IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA

CWP No. 5367 of 2020
Decided on : 24.12.2020

Ravi Kumar and others Petitioners.

Versus

State of H.P & another Respondents.

Coram:

Hon'ble Mr. Justice Sureshwar Thakur, Judge.
Hon'ble Mr. Justice Chander Bhusan Barowalia, Judge.

Whether approved for reporting?[1] *Yes.*

For the petitioner: Mr. Suneel Awasthi, Advocate.

For the respondents: Mr. Ashwani Sharma, Additional Advocate General.

Sureshwar Thakur, Judge (oral)

Through the instant writ petition, the writ petitioner(s) challenge(s) a notification embodied in Annexure P-4, wherethrough certain areas disclosed therein, were notified, to be respectively included, and, excluded, from, the territorial limits, of, Nagar Panchayat Jawali District Kangra. However the grievance thereagainst, and, as becomes ventilated before this Court, by the petitioner, is, comprised in the factum, qua the exclusion therein, of, Kehrian-1 Mohal Basantpur and Kehrian-2 Mohal Kahrian Dhan, being untenable, given theirs being earlier thereto, becoming

[1] Whether reporters of the local papers may be allowed to see the judgment?

included within the territorial limits, of, Nagar Panchayat Jawali, District Kangra, H.P.

2. He submits that the afore contention is firm, as no denial thereto has been meted by the respondents. The effect of the afore lack of repudiation by the respondents concerned, to the afore submission, is qua the apposite earlier inclusion becoming made after valid application of mind, by the authorities concerned, to the constitutional principle enshrined in Section 243Q, of the Constitution of India, apt sub rule (2) whereof becomes extracted hereinafter, wherein, apposite parameters become contemplated, for the respective exclusion(s) and inclusion(s), of, areas concerned, hence within the territorial limits or jurisdiction, of, any Nagar Panchayat concerned.

> "(2) In this article, "a transitional area" a smaller urban area" or "a larger urban area" means such area as the Governor may, having regard to the population of the area, the density of the population therein, the revenue generated for local administration, the percentage of employment in non-agricultural activities, the economic importance or such other factors as he may deem fit, specify by public notification for the purposes of this part."

3. The reasons for the afore exclusion, as, projected in the reply to the writ petition hence filed by the respondent, appear to spur from, the factum of a representation being made by certain aggrieved persons, and, the order accepting their representation, becoming embodied in Ex. R-5. Though the afore prima-facie appears to be cryptic and non-speaking. However dehors the afore purported infirmity ingraining the afore annexure, yet it cannot coax, this Court to accept the submission addressed before this Court, by the learned counsel for the petitioners, that the respective earlier and subsequent inclusion(s) and exclusion(s) of the afore areas, rather lacking legal tenacity, (a) as the learned Additional Advocate General points to Annexure R-8, wherein a complete scheduled contemplation, is embodied, rather leveraging vis-a-vis, the objectors concerned, to raise objections to the apposite respective exclusion(s) and inclusion(s), of certain areas from the boundaries, and, territorial limits, of the contemplated Nagar Panchayat(s) concerned. However evidently, the writ petitioners did not comply with the afore, in as much, as, the writ petitioners rather omitted to within phases of time, contemplated therein, for the afore

purpose, cast objections to the afore exclusion of the afore referred areas, from the newly created Nagar Panchayat, Jawali, District Kangra. Consequently, the effect thereof, is, qua it hence estoping the petitioners concerned, to contest the afore, and, moreso when election programs, stand announced, and, any order from this Court, hence making interference therewith, through its setting aside the constitution of Nagar Panchayat Jawali, District Kangra, through a notification embodied in Annexure P-4, would obviously create obstacles, in the holding of elections, in consonance with the aposite election schedule, and, when the afore interference, would also infringe the mandate of law declared, by the Honble Apex Court, qua upon election schedules, becomes pronounced by the Election commission(s) concerned, thereupon the apposite petition being rendered not maintainable before the writ Court. Conspicuously, also when therethrough(s) the afore democratic processes, would become stalled, and, also when obviously the electorate, of, even the excluded areas' would also participate in the democratic process(s).

In view of the above, there is no merit in the petition, and, the same is accordingly dismissed. All pending applications are disposed of accordingly.

(Sureshwar Thakur),
Judge.

24th December, 2020
(priti)

(Chander Bhusan Barowalia),
Judge.