

(2013) 04 P&H CK 0133
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 7992 of 2013

Ikbal Singh and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 12-04-2013

Acts Referred:

Punjab Panchayati Raj Act, 1994 — Section 3

Citation : (2014) 1 PLR 40 : (2013) 2 RCR(Civil) 917

Hon'ble Judges : Surya Kant, J;R.P. Nagrath, J

Bench : Division Bench

Advocate : Rajeev Anand, for the Appellant; Munisha Gandhi, Additional AG, Punjab, for the Respondent

Judgement

Surya Kant, J.—Notice of motion. Ms. Munisha Gandhi, learned Additional Advocate General, Punjab, accepts notice on behalf of the respondents.

2. Let five copies of the writ petition be supplied to the learned State counsel during the course of day failing which the order shall be automatically recalled and the writ petition shall be deemed to have been dismissed for non-prosecution.

3. In view of the nature of order which we propose to pass, there is no need to seek any counter-reply from the respondents at this stage.

4. This may be 4th or 5th writ petition raising claim and counter-claim for inclusion/exclusion of village "Bir Amloh" from municipal limits of Municipal Council, Amloh, District Fatehgarh Sahib. We take judicial notice of the fact that Municipal Council, Amloh as also some residents of village Bir Amloh, including the petitioners want the inclusion of village Bir Amloh Hadbast No. 27 within municipal area of Municipal Council, Amloh while the others including some religious persons who had approached the Court earlier, want a separate gram panchayat for village Bir Amloh to be constituted in terms of Section 3 of the Punjab Panchayati Raj Act, 1994.

5. The inclusion or exclusion of an area within municipal limits or constitution of a gram panchayat would not per se come within the ambit of a writ Court though the statutory procedure required to be followed by the Competent Authority for such determination undoubtedly falls within the ambit of judicial review. Keeping these limitations in mind, we have refrained ourselves from expressing any views on merits while directing the authorities to take an appropriate decision in the matter in accordance with law.

6. It further appears to us that the State Government/District Administration has failed to take into consideration the aspirations or interest of residents of the area and apparently no transparent procedure was followed while issuing the notifications dated 12.11.2012 (Annexure P-3) by the Local Government Department, Punjab and 26.11.2012 (Annexure P-4) by the Department of Rural Development and Panchayats, Punjab. Both these notifications indeed demonstrate that left hand does not know what the right hand is doing.

7. Since two contradictory notifications have been issued by two different departments of the State Government, in our considered view, the immediate remedial measures are required to be taken at the highest level in the State Government. Consequently, we dispose of this writ petition with a direction to the Chief Secretary, Government of Punjab, to immediately convene a meeting to be attended by the Secretaries of Department of Local Bodies and Department of Rural Development and Panchayats, Punjab and other concerned authorities, ascertain the will of the residents of the area and then take an appropriate decision after giving opportunity of hearing to various stake holders, may be in representative capacity. Till such decision is taken by the State Government, both the notifications (Annexures P-3 & P-4) shall remain in abeyance. In case the authorities find that there is any conflict between the directions issued herein-above or those passed in earlier cases pertaining to Village Bir Amloh/Municipal Council, Amloh, this order shall amount to modification of the previous orders. The State Government is directed to take an appropriate decision within a period of one month from the date of receiving a certified copy of this order.

8. Ordered accordingly. Let a copy of this order be given dasti to Ms. Munisha Gandhi, learned Additional Advocate General, Punjab, for information and necessary compliance.

Dasti.