

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 3499 of 2019**

1. Vishal Deshlahre S/o Late Shri Sekhu Das Aged About 35 Years R/o Ward No. 10, Jaistambh Chowk, Berla, District- Bemetara, Chhattisgarh
2. Mahendra Kumar Bhattar S/o Shri Bharat Lal Bhattar Aged About 48 Years R/o Ward No. 3 Bazar Chowk, Berla, District - Bemetara Chhattisgarh

---- Petitioners**Versus**

1. The State of C.G. Through The Secretary, Urban Administration And Development Department, Mahanadi Bhawan, New Raipur Chhattisgarh
2. The Collector Bemetara, District- Bemetara Chhattisgarh
3. The Designated Officer Cum Tehsildar Berla, District- Bemetara Chhattisgarh
4. The Chief Municipal Officer Nagar Panchayat Berla District Bemetara Chhattisgarh

---- Respondents

For Petitioners	:	Shri Rakesh Pandey, Advocate
For Respondents/State	:	Shri Amrito Das, Addl. AG

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****30/09/2019**

1. Heard.
2. Learned counsel for the petitioner would submit that as per Section 29 of the Chhattisgarh Municipalities Act, 1961 (for short 'the Act, 1961') the determination of number and extent of wards has to be done as per the person who are liable to vote. It is stated that in the instant case at para 8.14 it would reflect that for Nagar Panchayat, Berla, District Bemetara, 15 wards have been constituted and the numbers of voters are variable. He would further submit

that as in many wards as against the other wards, the three times of voters exists, thereby there has been a violation of sub-section (3) of Section 29 of the Act, 1961. He would further submit that the objection though has been raised, which has not been adhered too, therefore, the limitation as has been carried out being against the law cannot be given effect to.

3. Per contra, learned State counsel would submit that the limitation of the wards and reconstitution thereof depend on the population of each ward and as per the last census of 2011, the delimitation was carried out. It is stated that the population and the voters cannot be the amalgamated. It is only on the basis of the population, the delimitation and reconstitution of wards are carried out. He would further submit that the final notification has been made on 16th of July, 2019. As per Rule 8 of the Chhattisgarh Municipalities (Extent of Wards) Rules, 1994 (for short 'the Rules, 1994'), therefore, this petition has become infructuous.
4. I have heard learned counsel for the parties.
5. As per para 8.14 of the petition, the petitioner in respect of the Nagar Panchayat, Berla, district Bemetara, the petitioner has pleaded the following number of voters, who are present as against the number of wards, which reads as under:-

S. No.	Ward No.	Number of Voters
1.	1	181
2.	2	313
3.	3	141
4.	4	131
5.	5	153
6.	6	430

7.	7	309
8.	8	197
9.	9	193
10.	10	283
11.	11	514
12.	12	366
13.	13	375
14.	14	336
15.	15	230

6. Section 29 of the Act, 1961 reads as under:-

29 - Determination of number and extent of wards and conduct of elections. - (1) The State Government shall from time to time, by notification in the Official Gazette, determine the number and extent of wards to be constituted for each Municipality:

Provided that the total number of wards shall not be more than forty and not less than fifteen.

- (2) Only one Councillor shall be elected from each ward.
- (3) The formation of the wards shall be made in such a way that the population of each of the wards shall, so far as practicable be the same throughout the Municipal area and the area included in the ward is compact.
- (4) As soon as the formation of wards of a Municipality is completed, the same shall be reported by the State Government to the State Election Commission.
- (5) [Omitted by M.P. Act No. 12 of 1995.] [* *]
- (6) [Omitted by M.P. Act No. 12 of 1995.] [* * *].

7. The sub-section (3) of Section 29 of the Act, 1961 would show that the formation of the wards shall be made in such a way that the population of each of the wards shall, so far as practicable, be the same. Meaning thereby the ratable distribution or equality of population as far as practicable is the object. The word used in Section 29 (3) is with respect to population and is not based

on the number of voters. If according to the State the delimitations are carried out according to the last census of 2011, then the number of voters cannot be made substituted in sub-section (3) of Section 29 of the Act, 1961. Furthermore, as is stated that the final notification has been made by the State on 16th of July, 2019, as such Rule 8 of the Rules, 1994 would be relevant which reads as under:-

8. Disposal of the objections/suggestions as received and final publication.— Any citizen may submit his objection or suggestion in regard to the proposed limits of the wards within seven days from the date of publication of the notice by the Deputy Collector which shall be forwarded to the Collector of the District. The Collector after considering the opinion of the Deputy Collector shall take the decision on the objections and suggestions received and shall publish the notification in the Madhya Pradesh Gazette in regard to the extent of the wards as determined. A notification published in the “Madhya Pradesh Gazette” under these rules shall be conclusive evidence that the extent of the wards have finally been determined for the purpose of sub-section (1) of Section 29”

8. Since the final notification of delimitation has been made on 16th July, 2019, therefore, probably the petitioner may have to resort to another bout of litigation. The notification itself having been made, it would be the conclusive evidence for determination for purpose of Section 29 (1) of the Act, 1961. In this petition, no relief can be granted. Accordingly, I am not inclined to entertain the same.
9. Accordingly, the writ petition is dismissed.

Sd/-

Goutam Bhaduri
Judge