

(2019) 11 RAJ CK 0012
In the Rajasthan High Court
Case No : Civil Writ Petition No. 15590 Of 2019

Mangilal And Ors

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 06-11-2019

Acts Referred:

Panchayati Raj Act, 1994 — Section 101

Citation : (2019) 11 RAJ CK 0012

Hon'ble Judges : Dinesh Mehta, J

Bench : Single Bench

Advocate : Swati Katoch, Sunil Beniwal

Final Decision : Disposed Of

Judgement

By way of the present writ petition, the petitioners have challenged the proposal of the State Government dated 25.9.2019 whereby their village Vishwakarma Nagar is sought to be included in newly proposed Gram Panchayat Jhambhsagar.

Calling in question the said proposal, Ms. Katoch, learned counsel argued that earlier vide a notification dated 29.7.2019 village Vishwakarma Nagar was proposed to be kept in Gram Panchayat Barjasar; and a six member committee constituted by the respondents had given a categorical report that the village Vishwakarma Nagar be kept in Gram Panchayat Barjasar itself. Notwithstanding the opinion so sent by the sub-committee constituted by the respondents, simply acting at the instance of Member of Legislative Assembly, the State Government has turned down the recommendation of the Collector and on 30.9.2019, issued a fresh proposal keeping village Vishwakarma Nagar in the newly proposed Gram Panchayat namely Jhambhsagar.

Learned counsel for the petitioner contended that village Vishwakarma Nagar is just adjacent to Gram Panchayat headquarter Barjasar, whereas its distance from newly proposed Gram Panchayat Jhambhsagar is about 8-9 kms. Challenge to such proposal is two fold; firstly such proposal has been mooted by the State

Government only under the influence of local MLA. According to learned counsel such action cannot be countenanced inasmuch as Section 101 of the Panchayati Raj Act, 1994 envisages that a Gram Panchayat can be constituted either at the instance of the State Government or at the desire of the local residents. She argued that the local MLA, with a view to serve his cause and political agenda has proposed new Gram Panchayat Jhambhsagar and village Vishwakarma Nagar has been included therein.

Second contention was based on the distance. Inviting Court's attention towards map of the area, she contended that if the residents of the village Vishwakarma Nagar are to approach the Gram Panchayat headquarter at Jhambhsagar, they are supposed to travel 8-9 kms, whereas if their village is kept in present Gram Panchayat Barjasar, they will not be required to travel even 500 meters.

Alleging that the proposal will be troublesome to the residents of the village Vishwakarma Nagar, she argued that such proposal be quashed and set aside.

Mr. Beniwal, learned AAG appearing for the State contended that there is no error in the proposal dated 30.9.2019 made by the State Government.

Learned AAG submits that when the State Government found that the Collector has made recommendation of creation of new Gram Panchayats, for which neither any proposal were initially made, nor objections were invited or received, it remitted the matter back to the Collector for considering objection while proposing such new Gram Panchayats. A fresh notification proposing Jhambhsagar to be a new Gram Panchayat, thus came to be published.

Inviting Court's attention towards map (Annx.10) learned AAG tried to satisfy the Court that though village Vishwakarma Nagar is adjacent to village Barjasar, but since the State Government thought it expedient to create new Gram Panchayat at village Jhambhsagar it became necessary to include village Vishwakarma Nagar. Since village Vishwakarma Nagar was having congruity to Gram Panchayat Jhambhsagar, it was decided to include such village in the newly proposed Gram Panchayat Jhambhsagar, so as to make the population of the newly proposed Gram Panchayat to 2356, which would meet the yardstick laid down by the State Government. As against this, if the petitioners' village Vishwakarma Nagar is kept as it was, the population of Barjasar Gram Panchayat would be 4531, more than the requisite number.

It has also come on record that petitioners' objection which has been placed at Annex.11 alongwith the additional affidavit dated 6.11.2019 have been considered and rejected by the District Collector.

A perusal of the disposal of the objection does not inspire confidence. It shows complete lack of application of mind inasmuch as against all the objections similar type of note has been made. One of which reads thus:

"प्रशासनिक दृष्टिकोण एवं जनसुविधाओं के मद्देनजर ग्राम जम्भसागर एवं विश्वकर्मा नगर को शामिल करते हुए नवीन

ग्राम पंचायत जम्भसागर प्रस्तावित की गई है। जिसमे दोनो राजस्व गांवो को प्रस्तावित ग्राम पंचायत जम्भसागर मे ही रखना उपयुक्त रहेगा अतः आपत्ति खरिज योग्य है। "

The petitioner's argument that impugned proposal/recommendation has been sent at the behest of local MLA is untenable. In support of such contention heavy reliance was placed upon letter dated 29.8.2019 written by the MLA. Firstly, this letter does not indicate as to whom it was addressed, that apart had there really been pressure of MLA, perhaps 6 members committee would not have sent their opinion on 30.8.2019 to keep village Vishwakarma Nagar in Gram Panchayat Barjasar.

Be that as it may, this Court is satisfied with the reasoning given and the explanation putforth by learned AAG that inclusion of village Vishwakarma Nagar in proposed Gram Panchayat Jhambhsagar was necessary. Finding no error in the impugned proposal/recommendation made by the District Collector, the writ petition at hand, is dismissed.

The stay application also stands disposed of accordingly.