
(2013) 08 P&H CK 0558

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 18310 of 2013 (O and M)

Jagan Nath and Another

APPELLANT

Vs

The State of Punjab and Others

RESPONDENT

Date of Decision : 21-08-2013

Acts Referred:

Constitution of India, 1950 — Article 226
Punjab Municipal Act, 1911 — Section 4

Citation : (2013) 08 P&H CK 0558

Hon'ble Judges : Sanjay Kishan Kaul, C.J.; Augustine George Masih, J

Bench : Division Bench

Advocate : Anil Kumar Garg, for the Appellant;

Final Decision : Dismissed

Judgement

Sanjay Kishan Kaul, C.J.—An identical controversy having been raked up in the above-mentioned three petitions, the same are heard together and are being decided by the common order. A public notice was issued on 9.4.2013 by the office of Municipal Council of the Sri Anandpur Sahib informing that a notification dated 28.3.2012 had been issued by the Principal Secretary, Government of Punjab, Local Bodies Department, Chandigarh for making Nurpur Bedi as Nagar Panchayat in which village Saini Majra, Hadbast No. 395 and Village Nurpur Kalan, Hadbast No. 394 had been included. Objections were invited regarding the same within 30 days of the notification.

2. The objections were filed by the petitioners. These objections, undisputedly, had to be within the parameters of Section 4 of the Punjab Municipal Act, 1911 (hereinafter referred to as "the said Act"). The relevant portion of the provisions reads as under:-

4. Specification of Local areas to be smaller urban areas or transitional areas and constitution of Municipal Councils and Nagar Panchayats. (1) the State Government may, having regard to population of the area the density of the

population therein, the revenue generated for local administration the percentage of employment in non-agricultural activities, the economic importance or such other factors, as it may deem fit, specify, by notification in the Official Gazette, any area to be a transitional area or a smaller urban area for the purposes of this Act.

3. In terms of the objections dated 21.4.2013, primarily, it has been stated that the village is purely agricultural with no industry. There is no shamlat land with the Gram Panchayat for common purposes and no source of income. The population is also stated to be very less and the financial position of the persons is weak who cannot pay house tax. There is stated to be no Grain Market and vegetable market. These objections were, however, not accepted and a notification was issued on 30.5.2013 constituting the Nagar Panchayat, Nurpur Bedi as per boundaries specified therein. The notification records that opportunity of personal hearing was granted to the objectors.

4. Learned counsel for the petitioners submits that no reasons have been set out for rejecting the objections. For this purpose reliance has been placed on the notification. In our view, the notification itself does not have to necessarily give reasons and, in any case, if we see the objections made vide Annexure P-2, it is obvious that it is the opinion of the petitioners that the financial situation in the village is such which does not call for constitution of a Nagar Panchayat, which has not been accepted. It is conceded that lack of population has been made up by including certain other areas having regard to density of population. In fact, u/s 4 of the said Act, the possibility was of constituting both Municipal Council and Nagar Panchayat and keeping in mind the economic status of the areas concerned, only the Nagar Panchayats have been constituted. This is in terms of Sub-section (2) of Section 4 of the said Act which reads as under:-

(2) Where an area is specified as a transitional area or as a small urban area under sub-section (1), the State Government may, by notification in the Official Gazette, constitute for the transitional area so specified a Nagar Panchayat and for the smaller urban area so specified a Municipal Council of the first class, second class or third class.

Provided that the State Government may, after consulting the Municipal Council by notification change its classification from one class to another

The aforesaid, thus, envisages the transitional area to be specified as Nagar Panchayat.

5. Another interesting argument advanced by learned counsel for the petitioners is that there are number of State and Central Governments employees staying in these areas who get a rural allowance and they would not be granted such allowance in view of declaration of Nagar Panchayat. The decision of the respondent-authorities cannot be based on the Government employees wanting an extra allowance by residing in the villages.

6. We, thus, find no reason to interfere in exercise of our extraordinary jurisdiction under Article 226 of the Constitution of India. Dismissed.