

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

PUBLIC INTEREST LITIGATION NO. 259 OF 2014
WITH
CIVIL APPLICATION NO. 72 OF 2015

Suraj Chandrakant Hatmode & ors. ... Petitioners

V/s.

State of Maharashtra & ors. ... Respondents

Mr. P.P. Kakade, AGP for the applicant.

Mr. S.S. Deokar for original petitioner in PIL.

Mr. C.G. Gavnekar for respondent no.4.

Mr. Ram Gadre for intervenor in CAI 41/15.

**CORAM : NARESH H. PATIL AND
S.B. SHUKRE, JJ.**

2nd September, 2015.

P.C.

The petitioner seeks direction to quash and set aside the impugned order dated 5th November, 2014 issued by respondent no.1 published in the Official Gazette dated 11th November, 2014 annexed at Exhibit B. By the said order the State Government bifurcated Chowk Group Gram Panchayat into four Gram Panchayats i.e. Chowk, Lodhivali, Asare and Tupgaon in exercise of powers conferred under Article 243 (g) and Section 4 of the Maharashtra Village Panchayats Act and Rules, 1958 (hereinafter referred to as 'the Act' for short).

2. Learned Counsel appearing for the petitioner submits that bifurcation of the Group Gram Panchayat would result in revenue loss to Asare and Tupgaon villages. Chowk and Lodhivali panchayat areas earn higher revenue than the other two villages. The bifurcation would be detrimental to the interest of villagers residing in Asare and Tupgaon villages. The impugned notification is contrary to the provisions of Section 4(2) of the Act. It is stated that the report submitted by the various authorities is defective and does not satisfy the requirements set out for bifurcating the Group Gram Panchayat. Learned Counsel submitted that impugned notification does not mention that State Government was satisfied on the material produced before it that the Group Gram Panchayat was required to be bifurcated which demonstrates that there was no application of mind by the State while taking decision to bifurcate the Gram Panchayat.

3. On behalf of respondents 1,2, 4 and 5 affidavit-in-reply is filed on 11th March, 2015. The respondents have given various reasons for bifurcation of Gram Panchayat. The issues such as distances from the different villages, inconvenience caused to the villagers and accessibility to the people were taken into consideration. It was observed that the newly formed Gram Panchayat would be in a position to utilise their funds and in the process of decentralization of the administration, the Gram Panchayat would function effectively, if bifurcated.

4. It is further contended that said Group Gram Panchayat consisted of 11 revenue villages and 27 Wadis, in all, spread over 30 sq. kms. The State had even considered the revenue aspect of the matter in the larger

public interest. The deponent contends that bifurcation and division was according to the provisions laid down in various Government Resolutions dated 5th February, 1990, 12th February, 2004 and 2nd September, 2006. The Census figures of 2011 were taken into consideration. The deponent further contends that on 10th October, 2013 a meeting was called by the Gram Sevak and Sarpanch. 247 villagers objected to the proposal of bifurcation but these objections were not for proposed bifurcation and division but they were demanding their inclusion in Chowk Group Gram Panchayat instead of Tupgaon Gram Panchayat. Thus, none of the villagers objected to bifurcation and division of Gram Panchayat. The deponent states that the implementation of the notification dated 5th November, 2014 was immediately started. An administrator was appointed to conduct meeting of Gram Sabha of new Gram Panchayats. The meeting was conducted on 26th January, 2015. Election programme to constitute new Gram Panchayats was declared on 15th January, 2015. The Wards have been constituted and formed. At the time of Gram Sabha meeting none of the villagers objected to the bifurcation proceedings. The deponent states that petitioner no.6 Sunil Gopal Dhukre was present on 4th June, 2013 in the Gram Sabha. He did not raise any objection in the meeting. It is stated that the State Government provides grants to the newly formed Gram Panchayat and the Gram Panchayat has powers to impose taxes to increase its revenue.

5. Learned AGP states that various authorities submitted their report. A Standing Committee of Zilla Parishad also resolved in favour of the bifurcation of the Group Gram Panchayat. The Chowk Group Gram Panchayat unanimously resolved in favour of the bifurcation proposal.

The learned AGP submitted that it is not necessary for the State to give detailed reasoning in the notification issued under Section 4 of the Act while the Group Gram Panchayat was bifurcated. The record and the documents placed before this Court would justify that State acted in accordance with law. There was no procedural irregularity vitiating the process of bifurcation of these villages. The learned AGP submitted that petitioners did not raise any objection in the meetings. All the resolutions were passed unanimously. The apprehension that the bifurcated villages would suffer revenue loss is without any foundation, instead the individual Gram Panchayat could progress on its own.

6. Learned Counsel appearing for the Intervenor supported the stand of the State. Learned Counsel disputes apprehension expressed by the petitioners of the revenue loss to some of the villages is without any foundation.

7. We have perused the record, considered the submissions advanced. In accordance with the provisions of Article 243 (g) of the Constitution of India and Section 4 of the said Act, the State issued a notification bifurcating Chowk Group Gram Panachayat into four separate Gram Panchayats. There is lengthy procedure to be adopted before a Group Gram Panchayat is bifurcated. We have perused the report submitted by the Extension Officer who had recommended the bifurcation of Group Gram Panchayat. We have perused the report of Block Development Officer who submitted his report in favour of the proposal. The Chowk Group Gram Panchayat passed a resolution unanimously on 18th October, 2013 in favour of the bifurcation proposal. The Standing

Committee of the Zilla Parishad on 24th January, 2014 unanimously passed a resolution in support of the creation of four separate Gram Panchayats. The Standing Committee had taken into consideration various issues like population, per capita income and the distance between the Gram Panchayat areas. The notice was issued to the villagers and thereafter appropriate decision was taken. We have perused the Government Resolution dated 12th February, 2004 which prescribes the procedure for bifurcation of Gram Panchayat. We find that after following the procedure State was satisfied and accordingly a decision was taken to bifurcate Chowk Gram Panchayat. The petitioner's apprehension seems to be mainly focused on the issue that the other two Gram Panchayats namely Asare and Tupegaon would suffer revenue loss as Chowk and Lodhivali Gram Panchayat would generate more revenue due to some commercial activity going on in the said area. When the State decided to create separate Gram Panchayat for Asare and Tupegaon villages, the State Administration would take appropriate care that these Gram Panchayats would function as viable units. The village Gram Panchayat is a unit of grass root level democracy and every care has to be taken to strengthen these units so that they flourish in all respects.

8. In the facts of the case, we are of the view that no interference is warranted in the decision making process and the final decision reached by the State in issuing the notification.

9. Learned Counsel appearing for respondents informed that due to interim orders passed by this Court, election of the Gram Panchayat

could not be held. The Administrators are looking after the day-to-day administration of these Gram Panchayats.

10. In the facts, we are of the view that there was no procedural irregularity committed in bifurcating the Village Panchayat. We do not notice any violation of mandatory provisions of law while the Chowk Group Gram Panchayat was bifurcated. We have perused the different provisions of law and the record placed before us. We are not inclined to interfere into the matter.

11. For the reasons stated above, the ad-interim relief granted earlier stands vacated. The petition is dismissed.

12. After passing of this order, the learned Counsel appearing for petitioner prays for continuation of ad-interim relief. In the facts of the case, we do not find any good reason to continue the ad-interim relief. The request stands rejected.

(S.B. SHUKRE, J.)

(NARESH H. PATIL, J.)