

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

CWP-23817-2022 (O&M)
Date of decision:- 21.11.2022

Charan Singh

....Petitioner

VS.

State of Haryana and ors.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. S.S. Mor, Advocate
for the applicant/petitioner.

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

Ritu Bahri, J. (Oral)

C.M. No. 18401-2022

Application is allowed as prayed for.

Accordingly, replication along with final publication list dated
05.09.2022 (P-10) are taken on record.

CWP No. 23817-2022

Petitioner is seeking quashing of letter/order dated 03.10.2022
(P-5) passed by respondent No. 6 and further prayer is for quashing the
subsequent proceedings carried out after passing of the order dated
03.10.2022 especially notice dated 03.10.2022 (P-6) vide which Deputy
Commissioner Hisar issued the wardbandi of Ward No. 4 and 5 of Zila
Parishad, Hisar.

Brief facts of the case are that election process of Zila Parishad,

Hisar was issued by the Competent Authority and objections were called. One application dated 28.07.2022 was filed by some respectable persons of village Balak with a prayer that Village Balak be kept in Ward No. 4 of Zila Parishad, Hisar before SDO (Civil), Barwala. In this regard, a report was sought by the concerned official from BDPO, Barwala, who vide order dated 03.08.2022 (P-1) came to a conclusion that all the villages including village balak shall be kept intact with ward No. 4 and there is no need to shift any village from this ward. A general notice dated 27.09.2022 (P-2) was issued by the Deputy Commissioner, Hisar and objections from the voters were also invited within a period of three days.

An application dated 30.09.2022 (P-3) regarding objections for transferring the village Balak from Ward No. 4 to Ward No. 5 was filed by one Romit and the same was received in the office of SDO (Civil), Barwala. On the same day i.e 30.09.2022 (P-4), an order was passed by SDO (Civil), Barwala declining the application after considering the geographical situation, population and Map and Density for shifting of village Balak from Ward No. 4 to Ward No. 5. An appeal was filed by the objector and the appellate authority accepted the appeal on 03.10.2022 (P-5). Subsequently, respondent No. 5 vide notice dated 03.10.2022 (P-6) issued final wardbandi. Thereafter, a representation dated 10.10.2022 (P-7 and P-8) was filed by the villagers to Deputy Commissioner Hisar and assigned to SSP Hisar for taking action against the accused persons committing forgery by giving fake application dated 30.09.2022 in the name of Romit s/o Shamsheer Singh. An appeal was also filed by Romit before SDO (Civil) Barwala and ADC Hisar respectively. Romit has given an affidavit in this regard as well dated

10.10.2022 (P-9)

Learned counsel for the petitioner states that the letter/order dated 03.10.2022 (P-5) has wrongly been passed by respondent No. 6 on an application filed by accused persons impersonating Romit s/o Shamsher Singh. This Romit has also given an affidavit dated 10.10.2022 to the effect that he has not moved any application for shifting of village Balak from Ward No. 4 to Ward No. 5.

On notice, a reply dated 20.10.2022 was filed on behalf of respondent Nos. 1, 2, 4, 5 and 6 stating therein that Election Process of Zila Parishad, Hisar was issued by the competent authority and after taking objections regarding wardbandi, the final publication notice dated 19.08.2022 of Wardbandi of Zila Parishad, Hisar was issued by the Deputy Commissioner, Hisar but vide notification dated 22.09.2022 issued by Haryana Government Urban Local Bodies Department (R-1) Adampur Village was excluded from Nagar Palika Adampur and constituted as a separate Gram Panchayat. Again a preliminary publication notice dated 27.09.2022 (P-2) was issued regarding filing claims and objections before the concerned Sub Divisional Officer (Civil) within 3 days of publication of notice i.e till 30.09.2022 as per Rule 4 (6) of the Haryana Panchayati Raj Election Rule, 1994 and to file appeal if any, as per Rule 4 (6) of the Haryana Panchayati Raj Election Rule, 1994 within 3 days of passing of order i.e till 03.10.2022.

Learned State counsel while referring to Rule 4 (6) and (8) of the above said Act has stated that as per these Rules, any elector of the Sabha area can file objections/appeal before the concerned Sub Divisional

Officer (Civil) and Addl. Deputy Commissioner respectively and it is not obligatory for the authority to check the genuineness of the signature of the applicant. Further in order dated 30.09.2022 passed by Sub Divisional Officer (Civil), it was clearly mentioned that the applicant was personally heard before passing the order.

On 01.11.2022, this Court passed the following order:-

“Reply by way of affidavit of Uttam Singh, IAS, Deputy Commissioner, Hisar-respondent No.5 filed in Court, is taken on record. In the said reply, it is admitted that with respect to fake application, an FIR No.1043 dated 18.10.2022 has already been registered and the matter is under investigation. The final Wardbandi for Zila Parishad, Hisar, was issued on 03.10.2022 keeping in view compactness of the villages and available record.

It is not in dispute that except the appeal filed by Romit son of Sh. Shamsher Singh, no other appeal has been filed in respect of Shifting of villages, which were originally included in Ward Nos. 4 and 5 of the draft publication of wardbandi. Moreover, the elections in the present villages are due on 22.11.2022.

Since an FIR has already been registered, a direction is being issued to the Deputy Commissioner concerned to review the order in respect of Wardbandi.

Adjourned to 04.11.2022.”

Petitioner has filed replication and in this replication, copy of

final publication dated 05.09.2022 has been placed on record as Annexure P-10. In this replication, the stand taken by the petitioner is that all the villagers of Village Balak as well as co-villagers were agree with the wardbandi dated 03.08.2022 (P-1) and the all the proceedings before the SDO (Civil) Barwala and Addl. Deputy Commissioner Hisar took place on the basis of fake, forged representation and appeal.

Reference can now be made to reply filed by respondent No. 5 on 03.11.2022 whereby it has been stated that in compliance of order dated 01.11.2022, the matter was taken into consideration and a review order dated 02.11.2022 (R-1) has been passed. In this order dated 02.11.2022, it has been mentioned that the final wardbandi dated 03.10.2022 was published after deciding the claims and objections by various authorities and appellate authorities, while following Rule 4 (9) of the Haryana Panchayati Raj Election Rules, 1994. It has been mentioned that the final wardbandi dated 03.10.2022 is correct as for wardbandi process, interest of public at large is to be taken into consideration and not the interest of the individual person, as claimed by the petitioner. Further it has been stated that apart from the village Balak of the petitioner, there were 05 other villages included in ward No. 5

The present petition is liable to be dismissed as the final wardbandi dated 03.10.2022 has been issued after deciding the claims and objections and further in the replication filed by the petitioner, he has not disputed the fact that apart from village Balak, there were 05 other villages included in ward No. 5.

Keeping in view the reply and the fact that now again the

matter was heard afresh and review order dated 02.11.2022 (R-1) has been passed, no ground is made out for quashing of letter/order dated 03.10.2022 (P-5).

The writ petition stands dismissed.

(RITU BAHRI)
JUDGE

21.11.2022

G Arora

(MANISHA BATRA)
JUDGE

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