

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

- (1)

CWP-25693-2024
Date of Decision: 03.10.2024
- HARVINDER SINGH

...Petitioner
- V/S
- STATE OF PUNJAB AND OTHERS

...Respondents
- (2)

CWP-25477-2024
- NIRMAL SINGH AND OTHERS

...Petitioners
- V/S
- STATE OF PUNJAB AND OTHERS

...Respondents
- (3)

CWP-25700-2024
- HARWANT SINGH

...Petitioner
- V/S
- STATE OF PUNJAB AND OTHERS

...Respondents
- (4)

CWP-25703-2024
- GURNAM SINGH

...Petitioner
- V/S
- STATE OF PUNJAB AND OTHERS

...Respondents

- (5)

CWP-25709-2024

BALDEV SINGH AND OTHERS

...Petitioners

V/S

STATE OF PUNJAB AND OTHERS

...Respondents
- (6)

CWP-25724-2024

JASKAMAL SINGH

...Petitioner

V/S

STATE OF PUNJAB AND OTHERS

...Respondents
- (7)

CWP-25800-2024

MANDEEP SINGH AND OTHERS

...Petitioners

V/S

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON’BLE MR. JUSTICE SURESHWAR THAKUR
HON’BLE MRS. JUSTICE SUDEEPTI SHARMA

Present : Mr. Amandeep Singh Manaise, Advocate
for the petitioner (in CWPs-25693, 25700, 25703 of 2024)

Mr. Supinder Singh Sohi, Advocate
for the petitioners (in CWP-25477-2024)

Mr. Lakhwinder Singh Mann, Advocate
for the petitioners (in CWP-25709-2024)

Mr. Karanjeet Singh Brar, Advocate
for the petitioner (in CWP-25724-2024)

Mr. Karandeep Singh Sidhu, Advocate
for the petitioners (in cWP-25800-2024)

Mr. Maninder Singh, Sr. DAG, Punjab.

SURESHWAR THAKUR, J.

1. Since all the writ petitions involve a common question of law as well as common reliefs have been sought therein, as such, all the writ petitions are amenable to become decided through a common verdict.

2. For the sake of brevity, the facts are taken from CWP-25693-2024.

3. Through the instant writ petition, the petitioner asks for the quashing of the impugned notification dated 25.09.2024 (Annexure P-3), as became issued by respondent No.2, regarding wardbandi of Gram Panchayat Alawalpur, Block Kalanaur, District Gurdaspur, besides impugned Electoral Roll-2023 (Annexure P-5) of Gram Panchayat Alawalpur, Block Kalanaur, District Gurdaspur. Further the petitioner has sought a mandamus directing the respondents to correct/update the Electoral Roll-2023 (Annexure P-5) of Gram Panchayat Alawalpur, Block Kalanaur, District Gurdaspur as per the provisions of “The Punjab State Election Commission Act, 1994” (hereinafter referred to as the Act of 1994), s well as “The Punjab Panchayat Election Rules, 1994” (hereinafter referred to as the Rules of 1994), so as to maintain the sanctity of Electoral Roll.

4. The petitioner avers that general elections of Gram Panchayats in the State of Punjab have been declared vide notification dated 19.09.2024 (Annexure P-1). Consequently, the Government of Punjab issued instructions dated 20.09.2024 (Annexure P-2) to all the Deputy Commissioners to reserve the offices of Sarpanches as well as Panchs and proceed accordingly.

5. They further avers that respondent No.2 issued a notification of 25.09.2024 (Annexure P-3) regarding wardbandi of Gram Panchayats in Block Kalanaur, District Gurdaspur and reservation of Panchs in the wards. However, with regard to Gram Panchayat Alawalpur, Block Kalanaur, District Gurdaspur, the wards have been divided unevenly on the basis of political considerations.

6. That later, election program dated 27.09.2024 (Annexure P-4) was issued vide notification by respondent No.3 and the nominations were scheduled to commence on the same day i.e. 27.09.2024 uptill 04.10.2024. However, the voter lists were not made available to the public and it as only on repeated demands under the pressure of media that the office of respondent No.2 made the voter list of Gram Panchayat Alawalpur, public on 27.09.2024.

Submissions of the learned counsel for the petitioner

6. The learned counsel for the petitioner submits that from the perusal of the Electoral Roll (Annexure P-5) as well as the impugned notification of 25.09.2024 (Annexure P-3), the petitioner found that there are many illegalities in the Electoral Roll as well as the notification of wardbandi and holding the election of Gram Panchayat Alawalpur on the basis of the aforesaid Electoral Roll and the impugned notification (Annexure P-3) would be illegal and violative of the provisions of the Act of 1994, besides the Rules of 1994.

