IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-5470-2021(O&M)
Date of Pronouncement: 03.02.2024

Amarnath & Others

...Petitioner(s)

Vs.

State of Haryana

...Respondent(s)

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

Present:- Mr. Pawan Kumar, Senior Advocate with
Mr. Surya Kumar, Advocate and
Ms. Vidushi Kumar, Advocate
for the petitioners.

Mr. Deepak Balyan, Addl. AG Haryana.
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NIDHI GUPTA, J.

Prayer in the present Civil Writ Petition under Article 226/227 of Constitution of India is for issuance of a writ in the nature of certiorari for quashing of impugned notification No.S.O.58/H.A.16/1994/S.3/2020 dated 24.12.2020 (Annexure P1) being illegal, arbitrary, unconstitutional and contrary to the object of the 74th Amendment of the Constitution of India.

2. Learned Senior Counsel appearing on behalf of the petitioners submits that vide the impugned notification dated 24.12.2020 (Annexure P1), 29 villages (1. Kasan, 2. Khoh, 3. Naharpur Kasan, 4. Nawada, 5. Fatehpur, 6. Dhana, 7. Baskusla, 8. Basharia, 9. Kankrola, 10. Bhangrola, 11. Dhorka, 12. Wazirpur, 13. Badha (situated in the Revenue Estate of Village Shikohpur) 14. Sikohpur, 15. Nakhrola, 16.

Bar-Gujjar, 17. Naurangpur, 18. Meoka, 19. Hayatpur, 20. Sehrawan, 21. Nainwal, 22. Kukrola, 23. Jhund Sarai (viran), 24. Jhund Sarai (Abad), 25. Fazalwas, 26. Gopalpur, 27. Garhi Harsaru, 28. Sikanderpur, Rampur 29. Manesar land measuring 124.32 square km), with boundary areas as specified in the Schedule given with the notification, have been notified as Municipal Corporation, Manesar. The said Notification has been issued in exercise of power granted under Section 3(2) of the Haryana Municipal Corporation Act, 1994 (hereinafter referred to as the "1994 Act"). In the present case, the petitioners are the villagers of 4 of the villages included in the 29 villages which constitute the Municipal Corporation, Manesar. These 4 villages are Kasan, Basharia, Baskusla and Dhana.

3. It is contended that in declaring Manesar a Municipal Corporation, the mandatory provisions of Section 3 of the 1994 Act have not been complied with, inasmuch as it is a clear stipulation of the abovesaid provision that no area shall be declared as a Municipality unless the population thereof is 3 lacs or more; whereas it is the admitted case of the respondents that the population of the area under notification was only about two lakhs.

4. It is further submitted that under the above said Section 3 of 1994 Act, the State Government had also issued Guidelines dated 01.01.2010 (Annexure R1). As per Clause 1 of the said Guidelines too, it was stipulated that the population of the area constituted under the Municipal Corporation should not be less than three lacs. However,

both these provisions have been ignored while issuing the impugned notification.

5. Learned Senior Counsel informs that as per Population Census 2011, the population of 29 villages in the newly constituted Municipal Corporation, Manesar is 2,01,181, which is far below the stipulated requirement. Further, as per Population Census of the year 2011, of the 4 villages the population of village Kasan is only 8628 as evident from Annexure P10; of village Basharia is only 1555 (Annexure P11); of village Baskusla is 3215 (Annexure P12); and village Dhana the population is only 1360 (Annexure P13). It is argued that clearly, therefore, the notified area falls under rural area with small population in each village, whereas, the Municipal Corporations have been proposed for larger urban areas with basic requirement of population of 3 lacs.It is submitted that accordingly, in issuing the impugned notification, provision of Section 3 of the 1994 Act has been violated; and even the requirements of Guidelines dated 01.01.2010 have not been complied with.

