

(1967) 07 P&H CK 0007
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 2147 of 1966

The Panchayat Samiti, Majitha Block

APPELLANT

Vs

State of Punjab and Another

RESPONDENT

Date of Decision : 28-07-1967

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Punjab Panchayat Samitis and Zila Parishads Act, 1961 — Section 104, 3, 3(2), 31, 31(1)

Citation : (1968) 1 ILR (P&H) 417 : (1968) 70 PLR 112

Hon'ble Judges : Gurdev Singh, J

Bench : Single Bench

Advocate : H.R. Sondhi and N.K. Sodhi, for the Appellant; C.S. Bindra, for General, for the Respondent

Final Decision : Dismissed

Judgement

Gurdev Singh, J.—The short question for consideration in this petition under Articles 226 and 227 of the Constitution is whether the State Government has the power to fix the headquarters of the Block Samiti constituted u/s 3 of the Punjab Panchayat Samitis and Zila Parishad Act, 1961, or it is the Block Samiti that is entitled to choose its own headquarters. The matter has arisen in the following manner.

2. Vide Government notification No. PS-61/11, dated 28th April, 1961, a Panchayat Samiti for Majitha Block was constituted. It included 80 villages, Kathu Nangal being one of them, but excluded the town of Majitha which has a Municipal Committee. Earlier on 5th January, 1961, the Punjab Government had issued a circular letter No. PPA-60/3177-95 to all Deputy Commissioners in the State (which forms annexure A to the petition), laying down the principles that should be kept in view in choosing a place for the headquarters of a Block Samiti. This was with a view to check the tendency noticed in some of the Block Samitis of locating their headquarters in towns and not in rural areas which they were

intended to serve.

3. On 24th October, 1962, the Panchayat Samiti, Majitha Block (the Petitioner before me) passed unanimous resolution suggesting that its headquarters be located at Kathu Nangal instead of Majitha. This was in consonance with the principles laid down in the Government's letter, dated 5th January, 1961, to which reference has been made above. The Deputy Commissioner, Amritsar, agreed with this suggestion and on his recommendation instructions were issued to the Chairman of the Petitioner-Samiti to take necessary action for shifting the Samiti's headquarters to Kathu Nangal without delay. It appears that in compliance with this order the offices of the Petitioner Samiti were shifted to Kathu Nangal. For reasons, which have not been disclosed by the authorities in the course of these proceedings, subsequently the Government appears to have changed its mind, and after issuing conflicting orders, to which it is unnecessary to refer, on 27th August, 1966, the Chairman of the Petitioner-Samiti received a communication (copy annexure M to the petition) informing him that the Government on reconsideration had decided that the headquarters of Majitha Block Samiti should continue to be in Majitha and asking him to report compliance with the orders immediately. It is for quashing this order of the Government, which is contrary to the unanimous decision of the Block Samiti as expressed in its resolution, dated 5th January, 1961 to locate its headquarters at Kathu Nangal, that the Petitioner Samiti has invoked the jurisdiction of this Court under Articles 226 and 227 of the Constitution.

4. The sole contention raised on behalf of the Petitioner is that it is for the Block Samiti concerned to fix its headquarters at any convenient place within its jurisdiction, and the Government has no power or authority to direct that the headquarters of the Block Samiti should be located at a particular place against the wishes of the Block Samiti, and that too at a place which is not within the rural area for which the Block Samiti is constituted.

5. Admittedly, there is no specific provision in the Punjab Panchayat Samitis and Zila Parishads Act, 1961 (hereinafter referred to as the Act) or in the Rules and Bye laws framed under it for fixing the headquarters of a Block Samiti. The Petitioner's learned Counsel, Mr. N.K. Sodhi, has contented that in the absence of any such provision, a Block Samiti being a body corporate with power to acquire, hold and dispose of property as laid down in Sub-section (2) of Section 3 of the Act, is entitled to choose its own headauarters and the Government has no authority to interfere. He has further pointed out that the decision of the Petitioner-Samiti to have its headquarters at Kathu Nangal is in consonance with the principles laid down by the Government in its circular letter, dated 5th January, 1961, and in the best interests of the rural area which it is intended to serve.

