

(2019) 03 MP CK 0177

In the Madhya Pradesh High Court

Case No : Writ Petition No. 26037 Of 2019

Shivanand Dwivedi

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 04-03-2019

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2019) 03 MP CK 0177

Hon'ble Judges : Ajay Kumar Mittal, CJ;Vijay Kumar Shukla, J

Bench : Division Bench

Advocate : Chandrika Prasad Dwivedi, Shashank Shekhar, Himanshu Mishra

Final Decision : Dismissed

Judgement

Vijay Kumar Shukla, J.-

In the instant petition filed under Article 226 of the Constitution of India, following reliefs have been prayed by the petitioner :-

(i) That, this Hon'ble Court may kindly be pleased to issue appropriate writ and direct to respondents to constitute new Gram Panchayat Gram Kaitha and Gram Sorhawa as per the guideline/circular dated 27/05/19 [Annexure P/1] and 22/06/2019 [Annexure P/2] in the interest of justice.

(ii) That, this Hon'ble Court may kindly be pleased to direct to the respondents to separate the Gram Kaitha & Sorhawa from Gram Panchayat Hinota.

(iii) That, this Hon'ble Court may kindly call entire record.

(iv) That, any other relief which this Hon'ble Court may deemed fit and proper looking into the facts and circumstance of the case.

2. Learned counsel for the respondents submitted that the issues raised in the present petition have already been decided by this Court in W.P. No.18677/2019 (Gram Panchayat Singhoda, Janpad Panchayat Bairasia, Zila Panchayat Bhopal

vs. State of Madhya Pradesh and others) on 24.2.2020 and the procedure prescribed under the provisions of Madhya Pradesh Panchayat Raj Avam Swaraj Adhiniyam, 1993 and the Rules made therein have been strictly followed by the competent authority. The preliminary notification was issued. The objections were invited and those objections which were received within the date fixed for receiving the objections, were considered by the competent authority and thereafter, the final notification was issued.

3. This Court after taking into consideration the judgment passed by the Supreme Court in the case of State of U.P. and others vs. Pradhan Sangh Kshetra Samiti and others [(1995) Supp 2 SCC 305] and the judgment passed by the Division Bench of this Court in the case of Pranay Gupta vs. State of M.P. and others [2005 (1) J.L.J. 295] held that unless it is established that the objections were not invited and no hearing has been given to the objectors, the order of delimitation cannot be interfered with especially when there is no allegation of malafide.

4. In the present case also, the petitioner failed to establish that the objections were not invited and no hearing was given to the objectors. On the contrary, the respondents have placed the material to show that in pursuant to the preliminary notification, the objections were invited and were placed before the competent authority with the comments and thereafter, the final notification has been issued.

5. In view of the aforesaid and in absence of allegation of malafide, we do not perceive any illegality in passing the impugned order as would warrant an indulgence.

6. Consequently, petition fails and is dismissed. No costs.