

(2013) 05 P&H CK 0005
In the Punjab And Haryana At Chandigarh
Case No : L.P.A. No. 1957 of 2011

Sukhma Devi and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 15-05-2013

Acts Referred:

Citation : (2013) 05 P&H CK 0005

Hon'ble Judges : Satish Kumar Mittal, J; Amol Rattan Singh, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Satish Kumar Mittal, J.—The instant Letters Patent Appeal has been directed against the order dated November 29, 2010 passed by the learned Single Judge, whereby the writ petition filed by the appellants, who are residents of village Path Hajipur, challenging the notification dated 25.11.1998 (Annexure P1) issued by the State Government under Sections 7 and 8 of the Haryana Panchayati Raj Act, 1994 (here in after referred to as "the Act") bifurcating their Gram Panchayat and creating a new Gram Panchayat out of it, namely, Gram Panchayat Hajipur, has been dismissed after coming to the conclusion that the State Government has validly issued the said notification in exercise of its powers. The appellants are few residents of village Path Hajipur and they challenged the aforesaid notification primarily by filing the writ petition on the ground that before issuing the said notification no opportunity of hearing was provided to the affected persons, including the appellants; and secondly that the notification was not clear as it does not specify the area/territory or the field numbers which have been carved out as Gram Sabha Hajipur, and the said notification was issued malafidely at the behest of the local M.L.A.

2. The learned Single Judge rejected all the contentions of the appellants and dismissed the writ petition. It was held that in view of the judgment of the Supreme Court in State of Punjab Vs. Tehal Singh and Others, , the action of bifurcation or creating a new Gram Panchayat under the Act is legislative in

character and before issuing such notification no opportunity of hearing is required to be provided to the members of the Sabha area. It has also been found as a fact that in the notification the area sought to be included in Gram Panchayat, Hajipur has been clearly defined.

3. During the course of arguments, learned counsel for the appellants could not point out any illegality qua the aforesaid conclusion arrived at by the learned Single Judge. However, the learned counsel argued that in the present case the State Government has acted mala fide at the instance of the local M.L.A. and has created the new Gram Panchayat for political reasons.

4. After hearing the learned counsel, we do not find any substance in this argument as the appellants have not placed on record any material on the basis of which the action of the Government can be said to be mala fide. Even otherwise, the Government has exercised the power, which is being legislative in character, as has been held by the Supreme Court in Tehal Singh's case (supra), no allegation of mala fide can be alleged against legislative action. The contention of the learned counsel for the appellants with regard to providing an opportunity of hearing before bifurcation of the Gram Panchayat has rightly not been accepted by the learned Single Judge in view of the decision in Tehal Singh's case (supra).

5. Another argument raised by the learned counsel for the appellants that the notification is vague, is also without any substance as by the notification dated 25.11.1998 certain area of village Hajipur has been excluded from the Sabha area of Gram Panchayat Path Hajipur and a new Gram Panchayat by the name of Hajipur was created by giving the definite boundaries. Therefore, the said notification cannot be said to be bad in that aspect. In our view, the learned Single Judge has considered all aspects of the matter and then dismissed the writ petition being devoid of merit. We do not find any ground to interfere in the impugned order passed by the learned Single Judge. No merits. Dismissed.