

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

**CWP No.26156 of 2019
Date of decision: 12.01.2023**

Gurdas Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

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

Present: Mr. Surinder Garg, Advocate,
for the petitioner.

Ms. Anu Pal, Sr. DAG, Punjab.

Ritu Bahri, J.

Petitioner is seeking quashing of the order dated 18.06.2019 (Annexure P-4), issued vide endorsement dated 01.08.2019, whereby application filed by the petitioner challenging the merger of two Panchayats into one has been rejected.

Village Lambi falls within District Sri Muktsar Sahib and it is a big village. Prior to elections of 2013, there was only one Gram Panchayat, but as it is a big village having about 3500 votes for Gram Panchayat Elections, so in the year 2013, the said Gram Panchayat Lambi was bifurcated into two Panchayats i.e. Gram Panchayat Lambi and Gram

respectively. In the year 2013, the elections were held in the above said two Gram Panchayats separately. In 2013, the Akali Government was in power in the State of Punjab and in the year 2017, the Congress Government came in power. After coming in power, they started reversing the decisions taken by the Akali Government. Before declaring the schedule for Gram Panchayat elections, the respondents had merged two Panchayats i.e. Gram Panchayat, Lambi and Gram Panchayat, Lambardar Patti, Lambi into one Panchayat i.e. Gram Panchayat, Lambi, without issuing any notification or order with regard to merger. Petitioner has placed on record copy of letter dated 22.06.2018, along with order dated 04.07.2018 (Annexure P-1), in which amended list of Gram Panchayats after merging Gram Panchayat, Lambardar Patti in Gram Panchayat Lambi was issued. Grievance of the petitioner is that before merging the aforesaid two Panchayats, no notice was given to the residents of the village and no objections were invited from them. The respondents, at their own with a political motive, have ordered merger of two Panchayats of village Lambi. Before merger, there were 2500 votes in Gram Panchayat, Lambi and about 1000 votes in Gram Panchayat, Lambardar Patti, Lambi. As per petitioners, necessary procedure contained in Sections 3 and 4 of the Punjab Panchayati Raj Act, 1994 has not been followed while merging these two Gram Panchayats. As per Section 10-A of the said Act, the Deputy Commissioner, by notification published in the official Gazette, shall propose the formulation of wards of the Gram Sabha area. List of proposed wards shall be affixed on the notice board of the offices of Block Development & Panchayat Officer, the District Development & Panchayat Officer and Gram Panchayat concerned. In case

Sabha area may submit the same in writing to the office of Deputy Commissioner within a period of seven days. On receiving of any objection, the Deputy Commissioner shall hold summary enquiry and record his decision thereon within a period of 30 days. As per petitioner, in the present case, this procedure has not been followed. Earlier, the petitioner has filed CWP No.18260 of 2018, which was got dismissed as withdrawn with a liberty to file fresh one with better particulars. Thereafter, he along with other persons, filed CWP No.22765 of 2018 seeking quashing of the action of respondents, vide which two Panchayats have been merged into one without passing any order and issuing any notification. The said petition was disposed of vide order dated 14.03.2019 (Annexure P-3) by giving direction to the competent authority to hear all the concerned parties by calling records of the concerned officials and thereafter, pass a speaking order within six months. Thereafter, the order dated 18.06.2019 (Annexure P-4) rejecting the claim of the petitioner was passed by observing that vide resolution dated 30.12.2017 passed by the Gram Sabha, Lambardar Patti, Lambi and resolution dated 29.12.2017 passed by the Gram Sabha, Lambi, a request had been made to make only one Gram Panchayat of that area. In this order, it was stated that merger of Gram Panchayat, Lambardar Patti, Lambi in Gram Panchayat, Lambi was done by holding a meeting of both Gram Sabhas. In this backdrop, application of the petitioner was rejected being devoid of any merit. It is further stated that elections of Gram Panchayat, Lambi, have already been held in 2018.

