

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-29509-2018 (O&M)
Date of decision:25.07.2022

Tarsem Kumar and others

....Petitioners

V/s.

State of Punjab and others

....Respondents

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

Present: None for the petitioners.

Ms. Anu Pal, DAG, Punjab.

Mr. Amit Arora, Advocate
for respondent No.5.

Ritu Bahri, J.

CM-8100-CWP-2019

This is an application for amendment of the writ petition.

Notice of this application was issued on 24.05.2019 which was duly accepted by Mr. H.S. Sullar, DAG, Punjab and Mr. Jagjeet Singh, Advocate for Mr. Amit Arora, Advocate for respondent No.5. Reply to this application by way of affidavit of the District Development and Panchayat Officer, Patiala dated 21.01.2020 was taken on record.

For the reasons mentioned in the application, the same is allowed and the amended writ petition is taken on record.

CWP-29509-2018

The petitioners are seeking quashing of notification dated 13.03.2018 (Annexure P-4) issued by respondent No.1 whereby new Gram Panchayat under the name of Binjal Jattan has been carved out from the

existing Panchayat Binjal in violation of Sections 3, 4 and 10 of the Punjab Panchayati Raj Act, 1994. The petitioners are further seeking quashing of order dated 04.07.2018 (Annexure P-7) passed by respondent No. 4 as well as order dated 18.09.2018 (Annexure P-14) passed by respondent No.2 whereby objections filed by them, have been rejected.

On notice of this petition, reply by way of affidavit of Jaskiran Singh, Director, Department of Rural Development and Panchayats, Vikas Bhawan, Sector-62, SAS Nagar on behalf of respondents No. 1 to 4 was filed. A perusal of the said reply shows that the Gram Panchayat Sabha Binjal passed resolution on 11.10.2017 for establishing new Panchayat. Sukhdev Singh Sarpanch, Satpal Singh Panch, Karnail Singh Panch, Avtar Singh Panch and Smt. Jawalai Devi Panch were present at the time of passing resolution. A representation alongwith voter list of 400 persons was submitted by the residents of Binjal Jattan. After considering the representation, the Block Development Panchayat Officer, Bhunerhedi obtained the population from Deputy Economic Advisor, Patiala vide letter No. 2588 dated 10.11.2018. The Deputy Economic Advisor, Patiala informed vide endorsement No. 2790 dated 10.11.2017 that total population of village Binjal is 2694 and population of SC is 215. The Block Development and Panchayat Officer prepared proforma No. 1 and 2. As per the proforma No. 1, the distance is 120 mtr. from the village Binjal to new Panchayat Binjal Jattan and as per proforma No.2, the population of village Binjal is 1340 and the population of Binjal Jattan is 1354. Thereafter, the check list was verified by respondent No.3-Deputy Commissioner, Patiala and Block Development and Panchayat Officer, Bhunerhedi. After considering the record, the Deputy Commissioner, Patiala sent the proposal

vide letter No. 3984/AC dated 29.11.2017 to respondent No.2 for establishing new Panchayat Binjal Jattan out of Gram Panchayat Binjal. After following due procedure, the competent authority i.e. Special Secretary, Rural Development and Panchayat Department approved the proposal for establishing new Gram Panchayat on 17.01.2018 and notification was issued on 13.03.2018 in this regard.

The petitioners earlier filed CWP-10463-2018 after making representation dated 04.05.2018 for challenging creation of new Panchayat Binjal Jattan. The said writ petition was disposed of on 27.04.2018 (Annexure P-5) giving direction to the competent authority to consider their representation. The Deputy Commissioner, Patiala marked the inquiry to Sub Divisional Magistrate, Patiala in this regard. The Sub Divisional Magistrate, Patiala sent the representation dated 04.05.2018 to respondent No.2 vide letter dated 09.08.2018. After considering the report, the respondent No.2 passed the speaking order dated 18.09.2018 that the new Gram Panchayat was constituted in accordance with law.

In a separate reply by way of affidavit filed by respondent No.5 dated 29.04.2019, order dated 18.09.2018 has been placed on record as Annexure R-5/1. The said order was passed by the Special Secretary, Punjab Government, Rural Development and Panchayat Department. However, the said order was not challenged by the petitioners. Hence, CM-8100-2019 was filed for amendment of the writ petition to challenge the said order. When the case was taken up for hearing on 13.07.2022, learned counsel for the State had given a copy of the judgment dated 11.03.2022 passed by this Court in ***Hardeep Singh vs. State of Punjab and others*** so that learned counsel for the petitioners can also go through the said

judgment. The relevant portion of the said judgment is reproduced as under:-

“Finally, the Division Bench in *Gram Panchayat, Manne Majra's case (supra)*, referred the judgment passed by the Supreme Court in *State of U.P. vs. Pradhan Sangh Kshettra Samiti, 1995 Supp (2) SCC 305* wherein establishment of common Gram Sabha was under challenge and the Supreme Court 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 areas 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.”

On 25.07.2022, none appeared on behalf of the petitioners even in second round. However, learned counsel for the State submitted that a new Gram Panchayat under the name of Binjal Jattan was carved out vide notification dated 13.03.2018 (Annexure P-4) by following proper procedure of law. Moreover, election in Gram Panchayat Binjal Jattan has been conducted and even Sarpanch has been elected. The said Gram Panchayat is working for the welfare of the residents.

Keeping in view of the above facts, no ground to quash notification dated 13.03.2018 (Annexure P-4) is made out.

Writ petition is dismissed.

(RITU BAHRI)
JUDGE

25.07.2022
Divyanshi

(ARCHANA PURI)
JUDGE

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