6. Mr. Charanjit Singh Bindra, appearing for the Respondent-authorities, has, however, argued that the mere fact that a Panchayat Samiti has been constituted as a body corporate does not entitle it to choose its own headquarters, and its

decision, even if unanimous, will have no validity unless it is shown to have been taken in exercise of the authority conferred upon it by the Act or the Rules made thereunder. After considering the scheme of the Act and going through its various provisions, I am inclined to agree with Mr. Bindra that a Panchayat Samiti can act only within the bounds of the authority specifically conferred upon it by the Act, and it has no plenary or residuary powers to perform any act which it considers necessary or in the best interests of the rural area for which it is constituted. Certain executive and other functions have been entrusted to the Panchayat Samiti under the Act. Section 31 lays down the executive powers of the Panchayat Samiti. Sub-section (1) thereof provides that those powers "shall vest in the Chairman of the Panchayat Samiti and the Executive Officer thereof in the manner laid down in this Act." "Sub-section (2) then lays down:

31(2) The Chairman and the Executive Officer shall perform all the duties and exercise all the powers specifically imposed or conferred on them by or under this Act and subject, wherever it is expressly provided, to the sanction of the Panchayat Samiti and to all other restrictions, limitations and conditions imposed exercise the executive power for the purpose of carrying out the provisions of this Act and be directly responsible for the due fulfilment of the purposes of this Act....

7. Under Chapter VII of the Act headed as "Supervision," the Deputy Commissioner and the Government have been given power of supervision over the working of the Panchayat Samitis and Zila Parishad and in exercise of that power the Government can even cancel or suspend any resolution passed by a Panchayat Samiti or Zila Parishad or any Standing Committee thereof on the grounds stated therein. It is thus obvious that the ultimate responsibility for the smooth working of the Panchayat Samitis and Zila Parishads rests upon the State Government and it is but proper that it should have the necessary power to ensure that the object for which the Panchayat Samitis or Zila Parishads are created are achieved. This is why u/s 104 of the Act the Government has been clothed with the authority to supersede a Panchayat Samiti or Zila Parishad *inter alia* to check the abuse of its power by a Panchayat Samiti or Zila Parishad.

8. The location of the headquarters of a Panchayat Samiti or Zila Parishad is a matter of considerable importance to its smooth and satisfactory working, and the Government's concern in having the headquarters at a particular place within the area for which a Samiti is constituted can well be appreciated. If it is held that a Panchayat Samiti has the authority to choose its own headquarters, irrespective of the wishes of the Government or other supervisory authorities, it will follow as a corollary that with every change in the Membership of the Samiti or Party affiliations of its members which, as the recent experience has shown, change from time to time, a Samiti will be free to shift its headquarters from one place to another depending Upon the will of the majority at a particular moment. Such a situation will be detrimental not only to the best interests of the Samiti concerned but also defeat the very purpose for which the Samitis are

constituted. These bodies would become pawns in the hands of unscrupulous persons. It is to avoid such a situation that the Act has not conferred any authority or power upon a Panchayat Samiti to fix its own headquarters. Since a Panchayat Samiti is creation of the State, it must function within the ambit of the powers or authority conferred on it and cannot claim unfettered right to do something which it considers to be expedient or necessary for the discharge of its functions. I am accordingly of the opinion that the Petitioner Samiti is not entitled to have its headquarters at a place other than the one which the Government has chosen for that purpose.

9. Though in the petition the decision of the Government to have the headquarters of the Petitioner-Samiti at Majitha was attacked on the ground of mala fides as well no argument was addressed by Mr. Sodhi on this part of the case nor could he point out any material in support of this plea.

10. In view of what has been said above, the impugned direction of the Government cannot be interfered with. I, however, cannot help observing that the facts leading to this litigation between the Panchayat Samiti and the State disclose a sorry state of affairs. In passing conflicting orders from time to time regarding the location of the headquarters of the Petitioner-Samiti, the Government has betrayed signs of effeminate indecision or vacillation which indicates that those orders were passed on considerations other than the interests of the rural area which the Petitioner-Samiti is intended to serve. This is further apparent from the fact that the impugned decision of the Government is in direct conflict with the guiding principles that it had laid down in its circular letter, dated 5th January, 1961, addressed to the Deputy Commissioner, to which a reference has been made in the opening part of this order. The town of Majitha, where under the impugned orders of the Government the headquarters of the Petitioner are to be located is not within the jurisdiction of the Petitioner-Samiti. It is not a rural area but a town, and it is in no way better suited than Kathu Nangal, the unanimous choice of the Petitioner-Samiti, to serve the needs of the rural population under its jurisdiction.

11. For the reasons stated earlier, I, however, find no force in this petition and dismiss the same with costs.