7. He further submits that even otherwise the ward of the petitioner and other persons have been changed from one to another before the elections, but the petitioner and other persons came to know about the

same at later stage, and, the same is against the provisions of the Punjab Panchayati Raj Act, 1994 (hereinafter referred to as the Panchayati Raj Act).

8. The learned counsel for the petitioner while making the said submissions rely upon a judgment delivered by this Court in case bearing No.CWP-8290-2013, titled as “**Punjab Pradesh Congress Committee V. State of Punjab and others**”. In the said judgment a challenge was made to the creation of wards after the preparation of electoral rolls and also after the publication of the election schedule. The situation therein is similar to the situation in the instant case.

9. However, while disagreeing with the challenge raised therein, by the learned counsels for the petitioners, this Court alluded to certain guidelines which occur in paragraph 3 of the judgment (supra), paragraph whereof becomes extracted hereinafter.

“3. In the reply filed by respondent Nos. 1, 2 and 4, preliminary objections regarding maintainability of the writ petition were raised; firstly on the ground of delay; secondly on account of vagueness of the petition because no particulars have been given about the place where the proposed list was not displayed and numbers were not furnished and no representation by any aggrieved person was attached. It was rather alleged that 6231 objections were received, out of which 2922 were allowed and 3309 were dismissed. Thirdly the election law confers specific right on each voter which cannot be invoked by the petitioner; and finally the bar of Article 243O of the Constitution of India was raised. On merits, it was pleaded that prior to the Amendment Act, the Panchayats were constituted in terms of Section 10 of the Act taking Gram Sabha as a multimember single constituency. However, this system was highlighted in CWP No. 10804 of 2008 and vide order dated 07.01.2009, this matter was referred to the Full Bench and during the pendency of the adjudication of Full Bench, the Government decided to introduce

amendment in the Act so that the elections of the Panchayats can be conducted as a multi- member constituency instead of multi-member single constituency. Accordingly, Amendment Act was brought and the Gram Sabha was divided into wards on the basis of its population by amending Section 10 and inserting Section 10A in the Amendment Act. It is further averred that in view of the provisions of Sections 10 and 10A of the Amendment Act, the Deputy Commissioner in the State of Punjab has been declared as the competent authority to initiate the process of Wardbandi and the necessary guidelines were issued to them vide letter No. DPE-1/78/12/Policy/21720-41 dated 07.09.2012. As per the guidelines, the following procedure was asked to be followed :-

I. The number of wards should be inconsonance with the number of seats of panches of that Gram Panchayat. For example if the seats of panches are 5 in number then 5 wards would be made. It is pertinent to mention here that the number of panches in a particular village is to be determined on the basis of population slab as prescribed under section 10(IC) of the Act.

II. Every ward should be contiguous geographically.

III. Every ward should be given a specific serial number

IV. The population of each ward should be same as far as possible.

V. After the formation of wards in view of the aforesaid procedure, the Deputy Commissioner will publish the same in the official gazette and the same shall also be displayed on the notice boards in the office of Block Development and Panchayat Officer, District Development and Panchayat Officer and in the Gram Panchayat. By this publication and display objections were invited and the concerned were asked to submit their objections within 7 days.

VI. Thereafter, the Deputy Commissioner will decide the objections within 30 days.

VII. After deciding the objections, the final list of ward bandi shall be notified in the official gazette.

VIII. They were further asked to ensure the publication of final notification before 31.01.2013.

IX. They were also asked that the copies of final publication of notification should also be sent to State Election Commission Punjab so that revision/preparation of electoral rolls should be done in view of such ward bandi.

X. It was also brought to their notice that any deviation from such practice shall be viewed seriously.

Some other guidelines were also issued on 19.09.2012 and 30.11.2012 respectively, which read as under:-

Under Section 11 of the Punjab Panchayati Raj Act, 1994 (Amended Act No. 4 Year 2012), the following provisions regarding reservation of Panches (Wards) of the Gram Panchayats have been made:-

11(1) The office of Panches shall be reserved for the Scheduled Caste in such a way that the number of offices reserved for Scheduled Caste shall bear, as nearly as may be, the same proportion to the total number of offices (to be filled by direct election) in that Gram Panchayat, as the population of the Scheduled Caste to the total population in that Gram Panchayat Sabha area.

(2) Not less than one-third of the total number of offices reserved under sub-section (1) shall be reserved for women belonging to the Scheduled Castes.

(3) Not less than one-third (including the number of offices reserved for women belonging to the Scheduled Caste) of the total number of offices (to be filled by direct election) in every Gram Panchayat shall be reserved for Women.

(4) One office of Panch shall be reserved for Backward Class in a Gram Panchayat where population of Backward Classes in the Gram Sabha area is more than twenty per cent of the total population of that Gram Sabha area.

