

(2023) 09 SHI CK 0039

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 5298 Of 2021

Jan Kalyan Sangharsh Samiti

APPELLANT

Vs

State Of Himachal Pradesh

RESPONDENT

Date of Decision : 18-09-2023

Acts Referred:

Constitution Of India, 1950 — Article 14
Code Of Civil Procedure, 1908 — Section 151

Citation : (2023) 09 SHI CK 0039

Hon'ble Judges : Rakesh Kainthla, J

Bench : Single Bench

Advocate : J.L. Bhardwaj, .Sanjay Bhardwaj, Anup Rattan, Navlesh Verma, Prashant Sen

Final Decision : Dismissed

Judgement

Rakesh Kainthla, J

1.The petitioner has filed the present petition seeking a writ of certiorari for quashing the Notification dated 24.08.2021 issued by the respondent-State creating Sub-Tehsil Bagshad, Tehsil Karsog, District Mandi by including the Patwar Circles mentioned at Sr. No. 12 to 16 and a writ of mandamus directing the respondent-State to create Sub-Tehsil Tattapani and include aforesaid Patwar Circles under Sub-Tehsil Tattapani.

2. It is asserted that petitioner-Samiti was formed by the residents of Gram Panchayats Bindla, Parlog, Shakra, Thali, Sahaj, Savindhar and Tattapani on 7.8.2021 for raising the issue of opening of Sub Tehsil at Tattapani. A request was made to the Chief Minister of Himachal Pradesh to open Sub-Tehsil at Tattapani. However, Sub Tehsil, Bagshad was created vide Notification dated 24.8.2021. five Patwar Circles, namely, Tattapani, Shakra, Talaihan, Savindhar and Parlog were included in Sub Tehsil Bagshad. The representation made by the petitioner-Samiti was not considered by the State Government.

3. The State Government had set up a Camp Office at Tehsil Karsog at Tattapani, vide order dated 10.8.2018 issued by Additional Chief Secretary-cum-F.C. (Revenue) to the Government of H.P. Tehsildar Karsog used to attend the Camp Office at Tattapani on every Monday. Tehsildar was undertaking many works of public importance while sitting at Tattapani.

There is already a Sub-Tehsil at Pangna and the new Tehsil to be notified at Bagshad is just 30 Kilometers from Tehsil Headquarters Karsog. The Gram Panchayat, Tattapani sent a representation stating that the residents of adjoining Gram Panchayats, Tattapani had to visit the headquarters at a distance of 55 kilometres. The people were facing various difficulties and the State Government issued an office order dated 10.8.2018 directing the holding of the Camp Office at Tattapani to ameliorate the suffering of the people. Tattapani is the most appropriate place to create the Sub-Tehsil, as it is located at a distance of 54 kilometres from Headquarters Karsog and it will benefit the people of the adjoining area. The residents of Gram Panchayat, Parlog will have to travel a distance of 60 kilometres to Bagshad and the residents of Gram Panchayat, Bindla will have to travel a distance of 48 kilometres. This will cause difficulty for the people. Tattapani does not have any office of public importance, although, it is a famous place. Therefore, the present writ petition was filed to seek the relief mentioned above.

