

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

Sr. No.117

CWP-14700-2022 (O&M)

Date of decision : 13.07.2022

Gram Panchayat Village Bir Barkatabad (Sainiyan)

..... Petitioner

VERSUS

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

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

SUDHIR MITTAL, J. (Oral)

Gram Sabha village Barkatabad was divided into two vide Gazette Notification dated 21.12.2009. Gram Sabha village Barkatabad (Sainiyan) was carved out of it. However, the assets were not divided and thus, a legal notice dated 23.11.2020 was issued. Yet, the division was not done and thus, CWP-938-2021 was filed. The writ petition was disposed of vide order dated 14.01.2021 (Annexure P-8) directing the State to decide the legal notice within a limited time frame. The Deputy Commissioner, Jhajjar accordingly partitioned the assets of the Gram Sabha village Barkatabad in the ratio of 56:44 vide order dated 03.04.2021. This division was in accordance with the respective populations. Appeal filed by the petitioners has been dismissed vide order dated 20.12.2021 supplied on 18.04.2022. Thus, the present writ petition has been filed.

Learned counsel for the petitioner has submitted that assets should have been divided in the ratio of 50:50 because the respective Gram Sabhas have passed resolution to this effect.

The argument cannot be accepted in view of the Rule 31-A of the Haryana Panchayati Raj Rules, 1995 (hereinafter referred to as the Rules). The same is reproduced below:-

‘31-A Appointment of assets and liabilities (Section 7) :-

(1) for the purpose of sub-section (3-A) of Section 7, the assets and liabilities shall be apportioned by the concerned Deputy Commissioner as under:-

(i) all immovable properties situated within the revenue estate or sabha area of a particular Gram Panchayat, shall vest in that particular Gram Panchayat;

(ii) other movable and immovable properties, not within the revenue estate or sabha area of a particular Gram Panchayat including funds shall be apportioned between the existing and the newly constituted Gram Panchayat in proportionate to their population;

(iii) the assets and liabilities, not dealt under clauses (i) and (ii) above, shall be apportioned in the manner agreed upon and in case there is no such agreement within a period of one year from the date of bifurcation of sabha area, the Deputy Commissioner shall be competent to determine such assets and liabilities, as he may deem fit;

(2) The Gram Panchayat aggrieved by an order of the Deputy Commissioner may within a period of thirty days from the date of order, prefer an appeal to the Divisional Commissioner, whose decision thereon shall be final.’

The aforementioned Rule makes it clear that the properties have to be apportioned in accordance to the population. Passing of resolutions by the respective Panchayats will not make any difference as the statutory Rules have to prevail.

In view of the above, the writ petition has no merit and is dismissed.

(SUDHIR MITTAL)
JUDGE

13.07.2022
Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No