(5) The Deputy Commissioner shall reserve the offices of Panchayat under this section for various categories by notification

published in the official gazette and such offices shall be allotted by rotation in the different wards formulated under sub-section (1-C) of Section 10A the time of every general election and such rotation shall be made as per the roster maintained in the office of the Deputy Commissioner.

“Keeping in view the statistics of census 2001, the reservation of the seats/wards of Panches should be as under :-

With the proportionate of the population of Scheduled Castes of the village, the reservation of the Panchs (Wards) should be made. For example if in any village there are 5 wards and there is 30% population of Scheduled caste then out of 5 seats 2 wards will be reserved for scheduled caste. In each Gram Panchayat 1/3 share of the total wards should be reserved for women like

- 1. Ward No. 1 Scheduled Caste*
- 2. Ward No. 2 Scheduled Caste Woman*
- 3. Ward No. 3 Woman*
- 4. Ward No. 4 General*
- 5. Ward No. 5 General*

If the population of backward classes is 20% or above in the village then the seat No. 4 will be kept for backward classes.

At the time of reservation first Scheduled Caste, Scheduled Caste Woman, Woman, Backward Classes (if the population is above 20%) and in the last the General Wards should be reserved.”

10. The principles stated therein relate, to the geographical contiguity of the wards, to the assignment of different serial numbers to the homesteads. Moreover, thereins become expressed the necessity qua the population of each of the wards being as far as possible being same or similar. Furthermore, thereins also occurs a discussion qua the creation of a reservation roster for application thereof, vis-a-vis, the reserved categories concerned, but bearing in mind the principle of proportionality of population of the reserved categories, thus to the total population of the Gram Panchayat area concerned.

11. In addition, the apposite creation of boundaries, thus on the happening of de-limitation of the wards also become stated therein to become preceded by a census' becoming conducted by the Census Department concerned. Therefore, the apposite de-limitation has to take place in terms of the increased size of the population in the ward concerned, whereby there arises a necessity of new wards being created rather for ensuring the happening of better developmental works, thus at a micro level.

12. However, even the issue relating to the allotment of house numbers to the homesteads in the villages, became dwelt upon. The directions in respect of the above are carried in paragraph 46 of the judgment (supra), paragraph whereof becomes extracted hereinafter, whereby a mandamus becomes made upon the government to allot house numbers to all the houses in the villages concerned.

“46. In view of the aforesaid discussion, we do not agree with the contentions raised by learned counsel for the petitioner and accordingly, the prayers made in the writ petition are hereby declined but before parting with the order, we would like to issue certain directions for the purpose of formation of wards in future, which are as follows:-

1. The Government should undertake an exercise of allotting the house numbers to all the houses in all the villages of the State of Punjab. The Panchayat Secretary of the Gram Panchayat concerned shall maintain the record of the house numbers and keep on updating the same in case of any change in the house number occurred for any reason, Let this exercise be started after the elections and be completed within a period of one year and the status report be put up on the file of this case.

2. The exercise of delimitation of wards for the purpose of election of the Gram Panchayats, Panchayat Samities and Zila

Parishads shall be undertaken with wide publicity in the electronic and print media well before the exercise is started.

3. The notification of the proposed wardbandi or its substance should not only allowed to be pasted/affixed in terms of the provisions of the statute but should also be accompanied by a coloured site plan showing formation of separate wards so that the appropriate opportunity could be availed of by the voters for the purpose of filing objections.

4. The Deputy Commissioner or the Competent Authority, who has to decide the objections, shall decide the objections by passing a well reasoned order reflecting his/her application of mind.

5. We also request the State of Punjab to enhance the period of filing the objections which is at present only 7 days from the date of proposal because after the decision of the Deputy Commissioner, 90 days period has been fixed for the purpose of publication of final notification.”

13. However, the allotment of house numbers to the homesteads in the villages concerned, does not at all carry a further connotation, that if the size of the dwelling unit is large, thereby a necessity arising vis-a-vis a part of the house requiring its falling within the boundaries of one or the other created ward in terms of the de-limitation exercise, as become taken in pursuance to the census' becoming conducted. If so, the further consequence thereof, is that, the members of the dwelling unit, may irrespective of house numbers becoming allotted to any homestead, rather becomes enlisted as voters in one or the other ward concerned. Since thereby there is no snatching of the right of exercising of franchise by any of the members in a dwelling unit. Resultantly, even if one or the other members of any dwelling unit are enlisted as voter(s) in one or the other wards concerned, thereby the said enlistment does not suffer from any gross illegality or impropriety.

14. Therefore, there is no merit in the writ petitions and the same are hereby dismissed.

(SURESHWAR THAKUR)
JUDGE

03.10.2024

Ithlesh

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

(SUDEEPTI SHARMA)
JUDGE