

Daya Ram v. State of Haryana and others (R. N. Mittal, J.)

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other side. However, the same is immaterial. Even if the amount were deposited in the Bank, in cash, the same would not have been actually produced in the Court. Tender of deposit, in cash, or through cheque and the acceptance of the same by the Bank or the treasury, as the case may be, is to be deemed the deposit before and the acceptance by the Court, as the Bank or the treasury functions and complies with the order of the Court as expressed in the challan issued under the signature of the Presiding Officer.

(17) For the reasons mentioned above, it is held that the deposit of the decretal amount was validly and legally made by the petitioner. Consequently, the execution application filed by the respondent has to be dismissed. The result is that the revision petition is allowed and the impugned order is set aside. In the peculiar circumstances of this case, there will be no order as to costs.

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N. K. S.

Before R. N. Mittal, J.

DAYA RAM,—Petitioner.

*versus*

STATE OF HARYANA and others,—Respondents.

*Civil Writ Petition No. 3054 of 1978.*

October 19, 1979.

*Punjab Gram Panchayat Act (IV of 1953)—Sections 3 (g), 4 and 5—Gram Sabha area divided into several sub-divisions (Majras)—Each sub-division declared a Gram Sabha area—None of such sub-divisions shown as a revenue estate in revenue records—Constitution of Gram Sabha area for each of such sub-divisions—Whether legal.*

*Held*, that from a reading of sections 4(1) and 5(1) of the Punjab Gram Panchayat Act, 1952, it is clear that the Government can declare any village with a population of not less than five hundred to constitute one or more Sabha areas. It can also declare a group of villages with a similar population to constitute one or more Sabha areas. The Government may also establish a Gram Panchayat by name in every Sabha area. Thus, for constituting a Gram Sabha

it is necessary that there should be a village or group of villages having population of five hundred or more. The word 'village' has been defined in section 3(q) of the Act and this definition shows that an area recorded as a revenue estate in the revenue records can be called a village. In other words, unless a village is recorded as a revenue estate it does not fall within the definition of a village. Where in the revenue records an area has been shown to be a revenue estate but not its sub-divisions the latter do not fall within the definition of the word 'village' and consequently the Governor cannot constitute Gram Sabha areas in the names of such sub-divisions.

(Paras 4 and 5).

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

- (i) *the writ petition may be allowed ;*
- (ii) *a writ in the nature of certiorari or mandamus be issued quashing the notification Annexure P/1 and the entire election held on the basis of Annexure P/1 and the voters list contained in Annexure P/2 and P/3 be also quashed ;*
- (iii) *Any other appropriate writ, order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case may also be issued ;*
- (iv) *the entire record of the case be summoned ;*
- (v) *issuance of notices of motion on the respondents may be dispensed with ;*
- (vi) *filing of the certified copies of the Annexures may also be dispensed with ;*

*It is further prayed that during the pendency of the writ petition, the illegally elected Sarpanch and Panches of the Gram Sabha of the petitioner's village Bhawana (Gram Sabha Bhawana) and those of Gram Sabha Kaushak, which is a successor of the parent Gram Sabha Kaushak, be restrained from exercising the functions of Sarpanch and Panches.*

Ram Sarup, Advocate, for the Petitioner.

B. S. Malik, Additional A.G. (H.).

### JUDGMENT

*Rajendra Nath Mittal, J.*

(1) This judgment will dispose of Civil Writ Petition Nos. 3053, 3054 and 3055 of 1978, which contain common questions of law. The

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facts in the judgment are being given from Civil Writ Petition No. 3054 of 1978.

(2) Briefly, the case of the petitioner is that he was elected as Sarpanch, Gram Panchayat Kaushak during the elections of 1964 and 1971. The State of Haryana later issued a notification dated June 2, 1978, dividing the Gram Sabha Kaushak into seven Gram Sabhas namely, Kaushak, Joriabad, Bhawana, Achheja, Allahabad, Karimpur and Kudabadpur. It is alleged that the abovesaid villages except Kaushak were not villages but were Majras and the State could not create seven Gram Sabhas of different Majras in the revenue estate of Kaushak. He has, therefore, prayed that the impugned notification be quashed.

(3) The only contention of the learned counsel for the petitioner is that there could not be 7 Gram Sabha areas in the names of Majras in one revenue estate. He argues that the 6 Majras, namely Ajaribad, Bhawana, Achheja, Allahabad, Karimpur and Kudabadpur were not villages as defined in the Act. He further argues that, therefore, the notification is liable to be quashed.

(4) I have given due consideration to the argument of the learned counsel and find force in it. Section 4 of the Gram Panchayat Act, 1952 (hereinafter referred to as the Act) relates to demarcation of Sabha areas and Section 5 to establishment and constitution of Gram Panchayat. The relevant portions of the said Sections are as follows:—

“4(1) Government may, by notification declare any village or group of contiguous villages with a population of not less than five hundred to constitute one or more sabha areas.

