

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 225 of 2017**

Order Reserved On : 01/02/2017

Order Passed On : 07/04/2017

1. Smt Poornima Pushpakar W/o Sewaram Pushpakar, Aged About 45 Years (Ex Ward Member) R/o Village Vishrampuri, Tahsil And Thana Vishrampuri, District Kondagaon, Chhattisgarh.
2. Smt. Kumeshwari Samrath (Ex President), W/o Dhannu Ram Samrath, Aged About 41 Years R/o Village Vishrampuri, Tahsil And Thana Vishrampuri, District Kondagaon, Chhattisgarh.
3. Amirdas Manikpuri S/o Jhiloodas Manikpuri, Aged About 58 Years R/o House No. 68 Village Vishrampuri, Tahsil And Thana Vishrampuri, District Kondagaon, Chhattisgarh.
4. Krishan Kumar Sahu S/o Hatoi Ram Sahu, Aged About 49 Years (President Of Sahu Samaj) R/o Village Vishrampuri, Tahsil And Thana Vishrampuri, District Kondagaon, Chhattisgarh.
5. Sarojni Chandekar, W/o Arjun Chandekar, Aged About 36 Years House No. 2, Ward No. 12 R/o Village Vishrampuri, Tahsil And Thana Vishrampuri, District Kondagaon, Chhattisgarh.
6. Sunder Markam, S/o Chhittal Markam, Aged About 33 Years R/o Ward No. 13, R/o Village Vishrampuri, Tahsil And Thana Vishrampuri, District Kondagaon, Chhattisgarh.
7. Chandrakala Soni, W/o Chhotelal Soni, Aged About 62 Years R/o House No. 22, Ward No. 10 R/o Village Vishrampuri, Tahsil And Thana Vishrampuri, District Kondagaon, Chhattisgarh.
8. Geeta Bai Nag W/o Anand Nag, Aged About 41 Years R/o House No. 21/ D, Ward No. 10 R/o Village Vishrampuri, Tahsil And Thana Vishrampuri, District Kondagaon, Chhattisgarh.
9. Leela Bai Manikpuri, W/o Sanval Das Manikpuri, Aged About 47 Years House No. 73 Ward No. 10, R/o Village Vishrampuri, Tahsil And Thana Vishrampuri, District Kondagaon, Chhattisgarh.
10. Kunju Nag, W/o Ramesh Kumar Nag, Aged About 40 Years R/o House No. 20 Ward No. 10, R/o Village Vishrampuri, Tahsil And Thana Vishrampuri, District Kondagaon, Chhattisgarh.
11. Tula Ram Nishad, S/o Bisarum Ram Nishad, Aged About 40 Years House No. 47 Ward No. 10, R/o Village Vishrampuri, Tahsil And Thana

Vishrampuri, District Kondagaon, Chhattisgarh.

12. Dukuram Nag, S/o Harlal Nag, Aged About 55 Years R/o House No. 21 Ward No. 10, R/o Village Vishrampuri, Tahsil And Thana Vishrampuri, District Kondagaon, Chhattisgarh.

---- **Petitioner**

Versus

1. State Of Chhattisgarh Through : Secretary, Revenue Department, Mantralaya, Naya Raipur District Raipur (Chhattisgarh).
2. The Secretary, Panchayat And Rural Development Department, Mantralaya, Naya Raipur District Raipur (Chhattisgarh).
3. Collector, District Kondagaon (Chhattisgarh).
4. The Sub Divisional Officer (R), Kondagaon, District Kondagaon (Chhattisgarh).
5. The Tahsildar, District Kondagaon (Chhattisgarh).

---- **Respondent**

For Petitioners : Shri Parag Kotecha, Advocate.
 For Respondents : Shri Ramakant Mishra, Deputy AG.

Hon'ble Shri Justice Prashant Kumar Mishra

C A V Order

1. The petitioners would call in question the legality and validity of the order dated 4.7.2016 (Annexure-P/6) and the order dated 29.12.2016 (Annexure-P/7) passed by the Collector, Kondagaon. They have also prayed for quashment of the notification dated 13.4.2016 and 9.5.2016 (Annexure-P/2 & P/3 respectively) issued by the Collector, Kondagaon constituting revenue villages in exercise of power under Section 73 of the CG Land Revenue Code, 1959 and thereafter constituting Gram

Panchayats under Section 3 read with Section 129 and Section 8 of the CG Panchayat Raj Adhiniyam, 1993.