4. The writ petition was opposed by filing a reply taking preliminary objections regarding lack of maintainability and cause of action. It was asserted that there was a demand from the people of Gram Panchayats Savindhar, Jassal, Tattapani, Shakra, Thalli, Bagshad, Kahno, Kanda, Balindi, Kheel, Kandi-Sapnot, Mehran, Sawamahun for creation of new Sub-Tehsil at Bagshad. The Chief Minister of Himachal Pradesh announced the opening of the New Sub Tehsil at Bagshad. This announcement was ratified by the Cabinet. It was further directed that the Camp Office would be held at Tattapani for a week every month. The petitioner-Samiti is illegal and is not registered under the Statutory Act/Rules. It is not competent to maintain the present writ petition. The entire area of Kanungo Circle, Bagshad and Churag (Riunsi) has been included in the newly created Bagshad Sub Tehsil. The areas mentioned in the petition fall within the jurisdiction of Kanungo Circle Bagshad. In case, the areas are excluded, a new Kanoongo Circle will have to be created at Tattapani, which is not justified because of the geographical conditions, departmental norms and additional financial liability involved. As per norms, a Kanungo Circle can be created with a minimum of 6 Patwar Circles. Gram Panchayat, Parlog had requested on 26.8.2021 that Patwar Circle, Parlog be included in Tehsil Karsog. The Camp Office at Tattapani has been extended for a week instead of four days which will benefit the public at large. The distance of Panchayat mentioned by the petitioner in the writ petition will be considerably reduced. The apprehension that the Camp Office would be closed is without any basis; hence, it was prayed that the present petition be dismissed.

5. A rejoinder denying the contents of the reply and affirming those of the

petition was filed. It was asserted that Gram Panchayat Shaindal (Dhaini) passed a resolution for including Patwar Circle, Sawamahun in Tehsil Karsog. Similarly, Gram Panchayat Manaula, Narash, passed a resolution on 25.8.2021 requesting that Patwar Circle, Riunshi be removed from Sub Tehsil Bagshad and retained in Tehsil Karsog. Gram Panchayat Bakhraut also passed a resolution for the inclusion of Patwar Circle Bakhrot in Tehsil Karsog. Gram Panchayat Matehal also resolved on 27.8.2021 to include the revenue village Marandi in Tehsil Karsog. These resolutions were also forwarded to the Deputy Commissioner, Mandi. The Government has not considered these representations. There is no bank or police post at Sub-Tehsil Bagshad. Sub-Tehsil Bagshad is also located at a distance of 5 kilometres from the road; hence, it was prayed that the writ petition be allowed.

6. An application under Section 151 of CPC was filed for placing on record a Notification dated 01.06.2022 issued by the State Government modifying the Notification issued earlier.

7. Sh. Anup Rattan, learned Advocate General stated that he did not intend to file any reply to the application and has no objection to allowing the application. Hence, the application is allowed and the notification is permitted to be placed on record.

8. I have heard Sh. J.L. Bhardwaj, learned Senior Counsel assisted by Mr.Sanjay Bhardwaj, learned counsel for the petitioner and Sh.Anup Rattan, learned Advocate General with Mr.Navlesh Verma, Additional Advocate General and Sh.Prashant Sen, Deputy Advocate General, for the State.

9. Sh. J.L Bhardwaj learned Senior Counsel for the petitioner relied upon the judgment of Hon'ble Supreme Court in Haryana SIIDC limited versus Ashish Jain 2023 SCC Online SC 995, to submit that judicial review of the public policy is permissible, when the decision is arbitrary, irrational and disproportionate. In the present case, the State Government had issued a notification on 01.06.2022 excluding Patwar Circles Parlog, Sartyola, Swanmahun, and Bakhraut from Sub Tehsil Bagshad, which shows that the original notification issued by the State Government was arbitrary and that is why an amendment had to be made in it. The constitution of Sub-Tehsil, Bagshad will lead to the inconvenience of the people surrounding Tattapani; therefore, the notification be quashed and a direction be issued to constitute a Sub-Tehsil at Tattapani.

10. Sh.Anup Rattan, learned Advocate General for the respondent submitted that the petitioner has no locus standi to file the present petition. It is not even a registered Society and has not specified its members; therefore, the petition is liable to be dismissed on this short ground alone. He submitted that the distance of the Gram Panchayat for whose benefit the present writ petition has been filed was further reduced by the constitution of the Sub-Tehsil at Bagshad. Representations were received from various Gram Panchayats and the area falling within the jurisdiction of Sub-Tehsil Bagshad has been rationalized to ensure convenience to the general public. The Tehsil Office will run at Tattapani

for one week instead of four days and there will be no convenience to any person. The present writ petition does not disclose any violation of the fundamental rights; hence, he prayed that the present petition be dismissed.

