

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 4189 of 2019**

Ram Mohan Soni S/o Lt. Mr. Gajodhar Soni, Aged About 60 Years,
R/o. Fazalbada, Juna Bilaspur, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Its Secretary, Department Of Urban Administration, Mahanadi Bhawan, Atal Nagar, Raipur, Chhattisgarh
2. The Commissioner, State Election Commission, Raipur, Chhattisgarh
3. The Collector, District Bilaspur, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Ramakant Mishra, Advocate.
For State	:	Mr. Chandresh Shrivastava, Dy. A.G.
For Respondent no.2	:	Mr. Shivanshu Pandey on behalf of Mr. Shivraj Singh, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****20.11.2019**

1. The relief sought in the present writ petition is for issuance of an appropriate writ/direction calling the final publication of delimitation of 70 wards of the Municipal Corporation, Bilaspur.
2. On a query being put to the counsel for the petitioner, he submits that the only objection which the petitioner has raised is that all the wards that have been created should have the same population.
3. The rule as it stands as regards the Chhattisgarh Municipal (Extent to Wards) Rules, 1994 is that "the formation of wards as far as

practicable shall be made in such a way that the population in each of the wards be the same in all wards throughout the city and the area included in the wards be compact area.”

4. The very fact that the Rule itself says that the population of each ward should be kept same as far as practicable. There does not seem to be any other contention that the petitioner has raised in respect of the formation or delimitation of the wards are concerned. The term “as far as practicable” itself clearly indicates that it is never expected that the population of each ward should be same. There can be differences of population taking into consideration the development of the wards and other facts also.
5. Thus, when the rule itself provides that the population has to be maintained as far as practicable, it does not mean that in the event of there being different population in different wards, the whole delimitation of the wards gets vitiated.
6. The view of this Court stands fortified from the judgment rendered by the Hon'ble Supreme Court in the case of Jammu and Kashmir National Panthers Party Vs. Union of India and Others reported in (2011) 1 SCC 228 where in paragraph-17 it has been held as under:

"This Court in Poudyal case (1994 Supp (1) SCC 324) 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 realize 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."

7. A similar view has been rendered by this High Court in the case of Gramvasi Gram Khari Gram Panchayat Dhamni & another Vs. Collector, Baloda Bazar & others, AIR 2015 CG 7, where in paragraph-31, this Court taking into consideration the judicial pronouncements of the Hon'ble Supreme Court on this issue has held as under:

"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 village, 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."

8. Given the facts, this Court does not find any strong case made out by the petitioner for issuance any writ to the respondents. The writ petition fails and is accordingly rejected.

Sd/-
P. Sam Koshy
Judge