\* \* \* \* \*

Provided further that the Government may in particular case, relax the limit of five hundred.

5(1) Government may, by notification, establish a Gram Panchayat by name in every Sabha area.”

From a reading of the aforesaid sections it is clear that the Government can declare any village with a population of not less than five hundred to constitute one or more Sabha areas. It can also declare a group of villages with a similar population to constitute one or more Sabha areas. The Government may also establish a Gram Panchayat by name in every Sabha area. Thus for constituting a Gram Sabha it is necessary that there should be a village or group of villages having population of five hundred or more. The word 'village' has been defined in Section 3(q) of the Act as follows:

“‘village’ means any local area, recorded as a revenue estate in the revenue records of the district in which it is situated.”

The above definition shows that an area recorded as a revenue estate in the revenue records can be called a village. In other words, unless a village is recorded as a revenue estate it does not fall within the definition of a village.

(5) In the impugned notification, Kaushak and the aforesaid villages have been shown as villages. The relevant part of the notification is reproduced below:—

**“HARYANA GOVERNMENT DEVELOPMENT AND PANCHAYAT  
DEPARTMENT**

**NOTIFICATION**

No. EP-HR-78/157, dated the 2nd June, 1978.

\* \* \* \* \*

\* \* \* \* \* the Governor of Haryana hereby declares the village or group of villages specified in column 2 of the schedule given below to be Sabha area by the name specified against each in column 5 of the said Schedule which shall consist of such number of Panches, including Sarpanch as is specified against each Gram Panchayat in column 6 thereof out of which the number of panches belonging to the scheduled castes shall be mentioned in column 7 of the said schedule.

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SCHEDULE

Sr. No.	Name(s) of village (s) constituting.	Tahsil	Dist- rict.	Name of Gram Panchayat.	No. of panches including Sarpanch.	No. of panches belonging to Scheduled castes.
1	2	3	4	5	6	7
III	Kaushak	Palwal	Gurgaon	Kaushak	5	1
III-A	Joriabad	-do-	-do-	Joriabad	5	1
III-B	Bhawana	-do-	-do-	Bhawana	5	1
III-C	Achheja	-do-	-do-	Achheja	5	1
III-D	Allahabad	-do-	-do-	Allahabad	5	1
III-E	Karimpur	-do-	-do-	Karimpur	5	1
III-F	Kudabadpur	-do-	-do-	Kudabadpur	5	1"

From the notification it is evident that Gram Panchayats in the name of the areas mentioned in column 5 have been constituted. In the revenue records only Kaushak has been shown to be a revenue estate and not the other areas namely, Joriabad, Bhawana, Achheja, Allahabad, Karimpur and Kudabadpur. These six places, therefore, do not fall within the definition of the word 'village'. Consequently, the Governor could not constitute Gram Sabha areas in the name of Joriabad, Bhawana, Achheja, Allahabad, Karimpur and Kudabadpur. Thus the notification is liable to be set aside.

(6) The counsel for the respondents has argued that the serial numbers in the notification show that the Gram Sabha areas have

been constituted in village Kaushak but in order to give separate identity the names of other areas have been mentioned as III-A, III-B and so on. According to him, it can safely be inferred that all the Gram Sabhas have been constituted in village Kaushak. I regret my inability to accept the contention of the learned counsel. In column No. 2 the places mentioned have been described as villages. In column No. 5, the names of the Panchayats are the same which have been described as villages in column No. 2. In the circumstances, it cannot be held that 7 Gram Sabhas have been constituted in village Kaushak. In the end, it may be mentioned that the learned counsel for the petitioner has fairly conceded and in my view rightly that the Governor could declare in village Kaushak more than one Sabha area if in each area the population was not less than five hundred.

(7) No other argument was raised in the other writ petitions.

(8) For the aforesaid reasons, I accept the writ petitions and quash the impugned notification. No order as to costs.

N. K. S.

*Before S. S. Sandhawalia C.J. and G. C. Mital, J.*

JIWAN DASS ROSHAN LAL MADAN,—*Appellant.*

*versus*

KARNAIL SINGH and others,—*Respondents.*

*Letters Patent Appeal No. 620 of 1975.*

October 22, 1979.

*Motor Vehicles Act (IV of 1939)—Sections 2(8), 110B and 112—Punjab Motor Vehicle Rules, 1940—Rule 4.60—Driver unauthorisedly carrying a passenger in a goods vehicle in violation of rule 4.60—Vehicle involved in an accident—Such carriage—Whether in the course of employment of the driver—Owner of the vehicle—Whether vicariously liable.*

*Held,* that in unauthorisedly carrying a passenger in a goods vehicle, its driver was plainly intracting rule 4.60 of the Motor Vehicles Act, 1939. In such a situation there can obviously be little question of any authorisation by the owner of the vehicle to carry the