

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

CWP No. 17505 of 2015

DATE OF DECISION : 24.08.2015

Prem Sagar Chawla and others

.... PETITIONERS

Versus

State of Haryana and others

.... RESPONDENTS

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

HON'BLE MR. JUSTICE MAHAVIR S. CHAUHAN

Present : Mr. Keshav Pratap Singh, Advocate,
for the petitioners.

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SATISH KUMAR MITTAL, J.

The petitioners, who are residents of Palwal, claiming themselves to be prospective candidates for the upcoming Municipal Council elections, have filed this writ petition for quashing of the notification dated 04.08.2015 (Annexure P-6) whereby in pursuance of the provision of Rule 10 of the Haryana Municipal Delimitation of Ward Rules, 1977 (hereinafter referred to as 'the Rules of 1977'), the Governor of Haryana has published the delimitation of the wards of Municipal Council, Palwal.

Undisputedly, before issuing the aforesaid notification, a draft notification dated 11.02.2015 (Annexure P1) was published, inviting objections of the general public. Thereafter, the final notification was

issued.

It is the case of the petitioners that they had filed certain objections, but their objections were not properly considered by the Delimitation Committee and the final notification was issued, which according to the petitioners is illegal, arbitrary and violative of the provisions of the Rules of 1977.

After hearing learned counsel for the petitioners and going through the contents of the petition, we do not find any substance in the instant petition. According to the Rules of 1977, for the purpose of carrying out the provisions of the Rules, the Government is to constitute an *Ad hoc* Body for each committee, consisting of certain members as provided in Rule 4 and it shall be the duty of the *Ad hoc* Body to divide the committee into such number of wards as may be necessary, having regard to the number of elected members fixed by the Government for the committee under Rule 3 and the number of seats reserved for members of the Scheduled Castes, Backward Classes and Women. Rule 7 provides principles for delimitation of wards of committee, which reads as under :

“7. Principles for delimitation of wards of committee – The following principles shall be observed by the Ad hoc Body in the delimitation of wards of a committee, namely, :-

(a) wards shall, as far as practicable, be geographically compact areas, and having regard to physical features, existing boundaries of administrative units, if any, facilities of communication and public convenience;

(b) the population of each ward, as far as practicable, should be the same throughout the committee with a variation up to 10 per cent above or below the average population per ward; and

(c) wards reserved for the members of Scheduled Castes and Backward Classes shall, as far as practicable, be located in those areas where the proportion of their population to the total population of the committee is the largest.

[Explanation – In this rule, the expression “Population”, means the population as ascertained locally by the staff, deputed by the Director, after going from door to door in the municipality.]”

Under Rule 8, the *Ad hoc* Body is required to prepare the proposal for the delimitation of wards of a committee and send the same to the Government for consideration. Thereafter, under Rule 9 the Government shall publish such proposal in the Official Gazette, for eliciting objections or suggestions from the affected persons of the municipality. Thereafter, after considering all the objections and suggestions, the Government shall, by order, determine the delimitation of wards of the committee, and ultimately shall publish the final notification under Rule 10.

In the present case, the aforesaid entire procedure has been followed and the final notification has been issued.

Learned counsel for the petitioners argued that in this case, the survey to ascertain the population was got conducted by the *Ad hoc* Body from a private association, which was not properly conducted. Therefore,

the entire process of delimitation of wards is based on the wrong facts.

Regarding objections filed by the petitioners, it is not disputed that all the objections were duly considered by the Government before issuing the final notification. But it is not required that on each and every objection, a speaking order is to be passed and objector has to be heard. The only requirement is that before finalising the 'wardbandi', the proposal for delimitation of wards is to be published in the Official Gazette inviting objections or suggestions from the affected persons of the municipality, and objections or suggestions so received are to be considered. This has been done in the present case. Therefore, there is no illegality in the final notification issued by the Government.

As per Rule 7 of the Rules of 1977, the *Ad hoc* Body while making the 'Wardbandi' is required to keep in mind certain principles of delimitation of ward, i.e. (i) wards shall, as far as practicable, be geographically compact areas; (ii) the population of each ward, as far as practicable, should be the same throughout the committee with a variation upto 10% above or below the average population per ward; and (iii) wards reserved for the members of Scheduled Castes and Backward Classes shall, as far as practicable, be located in those areas where the proportion of their population to the total population of the committee is the largest. In this regard, nothing has been stated in the petition that the aforesaid guidelines have not been followed. Only it has been stated that as per the survey got

conducted by the petitioners in some areas, the voters have increased or decreased. These are not the grounds, on which the final notification can be challenged. Further, it has been provided under Rule 10 of the Rules of 1977 that the final notification issued by the Government shall have the force of law. The Hon'ble Supreme Court in *Meghraj Kothari v. Delimitation Commission and others*, AIR 1967 SC 669 has held that the final notification under Section 10 (1) of the Delimitation Commission Act, 1962 is to have the force of law and cannot be made the subject matter of controversy in any court.

In view of the above, we do not find any merit in the instant petition.

Dismissed.

(SATISH KUMAR MITTAL)
JUDGE

August 24, 2015
ndj

(MAHAVIR S. CHAUHAN)
JUDGE