
(2000) 05 P&H CK 0014
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 7113 of 1999

Sewa Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 02-05-2000

Acts Referred:

Constitution of India, 1950 — Article 226
Punjab Municipal Act, 1911 — Section 2, 5(1)

Citation : (2000) 2 PLR 727 : (2001) 3 RCR(Civil) 292

Hon'ble Judges : N.K. Sud, J; N.K. Sodhi, J

Bench : Division Bench

Advocate : Mr. M.L. Sarin and Mr. Hemant Sarin, for the Appellant; Mr. Gurminder Singh, D.A.G. and Mr. Hemant Kumar, for the Respondent

Judgement

N.K. Sodhi, J.—This writ petition has been filed under Article 226 of the Constitution challenging the notification dated 26.6.1998 issued under sub-section (2) of Section 5 of the Punjab Municipal Act, 1911 (as amended upto date and hereinafter referred to as the Act) whereby the State Government declared its intention to include within the municipal limits of Municipal Council, Dhariwal, District Gurdaspur the area described in the schedule thereto. Challenge is also made to the notification dated 9.2.1999 issued under sub-section (1) of Section 5 including the area referred to in the preliminary notification within the municipal limits of Municipal Council, Dhariwal. These notifications have inter alia been challenged on the ground that they did not specify the name of the village in which land sought to be included is situate and, there- fore, the petitioners were at a handicap to file their objections in response to the preliminary notification issued on 26.6.1998.

2. In response to the notice issued to the respondents, they have filed their replies and the stand taken therein is that the State Government through an inadvertent error omitted to mention the name of the village though other particulars of the land, according to the respondents, were clearly specified in the

schedule to the two notifications. According to the respondents, the petitioners were aware that the land sought to be included within the municipal limits pertained to village Rania and, therefore, it was open to them to file their objections. It is further pleaded that Gram Panchayat of the village and 165 other inhabitant of village Rania filed their objections which were considered and rejected by the competent authority before issuing the final notification of 9.2.1999. It is also contended on behalf of the respondents that the petitioners have no right to be heard and, therefore, they have no locus standi to challenge the notifications.

3. We have heard counsel for the parties at some length and are of the view that the matter herein is squarely covered by a Division Bench judgment of this Court in *M/s. Vee Kay Oils Pvt, Ltd. v. State of Punjab* through its Chief Secretary, Civil Secretariat, Chandigarh 1994(2) PLR 234 : 1994(3) RCR196 (P&H). In this case also, the municipal limits of Municipal Council, Ahmedgarh were sought to be extended by including land in village Akbarpura but the two notifications issued under sub-section (2) and sub-section (1) of Section 5 of the Act did not specify the name of the village though other particulars of the land had been clearly specified. The Division Bench of this Court struck down the notifications on the short ground that the name of the village did not find mention in either of the two notifications. Same is the case before us.

4. As regards the objection that the petitioners have no locus standi to challenge the impugned notifications, we are unable to accept the same. The effect of the notifications is that land belonging to the petitioners stands included within the municipal limits of Municipal Council, Dhariwal and, therefore, their business premises fall within the municipal limits so as to attract octroi and other taxes. In this view of the matter, they are aggrieved by the notifications and have a right to challenge the same. Since the name of the village Rania was not mentioned in the two impugned notifications, we are clearly of the view that the notifications are per se bad and liable to be quashed. As we are quashing the notifications on this short ground, it is not necessary for us to examine the other contentions advanced by the learned Senior Counsel appearing on behalf of the petitioners.

5. In the result, the writ petition is allowed and the impugned notifications dated 26.6.1998 and 9.2.1999 quashed. Petitioners will approach the Municipal Council, Dhariwal for the refund of the octroi already paid and their claim shall be considered by the Council in accordance with law. The claim, if any, made for refund shall be disposed of within three months from the date it is made.

6. Petition allowed