

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

1. Date of decision: 23.11.2022
CWP No.7544 of 2019

Jarmal Singh

...Petitioner

Vs.

State of Punjab and others

...Respondents

2. CWP No.32720 of 2018

Major Singh and others

...Petitioners

Vs.

State of Punjab and others

...Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MS. JUSTICE NIDHI GUPTA**

Present: Mr. N.P.S. Mann, Advocate,
for the petitioner(s).

Ms. Anu Pal, Sr. DAG, Punjab.

Ritu Bahri, J.

This judgment shall dispose of CWP No.7544 of 2019 and CWP No.32720 of 2018 together as common questions of law and facts are involved in both the petitions. For reference, facts are being taken up from CWP No.7544 of 2019.

In **CWP-7544-2019**, the petitioner is seeking quashing of the impugned order dated 26.12.2018 (Annexure P-17) passed by respondent No.2-Director, Rural Development and Panchayats Department, Punjab,

vide which bifurcation of Gram Panchayat, Valtoha Sandhuan into two Panchayats i.e. Gram Panchayat, Adda Valtoha and Valtoha Sandhuan, has been upheld.

In the present case, earlier the petitioner had approached this Court by filing a petition i.e. CWP-21715-2018 (Annexure P-15), challenging the actions of the Government in either forming new Gram Panchayats or de-notifying/bifurcating new Gram Panchayat, village Valtoha Sandhuan, District Tarn Taran. In that case, plea taken was that the Panchayat Secretary Shri Satnam Singh, custodian of the record of Gram Panchayat, Valtoha Sandhuan, had misled some members of the Gram Panchayat, including the petitioner-Sarpanch and obtained their signatures by saying that the cheques were required to be issued urgently. At that time, he kept some space vacant in the original proceeding book. Later on, he filled that space by showing a resolution dated 18.08.2017 for bifurcation of Gram Panchayat, Valtoha Sandhuan into two Panchayats and committed a fraud. Vide order dated 19.12.2018 (Annexure P-15), the said petition was partly allowed along with other petitions and a direction was given to the State Government to reconsider the issues after giving opportunities of hearing to all the rival parties and pass a speaking order on or before 29.12.2018.

Pursuant to the order dated 19.12.2018 (Annexure P-15), the impugned order dated 26.12.2018 (Annexure P-17) has been passed by the Director-cum-Special Secretary to Government of Punjab, Department of Rural Development and Panchayats. Vide this order, the complaint given by the petitioner against the constitution of new Gram Panchayat has been dismissed. In this backdrop, the present petition has been filed.

Upon notice, reply dated 31.10.2019 respondent Nos.1 to 6 has been filed, wherein it has been stated that election of new constituted Gram Panchayat, Adda Valtoha has been conducted on 30.12.2018. Sarpanch and Panches have also been elected on 30.12.2018 and they have started the development works in the village. The residents of the area are satisfied with the formation and working of the Gram Panchayat, Adda Valtoha

Heard, learned counsel for the parties.

At this stage, reference can be made to a judgment passed in **Hardeep Singh vs. State of Punjab and others**, CWP-344-2020 (decided on 11.03.2022), wherein this Court had examined the issue with regard to new Gram Sabha, which had been carved out from the existing Gram Sabha areas under the Punjab Panchayati Raj Act, 1994. In that case, one of the questions for consideration was, whether any resolution is required to be passed by the existing Gram Panchayat for carving out a separate Gram Panchayat. Reference was made to the judgment passed by the Division Bench of this Court in **Latif Vs. State of Haryana and others**, CWP-15594-2015 (decided on 03.09.2015), wherein it has been held that there was no provision that resolution is necessary to be passed by the existing Gram Panchayat for carving out a new Gram Panchayat. Further, reference was made to a judgment passed in **Gram Sabha Begowal vs. The State of Punjab and others**, 1981 AIR (Punjab and Haryana) 101, wherein after examining Sections 52, 241 and 242 of the Punjab Municipal Act, 1911, Full Bench of this Court had held that the State Government had to apply its mind fully to consider the pros and cons, whether area can be constituted as a municipality or to constitute that area into a notified area. There was no provision in the Act, which invites objections from the inhabitants of the