11. I have given considerable thought to the rival submissions and at the bar and have gone through the records carefully.

12. Para 1 of the writ petition reads that the petitioner Samiti was formed by the residents of Gram Panchayat Bindla, Parlog, Shakra, Thali, Sahaj, Savintha and Tattapani for raising the issue for the opening of Sub-Tehsil at Tattapani. Copy of the proceedings of the General House (Annexure P-2) shows that the members listed at Sr. Nos. 1,2,4,5,8,17, 19 to 23 are the residents of Post Office Tattapani. The members at Sr. No. 3 and 15 are the residents of Shakra and the member at Sr. No.9 is the resident of Village Bindla. There is no member of Thali, Savindhar and Sahaj. It has also not shown that this Samiti is a registered Society. The writ petition has been instituted by Samiti as pro bono publico to agitate the grievances of the residents of 7 Panchayats as per Para 3 of the writ petition. It was laid down by this Court in *Ajnes Kumar vs. State of H.P and others* 2016 (4) Himachal Law Reporter 1984, that the real and genuine public interest is to be involved in litigation and there must be a concrete and credible basis for maintaining a cause before the Court. Only a person acting bona fide and having sufficient interest will have a locus standi to approach the Court. It was held:

"20. It is more than settled that merely because a petition is styled as a Public Interest Litigation but in fact is nothing more than a camouflage to foster personal disputes or vendetta and the petitioner in fact is a proxy litigant the same cannot be regarded as a Public Interest Litigation. There has to be a real and genuine public interest involved in litigation and there must be a concrete and credible basis for maintaining a cause before the Court and not merely an adventure of knight errant borne out of wishful thinking. Only a person acting bona fide and having sufficient interest in the proceedings of PIL will alone have a locusstandi and can approach the Court to wipe out the tears of the poor and needy, suffering from violation of their fundamental rights, but not a person(s) for personal gain or private profit or any other oblique consideration.

21. Public Interest Litigation is a weapon that has to be used with great care and circumspection and the Judiciary has to be extremely careful to see that behind the beautiful veil of public interest ugly private malice, vested interest and/or public interest seeking is not lurking. It is to be used as an effective weapon in the armoury of law for delivering social justice to the citizens.

22. The attractive brand name of Public Interest Litigation cannot be allowed to be used for suspicious products of mischief. This has so been held by the Hon'ble Supreme Court in its various pronouncements and the same have been repeatedly reiterated and followed by this Court in a batch of writ petitions, CWP No.7249/2010 titled '*Devinder Chauhan Jaita v. State of Himachal Pradesh and others*', being lead case, decided on 03.12.2014, another batch of writ petitions,

CWP No.9480/2014 titled 'Vijay Kumar Gupta v. State of Himachal Pradesh and others', being the lead case, decided on 09.01.2015, CWP No.2775/2015 titled 'Anurag Sharma and another v. State of Himachal Pradesh and others', decided on 07.07.2015, CWP No.328 of 2016 titled 'Lala Ram and others v. State of H.P. and others', decided on 01.03.2016, CWP No.4838 of 2015 titled 'Ali Mohammed v. State of H.P. and others', decided on 16.03.2016, CWP No.4240 of 2015 titled 'Om Prakash Sharma v. State of H.P. and others', decided on 19.04.2016 and CWP No.3131 of 2014, titled 'Dr. J.S. Chauhan v. State of H.P. and others' decided on 06.05.2016.

