

Gurdial Singh and others v. State of Haryana and another
(M. M. Punchhi, J.)

today that each of them will hand over peaceful and vacant possession of the land as soon as the crops standing on the land are removed or within two months, whichever is earlier. In case, no such undertaking is filed within three weeks before the Registrar (Judicial) of this Court, the petitioner can proceed to take possession immediately thereafter. This order of ours would not absolve the Collector in determining the *mesne* profits due from the contesting respondents which may otherwise be recoverable under the law.

R. N. R.

Before : M. M. Punchhi and Ujagar Singh, JJ.

GURDIAL SINGH AND OTHERS,—*Petitioners.*

versus

STATE OF HARYANA AND ANOTHER,—*Respondents.*

Civil Writ Petition No. 9021 of 1988 and Civil Misc. No. 13597 of 1988.

October 6, 1988.

Gram Panchayat Act (IV of 1953)—Ss. 3(a), 4 and 5—Creation of two Sabha areas in one village with two separate Gram Panchayats is permissible under S. 4 of the Act—Expression “in supersession of all previous notifications” used in notification creating separate Gram Panchayats in same village—Effect of non-mentioning of a particular earlier notification while superceding several others stated.

Held, that panchayats are co-related with Sabha areas and a village can have more than one Sabha area and thus more than one Gram Panchayat. Therefore, creation of two Sabha areas in a village is permissible under S. 4 of the Gram Panchayat Act (as applicable to the State of Haryana). The language of the Section is plain and simple.

(Para 3).

Held, that in the event of there being more than one Sabha area therein the name of the village would obviously remain one as it is

related to the revenue estate as recorded in the revenue record. All the same two Sabha areas therein may have different names not essentially the same as that of the village for purposes of separate identity.

(Para 4).

Held, that the two Sabha areas have been identified by name even though the name of the village has been used but only to co-relate the same with the name of the Sabha area.

(Para 5).

Held, that separate areas have been identified which comprise the respective Sabha areas. Since both the Sabha areas by specific name are in the village known as Karera Khurd, the mention of the name of the village in column No. 2 twice, co-relative with the name of the respective Sabha area, is not something which is violative of sections 4 and 5 of the Act.

(Para 6).

Held, that in the impugned notification, an expression has been used "In supersession of all previous notifications". Then numbers are given of the superseded notifications. The omission therein of supersession of the 1983 notification 'annexure P-5' would not be fatal to the impugned notification, Annexure P-4, firstly, because all previous notifications have been superseded and the mere non-mentioning of 1983 notification would make no difference and secondly the language of the notification is clear that two Sabha areas were being created in one village in place of one Sabha area which was earlier in the village.

(Para 7).

Petition Under Articles 226/227 of the Constitution of India praying that:—

- (i) *A writ of certiorari, or any other appropriate writ, order or direction by issued quashing the notification Annexure P-4;*
- (ii) *Holding of Panchayat elections on the basis of Annexure P-4 be stayed;*
- (iii) *Operation of Annexure P-4 be stayed;*
- (iv) *Service of advance notices on the respondents as required under the writ Rules may kindly be dispensed with;*
- (v) *Filing of certified copies of Annexures be also dispensed with;*

Gurdial Singh and others v. State of Haryana and another
(M. M. Punchhi, J.)

(vi) *Any other relief to which the petitioners are found entitled under the circumstances of the case, be also kindly granted to the petitioner.*

(vii) *Costs of this writ petition be awarded to the petitioner.*

Application under Section 151 C.P.C. praying that till the pendency of this writ petition, the holding of election of the Panchayat and operation of the impugned order annexure P/4 be stayed for the ends of justice.

Lakhinder Singh, Advocate, for the petitioner.

None, for the respondent.

ORDER

M. M. Punchhi, J. (Oral)

(1) Before this court two civil Writ Petitions No. 6153/88 and 7229/88, had earlier been brought by villagers of village Karera Khurd, Tehsil Jagadhri, District Ambala finding fault respectively with two notifications, issued on 30th June, 1988 and on 1st/2nd August, 1988. The State Government made effort to correct those notifications one after the other. Thus, nothing could be done under those notifications. Now the latest notification issued by the State under challenge is dated 27th September, 1988 which is annexure P. 4 to the petition. We were apprised of the same while disposing of C.W.P. No. 7229 of 1988 on 28th September, 1988.

