

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**REVP No. 5 of 2020**

1. State Of Chhattisgarh Through The Secretary, Department Of Panchayat And Rural Development, Mahanadi Bhawan, Mantralaya, Atal Nagar, New Raipur Chhattisgarh
2. The Collector, District Jashpur Chhattisgarh
3. The Sub Divisional Officer (Revenue), Bagicha, District Jashpur Chhattisgarh
4. The Tahsildar Bagicha, District Jashpur Chhattisgarh

---- Petitioners**Versus**

1. Jagmohan S/o. Kenda Bhagat, Aged About 39 Years Sarpanch, Gram Panchayat Nanhesar, Janpad Panchayat Bagicha, District Jashpur Chhattisgarh
2. The Chief Executive Officer, Janpad Panchayat Bagicha, District Jashpur Chhattisgarh

---- Respondents

For Petitioners/State	:	Mr. Jitendra Pali, Dy. A.G.
For Respondent No.1	:	Mr. Sukhnath Sai Paikra, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****17/01/2020**

1. The present review petition has been filed seeking review of the order dated 28.11.2019 passed by this Court in WPC No. 4140/2019.
2. The ground for review is that the writ petition has been wrongly got tagged with the bunch of writ petitions, which were disposed of on 28.11.2019 and the facts in the instant case were quite different as compared to the other writ petitions which were decided on the same date.
3. The contention of the learned State counsel is that the challenge in the instant writ petition was to the notification dated 28.09.2019 which was in fact not in force. According to the State counsel, subsequently the

State Government had on 05.10.2019 issued a fresh preliminary notification showing delimitation of the Gram Panchayat and subsequently, a final notification was issued on 16.10.2019. According to the applicants, these two notifications specifically showed that the Gram Panchayat to which the respondent No.1 belongs i.e. the Gram Panchayat, Nanhesar to be an independent Gram Panchayat and the dependent village earlier i.e. village Kheda has also been notified as a separate Gram Panchayat.

4. The contention of the State counsel was that these two notifications have never been challenged. It is further the contention of the State counsel that the Gram Panchayat Nanhesar earlier also was a Gram Panchayat and today also it remains as a Gram Panchayat. The respondent No.1 as such cannot have a grievance of any of the dependent village being made an independent Gram Panchayat.
5. On the contrary, the counsel for the original petitioner-Jagmohan submits that the preliminary notification as well as the final notification dated 05.10.2019 and 16.10.2019 was in fact never published at any point of time and therefore the respondent No.1 never had an occasion of filing of any objection before the concerned authority and these two notifications are only paper arrangements made by the authorities concerned to cover their lacuna and to escape the contempt proceedings.
6. Having heard the contentions put forth on either side and on perusal of record it appears from the records, which have been produced along with the review petition that the State in fact has published a preliminary notification on 05.10.2019, thereby segregating Nanhesar and village Kedar as separate Gram Panchayats. The Gram

Panchayat, which the respondent No.1 earlier belonged remained as a Gram Panchayat and there is no change brought to the said Gram Panchayat.

7. Further, once when the State has published a fresh preliminary notification on 05.10.2019 and a final notification issued on 16.10.2019, unless those notifications are subjected to challenge, the previous notifications, if any would not have any force of law.
8. Another ground, which forces this Court to entertain the review petition is that, since the status of Gram Panchayat, Nanhesar is not being changed in any manner, the respondent no.1 as such may not have any dispute or grievance on becoming an independent Gram Panchayat in itself.
9. All these grounds forces, this Court to reach to the conclusion that a strong case for allowing the review petition has been made out. Accordingly, the review petition stands allowed and the order dated 28.11.2019, so far as it having being passed in WPC No. 4140/2019 stands recalled and this Court finds that there is no merit so far as the said writ petition is concerned, and as a consequence the writ petition also is ordered to be dismissed.
10. Let a copy of this order be made part of the record of WPC No. 4140/2019.

Sd/-
(P. Sam Koshy)
Judge

Ved