

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.28931 of 2017.

Date of Decision: December 19, 2017

Ravin Kumar and others

.....Petitioners

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE SUDHIR MITTAL.

Present: Mr.Narender Hooda, Senior Advocate with
Mr.Ravinder Hooda, Advocate, for the petitioners.

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Surya Kant, J. (Oral)

The petitioners are residents of different wards of Municipal Committee, Hathin, District Palwal. Their grievance is against the notification dated 31.10.2017 whereby on completion of delimitation exercise of aforementioned municipality, revised ward-bandi has been notified under the Haryana Municipal Delimitation of Ward Rules, 1977. The petitioners also seek a restraint order from holding the elections of Municipal Council, Hathin on the basis of impugned revised ward-bandi published vide notification dated 31.10.2017 (P-8).

[2] We have heard learned senior counsel for the petitioners in support of the prayer made in the writ petition at a considerable length and gone through the record.

[3] The primary grievance of the petitioners appears to be that geographical area of ward No.6 & 7 has been maneuvered in such a manner that a particular community will have an edge over other castes in the elections.

It is urged that initially the draft-delimitation exercise was undertaken on

with no grievance. However, large scale variations have been made in the final notification on the recommendations of the SDM (Civil), whose recommendations ought not to have been given preference over and above to those made by the Adhoc Body which is a Statutory Committee under Rule-4 of the 1977 Rules.

[4] Having given our thoughtful consideration to the submissions, we do not find any merit therein. It would be useful to refer to Rule-7 of the 1977 Rules which lays down the “principles for delimitation of wards of Committee: and it reads as follows:-

“...7. Principles for delimitation of wards of committee:-

The following principles shall be observed by the *Adhoc* 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 upto 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].....”

[5] It may be seen that there are three broad parameters which are to be observed while undertaking the exercise of delimitation of wards, namely, (i) as far as practicable, there should be geographically compact area; (ii) population of each ward as far as practicable, should be the same with variation upto 10% above or below the average population of each ward, and (iii) the 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 largest.

[6] Learned senior counsel for the petitioners fairly states that there is no grievance as far as clause (i) pertaining to geographically compact area is concerned. Similarly, it is not disputed that guideline No.(ii) regarding population of each ward should be the same with variation upto 10% above or below the average population of each ward, has also been substantially complied with. Likewise, it is not the case of the petitioners that the wards have been reserved for Scheduled Castes and Backward Class categories in derogation of Rule 7(c) of the Rules (ibid). They nevertheless want to apply the analogy of Rule 7(c) to urge that the population of a particular 'caste' in general category should also not be disproportionately higher as it might tilt the election result in favour of a particular caste.

[7] We are afraid that such like alien and extraneous factors like existence of more population of a particular caste in a particular ward or as to how to reduce the strength of such caste, cannot be the matter of judicial review. The elections are not expected to be contested on caste considerations. The candidates, irrespective of their political affiliation are expected to contest the elections not on caste-based propaganda. If the

question like total population of a particular caste in a ward is put to judicial scrutiny, we have no reason to doubt that the delimitation exercise in the entire State then will have to be re-done.

[8] Assuming that what the petitioners have asserted is factually correct, yet it does not lead to violation of any Statute, Rule or Policy which may warrant interference by a Writ Court.

[9] No case to interfere with the impugned notification dated 31.10.2017 (P-8) is made out.

[10] Dismissed.

[SURYA KANT]
JUDGE

December 19, 2017
mohinder

[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No