

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-17330-2016

Date of decision: 15.12.2016

Rambir and another

..... Petitioners

Versus

State of Haryana and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE RAMENDRA JAIN**

PRESENT: Dr. Naresh Kaushik, Advocate for the petitioners.

RAMENDRA JAIN, J.

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioners have, *inter alia*, prayed for issuance of a writ of Certiorari for setting aside the impugned order dated 17.05.2016 (Annexure P-9). Further, a writ of Mandamus has been sought directing the respondents to exclude the village Asawarpur, Block Rai, District Sonapat from inclusion in the Municipal Corporation, Sonapat vide notification No. 18/82/2015-3C1 dated 03/06.07.2015 (Annexure P-1) by upgrading and declaring the Municipal Council, Sonapat including adjoining rural areas as shown in drawing No. MCS(1/2015) dated 01.06.2015 as Municipal Corporation, Sonapat.

2. Put pithily, the petitioners are the residents of village Asawarpur, Block Rai, District Sonapat, which along with other 26 villages had been included in the Municipal Corporation, Sonapat vide aforesaid

objections, following the proper procedure and without affording an opportunity of hearing. The population is the sole basis for declaring the Municipal Committee to Municipal Council, Municipal Council to Municipal Corporation and Municipal Corporation to Metropolitan area. According to the last census of 2011, the total rural and urban population of Sonapat comes to 3,74,675 including the population of 27 villages. The villages have been included just to fulfill the conditions of population of three lacs, despite the fact that most of the villages were having huge financial funds. Even otherwise, many other villages situated near the city of Sonapat have been left out, whereas the petitioners' village though situated at a distance of 27 Kms. from the city was included in the Municipal Corporation, Sonapat without giving any logic behind it. Even no resolution of the Gram Panchayat of petitioners' village was obtained which was necessarily required before inclusion of a village in Municipal Corporation. The village of the petitioners had already been adopted by Haryana Urban Development Authority (HUDA) in the year 2006 and, therefore, there was no necessity to include it into Municipal Corporation, Sonapat. As per guidelines and criteria issued by the Government of Haryana for the formulation of Municipal Corporation, the Government has to keep in mind the urban character of the area i.e. 60% of the population should be predominantly engaged in non-agricultural activities on the basis of last census, whereas 75% of the rural areas in the State of Haryana are involved in agricultural activities. In the year 2010, a similar effort was made, but due to objection of the villagers, the same was turned down.

3. After hearing learned counsel for the petitioners and giving our thoughtful consideration to the submissions made by learned counsel for the

petitioners, we find that the present writ petition is completely devoid of any merit.

4. For brevity, Section 3 of the Haryana Municipal Corporation Act, 1994 is reproduced as under:-

3. Declaration of Municipal Area as Corporation.-- (1)
From the 31st day of May, 1994, the Municipal Corporation of Faridabad shall be deemed to have been declared as such for the Municipal Area specified in the First Schedule appended to this Act.

(2) The Government may, from time to time, by notification in the Official Gazette, declare any municipality (or municipalities) including area comprising rural area or a part thereof, if any, to be a Corporation known as “the Municipal Corporation of _____ (Name of Corporation)”.

Provided that no municipality (or municipalities) including area, comprising rural area or a part thereof, if any, shall be so declared to be a Corporation unless the population thereof [is three lacs or more].

(3) The Government may, from time to time, after consultation with the Corporation, by notification in the Official Gazette, alter the limits of the Municipal Area of the Corporation declared under sub-sections (1) and (2) so as to include therein or exclude therefrom such areas as may be specified in the notification.

(4) When the limits of the Municipal areas are altered, so as to include therein any area, except as the Government may otherwise by notification, direct, all rules, regulations, notifications, bye-laws, orders, directions and powers issued or conferred and all taxes imposed under this Act; and in force in the Municipal area shall apply to such area.

(5) When a local area is excluded from the Corporation under sub-section (3) -

(a) this Act, and all notifications, rules, bye-laws, orders, directions and powers issued, made or

conferred under this Act, shall cease to apply thereto; and

- (b) the Government shall after consulting the Corporation, frame a scheme determining what portion of the balance of the Corporation fund and other property vesting in the Municipal Corporation shall vest in the Government and in what manner the liabilities of the Corporation shall be apportioned between the Corporation and the Government, and, on the scheme, being notified, the property and liabilities shall vest and be apportioned accordingly.”