23. The issue regarding public interest litigation has elaborately been dealt with by this Bench in CWP No.9480 of 2014, titled 'Vijay Kumar Gupta v. State of H.P. and others', decided on 09.01.2015 (supra) and after taking into consideration the entire law on this subject this Court laid down the following parameters for permitting litigation in public interest:-

"29. From the aforesaid exposition of the law, it can safely be concluded that the Court would allow litigation in public interest only if it is found:-

(i) That the impugned action is violative of any of the rights enshrined in Part III of the Constitution of India or any other legal right and relief is sought for its enforcement;

(ii) That the action complained of is palpably illegal or malafide and affects the group of persons who are not in a position to protect their own interest or on account of poverty, incapacity or ignorance;

(iii) That the person or a group of persons were approaching the Court in the public interest for redressal of public injury arising from the breach of public duty or from violation of some provision of the Constitutional law;

(iv) That such person or group of persons is not a busybody or a meddlesome inter-loper and have not approached with mala fide intention of vindicating their personal vengeance or grievance;

(v) That the process of public interest litigation was not being abused by politicians or other busy bodies for political or unrelated objective. Every default on the part of the State or Public Authority being not justiciable in such litigation;

(vi) That the litigation initiated in the public interest was such that if not remedied or prevented would weaken the faith of the common man in the institution of the judicial and the democratic set-up of the country;

(vii) That the State action was being tried to be covered under the carpet and intended to be thrown out on technicalities;

(viii) Public interest litigation may be initiated either upon a petition filed or on the basis of a letter or other information received but upon satisfaction that the information laid before the Court was of such a nature which required examination;

(ix) That the person approaching the Court has come with clean hands, clean heart and clean objectives;

(x) That before taking any action in the public interest the Court must be satisfied that its forum was not being misused by any unscrupulous litigant, politicians, busybody or persons of groups with mala fide objective or either for the vindication of their personal grievance or by resorting to black-mailing or considerations extraneous to the public interest."

24. It would thus be clear that public interest litigation can only be entertained at the instance of a bona fide litigant and cannot be used by unscrupulous litigants to disguise personal or individual grievances as public interest litigation. The instant petition fails to qualify the above parameters. "

13. The petitioner has annexed the resolution of Gram Panchayat, Parlog (Annexure P- 5/T) resolving the creation of Sub-Tehsil at Tattapani. Gram Panchayat, Thali also passed resolution (Annexure P-8/T) to the same effect. The respondents have annexed a resolution passed by Gram Panchayats Kahnu, Kandha, Balindi, Sawamahun, Mehran, Kandi, Sapnot, Churag, Kheel, Bagshad, Tattapani, Shakra, Savindhar (Annexure R-1/T colly) resolving the opening of Sub-Tehsil at Bagshad. This clearly shows that the majority of the Gram Panchayats support the opening of the Sub-Tehsil at Bagshad, whereas, only the Gram Panchayats Thali and Parlog demanded the opening of the Sub-Tehsil at Tattapani. Thus, the public interest does not appear to be in favour of the petitioner.

14. It was submitted that the State Government issued a Notification on 1.6.2022 excluding Patwar Circles Parlog, Sartyola, Swanmahun and Bakhraut, which shows that there was no public interest in opening the Sub-Tehsil at Bagshad. The respondents annexed the resolution passed by Gram Panchayat, Parlog (Ext. R-2/T) requesting that Patwar Circle Parlog be shifted to Tehsil Karsog. Similarly, the petitioner-Samiti filed different resolutions passed by Gram Panchayat Shaindal (Dhaini) requesting the shifting of Patwar Circle, Swanmahun, Gram Panchayat, Manola, Nararh requesting the shifting of Gram Patwar Circle, Riunshi, Gram Panchayat, Bakhrot regarding shifting of Patwar Circle Bakhrot, and Gram Panchayat, Matehal regarding shifting the Patwar Circle Marandi. If the State Government acceded to some of these representations and excluded the Patwar Circles mentioned in the representations, it cannot be said that there was some arbitrariness in the inclusion of these villages in Patwar Circle Bagshad. Gram Panchayats expressed their difficulties and the Govt. accepted this position.

