

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.5681 of 2014
Date of decision: 02.09.2016

Bal Ram Singh Mann and others

... Petitioners

Vs.

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. R.K. Garg, Advocate
for the petitioners.

Mr. Yatinder Sharma, Addl. AG, Punjab.

Mr. Nitin Kaushal, Advocate
for respondent No.2.

RAMESHWAR SINGH MALIK, J. (ORAL)

Feeling aggrieved against the impugned notifications dated 12.04.2013 (Annexure P-1) and dated 05.12.2013 (Annexure P-3), whereby Gram Panchayat of the petitioners was declared as Nagar Panchayat under Section 4 of the Punjab Municipal Act, 1911, petitioners have approached this Court, by way of present writ petition under Article 226/227 of the Constitution of India, seeking a writ in the nature of certiorari, for quashing the impugned notifications.

Notice of motion was issued and in compliance thereof, separate written statements were filed. One written statement was filed on behalf of respondent No.1 and another on behalf of respondent No.2.

Heard learned counsel for the parties.

The only argument raised by learned counsel for the petitioners is that although at the time of issuing impugned notification (Annexure P-1), objections were invited within a period of 30 days, which were, as a matter of fact, filed on behalf of the petitioners vide Annexure P-2 dated 27.04.2013, yet impugned notification (Annexure P-3) came to be issued on 05.12.2013, pointing out that no objections were raised within the stipulated period. He also refers to the averments taken in para 13 of the preliminary submissions in the written statement filed on behalf of respondent No.1, to contend that the respondents have tried to change their stand, showing that neither the objections received were signed nor contained the complete address of senders, because of which the objections were rejected. He further submits that in view of these circumstances, impugned notification (Annexure P-3) was issued without any application of mind and also without considering the objections duly received in time. In such a situation, learned counsel for the petitioners submits that impugned notification (Annexure P-3) is palpably wrong and liable to be set aside, in view of the law laid down by a Division Bench of this Court in its order dated 07.02.2000 passed in CWP No.10611 of 1998 (Sukhdev Singh and others Vs. The State of Punjab and others).

Faced with the above, learned counsel for the State could not raise any meaningful arguments and rightly so, it being a matter of record. From the abovesaid undisputed fact situation obtaining on the record, it becomes crystal clear that the objections raised on behalf of the petitioners, although received well in time but were not properly considered by the competent authority, before issuing impugned notification dated 05.12.2013 (Annexure P-3).

Inviting the objections pursuant to notification (Annexure P-1) was not a mere formality but it was a statutory requirement, granting valuable right to the citizens. Once the petitioners have availed their right of filing self-contained objections vide Annexure P-2, it was least expected from the respondent authorities to consider said objections, by passing an appropriate order thereon, strictly in accordance with law. However, it was not so done, for the reasons best known to the respondent authorities. No specific explanation is forthcoming in this regard.

In view of what has been discussed hereinabove, the inevitable conclusion is that the impugned notification (Annexure P-3) is patently illegal and the same cannot be sustained, being contrary to the relevant provisions of law contained in the Punjab Municipal Act, 1911 and also the law laid down by a Division Bench of this Court in **Sukhdev Singh's** case (supra).

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that since the impugned notification (Annexure P-3) has been found contrary to the facts of the case as well as it runs counter to the law laid down by the Division Bench of this Court in **Sukhdev Singh's** case (supra), the same cannot be upheld. Consequently, impugned notification dated 05.12.2013 (Annexure P-3) is hereby set aside.

The matter is remitted to the respondent State through its Principal Secretary, Department of Local Government-respondent No.1 with a direction that the objections dated 27.04.2013 (Annexure P-2) shall be treated to have been

filed on behalf of the petitioners. These objections shall be duly considered by the competent authority and same shall be decided by passing an appropriate order thereon, strictly in accordance with law.

Let the needful be done, at an early date but in any case within a period of three months from the date of receipt of certified copy of this order.

Resultantly, with the abovesaid observations made and directions issued, present writ petition stands allowed, however, with no order as to costs.

02.09.2016

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[RAMESHWAR SINGH MALIK]
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No