

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 4590 of 2019**

Awadhesh Kumar Yadav S/o Shri Shivnarayan Yadav Aged About 40 Years R/o Village Turiyabira, Post Bargidih, Tahsil Lundra, District Surguja, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Panchayat And Rural Development Mahanadi Bhawan New Raipur, District Raipur, Chhattisgarh
2. The Collector Surguja Ambikapur, District Surguja, Chhattisgarh
3. Chief Executive Officer Janpad Panchayat Lundra, District Surguja, Chhattisgarh
4. Gram Panchayat Gadhvira Through Secretary Gram Panchayat Gadhvira Janpad Panchayat Lundra, District Surguja, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. A. N. Pandey, Advocate
For State	:	Mr. Jitendra Pali, Dy. AG

Hon'ble Shri Justice P. Sam Koshy**Order on Board****16/12/2019**

1. The challenge in the present writ petition is to the impugned notification dated 16.10.2019 whereby the authorities concerned have issued a final notification as is required under Section 129(B)(1) of the Chhattisgarh Panchayat Raj Adhiniyam, 1993.
2. The grievance of the petitioner in the instant case is that the respondent authorities have not considered the representation of the petitioner which he had filed pursuant to the preliminary notification dated 05.10.2019.
3. Grievance of the petitioner is that the earlier Gram Panchayat was consisting of village Gadhvira and Village Turiyavira. Vide the preliminary notification the respondents made both these village as separate Gram

Panchayat. The petitioner and group of villagers thereafter submitted an objection on 14.10.2019 but without considering the objections raised by them the concerned authority has now published the final notification dated 16.10.2019 upholding the preliminary notification dated 05.10.2019. Contention of the petitioner seems to be more aggrieved of the creation of a new Panchayat Turiyavira sighting the fact that there was no inconvenience caused in the earlier position as it stood prior to the issuance of the notification dated 16.10.2019 and further that the new Panchayat Turiyavira does not have the population of more than 1000 and it also does not have necessary infrastructure for a Gram Panchayat to function smoothly.

4. All these grounds which the petitioner has raised in the writ petition already stood answered in a bunch of writ petitions decided by this Court in **WPC No. 1996/2014** in the case of **Gramvasi Gram Khari Gram Panchayat Dhamni & Another Vs. The Collector, Baloda Bazar & Others**, and other analogous writ petitions decided by a common judgment dated 24.11.2014 whereby dealing with the said issue and referring to various pronouncements on the subject the Hon'ble High Court in paragraph 31 to 34 has held as under :-

“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.

32. In *State of Uttar Pradesh and Others v. Rakesh Kumar Keshari and Another*¹⁴, the Supreme Court while dealing with the power of judicial review of the Court under Article 226 of the Constitution has held thus :

28. This Court in *Johri Mal* case has further held that the question is required to be determined in each case having regard to the nature of and extent of authority vested in the State. After holding that the power of judicial review is not intended to assume a supervisory role or don the robes of the omnipresent, this Court has, in terms, ruled that the power of judicial review is not intended either to review governance under the rule of law nor do the courts step into the areas exclusively reserved by the Constitution to the other organs of the State and has further cautioned that the Court shall not ordinarily interfere with a policy decision of the State.

29. The Court in *Johri Mal* case also held that the decisions and actions which do not have adjudicative disposition would not strictly fall for consideration before a judicial review court....”

33. In view of the above, while holding that the concerned Collectors have made substantial compliance with respect to publication of proposal by affixing the same in the notice board of the Panchayat and for the fact that the exercise is legislative in character and the limited scope of judicial review as held by the Supreme Court in *Rakesh Kumar Keshari (supra)*, *Rajdhar Singh (supra)* and *Ganesh Ram Koshare (supra)*, there is no merit in these writ petitions.

34. As a sequel, all the writ petitions, *sans substratum*, are liable to be and are hereby dismissed, leaving the parties to bear their own costs.

5. In view of the aforesaid judicial pronouncements, this Court is of the opinion that present writ petition also for the same reasons being devoid of merits stands rejected.

Sd/-
(P. Sam Koshy)
Judge

Rohit