

Office of the Election Authority

Under J&K Panchayati Raj Act, 1989

(Chief Electoral Officer, J&K)

"Greater Participation for a Stronger Democracy"

Subject: OWP No. 2390/2018, IA No. 01/2018 titled Inhabitants of village Panchayat Halqa Lower Salwah and anr. versus State of J&K and others.

ORDER No. CEO/Pyt/2018/743

DATED: 03-12-2018

Whereas, the petitioners preferred to file the aforesaid writ petition seeking, inter alia, following relief:

"i) Allow this writ petition of the petitioners.

ii) issue writ in the nature of Mandamus commanding the respondent authorities to invoke section 2(j) of Panchayati Raj Act by delimiting the Panchayat Halqa Lower Salwah into two separate panchayats i.e; Panchayat Halqa Lower Salwah-A and Panchayat Halqa Lower Salwah-B.

iii) issue writ in the nature of Mandamus commanding the respondent authorities to bring to logical conclusion the representation and the recommendations issued thereupon for invoking delimiting the panchayat Halqa Lower Salwah after taking into account that the population of Panchayat Halqa Lower Salwah is more than 3000 souls.

Whereas, the Hon'ble High court has been pleased to dispose of the said writ petition by virtue of order dated 20-11-2018, the operative part of which is reproduced as under:-

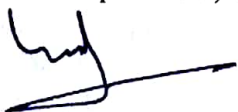
".....this petition at the threshold is disposed of with the direction to the Chief Electoral Officer, Jammu to consider the representation filed by petitioners and pass appropriate orders thereon preferably within a period of one week from the date, a copy of this order is made available to the concerned. Recommendation dated 06-03-2017 be kept in mind while passing an appropriate order, Chief Electoral Officer, Jammu shall pass a speaking order.

Connected IA also stands disposed of accordingly."

Whereas, reports/clarifications in the matter have been sought and the same have been furnished by Director General, Rural Development Department, Jammu enclosing therewith reports of concerned District Panchayat Officer and Block Development Officer; and

Whereas, it has been stated in the said reports that the population of the Panchayat Halqa Salwah Lower is 2978 souls. Further, perusal of records reveal that in terms of communication dated 06-03-2017 under annexure B appended to it, the recommendations of district level committee was conveyed by the CEO office to the Director Rural Development Department, Jammu with the observation that census population of the Halqa Panchayat Salwah Lower may be verified again and proposal of delimitation formulated, if found eligible; however, in response, the directorate, while forwarding the list of various Panchayats to be considered for delimitation, did not include Panchayat Halqa Salwah Lower; and

Whereas, it is claimed by the petitioners that the population of Panchayat Halqa Salwah is 3027 souls as per census 2011 but when the Director, Rural Development Department, Jammu published a Notice dated 24/03/16, placing in the public domain Panch



constituency wise population figures of the said Halqa Panchayat, inviting objections/suggestions to the draft reservation proposal where-under the population of the said Panchayat was shown as 2978, the petitioners did not raise any objections whatsoever; and

Whereas, not only the petitioners didn't raise any objection to the public notice issued by the directorate but also did not come forward at any time with any grievance since issuance of the gazette Notification dated 23-12-2017 by this office wherein all the panchayat halqas and panch constituencies were notified/published. There has been inordinately long unexplainable silence on the part of the petitioners, right up to this juncture when the election process has commenced, with the polling scheduled for 04-12-2018; and

Whereas, the proviso to section 2 (jj) of J&K Panchayati Raj Act, 1989, reads as follows: "*provided that the halqas shall be determined in such a manner that the population of any halqa does not ordinarily exceed 3000 in the hilly areas and 4500 in the plain areas;*"and

Whereas, the word "*ordinarily*" has been used in the law indicating thereby that it is not mandatory to bifurcate a panchayat halqa that has population exceeding 3000; and

Whereas, in the instant case even if the population projected by petitioners (3027) is taken to be correct for argument sake, it is only slightly above 3000 and, also taking note that the petitioners did not raise any objections within reasonable time though there were numerous occasions, there isn't sufficient ground to bifurcate the panchayat halqa at this juncture;

Now, therefore in deference to the court order, taking into consideration the communication dated 06-03-2017 and in view of the above stated facts, the grievance projected by petitioners do not sustain, hence rejected.



(Shaleen Kabra) IAS

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(Chief Electoral Officer, J&K)

No.5402/CEO/LS/Pyt/2018/152 - 53

Dated: 03-12-2018

Copy to:

1. District Panchayat Election Officer (Deputy Commissioner) Poonch for information.
2. Director General, Rural Development Department, Jammu for information.