6. Learned Senior Counsel next contends that as per Clause 5 of the Guidelines it was required that where Local Municipality/Panchayat/residents want to constitute a Municipal Corporation, the Municipality/Gram Panchayat shall pass a resolution to this effect followed by recommendation of the concerned Divisional Commissioner; and in case the Municipality/Gram Panchayat does not pass such a resolution in favour or against the Municipal Corporation,

then the concerned Divisional Commissioner shall give his clear cut findings with reasons to be recorded for constitution of Municipal Corporation in that area.

7. Learned Senior Counsel states that in response to letter dated 07.07.2020 issued by the Commissioner, Municipal Corporation, Gurugram, proposing that 42 villages of Gurugram ought to be included in the Municipal Corporation, Manesar, and in which the names these 4 villages were also included, the Gram Panchayat of village Kasan passed a Resolution No.3 dated 15.07.2020 (Annexure P6) to the effect that village Kasan will not be included in Municipal Corporation, Gurugram.

8. It is stated that similar such resolutions were passed by Gram Panchayat, Basharia dated 01.07.2020 (Annexure P7); Gram Panchayat, Dhana dated 09.07.2020 (Annexure P8); Gram Panchayat Baskusla dated 14.08.2020 (Annexure P9). In all 14 villages had passed resolution against the inclusion in the proposed Municipal Corporation, Manesar. It is stated that the impugned notification has been passed in disregard of the above said facts and therefore the impugned notification is contrary to the provisions of the 1994 Act, as also the Guidelines dated 01.01.2010.

9. It is further argued that Panchayats are functioning better than Municipal Committees/Corporations overall. It is contended that the impugned notification has been issued without any survey or expert opinion and without any application of mind. Learned Senior Counsel further states that the State had failed to conduct elections of

Municipal Corporations, within time. It is contended that due to political intervention and rampant corruption, Municipal Corporations have failed to achieve their object despite charging heavier taxes in comparison to Gram Panchayats. It is further submitted that the 4 villages namely Kasan, Dhana, Baskusla and Basharia, have been adopted by Maruti Private Limited and all development work in the said villages are being carried out by the said Corporation in a well-planned manner and without charge of any additional taxes. It is submitted that accordingly, the said villages should not be converted into a Corporation.

10. It is further submitted that the impugned notification is violative of Article 311 of the Constitution of India because the Government has not invited objections of local residents of notified area and even though number of applications have been moved by the residents but no opportunity of hearing has been given to them and no action has been taken thereupon. It is further contended that the impugned notification dated 24.12.2020 (Annexure P1) is contrary to the objective of the 74th Constitutional Amendment.

11. It is submitted that as per the Guidelines dated 01.01.2010 (Annexure R1), when the Municipal Corporation/Gram Panchayat passed a resolution that their village be not included in the Local Municipality or Municipal Corporation, then the State Government has to determine as to whether the villages want to be included in the Local Municipality or Municipal Corporation by way of referendum/secret ballot. It is stated that in similar circumstances, the

respondent-State had issued a notification dated 24.03.2021 declaring the Gram Panchayat of village Badli to be Municipal Committee. However, after the Gram Panchayat of Village Badli passed a resolution that they are not interested to come under the control of Municipal Council, referendum of secret ballot was carried out on 01.10.2022 in which 3000 votes were cast in favour of Gram Panchayat, Badli and 1570 votes were cast in favour of Municipality. It is stated that in pursuance to the above said result of the secret ballot of village Badli, State of Haryana had issued a notification dated 14.11.2022 (Annexure P21) vide which it abolished the Municipal Committee, Badli, District Jhajjar and its status was restored to that of Gram Panchayat Badli. It is submitted that the same needs to be done in the present case as well. It is stated that the petitioners have time and again sought a referendum in similar terms, however, the same has not been done.