area and hence, such provisions is not *ultra vires* to Articles 14 and 19 of the Constitution of India. Thereafter, in **Gram Panchayat, Manne Majra and others vs. State of Punjab**, CWP-17225-2008 (decided on 02.04.2012), Full Bench of this Court was considering the notification dated 07.03.2008, whereby Chamkaur Sahib was notified as a transitional area under the Punjab Municipal Act, 1911. While dismissing the said petition, reference was made to the Full Bench judgment of this Court in **Gram Sabha Begowal's** case (supra) and the judgment passed by Hon'ble the Supreme Court in **Sub-Divisional Officer vs. Mehar Singh**, (1988) 4 SCC 200, wherein the judgment passed in **Gram Sabha Begowal's** case (supra) was upheld. Thereafter, consistent view has been taken in **State of Punjab vs. Tehal Singh** (2002) 2 SCC 7 and **Sundarjas Kanyalal Bhatija and others vs. Collector, Thane, Maharashtra and others**, AIR 1990 SC 261 that establishing of a separate Gram Sabha or Municipality do not require providing opportunity of hearing to the residents of the concerned area. Hon'ble the Supreme Court in **State of U.P. vs. Pradhan Sangh Kshettra Samiti**, 1955 Supp (2) SCC 305, was considering a case, where establishment of common Gram Sabha was under challenge. It was held that the Court cannot substitute the concept of village and it is for the Government to decide, in what manner, the Panchayat areas and the constituencies in each Panchayat area will be delimited. It is not for the Court to dictate the manner, in which, the same should be done. So long as the Panchayat area and the constituencies are delimited in conformity with the constitutional provisions or without committing a breach thereof, the Courts are not supposed to interfere with the same.

A perusal of the order dated 26.12.2018 (Annexure P-17)

shows that the Deputy Commissioner, Tarn Taran had got conducted an inquiry from the Additional Deputy Commissioner (G) Tarn Taran, who sent his report vide letter dated 12.06.2018, stating therein that earlier Sh. Jharmal Singh, Sarpanch and other members had affixed their signatures in the consent of abovesaid resolution, but later on, they denied from their resolution. After examining the above said report, new Gram Panchayat of Adda Valtoha was constituted vide notification dated 31.07.2018.

The petitioner had appeared before the competent authority on 26.12.2018 and stated that the inquiry conducted by the Additional Deputy Commissioner (G), Tarn Taran, was false. The competent authority went through the report and held that the signatures of the Sarpanch and Panches were found to be correct. As per the first resolution dated 10.08.2017 of Gram Panchayat, Valtoha Sandhuan, the general *ajlas* of Gram Sabha was held on 18.08.2017 under the Chairmanship of Sh. Jarmal Singh, Sarpanch. The Sarpanch had affixed his signatures alongwith his seal on this resolution. As per this resolution, 130 persons had affixed their signatures in the consent of new Gram Panchayat. About 630 persons had given representation to carve out a new Gram Panchayat for this area. Finally, the competent authority came to a conclusion that even if, the resolution, which was signed by the petitioner, was kept aside, the demand of majority of the members of Gram Sabha for the constitution of new Gram Panchayat could not be overlooked. In this backdrop, the impugned order dated 26.12.2018 (Annexure P-17) was passed.

Keeping in view of the judgment passed by this Court in **Hardeep Singh's** case (supra), there is no need to get a separate resolution from the Gram Panchayat/Gram Sabha for creating a new Gram Panchayat.

Hence, the competent authority, vide impugned order dated 26.12.2018 (Annexure P-17), has rightly bifurcated Gram Panchayat, Valtoha Sandhuan into two Panchayats i.e. Gram Panchayat, Adda Valtoha and Valtoha Sandhuan. No ground is made out to interfere therein.

Resultantly, finding no merits, the present petitions i.e. CWP No.7544 of 2019 and CWP No.32720 of 2018 are dismissed.

(RITU BAHRI)
JUDGE

(NIDHI GUPTA)
JUDGE

23.11.2022
ajp

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