
(2020) 12 SHI CK 0161
In the High Court Of Himachal Pradesh
Case No : Civil Writ Petition No. 5367 Of 2020

Ravi Kumar And Others

APPELLANT

Vs

State Of H.P & Another

RESPONDENT

Date of Decision : 24-12-2020

Acts Referred:

Constitution Of India, 1950 — Article 243Q

Citation : (2020) 12 SHI CK 0161

Hon'ble Judges : Sureshwar Thakur, J;Chander Bhusan Barowalia, J

Bench : Division Bench

Advocate : Suneel Awasthi, Ashwani Sharma

Final Decision : Dismissed

Judgement

Sureshwar Thakur, J

1. Through the instant writ petition, the writ petitioner(s) challenge(s) a notification embodied in Annexure P-4, wherethrough certain areas disclosed

therein, were notified, to be respectively included, and, excluded, from, the territorial limits, of, Nagar Panchayat Jawali District Kangra. However the

grievance thereagainst, and, as becomes ventilated before this Court, by the petitioner, is, comprised in the factum, qua the exclusion therein, of

Kehrian-1 Mohal Basantpur and Kehrian-2 Mohal Kahrian Dhan, being untenable, given theirs being earlier thereto, becoming included within the

territorial limits, of, Nagar Panchayat Jawali, District Kangra, H.P.

2. He submits that the afore contention is firm, as no denial thereto has been meted by the respondents. The effect of the afore lack of repudiation by

the respondents concerned, to the afore submission, is qua the apposite earlier inclusion becoming made after valid application of mind, by the

authorities concerned, to the constitutional principle enshrined in Section 243Q, of the Constitution of India, apt sub rule (2) whereof becomes

extracted hereinafter, wherein, apposite parameters become contemplated, for the respective exclusion(s) and inclusion(s), of, areas concerned, hence

within the territorial limits or jurisdiction, of, any Nagar Panchayat concerned.

â??(2) In this article, â??a transitional areaâ? a smaller urban areaâ? or â??a larger urban areaâ? means such area as the Governor may, having

regard to the 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 he may deem fit, specify by public notification for the

purposes of this part.â??

3. The reasons for the afore exclusion, as, projected in the reply to the writ petition hence filed by the respondent, appear to spur from, the factum of a

representation being made by certain aggrieved persons, and, the order accepting their representation, becoming embodied in Ex. R-5. Though the

afore prima-facie appears to be cryptic and non-speaking. However dehors the afore purported infirmity ingraining the afore annexure, yet it cannot

coax, this Court to accept the submission addressed before this Court, by the learned counsel for the petitioners, that the respective earlier and

subsequent inclusion(s) and exclusion(s) of the afore areas, rather lacking legal tenacity, (a) as the learned Additional Advocate General points to

Annexure R-8, wherein a complete scheduled contemplation, is embodied, rather leveraging vis-a-vis, the objectors concerned, to raise objections to

the apposite respective exclusion(s) and inclusion(s), of certain areas from the boundaries, and, territorial limits, of the contemplated Nagar

Panchayat(s) concerned. However evidently, the writ petitioners did not comply with the afore, in as much, as, the writ petitioners rather omitted to

within phases of time, contemplated therein, for the afore purpose, cast objections to the afore exclusion of the afore referred areas, from the newly

created Nagar Panchayat, Jawali, District Kangra. Consequently, the effect thereof, is, qua it hence estopping the petitioners concerned, to contest the

afore, and, moreso when election programs, stand announced, and, any order from this Court, hence making interference therewith, through its setting

aside the constitution of Nagar Panchayat Jawali, District Kangra, through a

notification embodied in Annexure P-4, would obviously create obstacles, in the holding of elections, in consonance with the aposite election schedule, and, when the afore interference, would also infringe the mandate of law declared, by the Honble Apex Court, qua upon election schedules, becomes pronounced by the Election commission(s) concerned, thereupon the apposite petition being rendered not maintainable before the writ Court. Conspicuously, also when therethrough(s) the afore democratic processes, would become stalled, and, also when obviously the electorate, of, even the excluded areasâ?? would also participate in the democratic process(s). In view of the above, there is no merit in the petition, and, the same is accordingly dismissed. All pending applications are disposed of accordingly.