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**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Appeal No. 194 of 2017**

*{Arising out of order dated 07.04.2017 passed in Writ Petition (C) No. 225 of 2017 by the learned Single Judge}*

1. Smt. Poornima Pushpakar, aged about 45 years, (Ex Ward Member) W/o Sewaram Pushpakar, R/o village Vishrampuri, Tahsil and Thana Vishrampuri, District Kondagaon, Chhattisgarh.
2. Smt. Kumeshwari Samrath (Ex President) aged about 41 years, W/o Dhannu Ram Samrath, R/o village Vishrampuri, Tahsil and Thana Vishrampuri, District Kondagaon, Chhattisgarh.
3. Sunder Markam, aged about 33 years, S/o Chhittal Markam R/o Ward No. 13, R/o village Vishrampuri, Tahsil and Thana Vishrampuri, District Kondagaon Chhattisgarh.

---- Appellants

**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.
4. The Sub Divisional Officer (Revenue) Kondagaon, District Kondagaon.
5. The Tahsildar, District Kondagaon.

---- Respondents

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| For Appellants       | : Shri Parag Kotehca, Advocate.      |
| For Respondent/State | : Shri UNS Deo, Government Advocate. |

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**Hon'ble Shri Ajay Kumar Tripathi, Chief Justice**  
**Hon'ble Shri Parth Prateem Sahu, Judge**

**Judgment on Board****Per Ajay Kumar Tripathi, Chief Justice****29/11/2018**

1. Heard learned counsel for the Appellants and the learned Government Advocate for the State.

2. Writ application of the Petitioners, who are Appellants before the Court, stood dismissed vide order dated 07.04.2017 passed by the learned Single Judge. In the writ application, prayer was made for quashing the notifications dated 13.04.2016 and 09.05.2016, Annexures P/2 and P/3 respectively, issued by the Collector, Kondagaon constituting revenue villages in exercise of power under Section 73 of the Chhattisgarh Land Revenue Code, 1959.
3. The Appellants claim themselves to be residents of village Vishrampuri. The said village encompasses geographical area of village Tola or Mohalla known as Jangalpara, Kumharpara, Bandhpara and Shivmandir Para. These areas were earlier included in the geographical limits of Gram Panchayat Vishrampuri which got reconstituted as an urban body in the name of Nagar Panchayat, Vishrampuri. The State authorities, however, for various reasons decided to dissolve the Nagar Panchayat and the area falling within the 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 and (vii) Rogadihi. These Appellants had objections against their inclusion by virtue of the reorganisation and creation of the revenue village. They did file their objection before the Collector after the issuance of the notification but it seems that a meeting of the Gram Panchayat was called and by virtue of a common consensus so reached in favour of the reconstitution and restructuring, the follow up notification was issued. Since these Appellants were not satisfied, may be with the view of the majority, they chose to file a writ application before the High Court which was registered, heard and disposed off with a direction upon the Collector, Kondagaon to pass a speaking order. The speaking order dated 04.07.2016 was marked as Annexure P/6 to the writ application.

4. To say the least, the speaking order by itself is a complete answer to all the objections raised by the Appellants against the impugned notification and from a reading of the same, it is evident that not only the view of one and all was considered but taking into consideration the over all requirement not only from the point of revenue but even efficient administration coupled with the desire of the majority, the appropriate notifications came to be issued.
5. Since the Appellants are a determined lot and they are not happy with the decision of the majority including the statutory authorities, they decided to approach the High Court a second time over in which the learned Single Judge, after hearing the Appellants as well as the State authorities refused to interfere with the order for the following reasons:

"7. The Supreme Court in **Jammu and Kashmir National Panthers Party v. Union of India and Others**; (2011) 1 SCC 228, 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**; 1994 Supp (1) SCC 324, and held thus :

17. This Court in Poudyal case relied on the opinion of Earl Warren, C.J. in *B.A. Reynolds*. At L Edp. 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 Vishrampur-A and Vishrampur-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."

6. The facts and situation as well as the law dealt by the learned Single Judge supported by judicial precedents of the Courts including the Apex Court surely supports the view so taken by him which requires no interference.
7. The appeal has no merit. It is dismissed.

Sd/-  
(Ajay Kumar Tripathi)  
**CHIEF JUSTICE**

Sd/-  
(Parth Prateem Sahu)  
**JUDGE**