2. The petitioners are resident of village Vishrampuri consisting of geographical areas of Village/Tola/Mohalla Jangalpara, Kumarpara, Bandhpara and Shivmandirpara. These areas were earlier included in the geographical limits of Gram Panchayat Vishrampuri which was re-constituted as an urban body in the name of Nagar Panchayat Vishrampuri, however, the said Nagar Panchayat was subsequently dissolved and the area of Nagar Panchayat Vishrampuri was divided in 7 independent Gram Panchayats namely, (i) Vishrampuri A, (ii) Vishrampuri B, (iii) Khargaon, (iv) Jirrapara, (v) Farsadih, (vi) Birapara, (vii) Rogadihi.
3. According to the petitioners, the area of Gram Panchayat Vishrampuri-A comprises of Amadihi, Dihipara, Aypurdih & Jangalpara whereas Gram Panchayat Vishrampuri-B comprises of Kumharpara, Bandhpara and Shivmandirpara. Their claim is for constituting a separate Gram Panchayat for Kumharpara, Bandhpara, Shivmandirpara and Jangalpara because common community services and facilities have been enjoyed collectively by the members of these villages. In substance, their claim is for inclusion of the above named villages in one Gram Panchayat and not to separate and divide them between Gram Panchayat Vishrampuri-A and Vishrampuri-B.
4. Learned State Counsel would submit that constitution of Gram

Panchayat is ordinarily not interfered in exercise of power under Article 226 of the Constitution of India unless any constitutional or statutory provisions are violated while constituting such Gram Panchayat.

5. It appears, the petitioners had earlier preferred WPC Nos.790/2016, 1337/2016, 1404/2016 and WPCR No.370/2016 for the same grievance for inclusion of Village Jangalpara in the areas of Gram Panchayat Vishrampuri-B.
6. Having heard learned counsel for the parties, it would appear that the petitioners are not alleging violation of any statutory or constitutional provision by the Collector, Kondagaon while constituting Gram Panchayat Vishrampuri-A and Vishrampuri-B. The petitioners' prayer for reconstitution of the Gram Panchayat as per their own desire is based on their convenience and not on account of violation of any statutory provision.
7. The Supreme Court in **Jammu and Kashmir National Panthers Party v. Union of India and Others**¹, while dealing with challenge to delimitation of Assembly Constituencies on the ground of growing imbalance in composition of constituencies, not reflecting proper representation of people of the State, relied on its earlier decision rendered in **R.C. Poudyal v. Union of India and Others**², and held thus :

¹(2011) 1 SCC 228
²1994 Supp (1) SCC 324

17. This Court in *Poudyal case* relied on the opinion of Earl Warren, C.J. in *B.A. Reynolds*. At L Ed p. 536 of the Report the learned Chief Justice held as follows:

“... We realise that it is a practical impossibility to arrange legislative districts so that each one has an identical number of residents, or citizens, or voters. Mathematical exactness or precision is hardly a workable constitutional requirement.”

The learned Chief Justice also relied on historical factors in support of his opinion and held: (L Ed p. 537)

“History indicates, however, that many States have deviated, to a greater or lesser degree, from the equal-population principle in the apportionment of seats in at least one house of their legislatures. So long as the divergences from a strict population standard are based on legitimate considerations incident to the effectuation of a rational State policy, some deviations from the equal-population principle are constitutionally permissible with respect to the apportionment of seats in either or both of the two houses of a bicameral State Legislature.”

8. In **Gramvasi Gram Khari Gram Panchayat, Dhamni & Another Vs. The Collector, Baloda Bazar & Others** {AIR 2015 CHHATTISGARH 7}, this Court had an occasion to consider the challenge made to the constitution of the Gram Panchayat in respect of challenge to the inclusion or exclusion of certain areas in the newly constituted Gram Panchayat. Negating the challenge, this Court has held thus:-

31. Thus, it is now settled that a constituency whether it be Parliamentary

Constituency/Assembly Constituency/Municipal Ward or a Gram Panchayat cannot be constituted with mathematical precision having identical number of residents/voters. Similarly, there is no statutory prescription that when a particular Gram Panchayat consists of more than one villages, the headquarter has to be established in the village having the largest population. As would be discernible from the guidelines issued by the State Government, several factors are to be considered for establishment of a village i.e. Gram Panchayat and thereafter declaration of a particular village as its headquarter, therefore, the argument to the contrary has no substance and noticed to be rejected. In any case, this Court cannot sit in appeal against the impugned notification because the decision is general in character and not directed to a particular resident of that area.”

9. In the case at hand also, the petitioners have neither pleaded nor established violation of any of their statutory or fundamental right or corresponding violation of any such provision by the Collector, Kondagaon while issuing notification constituting revenue villages of Gram Panchayat Vishrampuri-A and Vishrampuri-B, as the case may be. A notification issued in exercise of legislative function is not to be annulled merely on the basis of convenience or inconvenience of few individuals of the village.
10. There is no substance in the writ petition, which deserves to be and is hereby dismissed.

Sd/-
Judge
 (Prashant Kumar Mishra)