

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-30414-2019

Date of decision:29.10.2022

Chhota Ram and another

....Petitioners

V/s.

State of Punjab and others

....Respondents

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

Present: None for the petitioners.

Mr. Alankar Narula, AAG, Punjab.

Ritu Bahri, J.

The petitioners are seeking quashing of notification dated 13.03.2018 (Annexure P-8) whereby the Gram Panchayat namely Arnetu and Arnetu Khurd have been carved out from one Gram Panchayat of village Arnetu, District Patiala by bifurcating the village into two villages on the castes basis and further quashing of order dated 18.07.2019 (Annexure P-12) passed by respondent No. 7 whereby the representation of the petitioners against the constitution of above said two separate Gram Panchayats has been rejected.

The brief facts of the case are that the petitioners are the residents of village Arnetu, Tehsil Patran, District Patiala and their grievance is that by constituting two separate Gram Panchayats i.e. Arnetu and Arnetu Khurd vide order dated 13.03.2018 (Annexure P-8), scheduled castes are put in a separate village.

On notice of this petition, reply by way of affidavit of the Block

Development and Panchayat Officer, Patran, District Patiala on behalf of respondents No. 1 to 5 dated 28.11.2019 has been filed. As per the said reply, the State Government, Rural Development and Panchayat Department formulated and circulated a policy vide letter dated 26.05.2017 (Annexure P-10) for modification in the field of Gram Sabhas and for development of new Gram Sabha/Gram Panchayat intimating that election of Gram Panchayat process will be started shortly. The residents of the village submitted an application for bifurcation of the Gram Panchayat Arnetu and formation of new Gram Panchayat Arnetu Khurd to the office of Block Development and Panchayat Officer, Patran. A copy of this application is annexed as Annexure R-1. Vide letter dated 03.10.2017(Annexure R-3), the Block Development and Panchayat Officer, Patran recommended to the District Development and Panchayat Officer, Patiala to create new Gram Panchayat out of the main Gram Panchayat Arnetu after conducting enquiry in which it was found that the distance of the proposed Gram Panchayat is 2.5 KM from the main village, having 212 votes and the majority of the persons is in favour of the formation of the new Gram Panchayat out of Gram Panchayat Arnetu. Another enquiry was made by the Block Development and Panchayat Officer, Patran and, thereafter, letter dated 29.01.2018 was sent to the office of the District Development and Panchayat Officer, Patiala informing that concerned parties, who have filed representations including Smt. Pappi Devi, the then Sarpanch of the Gram Panchayat Arnetu were called and Smt. Pappi Devi has made a statement that she has no objection if the new Gram Panchayat Arnetu Khurd is formed. Her statement is annexed as Annexure R-4. After considering the application of the villagers (Annexure R-1), statement made by Smt. Pappi

Devi, Sarpanch, Gram Panchayat Arnetu (Annexure R-4) and all other material available on record, the Director, Rural Development and Panchayats Department-respondent No. 2 issued notification dated 13.03.2018 whereby the new Gram Panchayat Arnetu Khurd has been constituted.

The notification dated 13.03.2018 (Annexure P-8) was challenged by way of *CWP-18392-2018 titled as Munshi Ram and another vs. State of Punjab and others*, which was disposed of on 18.09.2018 with a direction to look into the grievance of the petitioners as per their representation. In compliance of the said order, a Committee was constituted by the then Deputy Commissioner, Patiala vide order dated 21.10.2018. The said Committee submitted its report dated 05.12.2018 in which it was stated that after inspection of the village and Deras situated within the jurisdiction of the village and inquiry made from the persons who raised some objections, it was found that Government instructions were duly complied with at the time of carving out the new Gram Panchayat Arnetu Khurd and, thereafter, the State Government has issued notification dated 13.03.2018 for forming new Gram Panchayat Arnetu Khurd.

The present petitioners have also filed CWP-7765-2019 which was disposed of vide order dated 13.02.2019 (Annexure P-11) with a direction to the petitioners to file a comprehensive representation which had been considered and rejected vide speaking order dated 18.07.2019 (Annexure P-12) and elections to the members of the newly constituted Gram Panchayat have already been held on 30.12.2018 and the newly formed Gram Panchayat Arnetu Khurd is working in the said village.