12. It is reiterated that if the impugned notification is not set aside the villages will be unnecessarily burdened with various taxes without getting any resource or facilities in return as evident from various other Municipal Corporations where there are no proper garbage disposal/management facilities, streetlights, etc. In support of his contentions learned Senior Counsel relies upon judgments of Hon'ble Supreme Court in **"State of Haryana & Others Vs. V.K. Kapoor & Others" Civil Appeal Nos.7002-7004/2011; "Baldev Singh Vs. State of Himachal Pradesh" 1987 (2) SCC 510; "State of Orissa Vs. Sridhar Kumar Malik" 1985 (3) SCC 697; "Syed Hasan Rasul Numaand Vs. Union of India"**

1991 (1) SCC 401; and of this Court in **"V.K. Kapoor & Others Vs. State of Haryana & Others" Law Finder Doc ID # 221168.**

13. Per contra, learned State counsel vehemently opposes the contentions made on behalf of learned Senior Counsel for the petitioners and submits that the procedure for declaration of a Municipal Area as Corporation is provided for under Section 3 of the 1994 Act; which are further supplemented by the Guidelines framed by the Government regarding constitution/abolition of Municipal Corporations vide Guidelines dated 01.01.2010 (Annexure R1). It is submitted that on the very same day i.e. on 01.01.2010 itself, a committee was also constituted (hereinafter referred to as the 'Constituted Committee'), to look into all matters concerning the creation/abolition of any Municipal Corporation and to include/exclude any area in the limit of any Municipal Corporation in the State.

14. It is contended that in the present case the Constituted Committee has considered *all* aspects of the matter and the notification (Annexure P1) has been passed keeping in view the requirements of the 1994 Act and the Guidelines (Annexure R1) framed by the State, which have been meticulously followed.

15. Learned counsel vehemently argues that it is incorrect to allege that no survey of the area was carried out prior to passing of the impugned notification. It is clarified that in fact it was only after due survey of the region, it was found that there was rapid urbanisation taking place in the area of Manesar which abuts Gurugram. Initially

there was a proposal of extension of limits of Municipal Corporation, Gurugram by including 39 villages, which included the present 29 villages. However, due to administrative/technical reasons a separate Municipal Corporation, Manesar was constituted including these 29 villages, and the remaining 10 villages have been included in the Municipal Limits of Municipal Corporation, Gurugram. It is stated that in fact it was only after due survey of the region, it was found necessary that the municipal corporation Manesar be formed keeping in mind the urbanised nature of the area proposed to be included in the Municipal Corporation, Manesar; also keeping in mind that the villages in question had already attained urban character and were no longer rural in nature. It is submitted that for the said reason, the present case cannot be put at par with that of village Badli, District Jhajjar wherein the villages were still rural in character.

16. It is further argued that after the 74th Amendment of the Constitution of India, the Municipal Corporations are constitutional bodies which are third tier of the Government. It is stated that after due consideration of the matter by the concerned authorities, decision was taken to create the Municipal Corporation, Manesar, for the governance of an urban/semi-urban area of the people/residents therein through their elected representatives. It is submitted that the services provided by private corporation i.e. Maruti Pvt. Ltd. were purely on a voluntary basis as part of their Corporate Social Responsibilities, and as such the said services would be very limited in comparison to the capacity and

scale of the services provided by Municipal Corporation being an arm of the State.

17. It is further contended that as per the procedure defined under the Act as also as per the Guidelines (Annexure R1), there is no necessity of inviting objections prior to constituting any new Municipal Corporation. Nonetheless, the Constituted Committee had submitted its report (Annexure R3) after considering each and every objection/suggestion of the Gram Panchayat of all these 29 villages.

18. Further, the fact that as per the Guidelines, the income of that Municipality should be sufficient to meet their own establishment charges and expenditure should not be more than 80 per cent of the total income of the Municipalities, was also considered before issuing the impugned notification.