15. Opening of Sub-Tehsil or offices is a matter of policy which the State Government has to decide after considering various factors. It was laid down in the Joint Action Committee of Airlines Pilots Associations of India & Ors vs. Director General of Civil Aviation and others (2011) 5 SCC 435 = AIR 2011 SC 2220, that public authorities must be given a very long rope, full freedom and

full liberty in framing the policies. The Court should only act when it is arbitrary, unreasonable or violative of statutory provisions. It was observed:

"31. It is a question of challenging the public policy and it is well settled that public authorities must be given a very long rope, full freedom and full liberty in framing policies, though the discretion of the authorities cannot be absolute and unqualified, unfettered or uncanalised. The same can be the subject matter of judicial scrutiny only in exceptional circumstances where it can be shown to be arbitrary, unreasonable or violative of the statutory provisions. More so, the courts are not well equipped to deal with technical matters, particularly, where the decisions are based on purely hyper-technical issues. The court may not be able to consider competing claims and conflicting interests and conclude on which way the balance tilts."

16. Even this Court had taken a similar view in *Batt Educational Society versus State of H.P. and others*, 2023 STPL 4379 HP and held:

"6. It is more than a settled proposition of law that the Court should refrain from interfering with the policy decision unless a policy decision taken by the government is demonstratively capricious or arbitrary or suffers from the vice of discrimination or infringes any statutes or provisions of the constitution.

7. It is also well settled that the Courts in exercise of their power of judicial review do not ordinarily interfere with the policy decision of the executive unless the policy can be faulted on grounds of malafide, unreasonableness, arbitrariness or unfairness. Indeed, arbitrariness, irrationality, perversity and malafide will render the policy unconstitutional. It is neither within the domain of the Courts nor the scope of judicial review to embark upon an inquiry as to whether a particular policy is vice or whether better public policy can be involved. Nor are the Courts inclined to strike down the policy at the behest of the petitioner, merely because it has been urged that a different policy could have been fairer or wiser or more scientific or more logical.

8. Courts do not and cannot act as an appellate authority examining the correctness, suitability and appropriateness of a policy, nor do the courts advise the executive on matters of policy which the executive is entitled to formulate.

9. The scope of judicial review when examining the policy of the government is to check whether it violates the fundamental rights of the citizen, is opposed to any statutory provisions or is manifestly arbitrary.

10. The *raison d'être* of discretionary power is that it promotes the decision-maker to respond appropriately to the demands of a particular situation. When the decision-making is policy-based, the judicial approach to interfere with such decision making becomes narrower. In such cases, in the first instance, it is to be examined as to whether the policy in question is contrary to any statutory provisions or is discriminatory/arbitrary or based on irrelevant considerations. If the particular policy satisfies these parameters and is held to be valid, then the

only question to be examined is as to whether the decision in question is in conformity with the said policy."

17. Similarly, it was held in *Villianur Iyarkkai Padukappu Maiyam versus Union of India and others*, 2009(7) SCC 561 that, the scope of judicial review is quite limited in the matter of policy decision; unless the decision is shown to be contrary to any statutory provision of the Constitution, the Court will not interfere with the policy decision. It was observed:

"167. In the matter of policy decisions and economic tests, the scope of judicial review is very limited. Unless the decision is shown to be contrary to any statutory provision or the Constitution, the Court would not interfere with an economic decision taken by the State. The court cannot examine the relative merits of different economic policies and cannot strike down the same merely on the ground that another policy would have been fairer and better.

168. In a democracy, it is the prerogative of each elected Government to follow its own policy. Often a change in Government may result in a shift in focus or change in economic policies. Any such change may result in adversely affecting some vested interests. Unless any illegality is committed in the execution of the policy or the same is contrary to law or malafide, a decision bringing about change cannot per se be interfered with by the court.

