

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (C) No. 4539 of 2019

1. Smt. Suneeti Sahu W/o Shri Ashok Kumar Sahu Aged About 33 Years R/o Village Rohina, Block Bilaigarh, District - Baloda Bazar Bhatapara Chhattisgarh.
2. Ram Dular Sahu S/o Sita Ram Sahu, Aged About 40 Years R/o Village Dokridih, Block Bilaigarh, District - Baloda Bazar Bhatapara Chhattisgarh.

--- Petitioner(s)

Versus

1. State of Chhattisgarh Through Secretary, Department of Panchayat and Rural Development, Mahanadi Bhawan, Mantralaya, Atal Nagar, Nawa Raipur, District - Raipur Chhattisgarh.
2. Collector, Baloda Bazar, District Baloda Bazar Bhatapara Chhattisgarh.
3. Sub Divisional Officer (Revenue) Bilaigarh District - Baloda Bazar Bhatapara Chhattisgarh
4. Chief Executive Officer, Janpad Panchayat Bilaigarh, District Baloda Bazar Bhatapara Chhattisgarh.

---Respondents

For Petitioner	:	Shri UPS Sahu, Advocate
For State	:	Shri Jitendra Pali, Dy. Advocate General along with Ms. Sunita Jain, Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

11.12.2019

1. Challenge in the present writ petition is to the notification dated 24.11.2019 whereby reservation for the post of Sarpanch in the Gram Panchayats under different Blocks that have been notified.
2. The solitary ground on which the challenge has been made is that, the notification is bad in law on account of fact that the reservation has been made on the basis of census of 2011 whereas, the population has since been increased substantially. Moreover, according to the petitioners, in almost all the Gram Panchayats the population is less than 1000 whereas, the requirement is that it should have been more than 1000.
3. The issue involved in the present case has already been decided by this court recently in WPC No.4189 of 2019, Ram Mohan Soni Vs. State of Chhattisgarh & Others, decided on 20.11.2019, whereby again the

challenge was made on the basis of the population of village. This court relying upon the judgments of Supreme Court on the field, in paragraphs 3 to 7 held as under:

“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.”

4. Given the said judgment passed by this court under similar facts and circumstances, this court is of the opinion that the present writ petition also stands covered by the said judgment dated 20.11.2019 passed in WPC No.4189 of 2019.
5. Accordingly, the present writ petition also fails and is dismissed.

Sd/-
(P. Sam Koshy)
Judge