

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No. 10749 of 2015

DATE OF DECISION : 27.05.2015

Jai Pal Singh

.... PETITIONER

Versus

State of Haryana and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present : Mr. Vikram Singh, Advocate,
for the petitioner.

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SATISH KUMAR MITTAL, J. (Oral)

The petitioner, a resident of village Achheja, Block Hasanpur, District Palwal, has filed this petition seeking quashing of the Notification dated 01.04.2013 (Annexure P-2) issued by the Haryana Government, being illegal, ultra-vires, void and without jurisdiction.

By way of the aforesaid Notification, the Haryana Government in exercise of the powers conferred by sub-sections (1) and (3) of Section 7 and sub-section (1) of Section 8 of the Haryana Panchayati Raj Act, 1994 (hereinafter referred to as 'the Act'), has excluded the areas of villages Bhavana, Achheja, Karimpur, Nai Nangla, Chavan Ka Nangla and Bharka including village Indra Nagar, from the Sabha area of Gram Panchayat Kushak, Block Hasanpur, District Palwal, and established Gram Panchayats

by the name of Bhavana, Achheja, Karimpur, Nai Nangla, Chovan Ka Nangla and Bharka. However, in the impugned Notification, it has been categorically stated that creation of new Gram Panchayats for the aforesaid six villages shall be subject to the condition that these Panchayats will be effective at the time of next general elections of Panchayati Raj Institutions. This Notification was issued by the Government after considering the resolution passed by the Gram Panchayat. This fact has not been disputed by the petitioner.

The action of bifurcation or creating a new Gram Panchayat under Section 7 of the Act has been held to be legislative function. In **State of Punjab versus Tehal Singh**, 2002 (2) RCR (Civil) 1, it has been held that before exercising the said power, the Government is not required to issue any notice or to provide hearing to any resident of the village. As per the Instructions dated 23.03.1999 (Annexure P-4) issued by the Government, the requirement for bifurcation/establishment of Gram Panchayats is that minimum population of the area to be separated is 500 and the further requirement is that a resolution in this regard should have been passed by the Gram Panchayat. Both these requirements have been fulfilled in the instant case.

In view of the above, after hearing learned counsel for the petitioner, we are of the opinion that the impugned Notification dated 01.04.2013 (Annexure P-2) issued by the Government is neither illegal nor

the power has been exercised arbitrarily.

Learned counsel for the petitioner argued that the Hadbast number of all the aforesaid six villages is one. However, the fact remains that earlier Gram Panchayat Kushak, Block Hasanpur, District Palwal, was consisting of the Gram Sabha area of the aforesaid villages. Therefore, when resolution was passed, area of those villages was excluded from the Sabha area of Gram Panchayat Kushak, by issuing the impugned Notification. Learned counsel argued that if the Hadbast number is only one and village is one, then no separate Gram Panchayat can be created. This contention, in our opinion, is contrary to the provision of Section 7 of the Act, which clearly provides that the Government may, by notification, declare any village or part of a village or group of contiguous villages with a population of not less than five hundred to constitute one or more sabha areas. Therefore, even part of a village can be declared as sabha area. In **Sukhma Devi and others versus State of Haryana and others**, 2014 (1) RCR (Civil) 873, this court has taken a similar view. Thus, we do not find any merit in the contention of learned counsel for the petitioner.

Dismissed.

(SATISH KUMAR MITTAL)
JUDGE

May 27, 2015
ndj

(HARINDER SINGH SIDHU)
JUDGE