

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-6950-2020

Date of decision: 02.11.2021

Munshi Ram

...Petitioner

Vs.

State of Haryana and others

...Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE ARCHANA PURI**

Present: Mr. Chanderhas Yadav, Advocate,
for the petitioner.

Mr. Ankur Mittal, Addl. A.G., Haryana,
and Mr. Saurabh Mago, AAG, Haryana.

Ritu Bahri, J. (oral)

CM-12859-2021

Annexure P-9 is taken on record.

Misc. Application stands allowed accordingly.

CWP-6950-2020

Petitioner is seeking direction to the respondents to carry out demarcation of the wards for Panchayat Elections in village Budheri, Tehsil and District Bhiwani as per Rule 5 of Haryana Panchayati Raj Election Rules, 1994, by reserving ward for Scheduled Caste in the village.

Brief facts of the case are that as per census report of the year 2011, village Budheri has the total population of 1159, out of which, 72 persons belong to Scheduled Caste community. Grievance of the petitioner is that no ward has been reserved for Scheduled Caste community for the last many elections. Copy of the census report, 2011, has been attached as

Annexure P-1. With regard to his grievance, petitioner made a representation dated 30.12.2014 (Annexure P-2) to the District Development and Panchayat Officer with a request to reserve one Ward for Scheduled Caste community. However, as per notification dated 13.11.2014 (Annexure P-3), no ward was reserved for the said category. Petitioner has placed on record a communication dated 13.05.2015 (Annexure P-4) sent by the Deputy Commissioner to the SDOs (C) of Blocks Bhiwani, Charkhi Dadri, Loharu, Sivani and Tosham, where reservation of wards for the posts of Panch/Sarpanch during Gram Panchayat General Elections, 2015, was to be carried out. In this letter, further reference has been made to Section 59 of the Haryana Panchayati Raj Act, 1994 and as per Rule 5 of Haryana Panchayati Raj Election Rules, **reservation of the wards for Panchayat Samiti was also to be carried out.** Keeping in view that elections of Panchayats in State of Haryana were scheduled to be held in July-August, 2020, petitioner served a legal notice dated 15.07.2019 (Annexure P-5) upon the respondents, as there was no reservation of ward for Scheduled Caste community in village Budheri. Orders regarding new wardbandi have been passed on 06.03.2020 (Annexure P-6), but no ward for Scheduled Caste community has been kept reserved. Finally, a representation dated 07.03.2020 (Annexure P-7) was made by the petitioner, but to no avail.

Upon notice, written statement on behalf of respondent Nos. 1 to 4 has been filed. Stand taken by the respondents, in preliminary submissions, is that as per census report of the year 2011, total population of village Budheri is 1159, out of which, 72 persons belong to Scheduled Caste community. As per Rule 3 of the Haryana Panchayati Raj Election Rules, 1994, there shall be six Panches for a Gram Panchayat having

population up to five hundred and for every additional 500 population or fraction thereof, one extra seat shall be provided, subject to a maximum of twenty seats.” Hence, keeping in view the population, seven (07) seats of Panches in Gram Panchayat, Budheri, have been determined. The SC population in this village is 6.21% of the total population. As per Section 9 (2) of the Haryana Panchayati Raj Act, 1994, number of reserved seats for Scheduled Caste shall be, as nearly as may be, the same proportion to the total number of seats in that Gram Panchayat. Accordingly, the ratio of SC population in 07 wards of village Budheri comes to 0.43%. If the ratio of SC population exceeds or equals to 0.50% of the total seats, then one ward for the post of Panch for SC community can be reserved. A further stand is taken that the provisions of Section 59 of the Haryana Panchayati Raj Act (referred to by the petitioner) will not be applicable in this case as the said section deals with the reservation of seats at the time of election of **Gram Samiti** and not in the case of **Gram Panchayat**. It has been further stated that population of census 2011 was considered in the election held in the year 2016 and the same population has been considered for the forthcoming elections. With regard to the representation dated 30.12.2014 (Annexure P-2), it was stated that the same was received in the office and was rejected as no seat of the post of Panch could not reserved for SC community.

Learned counsel for the petitioner has referred to the information dated 27.08.2021 (Annexure P-9) received under the Right to Information Act, 2005 and contended that in Ward No.6 of village Budheri, population of SC community is to the extent of 44.64% of the total population and hence, one ward should have been reserved for SC category.

This argument of the petitioner has to be examined in view of

the provision of Section 9 of the Haryana Panchayati Raj (Second Amendment) Act, 1994, which reads as under:-

“Section 9 – Reservation and Equal Representation in Gram Panchayat – (1) All wards in Gram Panchayat and all Gram Panchayats in Block shall for the purpose of this section be sequentially numbered in such manner, as may be prescribed:

Provided that for such sequential numbering, the wards of Gram Panchayats reserved for Scheduled Caste shall be considered as one group and the remaining wards of Gram Panchayat as another group.

(2) The offices of Panch in every Gram Panchayat shall be reserved for the Scheduled Caste in such a way that the number of seats reserved for the Scheduled Caste shall bear, as nearly as may be, the same proportion to the total number of seats in that Gram Panchayat as the population of the Scheduled Castes to the total population in that Gram Sabha area and such seats shall be allotted to such wards having maximum percentage of population belonging to the Scheduled Caste.

xxx xxx xxx”

In the present case, as per census-2011, total population of village Budheri was 1159, out of which, 72 persons belonged to the Scheduled Caste community. Hence, population of Scheduled Caste comes to about 6.21% of the total population. As per Section 9 (2) of the Act, number of seats reserved for the Scheduled Caste shall bear, as nearly as may be, the same proportion to the total number of seats in that Gram Panchayat. This ratio comes to about 0.43% of the total seven wards of the said village. If the ratio of Scheduled Caste population exceeds or equals to 0.50% of the total seats, then one ward of the post of Panch can be reserved for SC community.

Reservation, in the present case, has been carried out as per census-2011 by following due procedure, as laid down in Section 9 (2) of the Haryana Panchayat Raj Act. The fraction of percentage of SC

population has to be above 0.50%. Moreover, the population of only Ward No.6, as reflected in Annexure P-9, cannot be made basis for reserving one ward of the post of Panch for SC category. After hearing learned counsel for the parties and going through the contents of the petition, we are of the view that the wardbandi has been rightly carried out by taking the percentage of SC population in village Budheri keeping in view the census-2011 data as reflected in Annexure P-9. No ground is made out for giving any direction to the respondents.

No merits. Dismissed.

(RITU BAHRI)
JUDGE

(ARCHANA PURI)
JUDGE

02.11.2021
ajp

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