

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

112

CWP-21767-2023 (O&M)

Date of order: 18.10.2023

Jai Narayan

.....Petitioner(s)

Vs.

State of Haryana & Others

.....Respondent(s)

CORAM:

HON'BLE ACTING CHIEF JUSTICE MS. RITU BAHRI

HON'BLE MS. JUSTICE NIDHI GUPTA

Present:-

Dr. Payel Mehta, Advocate
for the petitioner.

Mr. Deepak Balyan, Additional AG Haryana.

Nidhi Gupta, J.

Prayer in the present Civil Writ Petition under Article 226 of Constitution of India is for issuance of a writ in the nature of Certiorari seeking setting aside of notification No.52/3/2021-5C1 dated 25.06.2021 (Annexure P1) issued by respondent No.1 vide which the area falling in the limits of village Siwan, District Kaithal, Haryana and adjoining deras have been declared to be a Municipal Committee.

2. Learned counsel for the petitioner seeks setting aside of the above said notification primarily on the ground that due to the formation of the new Municipal Committee, the local people have been burdened with additional taxes and cesses as applicable to a municipal area. This has led to increased electricity bills, fire charges, property tax and development charges etc. The said increased imposition of tax and cess on

the village people is causing a lot of resentment and distress in the village residents most of whom live below the poverty line. Thus, the people of the region are facing lot of problems and financial burden which has brought more grief than relief to them.

3. Per contra, learned State Counsel has vehemently opposed the prayer of learned counsel for the petitioner, and submitted that carving out of Municipal Committees is a purely legislative function, and the Gram Panchayat has nothing to do with the same. It is further contended that the petitioner has only appended the Notification dated 25.06.2021 (Annexure P1) and has failed to append the initial notification dated 23.02.2021 in reference to which the impugned notification has been issued.

4. It is reiterated that in any event, the issue is no longer res integra, and stands long settled by way of land mark judgment of the Hon'ble Supreme Court rendered in case of **"Tulsipur Sugar Co. Ltd. Vs. The Notified Area Committee, Tulsipur" (1980) 2 SCC 295 (Law Finder Doc ID # 53173)**, which still holds ground, and wherein the Hon'ble Apex Court has held that the principle of audi alteram partem is inapplicable where the authorities are acting in exercise of legislative power.

5. Learned State Counsel refers to another judgment of the Hon'ble Supreme Court rendered in **"Sundarjas Kanyalal Bhatija & Others Vs. Collector, Thane, Maharashtra & Others"** with **"Prahalad Hiranand Advani & Others" Vs. Collector, Thane, Maharashtra" (1989) 3 SCC 396**, wherein the above said view has been reiterated.

6. We have heard learned counsel for the parties, and given our thoughtful consideration to the issue at hand.

7. There can be no dispute that the issue is no longer res integra and stands long settled by a catena of legal pronouncements. Besides, the cases as relied upon by learned counsel for the State, reference in this regard may also be made to a Division Bench judgment of this Court in **“Madan Lal & Others Vs. State of Punjab & Others” Law Finder Doc ID # 182907** wherein it has been held that the power exercised by Government to alter or extend municipal limits is essentially legislative in nature and can be challenged on limited grounds; and another recent Division Bench decision of this Court in **“Satyaveer Vs. State of Haryana & Others” CWP- 9813-2020 decided on 12.11.2020** wherein a Coordinate Bench of this Court dismissed the petition challenging the notifications dated 27.06.2017 and 07.11.2017 issued under Haryana Municipal Act, 1973 in view of the aforementioned decisions of the Hon’ble Supreme Court in case of **Sundarjas Kanyalal (supra)** and **Tulsipur Sugar Company Ltd. (Supra)**, wherein it has been concurrently held that the power exercised by the Government to alter or extend Municipal limits is essentially legislative in nature and can be challenged only on limited grounds; and Division Bench judgment of this Court in **“Inderjit Singh & Others Vs. The State of Haryana & Others” CWP No.3705 of 2007 decided on 18.02.2014** wherein it was held that the principle of audi alteram partem or any right to file objections by the inhabitants of the area can neither be presumed by necessary implications nor by implied legislative intent.

8. In **“Gram Panchayat Bassi Sekhan Vs. State of Punjab & Others”** Law Finder Doc ID # 148490, a Coordinate Bench of this Court has held that: -

“C. Punjab Municipal Act, 1911, Sections 4 and 5(2) – Extension of municipal limits – Making of declaration under Sections 4 and 5 of the Punjab Municipal Act for determining the territorial area of a municipality is a legislative act in nature – Exercise of power under Sections 4 and 5 has no concern with the interests of an individual or a particular resident of the area”.

9. Reference may also be made to another judgment of this Court in **“Bhupinder Singh Vs. Union of India”** Law Finder Doc ID # 36629, wherein it has been held as under: -

“A. Constitution of India, Article 41 – Punjab Municipal Corporation Act, 1976 (as applicable to Chandigarh), Section 3(1) – Declaration and specification of Municipal Area – Natural justice – Exercise of power of specification of Municipal Area of Chandigarh by the Administrator is in the nature of Legislative power – Rule of audi alteram partem is not attracted – No notice or hearing is required before exercise of such power in the absence of any such provision – Administrator is under no obligation to afford any hearing to the residents of the area included in the Municipal Corporation”.

10. Learned counsel for the petitioner has been unable to controvert this position in law.

11. Accordingly, in view of the undisputed factual and legal position as noticed hereinabove, we find no merit in the present petition, and find that no ground is made out to set aside the impugned Notification dated 25.06.2021 (Annexure P1). Present petition accordingly stands **dismissed.**
12. Pending application(s) if any also stand(s) disposed of.

(Ritu Bahri)

Acting Chief Justice

(Nidhi Gupta)

Judge

18.10.2023

Sunena

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