169. It is neither within the domain of the courts nor the scope of judicial review to embark upon an enquiry as to whether a particular public policy is wise or whether better public policy can be evolved. Nor are the courts inclined to strike down a policy at the behest of a petitioner merely because it has been urged that a different policy would have been fairer or wiser or more scientific or more logical. Wisdom and advisability of economic policy are ordinarily not amenable to judicial review. In matters relating to economic issues the Government has, while making a decision, the right to "trial and error" as long as both trial and error are bona fide and within the limits of the authority. For testing the correctness of a policy, the appropriate forum is Parliament and not the courts.

170. Normally, there is always a presumption that the Governmental action is reasonable and in public interest and it is for the party challenging its validity to show that it is wanting in reasonableness or is not informed with public interest. This burden is a heavy one and it has to be discharged to the satisfaction of the court by proper and adequate material. The court cannot lightly assume that the action taken by the Government is unreasonable or against the public interest because there are a large number of considerations, which necessarily weigh with the Government in taking an action.

171. In a case like this where the State is allocating resources such as water, power, raw materials, etc. for the purpose of encouraging the development of the port, this Court does not think that the State is bound to advertise and tell the people that it wants development of the Port in a particular manner and invite those interested to come up with proposals for the purpose. The State may

choose to do so if it thinks fit and in a given situation it may turn out to be advantageous for the State to do so, but if any private party comes before the State and offers to develop the port, the State would not be committing breach of any constitutional obligation if it negotiates with such a party and agrees to provide resources and other facilities for the purpose of development of the port.”

18. Even in the judgment cited by learned counsel for the petitioner, it was held that the Court will not interfere with the administrative decision unless the same is found to be arbitrary, irrational and disproportionate. It was observed:

“25. It would be pertinent to note certain principles that emerge from a long list of illustrious cases. In *Tata Cellular v. Union of India*, (1994) 6 SCC 651 (77), the Court held:

“77. Shortly put, the grounds upon which an administrative action is subject to control by judicial review can be classified as under:

(i) Illegality: This means the decision-maker must understand correctly the law that regulates his decision-making power and must give effect to it.

(ii) Irrationality, namely, *Wednesbury* unreasonableness.

(iii) Procedural impropriety.

The above are only the broad grounds but it does not rule out the addition of further grounds in course of time.”

26. In *Jagdish Mandal v. State of Orissa*, (2007) 14 SCC 517 (22), the Court made some pertinent observations, as stated herein:

“22. Judicial review of administrative action is intended to prevent arbitrariness, irrationality, unreasonableness, bias and mala fides. Its purpose is to check whether a choice or decision is made “lawfully” and not to check whether a choice or decision is “sound”.

. If the decision relating to the award of the contract is bona fide and is in the public interest, courts will not, in the exercise of power of judicial review, interfere even if a procedural aberration or error in assessment or prejudice to a tenderer, is made out. The power of judicial review will not be permitted to be invoked to protect private interest at the cost of public interest, or to decide contractual disputes.

. Therefore, a court before interfering in tender or contractual matters in the exercise of power of judicial review, should pose to itself the following questions:

(i) Whether the process adopted or decision made by the authority is mala fide or intended to favour someone;

OR

Whether the process adopted or decision made is so arbitrary and irrational that the court can say: "the decision is such that no responsible authority acting reasonably and in accordance with relevant law could have reached";

(ii) Whether public interest is affected.

If the answers are in the negative, there should be no interference under Article 226."

27. Similarly, In *Silppi Constructions Contractors v. Union of India*, (2020) 16 SCC 489 (19), the Court held:

"19. This Court being the guardian of fundamental rights is duty-bound to interfere when there is arbitrariness, irrationality, mala fides and bias. However, this Court in all the aforesaid decisions has cautioned time and again that courts should exercise a lot of restraint while exercising their powers of judicial review in contractual or commercial matters. This Court is normally loathe to interfere in contractual matters unless a clear-cut case of arbitrariness or mala fides or bias or irrationality is made out."

