
(1984) 03 P&H CK 0001

In the Punjab And Haryana At Chandigarh

Case No : L.P.A. No. 53 of 1980 in C.W.P. No. 3054 of 1978

The State of Haryana and others

APPELLANT

Vs

Daya Ram and others

RESPONDENT

Date of Decision : 02-03-1984

Acts Referred:

Punjab Gram Panchayat Act, 1952 — Section 5

Citation : (1984) 03 P&H CK 0001

Hon'ble Judges : P.C. Jain, J;D.S. Tewatia, J

Bench : Division Bench

Advocate : Harbhagwan Singh, A.G. Haryana and Mr. P.S. Duhan, D.A.G. Haryana, for the Appellant; H.L. Sarin, Mr. M.L. Sarin and Mr. Yogesh Chand Sharma, for the Respondent

Final Decision : Dismissed

Judgement

P.C. Jain, Act. C.J.—This judgment of ours would dispose of L.P. As No. 52 to 54 of 1980 as common question of law and fast arise in these appeals.

2. Although detailed facts have been given in the judgment of the learned Single Judge, yet in order to appreciate the controversy certain salient features of the case may be noticed:

3. Daya Ram Respondent was elected as Sarpanch to the Gram Panchayat Kaushak during the elections of 1964 and 1971. The State of Haryana issued notification dated June 2, 1978 dividing the Gram Sabha Kaushak into seven Gram Sabhas, namely, Kaushik, Joriabad, Bhawan, Achheja, Allahabad, Karimpur and Kudebadpur. The said notification reads as under:

In exercise of the powers conferred by Sub-section (1) and (2) of Section 4 and Section 5 of the Punjab Gram Panchayat Act, 1952 (Punjab Act 4 of 1953) and all other powers enabling him in this behalf, and in super session of all the previous notifications issued in this behalf, the Governor of Haryana hereby declares the village or group of villages specified in column 2 of the schedule given below to

be Sabha areas and establishes a Gram Panchayat for every Sabha area by the name specified against each in column 5 of the said schedule, which shall consist of such number of Panches including Sarpanch as is specified against each Gram Panchayat in column 6 thereof out of which the number of Panches belonging to the scheduled castes shall be mentioned in column 7 of the said schedule:

Sr. No.

Name(s) of village(s) constituting

Tohsil

District

Name of Gram Panchayat

No. of Panches including Sarpanch

No. of panches belonging to Scheduled castes.

1

2

3

4

5

6

7

III

Kushatk

Palwal

Gurgaon

Kushak

5

1

III-A

Joriabad

-do-

-do-

Joriabad

5

1

III-B

Bhawana

-do-

-do-

Bhawana

5

1

III-C

Achheja

-do-

-do-

Achheja

5

1

III-D

Allahabad

-do-

-do-

Allahabad

5

1

III-E

Karimpur

-do-

-do-

Karimpur

5

1

III-F

Kudabadpur

-do-

-do-

Kudabadpur

5

1

The aforesaid notification was challenged by Daya Ram Respondent and two others through C.W.P. Nos. 3053 to 3055 of 1978 out of which this and the two other connected L.P. As arise The ground of attack against the notification was that except village Kaushak the other so-called villages were only Majras and forming part of the revenue estate of Kaushak, and hence could not be declared Sabha areas

4. The petition was contested on behalf of the State. The Main ground urged before the learned Single Judge was that Joriabad, Bhawan, Achheja, Allahabad, Karimpur and Kudabadpur were only Majras and did not fall in the definition of "village" and that seven Majras in one revenue estate" could not legally be created as separate Sabha areas

5. On consideration of the entire matter on merits the learned Single Judge arrived at a finding that in the revenue records Kaushak alone has been shown to be a revenue estate; that the other areas, namely, Joriabad, Bhawan, Achheja, Allahabad, Karimpur and Kudabadpur, have not been shown as revenue estate, with the result that they do not fall within the definition of word "village" and that the Governor could not constitute Sabha areas in the names of Joriabad, Bhawan, Achheja, Allahabad, Karimpur and Kudabadpur. In view of this finding, the writ petitions were allowed and the impugned notification creating seven Sabha areas was quashed. The present three appeals have been filed by the State of Haryana against the said judgment of the learned Single judge.

6. The only point urged before us by Mr. Harbhagwan Singh, learned Advocate General Haryana, was that the State Government could create any number of Sabha areas within a village and that the view taken by the learned Single Judge that the Sabha area could not be constituted if the place did not fall within the definition of the word "village", was not correct.

7. On giving our thoughtful consideration to the entire matter we find no merit in "the aforesaid contention of the learned Advocate-General. Section 4 of the Gram Panchayat Act, 1952 (hereinafter referred to as the Act) relates to demarcation of Sabha areas and Section 5 to establishment and constitution of Gram Panchayat. The relevant portions of the two sections read as under:

4(1) Government may, by notification declare any village or group of contiguous

villages with a population of not less than five hundred to constitute one or more Sabha areas.

xx xx xx xx xx

Provided further that the Government may in any particular case, relax the limit of five hundred.

xx xx xx xx xx

5(1) Government may, by notification, establish a Gram Panchayat by name in every Sabha area,"

xx xx xx xx xx

An analysis of the aforesaid two sections would show that the Gram Sabha can be constituted out of a village or group of villages having population of 500 or more. After the constitution of Gram Sabha the Government may establish a Gram Panchayat by name in every Sabha area. Thus, it is evident that the Gram Sabha is to be constituted out of a village or group of contiguous villages. The word "village" has been defined in Section 3(q) of the Act which is in the following terms:

3(q) "village" means any local area, recorded as a revenue estate in the revenue records of the district in which it is situated." A bare perusal of the aforesaid definition shows that it is only that area which is recorded as revenue estate in the revenue records of the district, which can be called a village. It, therefore, follows that if an area is not recorded as a revenue estate in the revenue records, then it cannot be called a village nor can it independently be declared as a Sabha area. The contention of Mr. Harbhagwan Singh, learned Advocate General, is clearly untenable and is not supported by the statutory provisions of the Act to which a reference has been made earlier.

8. Now coming to the facts of the case in hand, we find that Joriabad, Bhawan, Achheja, Allahabad, Karimpur and Kudebadpur do not constitute separate revenue estates inasmuch as they are not so recorded in the revenue records. In this view of the matter, the learned Single Judge was right in concluding that these areas do not fall within the definition of "village" and hence could not be notified as separate Sabha areas.

9. Faced with this situation, Mr. Harbhagwan Singh, learned Advocate-General, drew our attention to an unreported judgment of this Court in Dewan Singh v. The State of Haryana C.W.P. No. 1877 of 1982 decided on 1st February, 1983. A bare perusal of that judgment would show that the learned Judge has treated the two panas which have been notified as separate Sabha areas, to be separate revenue estates and this fact was not controverted before the learned Judge. Hence the judgment in Dewan Singh's case (supra) is of no help to the learned Advocate General.

10. No other point was urged.

11. For the reasons recorded above, these appeals fail and are dismissed. In the circumstances of the case, we make no order as to costs.