19. Learned counsel for the State concludes his arguments by stating that in any case, carving out of municipal corporations is a purely legislative function in which no interference is called for. In support of his contentions, learned State Counsel refers to judgment of Hon'ble Supreme Court in **"Tulsipur Sugar Co. Ltd. Vs. Notified Area Committee" Law Finder Doc ID # 53173; "Sundarjas Kanyalal Bhatija Vs. Collector, Thane, Maharashtra" Law Finder Doc ID # 51418;** and of this Court in **"Jai Narayan Vs. State of Haryana & Others" CWP-21767-2023 decided on 18.10.2023; "Inderjit Singh & Others Vs. State of Haryana & Others" Law Finder Doc ID # 527655; "Satyaveer Vs. State of Haryana &**

Others" CWP-9813-2020 decided on 12.11.2020; and **"Madan Lal & Others Vs. State of Punjab & Others" Law Finder Doc ID # 182907.**

20. No other argument is raised on behalf of the parties.

21. We have heard learned counsel for the parties.

22. Before proceeding with the matter on merits it will be useful to advert to the relevant provisions of law/Section 3 of the 1994 Act, as also the Guidelines (Annexure R1) required to be considered by the respondent State in passing the impugned notification.

Section 3 of the 1994 Act stipulates as follows:-

"3. Declaration of Municipal area as Corporation-

(1) From the 31st day of May, 1994, the Municipal Corporation of Faridabad shall be deemed to have been declared as such for the Municipal Area specified in the First Schedule appended to this Act.

(2) The Government may, from time to time, by notification in the Official Gazette, declare any municipality including area comprising rural area or a part thereof, if any, to be a Corporation known as "the Municipal Corporation of (Name of Corporation)."

Provided that no municipality including area, comprising rural area or a part thereof, if any, shall be so declared to be a Corporation unless the population thereof [is three lacs or more].

(3) The Government may, from time to time, after consultation with the Corporation, by notification in the Official Gazette, alter the limits of the Municipal are of the Corporation declared under sub-section (1) and (2) so as to include therein or exclude therefrom such areas as may be specified in the notification.

(4) When the limits of the Municipal area are altered, so as to include therein any area, except as the Government may otherwise by notification, direct, all rules, regulations, notifications, bye-laws, orders, directions and powers issued or conferred and all taxes

imposed under this Act; and in force in the Municipal area shall apply to such area.

(5) When a local area is excluded from the Corporation under sub-section (3) -

(a) this Act, and all notification, rules, bye-laws, orders, directions and powers issued, made or conferred under this Act, shall cease to apply thereof; and

(b) the Government shall after consulting the Corporation, frame a scheme determining what portion of the balance of the Corporation fund and other property vesting in the municipal Corporation shall vest in the Government and in what manner the liabilities of the Corporation shall be apportioned between the Corporation and the Government, and, on the scheme, being notified, the property and liabilities shall vest and be apportioned accordingly."

23. Guidelines dated 01.01.2010 (Annexure R1) laid down the following criteria for the constitution and abolition of any Municipal Corporation in the State of Haryana:-

"2. According to section 3 of the Haryana Municipal Act, 1994, the state Govt. may, by notification, abolish any Municipal Corporation declared under section 3 (2) of the Act. The State Govt. after consideration has framed following guidelines/criteria for constitution and abolition of Municipal Corporation in the State: -

Guidelines/ criteria for constitution of Municipal Corporation.

1. The population of that area should not be less then three lacs.

2. Density of the population should at least 400 persons per Sq. KM for such Census town.

3. The income of that municipality should be sufficient enough to meet out their own establishment charges viz. salary, provident fund share, pension, gratuity of its employees and other local and mandatory obligations like audit fees, repayment of loans *contracted by them etc. and the expenditure on these heads should not be more than 80% of the total income of the municipality.*

4. Urban Character- The people of the area should predominantly be engaged in non-agricultural activity (say 60%).

5. Where Local Municipality/Panchayat/residents wants to constitute a Municipal Corporation, the Municipality/Gram Panchayat shall pass resolution to the effect followed by recommendation of the concerned Divisional Commissioner. In case, the Municipality/ Gram Panchayat does not pass such resolution either in favour or against, then the concerned Divisional Commissioner shall give his clear-cut findings with reasons for constitution of Municipal Corporation in the area.

Guidelines/ criteria for abolition of Municipal Corporation.