Following are the main advantages after forming Gram

Panchayat Arnetu Khurd:-

- i) Direct funds from the State Government would be allocated/budged for the development of the Village/Abadi of New Gram Panchayat Basti Ranjit Singh.
- ii) It would be beneficial for the residents since they would not have to travel the 2 km distance to get their work done from old Gram Panchayat.
- iii) The residents would be able to administer and solve their problems more efficiently since they would be involved in decision making process.
- iv) Better development like brick lining of streets etc would be undertaken.
- v) The development activities would be carried out in a more efficient, effective and planned manner.

Subsequently, status report by way of affidavit of the Block Development and Panchayat Officer, Patran, District Patiala on behalf of respondents No. 1 to 5 dated 24.01.2020 was filed. It is stated therein that there are total 05 wards out of which two wards i.e. ward No. 2 and ward No. 4 belong to backward class and ward Nos. 1, 3 and 5 belong to General category. The total population of each ward is given as under:-

Ward No.	General Category/ Backward Classes	Total votes
No. 1	General Category	43 (21 M/22 F)
No. 2	Backward Classes	36 (17 M/19 F)
No. 3	General Category	42 (21 M/21 F)
No. 4	Backward Classes	38 (19 M/ 19 F)

No. 5	General Category	37 (18 M/19 F)
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It is further explained that the plea taken by the petitioners that Gram Panchayat Arnetu Khurd has been formed on the basis of castes is wrong as there is more than 300 acre (Chahi) of Shamlat land in village Arnetu which is leased out to various persons every year. Out of this land 1/3rd share (about 100 acre) of Shamlat land is reserved for Scheduled Caste category as per Government policy and the same is taken on lease by the persons belonging to Scheduled Caste category at the rate of Rs.4,000/- to Rs.5,000/- per acre per annum whereas market rate of Chakota is Rs.45,000/- to Rs.50,000/- per acre per annum. Further, these SC category persons are sub-letting this land to general category persons at the rate of Rs.45,000/- to Rs.50,000/- per acre per annum. Even some of S.C. Category persons have not deposited amount of chakota at the rate of Rs.4000/- to Rs.5,000/- per acre per annum. The petitioners have again filed the present petition by taking false and filmsy ground that the new Gram Panchayat Arnetu Khud has been formed on the basis of castes configuration.

At this stage, reference can be made to the judgment passed by this Court in ***CWP-344-2020 titled as Hardeep Singh vs. State of Punjab and others***, decided on 11.03.2022 in which it is held that the notification forming new Gram Panchayat cannot be quashed if the proper procedure of law has been followed and the elections have taken place.

A similar issue has come up before this Court in ***CWP-7428-2021*** titled as ***Balwan and another vs. State of Haryana and others***, ***decided on 18.11.2021*** wherein Gram Panchayat Barwas was bifurcated by carving out separate Sabha area and Gram Panchayat for village Basirwas

vide notification dated 23.02.2021. This Court has considered that population of newly carved out Panchayat is less than 500. However as per Section 7(1) of the Haryana Panchayati Raj Act, 1994, the Government in exceptional cases, can relax the condition of minimum population of 500 in order to create a new Gram Panchayat.

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.

In the present case, new Gram Panchayat Arnetu Khurd has been created by following proper procedure of law such as passing resolution dated 27.03.2017, verification and all other material available on record, the Director, Rural Development and Panchayats Department-respondent No. 2 issued notification dated 13.03.2018 (Annexure P-8) whereby the new Gram Panchayat Arnetu Khurd has been constituted. Moreover, elections to the members of the newly constituted Gram Panchayat have already been held on 30.12.2018 and the newly formed Gram Panchayat Arnetu Khurd is working for the welfare of the residents. Further, in compliance of order dated 13.02.2019 passed in CWP-7765-

2018, the Director-Cum-Special Secretary, Rural Development and Panchayat Department has passed a speaking order on 18.07.2019 (Annexure P-12) by observing report dated 17.07.2019 submitted by the District Development and Panchayat Officer. As per report dated 17.07.2009, separate Gram Panchayats have been constituted by taking into consideration the resolution dated 27.03.2017 passed by the Gram Panchayat, Arnetu and they have not been constituted on the basis of caste and religion but on the basis of population. It was further observed that the elections in both the Gram Panchayats have been held.

Hence, no ground to quash notification dated 13.03.2018 (Annexure P-8) and order dated 18.07.2019 (Annexure P-12) is made out.

Writ petition is dismissed.

(RITU BAHRI)
JUDGE

29.10.2022

Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No