was material in this connection was that Nava Dhunia was at a distance of four miles from Khad-khambhalia from where the entire administration of this group gram was carried on. considering these facts in the setting of our Indian villages, where there are no adequate facilities of modern transport. even these would be relevant factors. In any event, such historical facts by way of inherent dissimilarities existing in the two village entities would. in order to implement guarantee of equal voting, require additional weightage to be given to the smaller component when it was linked with a larger one. Such considerations which are legitimate and relevant to the effectuation of a rational state policy of giving effective representation by effective participation of the smaller component village people would surely permit a deviation from the normal mathematical rule of one person one vote. We should also keep in mind that our Article 14 does not embrace the wide due process guarantee of the American Fourteenth Amendment Equal Protection Clause and it has been interpreted as always justifying on historical ground a prejudicial treatment. In *R. L. Wadhwa v. State of Haryana*. AIR 1972 SC 1982, in the larger Bench of seven Judges, in the majority judgment of His Lordship Shelat. J. it is in terms pointed out that if through historical reasons the teachers had remained in two separate categories, the classification of the provincialised teachers into a separate cadre could not be said it infringe Article 14 or Article 16. It is true that in the minority decision by his Lordship Beg. J. at page 2015 it is in terms held that it was not enough to hold that there was. in the fact, a classification of the teachers into two cadres by finding that "the two services started dissimilarity and continued dissimilarity" in any respect. or that members of either of the two cadres were, for purely historical reasons, differently treated in any matter whatsoever in the past. These differences might be very relevant for some purposes. These largely accidental dissimilarities which had almost evaporated and disappeared were put forward only to justify a difference made in the promotional chances of of the two cadres. Such difference should never be conserved as material so far as the promotion was concerned as the relevant differences for such classification would be those which affect the competence and qualification of a teacher as a teacher

as compared with others discharging a highly responsible duty or trust. Therefore, it is settled legal position so far as our Article 14 is concerned that such historical background of inherent dissimilarities would surely be the relevant factors as that is the majority view in our country. Besides, the guideline which is furnished by one person - one vote rule which is to be applied as far as possible, subject to any reservation for weaker section, would have to be applied subject to any such permissible constitutional deviations which would be justified by fact as and circumstances of any individual case. The guideline having been evolved to serve the statutory purpose so as to guarantee equal voting power to the voters it is obvious that if deviation has got to be made by competent authority for purpose of giving effective representation to secure effective participation of smaller component village units and if such power is exercised at an initial stage when such unequal units are joined together so as to ensure co-operation between them, the deviation would always be constitutionally permissible. Such a deviation would really make effective the constitutional guarantee of equal voting power, as otherwise be likely to be felt in the larger whole. Unless it was given some additional weightage, its voice would be drowned completely. We can never forget in our Indian Society the salient feature of its being village-oriented so that each village retains its identity by which it is animated in all its aspirations. That is why more appropriate would be the federal analogy in such cases where some compromise or concession is inherent in such a situation. In the present case even the village leaders of both the villages had on the earlier occasion in the joint meeting concurred in this plan and, therefore, when the competent authority issued this relevant notification forming election wards, it was merely giving effect to the popular wishes in such a way that both the components got the real guarantee of equal voting, as far as it was feasible, in the peculiar circumstances of the case. Therefore, in the context of the facts and circumstances of the case, this small deviation by giving one seat to Nava Dhunia village so as to complete it as a separate ward of three minimum seats, when its aspirations for an independent Panjayat could not be fulfilled, was permissible deviation and there was no violation of equal voting treatment as envisaged in Article 14 in the present case. This was not a case of submergence of the population principle but giving effect to it, with a small, inconsequential deviation, so as to chive the legitimate political goal of presentation of this smaller village component. The State Government's relevant circular, which is annexed to the affidavit dated August 18, 1962, even adopts population basis as the relevant test for fixing various electoral wards, because in Para 4 (i) it is provided that seats should be allotted to the electoral division on a population basis. In para 4 (ii) it is provided that no electoral division should ordinarily have more than four seats and less than three seats. Only in exceptional cases an electoral division may have only one or two seats. That is why in the present case this separate ward and some additional weightage of three minimum seats was rightly given to Nava Dhunia village, Therefore, the petitioner's attack on the impugned notification on the aforesaid two grounds must obviously fail. In the circumstances, it is not necessary to go into the contention of Mr. Dave that

without joining the person affected from Nava dhunia village such a petition was not legally competent, on which we do not express any opinion.

8. In the result this petition fails and the rule is discharged with no order as to costs in the circumstances of the case.

9. Petition dismissed.