1. Where Local Municipal Corporation/ residents wants to constitute a Municipality the Municipal Corporation shall pass resolution to the effect followed by recommendation of the concerned Divisional Commissioner. In case, the Municipal Corporation does not pass resolution either in favour or against, then the concerned Divisional Commissioner shall give his clear cut findings with reasons for constitution of Municipal Corporation in the area.

2. If income of that Municipal Corporation is insufficient to meet out their own establishment charges viz. salary, provident fund share, pension, gratuity of its employees and other local and mandatory obligations like audit fees, repayment of loans contracted by them etc, and the expenditure of these heads is more than 80% of the total income of the Municipal Corporation. 3. If the concerned Divisional Commissioner thinks that the Municipal Corporation is not fit to discharge of statutory duties."

24. As already noted above, in pursuance to the above said Guidelines dated 1.1.2010 (Annexure R1), the State Government/Urban Local Bodies Department, issued an order dated 01.01.2010 bearing

Endorsement No.53/278-08-3C1 (Annexure R2) to form a Committee with a view to constitute/abolish any Municipal Corporation, and to include/exclude any area in the limit of any Municipal Corporation in the State. The said Committee was constituted under the Chairmanship of concerned Divisional Commissioner and included 5 other members the same being: a) Deputy Commissioner of the concerned District; b) District Town Planner of the concerned District; c) Representatives of Director, Urban Local Bodies, Haryana; d) Representatives of Director, Panchayat, Haryana; and e) Representatives of concerned Corporation (referred to herein as 'the Constituted Committee').

25. The record reveals that in the present case, the above said Constituted Committee held a meeting on 01.12.2020 under the Chairmanship of the Commissioner, Gurugram Division, to consider the proposal for creation of new Municipal Corporation, Manesar. It has come on record that some of the relevant factors that led to the proposal for, and necessitated the creation of new Municipal Corporation, Manesar were that after due survey of the region, it was found that there was rapid urbanisation taking place in the area of Manesar which abuts Gurugram. Municipal Corporation, Gurugram was constituted vide notification dated 02.06.2008. Thereafter, its limits had already been extended vide notifications dated 20.03.2010 and 04.06.2015. It was found that rapid urbanisation had been taking place beyond the limits of the Municipal Corporation, Gurugram since 2015 as the Town & Country Planning Department had granted a number of

licenses for developing residential/commercial colonies and HSIIDC had developed a huge industrial area namely IMT Manesar spreading over an area measuring approx. 4000 acres. Accordingly, the initial proposal for extension of limits of Municipal Corporation, Gurugram by including 39 villages (which included the present 29 villages), was given up, and it was decided to constitute a separate Municipal Corporation, Manesar including these 29 villages, and the remaining 10 villages were included in the Municipal Limits of Municipal Corporation, Gurugram.

26. Vide order dated 18.01.2024, this Court had directed the respondent-State to produce the relevant file to show *"how as per the Minutes of Meeting (Annexure R-3), when the file was sent to the Director and what was his/her opinion keeping in view that 14 Gram Panchayats have passed the Resolution with regard to the working of Municipal Corporation, Manesar".*

27. In pursuance to the same, learned State Counsel has produced the Minutes of the Meeting of the Constituted Committee dated 01.12.2020, held under the Chairmanship of the Divisional Commissioner. The same are taken on record as Annexure - A. Perusal of the same shows that the Constituted Committee has considered every aspect of the matter in great detail keeping in view the stipulations of the 1994 Act as also the Guidelines (Annexure R1). The relevant extract of Agenda I of the Meeting dated 01.12.2020, and the factors considered by the Constituted Committee, are reproduced hereinbelow:-

> *"2.1. The Committee was apprised that <u>Manesar is a Census Town (CT)</u> in the Gurugram district of the state of*

Haryana, India. It is an industrial hub and is a part of the National Capital Region (NCR) of Delhi. Its proximity to the burgeoning city of Gurugram has in recent years caused its character and demographics to change dramatically. It has many factories, offices, hotels, IT parks and educational institutes. Manesar is 32 km from Indira Gandhi International Airport and is located on National Highway 48, making it well connected with Delhi, Gurugram, Rewari, Dharuhera, Jaipur, Ahmedabad and Mumbai.

