

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-135-2018 (O&M)
Date of Decision:-03.02.2020.

Satinder Singh Tony

.....Petitioner

Versus

The State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR

Present: Mr. Karanvir Singh Khehar, Advocate for the petitioner.

Mr. Samarth Sagar, Additional A.G., Haryana, for
respondent Nos.1 to 5.

Mr. Deepak Manchanda, Advocate for respondent No.6.

Mr. Amit Jhanji, Advocate for the applicant
in CM-1233-CWP-2018.

SANJAY KUMAR, J. (Oral)

CM-1232-CWP-2018

This application is allowed. Exemption is granted as prayed
for. Photostat copies of Annexures A/1 and A/2 are taken on record.

CM-1233-CWP-2018

This implead application is dismissed.

CWP-135-2018

This writ petition was filed assailing the Committee Report
(Annexure P-5) which was ostensibly submitted on 19.12.2017, going by
the date affixed under the signature of one of the members of the

Committee. Thereby, a recommendation was made by the Committee to the effect that the Panchkula area, which included 21 villages and the erstwhile Municipal Council of Panchkula, along with Kalka and Pinjore areas should be separated as two different municipal bodies and the remaining area of the existing Municipal Corporation of Panchkula should be retained as such.

The petitioner, a Councillor at that time in the Municipal Corporation of Panchkula, assailed this Report on the ground that it was submitted for considerations other than legal and was against the guidelines/criteria laid down by the Government for constitution of Municipal Corporations, vide Memo dated 01.01.2010.

By order dated 29.01.2018, this Court stayed further action pursuant to the impugned Report.

Mr. Samarth Sagar, learned Additional Advocate General, Haryana, would submit that in terms of the statutory scheme, it is the Government which would have to take a final call in the matter of creation of new municipal bodies and as that stage is yet to pass, this writ petition is premature.

This Court finds merit in this submission.

Section 3 (3) of the Haryana Municipal Corporation Act, 1994, makes it clear that the Government is empowered, after consultation with the Municipal Corporation, to alter the limits of the municipal area of the Corporation, by notification in the Official Gazette, so as to include therein or exclude therefrom such areas as may be specified in the said notification. The submission of the impugned Report is therefore only a step in this process and it does not embody the decision taken by the Government.

Further, the written statement filed by the Special Secretary to

the Government, Urban Local Bodies Department, Government of Haryana, demonstrates that the Government would take a final decision only after examining the recommendations of the Committee as well as the representations submitted by the Mayor and the members of the Municipal Corporation. Though the petitioner is no longer holding office as a Municipal Councillor as on date, the aforestated averment made by the Special Secretary indicates that all representations, including the one in Annexure P-3, would be considered by the Government before taking a final decision. That being so, this Court sees no reason to keep this writ petition pending. The cause of action, in real terms, is yet to crystallize as the Government has not even exercised power, one way or the other, under the aforestated statutory provision.

The writ petition is accordingly disposed of taking note of the stand put forth by the State authorities. The exercise in this regard shall be completed expeditiously and preferably within six months from the date of receipt of a certified copy of this order. It would also be open to the Government to afford a personal opportunity of hearing, if required, to all such persons that it deems appropriate and necessary.

No order as to costs.

(SANJAY KUMAR)
JUDGE

February 03, 2020.
sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.