(2) The impugned notification speaks for itself. It is claimed by the petitioners that it is not in accordance with the provisions of section 5 of the Gram Panchayat Act 1952.

(3) The first objection is that there cannot be two panchayats in one village. The village is one undoubtedly and it is Karera Khurd. Section 4 of the Gram Panchayat Act (as applicable to the State of Haryana) provides that the Government may by notification declare any village or group of contiguous villages with a population of not less than 500 to constitute one or more Sabha areas. Moreover, panchayats are co-related with Sabha areas and a village can have more than one Sabha area and thus more than one Gram Panchayat. Therefore, creation of two Sabha areas in a village is permissible under section 4. The language of the section is plain and simple.

(4) The next objection is that under section 3(q) of the Act, "Village" means any local area, recorded as a revenue estate in the revenue records of the district in which it is situated. In the event of there being more than one Sabha area therein the name of the village would obviously remain one as it is related to the revenue estate as recorded in the revenue record. All the same two Sabha areas therein may have different names not essentially the same as that of the village for purposes of separate identity.

(5) The third objection is that in the impugned notification though two Sabha areas have been created but the name of the village has been used twice and this is impermissible. This contention too is without any force. The two Sabha areas have been identified by name even though the name of the village has been used but only to co-relate the same with the name of the Sabha area. There is, thus no illegality. It may at best be an irregularity, not affecting the exercise of power.

(6) Now coming to the notification itself column No. 2 provides the name of the village constituting Sabha area and column No. 5 provides the name of the Panchayats. Since two Panchayats have been created in the village, the name of one Panchayat or the Sabha area is Karera Khurd-I and the other Karera Khurd-2. Separate areas have been identified which comprise the respective Sabha areas. Since both the Sabha areas by specific name are in the village known as Karera Khurd, the mention of the name of the village in column No. 2 twice, co-relative with the name of the respective Sabha area, is not something which is violative of sections 4 and 5 of the Act. We hold it accordingly.

(7) Lastly, it has been contended that in the impugned notification, though earlier notifications have been superseded, the notification issued under sections 4 and 5 of the Act in the year 1983 annexure P. 5 has not been superseded. In the impugned notification, an expression has been used "In supersession of all previous notifications". Then numbers are given of the superseded notifications. The omission therein of supersession of the 1983 notification 'annexure P. 5' would not be fatal to the impugned notification annexure P. 4, firstly, because all previous notifications have been superseded and the mere non-mentioning of 1983 notification would make no difference and secondly the language of the notification is clear that two Sabha areas were being created in one village in place of one Sabha area which was earlier in the village.

Gurmail Singh v. Presiding Officer, Labour Court, Ludhiana and others (S. S. Sodhi, J.)

(8) To conclude, we are of the view that the impugned notification annexure P. 4 does not suffer from any infirmity. Consequently, we dismiss the petition *in limine*.

R.N.R.

Before : S. S. Sodhi, J.

GURMAIL SINGH,—Petitioner.

versus

PRESIDING OFFICER, LABOUR COURT, LUDHIANA AND OTHERS,—Respondents.

Civil Writ Petition No. 4281 of 1981.

September 15, 1988.

Industrial Disputes Act (XIV of 1947)—Ss. 2 A and 10—Termination—Labour Court finding domestic enquiry held not fair or proper. Management's right to adduce evidence to justify termination before the Labour Court—No application made in this behalf—However, specific issue framed regarding justification of termination—No objection taken against framing of issue and evidence led by both parties—Absence of application to adduce evidence by management—Effect of—Stated—Jurisdiction of Labour Court to decide in absence of such application.

Held, that no infirmity can be imputed to the award of the Labour Court on account of the management not making an application for adducing additional evidence as a specific issue had been framed with regard to the justification of the order of termination passed against the workman and it was under this issue that management had adduced evidence to justify the order of termination and at no stage, was, the framing of this issue, or the right or competence of the management to adduce evidence thereunder, ever sought to be questioned.

(Para 5).

Industrial Disputes Act (XIV of 1947)—S. 10—Relief of back wages—Order of termination justified for the first time before the Labour Court—Workman—Whether entitled to back wages till the date of award.