2.2. As per Census-2011, it has an area 14.70 km^2 and population of 1,16,606. It is known for its Industrial Model Township (IMT) developed by HSIIDC over an area of about 4,000 acres. Some of the big names in the industry, namely Maruti Suzuki, Denso, Johnson Mathey, Napino Auto, Honda Motorcycles and Scooters, Baxter, Mitsubishi, Stanley, Munjal Showa, Jamuna NHK and Suzuki Metal India have setup their industrial units at IMT Manesar.

2.3. The proposed Municipal Corporation Manesar comprises the revenue Estates of 29 villages as per Table – II. The area under the proposed cap Corporation has been delineated keeping in mind the attributes of uniformity, manageability and controllability. Of these 29 villages, the revenue states of 23 villages were part of the extension proposal of MCG and the revenue estates of 06 more villages namely Sehrawan, Nainwal,Kukrola, Jhund Sarai (Viran), Jhund Sarai (Abad) and Fazalwas are to be added in the proposed MCM.

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2.4. As per Census 2011, the total population of the CT-Manesar and 28 villages was 2,01,181. District Gurugram had shown a decadal growth rate of 73.96% in the decade 2001-2011. Considering the past decadal growth, the estimated *population of the proposed Corporation in the year 2020 is estimated to be around 3,50,000. Hence, the proposed Corporation fulfils the parameter with regard to Population.*

2.5. As regards the fulfilment of parameters laid down in the Policy guidelines circulated by the Govt. vide Memo no. 53/278-08-3CI dated 01.01.2010, the Committee was apprised of the following facts:

2.5.1. Income and Expenditure

- DRO, Gurugram has provided the details of stamp duty collected in 29 villages, which was approx. Rs.63.47 Cr in 2018-19 and Rs.43.75 Cr in 2019-20.
- As per the information provided by DDPO, Gurugram, the Gram Panchayats of 29 villages have a total of approx. Rs.338 Cr in fixed deposits. The village-wise detail is attached.
- The report compiled by Executive Engineer (Electrical), MCG from DHBVN reveals the billing amount of these areas as approx. Rs.1010 Cr/year, 2% of which, tentatively amounting to Rs.20.20 Cr/year would be transferred to MCG, as per policy of the Govt.
- The tentative details of properties have been obtained from HSIIDC and T&CP Department for calculating the expected property tax and trade license fee from the proposed area.

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DRO MCG also informed that about 3675 acres of Panchayat land is available in 29 villages. The break up of the land is given below:

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The committee observed that the expected income amounting to Rs. 74 Cris much higher than the expected expenditure amounting to Rs. 25.8 Cr on the new Establishment.

2.5.2. Density

As per the Census-2011, the total population of the 29 villages was 2,01,181. The total area under the revenue estates of these villages is 124.32km$^{2.}$ The overall population density as per Census-2011 was 1618 persons/km^2 and the projected density works out to 2815 persons/km^2 against the required density of 400 persons/km$^{2.}$ Individually, the criterion of density (as per the projected population) is met in 27 villages, except Gopalpur and Meoka.

2.5.3. Non-agricultural workers

The total number of workers as per Census-2011 is 73846, of which, 55379 are non-agricultural workers and 18467 are cultivators & agricultural labourers. Individually, the criterion of urban character (as per the percentage of non-agricultural workers) is met by 22 of 29 villages, while in aggregate it comes out to about 75% against the required 60%. It is anticipated that this percentage would be substantially higher, when the latest data is considered.