5. The main grouse of the petitioners is that the concerned authorities were required to invite objections from the residents of village Asawarpur, before inclusion of the same in Municipal Corporation, Sonapat. It is pertinent to mention here that earlier the petitioners had filed CWP-2723-2016, (Rambir and others Vs. State of Haryana) which was disposed of by this Court vide order dated 11.02.2016, with the following directions:-

“The petitioners are residents of village Aswarpur, Block Rai, District Sonapat. Their grievance is against the inclusion of their village within the limits of Municipal Corporation Sonapat which has been constituted by upgrading the existing Municipal Council, Sonapat. It is claimed that the Gram Sabha has passed a resolution against inclusion of the village in the Municipal Corporation, but without considering such resolution or objections submitted by the affected persons including the petitioners the impugned notification has been issued. Copies of the objections dated 02.06.2015 and 05.11.2015 have been appended as Annexures P-7 and P-8, respectively.

There is nothing on record to suggest that the objections filed by the petitioners or other affected persons were not considered by the authorities before taking the final decision. Nonetheless, having regard to the plea taken by the petitioners, we dispose of this writ petition with a direction to the Principal Secretary to Government of Haryana, Urban Local Bodies Department, to call for the records and if a reasoned order was passed on consideration of the objections filed by the petitioners, let its copy be communicated to them. However, if the objections have not been considered so far, let the follow-up action be taken within a period of three months from the date of receiving a certified copy of this order.”

6. Thereafter, in compliance to the said order, respondent No. 2- Principal Secretary, Government of Haryana, Urban Local Bodies Department, Chandigarh, perused the record of the Municipal Corporation, Sonapat as well as the office record of the case and found that the representation dated 02.06.2015 (Annexure P-7) of Sh. Shri Bhagwan, Sarpanch and other villagers of Gram Panchayat, Asawarpur, addressed to Deputy Commissioner, Sonapat was received on 03.06.2015 i.e. after the meeting of the Committee constituted to consider the case of constitution of Municipal Corporation, Sonapat already convened on 29.05.2015 under the Chairmanship of Divisional Commissioner, Rohtak. In compliance of the order dated 11.02.2016, respondent No. 2 dealt with the objections/issue raised by the petitioners and passed the order dated 17.05.2016 (Annexure P-9). Para Nos. 5 and 6 of the said order reads thus:-

“5. That as per the proceedings of the meeting dated 29.05.2015 held under the Chairmanship of Divisional Commissioner, Rohtak the Panchayat of village

Asawarpur had not passed the resolution to include their village in the Municipal Corporation, Sonapat, but it has been mentioned by the constituted Committee that “village Asawarpur is situated along National Highway No. 1 and the other revenue estate in the name of Feozpur Khadar is also attached with the Gram Panchayat of Asawarpur village. Rajiv Gandhi Education City and many industries are existing in both revenue estates. National Highway No. 1 also passes through both revenue estates. Mostly people from this village are also involved in non-agriculture activities and working in industry and private sector undertaking. The living standard of the people residing in this village are better and it is of urban character. The inclusion of this village is necessary from integrated development point of view, hence included.

6. That according to Section 3 of the Haryana Municipal Corporation Act, 1994, the State Govt. may, from time to time, by notification in the Official Gazette, declare any Municipality including area comprising rural area or a part thereof, if any, to be a Corporation. As per the report/recommendation of the Constituted Committee headed by Divisional Commissioner, Rohtak consisting of Deputy Commissioner, Sonapat, DTP, Sonapat, E.O., M.C., Sonapat and representative of Director, Urban Local Bodies & Director, Development & Panchayats, the inclusion of village Asawarpur in the objections dated 02.06.2015 & 05.11.2015 (Annexure P-7 & P-8) are baseless and hence disposed off accordingly.”

7. From the aforesaid order, it is evident that virtually, the petitioners have no case on merits, rather their objections are just to create hurdles in the functioning of the Government, may be for some extraneous reasons best known to them. Even learned counsel for the petitioners before

us could not point out as to what prejudice would be caused to the petitioners, in case, their village Asawarpur is included in Municipal Corporation, Sonapat, more particularly, when it is situated on National Highway No. 1 and the other revenue estate of village Ferozpur Khadar is also attached with the Gram Panchayat of this village. It had been specifically observed in the order Annexure P-9 that most of the people of this village are involved in non-agriculture activities and working in industry and private sector undertakings. The living standard of the people residing in this village are better and it is of urban character and thus, the inclusion of this village is necessary from integrated development point of view. It has also been specifically observed that Rajiv Gandhi Education City and many industries existed in both the revenue estates i.e. Asawarpur and Ferozpur Khadar. In our considered opinion, the respondents in their wisdom have not acted arbitrarily or illegally, while including village Asawarpur in Municipal Corporation, Sonapat.

8. No ground for interference by this Court under Articles 226/227 of the Constitution of India is made out. Consequently, finding no merit in the writ petition, the same is hereby dismissed.

9. Registry is directed to bring this order to the notice of the respondents.

**(RAMENDRA JAIN)
JUDGE**

December 15, 2016
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**(AJAY KUMAR MITTAL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No