

one cannot imply a power in the Court under the Arbitration Act to remove for alleged misconduct. In fact, even the Tribunal under the Act has not been given power under sub-section (2) to remove him. In fact, sub-section (3) of section 54-A rather provides that where a dispute is referred back to arbitration under sub-section (1), the arbitrators shall make a fresh award, within such time, as may be fixed by the Tribunal, and if the arbitrators fail to make a fresh award, within the time so fixed, the Registrar or his nominee shall decide the dispute. Thus, the Registrar and his nominee occupy a special position under the Act, and reading section 54, 54-A and rule 35 together no doubt is left in one's mind that the power of the Court to remove the Registrar or his nominee is excluded by necessary implication, if not expressly.

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and another
—————
Harbans Singh,
J.

I am, therefore, of the view that the decision of the Court below that the Registrar's nominee, to whom the dispute had been referred in the present case, cannot be removed by the Court under section 11 of the Arbitration Act for the alleged misconduct, is well based and I find no force in this revision and dismiss the same. In view of the fact that there was no decided case on the point, I leave the parties to bear their own costs.

B.R.T.

CIVIL MISCELLANEOUS

Before Daya Krishan Mahajan, J.

DEWAT RAM AND ANOTHER,—*Petitioners.*

versus

STATE OF PUNJAB AND ANOTHER,—*Respondents.*

Civil Writ No. 309 of 1963.

Punjab Gram Panchayat Act, 1952 (IV of 1953)—Ss. 4(2) and 9—Gram Sabha—Whether can be bifurcated by Government in between the two elections.

1963

April, 18th.

Held, that under section 4(2) of the Punjab Gram Panchayat Act, 1952, the Government has the power to divide the Gram Sabha area and carve out a new Sabha for the bifurcated area provided the requirements of section 4(1) are satisfied. This power can be exercised at any time.

Petition under Articles 226/227 of the Constitution of India praying that a writ in the nature of Certiorari, Mandamus or any other appropriate writ, order or direction be issued quashing the orders of respondent No. 2, dated the 18th January, 1963.

D. S. TEWATIA, ADVOCATE, for the Petitioners.

S. M. SIKRI, ADVOCATE-GENERAL, for the Respondents.

ORDER

Mahajan, J.

MAHAJAN, J.—This is a petition under Article 226 of the Constitution and is directed against the order of the Director of Panchayat, Punjab, Annexure 'A' to the petition, which is in these terms:—

“Whereas I am satisfied after enquiry that Shri Dewat Ram and Shrimati Chanda Bai Panches of Gram Panchayat, Narnaund, tehsil Hansi, district Hissar, are not entitled to continue as Panches on the Gram Sabha, Narnaund, under section 6 (5) read with section 102(2) of the Punjab Gram Panchayat Act, 1952 (amended) as they are no longer the voters of Gram Sabha area, Narnaund, as a result of the alteration of boundaries of the Gram Sabha Narnaund revenue estate Aurang Shahpur to which they belong, has been excluded from it.

Therefore, in exercise of the powers contained in section 102(2) of the Gram Panchayat

Act, 1952, read with Punjab Government notification No. 11508-LB-53/105558, dated the 6th May, 1954, I, D. C. Verma, Director of Panchayats, Punjab, hereby remove Shri Dewat Ram and Shrimati Chanda Bai from the office of Panches of Gram Panchayat, Narnaund, tehsil Hansi, district Hissar, and further order them to hand over the records, money or property of the Panchayat, if any, with them to the Sarpanch, Panchayat."

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The petitioners are Dewat Ram and Smt. Chanda Bai. Dewat Ram was elected as member of the Gram Sabha, Narnaund. The election took place on the 22nd November, 1960. The second petitioner, Smt. Chanda Bai, was nominated as a Panch by the elected members of the said Gram Sabha. Both the petitioners took oath of office on the 21st of December, 1960, and were acting as members of the Gram Sabha. The Government, later on, bifurcated this Gram Sabha into two Sabhas. They presumably acted under section 4(1) and 4(2) of the Gram Panchayat Act. As a consequence of this, the impugned order by the Director was issued removing both the petitioners from membership of the Gram Sabha of Narnaund. This order was passed under the provisions of section 6(5) read with section 102(2) of the Act.

The sole contention raised by the learned counsel for the petitioners is that the Government has no power to bifurcate a Gram Sabha in between the two elections. This argument is based on section 9 of the Act which provides that the persons elected to the office of Panches and Sarpanches of the Gram Sabha shall hold office for a period of three years. It is urged that before the period of three years expires the petitioners cannot be unseated unless they are disqualified under various other provisions of the

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Act. The petitioners are not guilty of any act or conduct on their part which would so disqualify them, and therefore, they cannot be non-seated by recourse to the device adopted in this case. Support is sought to be derived for this argument from the provisions of section 4(1) of the Act which, according to the learned counsel, merely provides for delimitation of the constituency before the election and cannot be used after the election is held. I am, however, unable to agree with this contention. Section 4(2) of the Act provides the answer to this contention. Section 4(2) is in these terms:—

“4. (2) Government may, by notification, include any area in or exclude any area from the Sabha area.”

If the argument of the learned counsel is correct, then section 4(2) would become redundant because even according to him after the period of three years when a fresh election is about to be held the Government can, acting under section 4(1), rearrange or, to put it otherwise, delimit the constituency afresh. Therefore, there would be no necessity at that time to act under section 4(2). Surely section 4(1) and section 4(2) are not enacted for the same purpose. Therefore if under section 4(2) any area is excluded from the Sabha area there is no provision in the Act debarring Government from acting under section 4(1) in declaring that area to be Sabha area, if the other requirements of the Act are satisfied. In order to give meaning to section 4, including section 4(2), the only reasonable interpretation is that the Government has the power to divide the Gram Sabha area and carve out a new Sabha for the bifurcated area provided as already said the requirements of section 4(1) are satisfied. So far as the petitioner is concerned, there is no injustice, caused to him for the

bifurcated area has been notified as a Sabha area and I am told by the learned Advocate-General that elections would have been held but for the fact that the petitioners obtained an order of stay of the election. The petitioners can contest the election to the new Sabha area. In this view of the matter, there is no force in this petition. The same fails and is dismissed but there will be no order as to costs.

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and another
v.
State of
Punjab and
another
Mahajan, J.

B.R.T.

CIVIL MISCELLANEOUS

Before S. B. Kapoor, and Prem Chand Pandit, JJ.

THE DIVISIONAL SUPERINTENDENT, DELHI
DIVISION NORTHERN RAILWAY,—
Petitioner.

versus

SATYENDER NATH AND ANOTHER, —*Respondents.*

Civil Miscellaneous No. 1071 of 1963.

Payment of Wages Act (IV of 1936)—S. 7—Explanation II—Whether intra vires the Constitution and scope of—S. 7(2)(h)—Order made by authority not competent to make the order—Deductions made thereunder—Whether authorised.

1963
April, 23rd

Held, that parliament or the State Legislatures can make a law regulating the conditions of service of members of the public services which include proceedings by way of disciplinary action without affecting the powers of the President or the Governor under Article 310 of the Constitution read with Article 311, thereof. Explanation II to section 7. Payment of Wages Act, is, therefore, *intra vires* the Constitution.

Held that Explanation II to sub-section (1) of section 7 of the Act does not really import anything new into the provisions. Clause (h) of sub-section (2) already provided that one of the categories of authorised deductions was—“deductions required to be made by order of a Court or other authority competent to make such order”. It is, no