28. It is also pertinent to point out that the Court has held in the *Union of India v. International Trading Co.*, (2003) 5 SCC 437 (14-15):

"14. It is trite law that Article 14 of the Constitution applies also to matters of governmental policy and if the policy or any action of the Government, even in contractual matters, fails to satisfy the test of reasonableness, it would be unconstitutional.

15. While the discretion to change the policy in the exercise of the executive power, when not trammelled by any statute or rule is wide enough, what is imperative and implicit in terms of Article

14 is that a change in policy must be made fairly and should not give the impression that it was so done arbitrarily or by any ulterior criteria. The wide sweep of Article 14 and the requirement of every State action qualifying for its validity on this touchstone irrespective of the field of activity of the State is an accepted tenet. The basic requirement of Article 14 is fairness in action by the State, and non-arbitrariness in essence and substance is the heartbeat of fair play. Actions are amenable, in the panorama of judicial review only to the extent that the State must act validly for a discernible reason, not whimsically for any ulterior purpose. The meaning and true import and concept of arbitrariness are more easily visualized than precisely defined. The question whether the impugned action is arbitrary or not is to be ultimately answered on the facts and circumstances of a given case. A basic and obvious test to apply in such cases is to see whether there is any discernible principle emerging from the impugned action and if so, does it really satisfy the test of reasonableness."

29. When the impugned decision of the authorities is tested on the anvil of the aforenoted legal principles, it has to be said that the decision is arbitrary and also

irrational. When e-auction is opted for allotment of the industrial plots, the authority could not have departed from the notified procedure. The shift to manual auction would make the earlier process of e-auction an exercise in futility. It would also undermine the finality of the auction process where the bidding must conclude by the stipulated time and the winner is determined by the highest last bid. It would be irrational in a process like this to permit the participants to out-bid the final bid and that too without any limitation. For valuable real estate, it is possible and likely that higher revenue will be generated in the next auction process but that cannot by itself, support the decision of the HSIIDC to abandon the e-auction process and choose another mode.

30. Public interest need not remain exclusively limited to ensuring maximum revenue accrual for the government. Instead, public interest includes, without limiting itself to, a fair, transparent & stable process which any and all executive action must adhere to.”

19. In the present case, no arbitrariness has been shown.

The Gram Panchayat passed the different resolutions regarding the opening of Sub-Tehsil at Bagshad and the Sub-Tehsil was opened at Bagshad. Only two Gram Panchayats had passed a resolution for the opening of a Sub-Tehsil at Tattapani and the public interest was in the opening of a Sub-Tehsil at Bagshad. Some of the Gram Panchayat subsequently passed resolutions for excluding the Patwar Circles included in Sub-Tehsil Bagshad and those were excluded. Hence, there is no arbitrariness or irrationality. Sub-tehsil was opened as per the demand of the public conveyed through the Gram Panchayats and such a decision cannot be said to be arbitrary. No provision of law or constitution was brought to the notice of the Court that would prevent the State from opening a Sub-Tehsil at any particular place on public demand. Hence, the decision of the State Government cannot be faulted.

20. It was stated in the petition that earlier the Tehsildar used to hold the office at Tattapani for four days. This has been increased to seven days, as per the reply filed by the State. Therefore, the people of the area adjoining Tattapani have benefited as Tehsildar would be available at Tattapani for three more days. Hence, the grievance that the people of the area adjoining Tattapani would suffer by the opening of the Sub-Tehsil at Bagshad is not justified.

21. No other point was urged.

Final Order:

22. Therefore, no case is made out of the violation of any fundamental law or statutory provision. The act of the respondents is not arbitrary, irrational or disproportionate.

Hence, the challenge to the Notification fails and the Writ Petition is dismissed.

23. Pending miscellaneous applications, if any, also stand disposed of.