
(1977) 12 P&H CK 0014
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 3248 of 1977

Ram Singh and Others

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 16-12-1977

Acts Referred:

Haryana Municipal Act, 1973 — Section 4, 4(1), 4(2), 4(3)

Citation : AIR 1978 P&H 290 : (1978) 1 ILR (P&H) 284 : (1978) 80 PLR 208

Hon'ble Judges : D.S. Tewatia, J

Bench : Single Bench

Advocate : G.S. Sandhu, for the Appellant; H.S. Gill, D.A., for the Respondent

Judgement

D.S. Tewatia, J.—The Petitioners, residents of village Sasoli Tehsil Jagadhri, District Ambala, have impugned in this writ petition notifications Annexures T-1" and "P-2". Notifications Annexures "P-1" and "P-2" have been issued under Sub-section (1) and (3) respectively of Section 4 of the Haryana Municipal Act, 1973 (hereinafter referred to as "the Act"), whereby their land and the village inhabited by them were sought to be brought within the municipal limits of Yamuna nagar Municipal Committee. The notification under Sub-section (1) of Section 4 of the Act (Annexure "P-1") has been impugned on the ground that it did not satisfy the requirement of Sub-section (1) of Section 4 of the Act in regard to its publication. Provisions of Sub-section (1) of Section 4 are in the following terms:

4. Notification of intention to alter limits of municipality.

(1) The State Government may, by notification and in such other manner as it may determine, declare its intention to include within a municipality any local area in the vicinity of the same and defined in the notification.

Even a casual perusal of the aforesaid provision would leave no scope for any doubt that the intention to include within the municipality any local area in the vicinity of the same had not only to be notified through a Government

notification, but has also to be notified in such other manner as may be determined by the State Government. It is denied that the said intention, besides being declared through the impugned notification, had been notified in any other manner.

2. Mr. H.S. Gill, Advocate, appearing for the State has taken the stand that the requirement of Sub-section (1) of Section 4 of the Act regarding the other manner of notifying the State's intention is merely directory and not mandatory.

3. I am afraid, there is no merit in the contention advanced by the learned Counsel for the State.

4. Sub-section (2) of Section 4 of the Act requires the persons affected from the inclusion of their area within the municipal limits to file their objections in writing to the State Government through the Deputy Commissioner within six weeks from the publication of the notification under Sub-section (1) of Section 4 of the Act. The affected persons can file their objections within time only if they were made aware of the notification in time. As everyone knows that even literate people do not come to know of the existence of a notification, what to talk of the illiterate villagers, so it hardly requires stressing that where ignorance of law is no excuse, the law that effects the citizens requires such publicity as may be considered sufficient to inform of its existence to a man in the street, and any provision requiring publication, of a fact which affects the citizens, in a given manner to achieve the aforesaid object of giving information to the affected persons, has to be considered mandatory one.

5. Since in the present case the intention to include the area of the Petitioners' village within the municipal limits of the Municipal Committee had been only notified through a notification and not additionally through other manners envisaged by Sub-section (1) of Section 4 of the Act, the notification Annexure P-1 is clearly vitiated and so is any final action taken thereon and for that reason Notification Annexure P-2 also stands vitiated. Both the notifications are, therefore, illegal and hence quashed.

6. Before parting with the judgment it may be observed that it would be open to the State Government to issue fresh notifications in accordance with law, if it is to advised. The Petitioners shall have their costs.