2.5.4. Resolution by Gram Panchayats

As regards the Resolution from the Gram Panchayats, the Committee observed that out of the 29 Gram Panchayats included in the Corporation, the Gram Panchayats of 03 villages namely Wazirpur, Meoka and Nainwal have passed the Resolutions in favour of inclusion in the proposed Corporation, while the 12 Gram Panchayats of villages namely Dhana, Baskusla, Basharia, Bhangrola, Dhorka, Badha, Bar-gujjar, Sehrawan, Kukrola, Jhund Sara (Viran), Jhund Sarai (Abad) and Fazalwas did not express any acceptance or reluctance with regard to joining the proposed MCM. The remaining 14 Gram

Panchayats have passed Resolutions against joining the proposed MCM".(Emphasis added)

28. The Minutes of the Meeting further reveal that the Committee then went on to discuss in detail, the cases of individual villages on merit, based on demographic facts and rapid urbanisation vis-a-vis Final Development Plan of Gurugram Manesar Urban Complex – 2031 AD (for short 'FDP GMUC – 2031 AD').

29. Thus, from a bare perusal of the above it is patent that before passing the impugned notification, every single requirement under the 1994 Act, as also the Guidelines dated 01.01.2010, have been complied with and meticulously enforced. The discussion and decisions taken by the Committee may be summarised as follows:

A) The proposed Municipal Corporation Manesar (MCM) comprises the revenue estates of 29 villages. Of these 29 villages, the revenue estates of 23 villages were part of the earlier extension proposal of MCG and the revenue estates of 06 more villages namely Sehrawan, Nainwal, Kukrola, Jhund Sarai (Viran), Jhund Sarai (Abad) and Fazalwas have been added in the proposed MCM;

B) The demographical information like geographical area, population density, projected population density, total number of workers, total number of agriculture workers, total number of non-agriculture workers, percentage of non-agriculture workers in respect of the 29 villages and the status of 29 villages was discussed vis-à-vis the parameters laid down in the policy/guidelines issued by the Govt vide memo No.53/278-08-3CI dated 01.01.2010;

C) The expected income amounting to Rs.74 Cr. was found to be much higher than the expected expenditure amounting to Rs.25.8 Cr. on the new Establishment;

D) As per the Census-2011, the total population of the 29 villages was 2,01,181. The total area under the revenue estates of these villages is 124.32 km^2. The overall population density as per Census-2011 was 1618 persons/km^2 and the projected density worked out to 2815 persons/km^2 against the required density of 400 persons/km^2;

E) The total number of workers as per Census-2011 was 73846, of which, 55379 were non-agricultural workers, which is 75% of the total work force against the required 60%. It was anticipated that this percentage would be substantially higher when the latest data was considered;

F) (a). It may be noted that as per clause-4 of the guidelines/criteria circulated by the Govt. have memo No.53/278-08-3Cl dated 01.01.2010, if any Gram Panchayat does not pass the Resolution either in favour or against the inclusion, then the Divisional Commissioner is to give his clear-cut findings with reasons for inclusion of that area. In the instant case, out of the 29 Gram Panchayats to be included in the proposed Corporation, the Gram Panchayats of 03 villages namely Wazirpur, Meoka and Nainwal passed the Resolutions in favour of inclusion in the proposed Corporation, while the 12 Gram Panchayats of villages namely Dhana, Baskusla, Basharia, Bhangrola, Dhorka, Badha, Bar-gujjar, Sehrawan, Kukrola, Jhund Sara (Viran), Jhund Sarai (Abad) and Fazalwas did not express any acceptance or reluctance with regard to joining the proposed MCM and the remaining 14 Gram Panchayats passed Resolutions against joining the proposed MCM;

F) (b) However, the Committee after consideration gave the finding that out of the 29 villages, 27 villages fully or partly form part of the urbanizable area provided in FDP GMUC-2031 AD. The Department of Town & County Planning, Haryana has granted licenses for development of residential and commercial colonies over a large area in residential and commercial sectors provided in the revenue estates of these villages. Besides, HSIIDC has developed IMT Manesar spreading over an area measuring about 4000 acres of land falling in the revenue estates of these villages. Hence, these 27 villages have attained urban character;

F) (c) As regards the revenue estates of villages Nainwal and Bar-gujjar, the Committee observed that although the revenue estates of these villages do not form part of the urbanisable area of FDP GMUC-2031 AD and FDP Sohna 2031 AD respectively, yet inclusion of these villages is desirable to avoid lopsided development in these villages in comparison to the adjoining revenue estate of village Manesar, which is the nucleus of proposed Corporation.

