

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.14425 of 2018
Date of Decision: 16.1.2019

Jai Pal

...Petitioner

Versus

State of Punjab and others

...Respondents

**CORAM: HON'BLE MR.JUSTICE A.B.CHAUDHARI
HON'BLE MR.JUSTICE HARNARESH SINGH GILL**

Present: Ms.Gurbir Kaur Mahal, Advocate for
Mr.Kamaldeep S.Sodhi, Advocate for the petitioner.

Mr.Sandeep Vermani, Addl.AG Punjab.

A.B.Chaudhary, J. (Oral)

Rule heard forthwith with the consent of the counsel of the rival parties.

The grievance of the petitioner is about division of Gram Panchayat into two. The petitioner has made a representation Annexure P-2 to the Authorities objecting to the proposed division of Gram Panchayat.

Para 5 of the reply filed by the State shows that respondent No.3 i.e. Deputy Commissioner had heard the inhabitants of the village and based on his hearing, a notification was issued for division of the Gram Panchayat.

In CWP No.8290 of 2013 titled as Punjab Pradesh Congress Committee Versus State of Punjab and others decided on 13.6.2013, the Division Bench of this Court held that the authority, namely, the Director shall decide the objections after hearing the parties concerned and thereafter pass a speaking order and only thereafter, a notification could be issued. In the

present case, there is an admission in para 5 of the reply that the representation was received by the competent authority i.e. respondent No.2 but respondent No.2 asked respondent No.3 to hear the villagers and then the Director issued the impugned notification without passing any speaking order. We think respondent No.2 went in conundrum. He should have heard the parties and also obtained the report from the subordinate officers i.e. respondent No.3 to 5 and then passed a speaking order with application of mind. The judgment and order passed in **Punjab Pradesh Congress Committee's (supra)** has not been followed in letter and spirit. Hence, we make the following order:

ORDER

- (i) The civil writ petition No.14425 of 2018 is partly allowed.
- (ii) The Director-respondent No.2 is directed to hear the parties on the representation and also those concerned and thereafter, pass a speaking order.
- (iii) Further step shall be taken in accordance with the order that will be ultimately passed by the Director.

Disposed of.

(A.B.Chaudhari)
Judge

(Harnaresh Singh Gill)
Judge

January 16, 2019
Meenu

Whether speaking / reasoned	:	Yes/No
Whether reportable	:	Yes/No