Upon notice, reply dated 18.11.2019, by way of affidavit of Director, Department of Rural Development and Panchayats, on behalf of respondent Nos.1 to 5 has been filed. In the reply, respondents have

justified their stand as the Gram Panchayats were merged after accepting the resolutions of both the Gram Panchayats. It is further stated that the petitioner has an alternative remedy of filing an appeal against the impugned order, which he has not done. It is further stated that earlier, there were 2500 votes in Gram Panchayat, Lambi and about 1000 votes in Gram Panchayat, Lambardar Patti, Lambi. There is no provision in the Punjab Panchayati Raj Act, 1994 that a notice should be issued before taking any action of merging two panchayats into one. The petitioner had not submitted any application under the Right to Information Act, 2005.

A separate reply dated 07.04.2022 has been filed by respondent Nos.1, 2, 4 and 5. Along with this reply, respondents have placed on record copy of notification dated 24.01.2020 (Annexure R-1), whereby the Governor of Punjab has notified the Gram Sabha areas and Gram Panchayats as per the relevant provisions of the Punjab Panchayat Raj Act, 1994. At serial no.35 of this notification, village Lambi is shown to be one village. However, the petitioner had not challenged this notification. It is further stated that during the general elections of Gram Panchayats, the election to Gram Panchayat, Lambi, was also held. Details of the persons, who were elected as Sarpanch and Panches of Gram Panchayat, Lambi, have been given in para no.6 of the reply. As per recommendations of 14th and 15th Finance Commission, Rs.1,17,23,934/- were sanctioned to Gram Panchayat, Lambi, on the basis of their population, which are being spent on the welfare and development of residents of the village.

At this stage, reference can be made to Full Bench judgment passed by this Court in the case of **Gram Sabha Begowal vs. The State of**

Sections 52, 241, and 242 of the Punjab Municipal Act, 1911, the Full Bench 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 provision is not *ultra vires* to Articles 14 and 19 of the Constitution of India. The said judgment was followed thereafter in CWP-17225-2008 titled as **Gram Panchayat, Manne Majra and others vs. State of Punjab**, decided on 02.04.2012. In case, the Division Bench of this Court was considering 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 passed in **Gram Sabha Begowal's** case (supra) and the judgment passed by the Supreme Court in **Sub-Divisional Officer vs. Mehar Singh**, (1988) 4 SCC 200. Finally, the judgment passed in **Gram Sabha Begowal's** case (supra) was approved. After the judgment passed in **Sub-Divisional Officer's** case (supra), consistent view has been taken in **State of Punjab vs. Tehal Singh**, (2002) 2 SCC 7 and **Sundarjas Kanyalal Bhatija & 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. Finally, the Division Bench in **Gram Panchayat, Manne Majra's** case (supra), referred the judgment passed by Hon'ble 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 it

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 facts of the present case, two Gram Panchayats i.e. Gram Panchayat, Lambi and Gram Panchayat, Lambardar Patti, Lambi have been merged by following proper procedure of law. A perusal of the impugned order dated 18.06.2019/01.08.2019 (Annexure P-4) shows that vide resolutions dated 30.12.2017 and 29.12.2017 passed by Gram Sabha, Lambardar Patti, Lambi and Gram Panchayat, Lambi respectively, they have requested for only one Gram Panchayat. Consequently, the order of merger was passed. Finally, vide per notification dated 24.01.2020 (Annexure R-1), the Governor of Punjab has notified the Gram Sabha areas and Gram Panchayats and at serial no.35 of this notification, village Lambi is shown to be one village. The petitioner has not chosen to challenge this notification for the reasons best known to him. The elections for the Gram Panchayat, Lambi, has already been conducted and Sh. Gurdas Singh has been elected for the post of Sarpanch, and Panchayat is working for the welfare of the residents. Moreover, as per judgment passed in **Pradhan Sangh Kshettra Samiti's** case (supra), 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.

dated 18.06.2019/01.08.2019 (Annexure P-4) is made out. Resultantly,
finding no merits, the present petition is dismissed.

(RITU BAHRI)
JUDGE

(MANISHA BATRA)
JUDGE

12.01.2023
ajp

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