30. Accordingly, it is our considered view, that from a perusal of the above it is clear that all provisions of the 1994 Act, as also the Guidelines dated 1.1.2010 have been complied with inasmuch as the Divisional Commissioner and the Constituted Committee have applied

their mind and given clear-cut reasons for the creation of the new Municipal Corporation, Manesar; as also for the inclusion of unwilling villages/Gram Panchayats in the notified area.

31. It is only thereafter that the Commissioner, Gurugram Division vide his office Memo No.196-71/LFA/3740 dated 04.12.2020 (Annexure R3), sent the proposal to the Director, Urban Local Bodies, recommending for creation of new Municipal Corporation, Manesar. The aforesaid recommendations given by the Constituted Committee were then examined and considered by the Department of Urban Local Bodies, Haryana. Keeping in view the above, the proposal of the Committee (Annexure R3) was considered by the Government; and Municipal Corporation, Manesar was constituted vide notification dated 24.12.2020 (Annexure P-1).

32. Reference in this regard may also be made to letter dated 25.01.2023 written by the Director General, Development and Panchayat Department, Haryana, to the Deputy Commissioner, Gurugram regarding formation of Panchayat by holding a referendum in Municipal Corporation, Manesar. In reply thereto, the Deputy Commissioner, Gurugram vide letter dated 31.03.2023 (Annexure P24) has reiterated/stated as follows:-

> *"The matter in relation to the above subject, it is expressed that the letters given by the residents of village Dhana, Bas Haria, Bas Kushla and Kasan were received in this office through the referred letter of your office and the residents of village Manesar, Nainwal and Kakraula. The letters given by were received directly in this office. A letter*

was written to the Commissioner, Municipal Corporation, Manesar to submit report/comments regarding conducting a referendum in the above villages included in the Municipal Corporation, Manesar. Commissioner Municipal Corporation Manesar in his letter number MCM/No. Come. - The report has been submitted by IIT/2023/49 dated 17.03.2023 that the area included in Manesar Municipal Corporation is moving towards urbanization which is a part of the most developed Gurugram area in the country. Keeping this in view, Manesar Municipal Corporation is working as the main foundation of Gurugram. In view of urbanization, the work of providing basic facilities to the common people like water, sewer, roads, cleanliness etc. is being done by the Municipal Corporation and all these facilities will be completed in future.

<u>I.M.T. Manesar:</u> *IMT located inside Manesar Municipal Corporation. Which is the main area for livelihood of laborers and laborers etc. coming from outside. Many industrial units located here have made their mark at the global level. Therefore, considering all these, there is a need for Manesar Municipal Corporation.*

<u>LICENSE COLONIES:</u> *There are many societies under Manesar Municipal Corporation to which basic facilities cannot be provided by the Panchayat. Therefore, considering all these, there is a need for Manesar Municipal Corporation.*

The report is sent to your service."

33. Besides the above said uncontroverted facts on record, the issue as regards carving out of Municipal Committees/Corporations, is no longer res integra and stands long settled by a catena of legal pronouncements. Reference in this regard may 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 more 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 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.

34. 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".

35. 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".*

36. The judgments referred to by learned Senior Counsel for the petitioners, are distinguishable being not applicable to the facts and circumstances of the present case.

37. Accordingly, in view of the factual and legal position as noticed hereinabove, we find no ground is made out to set aside the impugned Notification dated 24.12.2020 (Annexure P1). Present petition accordingly stands **dismissed**.

38. Pending application(s) if any also stand(s) disposed of.

(Ritu Bahri)
Acting Chief Justice

(Nidhi Gupta)
Judge

03.02.2024
Sunena

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