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HIGH COURT OF CHHATTISGARH, BILASPUR**WPPIL No. 41 of 2022**

1. Keshav Prasad Chandra S/o Shri Narayan Singh Chandra, aged about 50 years, Member of Legislative Assembly, Legislative Assembly No. 37, Jaijaipur, Tahsil- Jaijaipur, District- Janjgir-Champa (C.G.), R/o Village- Bhothidih, Post- Khajurpani, Tahsil - Jaijaipur, District- Janjgir-Champa (C.G.)
2. Resham Lal Karsh S/o Darsh Ram Karsh, aged about 52 years, President, Barthe Samaj, Odekera, R/o Village- Odekera, Post Odekera, Tahsil Jaijaipur District- Janjgir-Champa (C.G.)
3. Umashankar Chandra S/o Nand Kumar Chandra, aged about 52 years, Vice President, Janpad Panchayat, Jaijaipur, R/o Village- Malni Post Malni, Tahsil Jaijaipur, District- Janjgir-Champa (C.G.)
4. Dinesh Mahant S/o Uday Das Mahant, aged about 50 years, President, Panika Samaj, Block- Bamnidih, R/o Village- Rohda, District- Janjgir-Champa (C.G.)
5. Geetaram Sahu S/o Late Shri Kashiram Sahu, aged about 51 years, Village- Khamhariya, Tahsil Jaijaipur, District- Janjgir-Champa (C.G.)
6. Pramod Kashyap S/o Chetan Prasad Kashyap, aged about 50 years, President, Kashyap Samaj, Village - Birra, R/o Village- Pendri Tahsil- Jaijaipur, District- Janjgir-Champa (C.G.)
7. Chotelal Sidar S/o Chandulal Sidar, aged about 52 years, President, Sarva Adivasi Samaj, Bamhardih, R/o Village-Khamhardih, Post- Khajurani, Tahsil Jaijaipur, District- Janjgir-Champa (C.G.)
8. Doctor Prasad Chandra S/o Shri Gangaram Chandra, aged about 50 years, Area President, Chandra Samaj, Jaijaipur, R/o Post- Jaijaipur, Tahsil- Jaijaipur, District- Janjgir-Champa (C.G.)



9. Khemraj Khatarji S/o Shri Nankidau Khatarji, aged about 51 years, President, Pragatisheel Satnami Samaj, Jaijaipur, R/o Village-Dhamni, Post Hasaod, Tahsil- Jaijaipur, District- Janjgir-Champa (C.G.)
10. Umashankar Shukla S/o Shri Narmada Prasad Shukla, aged about 50 years, R/o Village-Kaitha, Post Kaitha, Tahsil- Jaijaipur, District- Janjgir-Champa (C.G.)
11. Maniram Chouhan S/o Shri Radharam Chouhan, aged about 52 years, R/o Village Kotetra, Post-Kotetra, Tahsil- Jaijaipur, District- Janjgir-Champa (C.G.)

---- Petitioners

Versus

1. State of Chhattisgarh through the Secretary, Department of Revenue and Disaster Management, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, District- Raipur (C.G.)
2. Commissioner, Land Records, State of Chhattisgarh, Indrawati Bhawan, Atal Nagar, Nawa Raipur, District- Raipur (C.G.)
3. Collector, Janjgir-Champa District- Janjgir-Champa (C.G.)
4. Sub Divisional Officer (Revenue) Sakti, District- Janjgir-Champa (C.G.)
5. Tahsildar, Tahsil- Jaijaipur, District- Janjgir-Champa (C.G.)

---- Respondents

For Petitioners :- Mr. Malay Shrivastava, Advocate.
For State / Respondents :- Mr. Jitendra Pali, Deputy Advocate General.

Hon'ble Mr. Ramesh Sinha, Chief Justice
Hon'ble Mr. Sanjay K. Agrawal, Judge

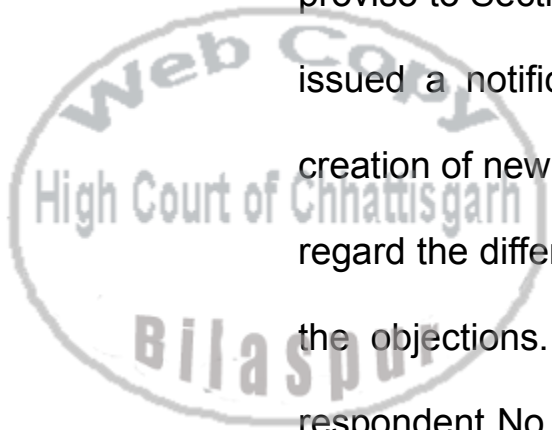
Order on Board



Per Ramesh Sinha, Chief Justice

12.04.2023

1. The PIL petitioners have filed this petition directing the respondents herein / Government to complete the proceeding of creating new Sub-Division Jaijaipur within the stipulated time frame.
2. It is the case of the petitioners that the State Government by virtue of Section 13 of the Chhattisgarh Land Revenue Code, 1959 (for brevity “the Code, 1959”) can create a Sub-Division and may alter the Divisions, District and Tahsils and in exercise of power conferred by proviso to Section 13(2) of the Code, 1959, the State Government has issued a notification (Annexure P/1) on 07.12.2020 with regard to creation of new Sub-Division as Jaijaipur inviting objections and in this regard the different committees of village – Malkharoda has submitted the objections. On 06.04.2021, respondent No.3 sent a memo to respondent No.1 by which respondent No.3 has informed respondent No.1 that the objections with regard to creation of the new Sub-Division, Jaijaipur, has been decided and respondent No.3 has sent the informations with regard to set-up and other expenses for creation of new Sub-Division Jaijaipur. In compliance of proviso to sub-section (2) of Section 13 of the Code, 1959, respondent No.3 sent another memo to respondent No.1 dated 08.07.2021 by which respondent No.3 has decided the objections of persons of village Malkharoda with regard to the creation of Sub-Division Jaijaipur and in spite of compliance of proviso to Section 13 (2) of the Code, 1959, respondents are not proceeding ahead with the matter and kept the





matter pending. Petitioner No.1 sent a letter to seek information with regard to further proceeding in the matter but still the respondents have neither replied to the letter nor any proceeding has been initiated by the respondents.

3. Learned counsel for the petitioners submits that though the proposal has been initiated by virtue of proviso to Section 13 (1) of the Code, 1959, but no final decision has been taken and, therefore, appropriate writ be issued to take a final decision for constituting Jaijaipur Sub-Division and, as such, the instant petition deserves to be allowed.

4. Learned State counsel submits that the instant Public Interest Litigation seeking writ of mandamus to direct the State Government to take a policy decision for constitution of Jaijaipur Sub-Division is not maintainable, and the decision for creation of Sub-Division after submission of proposal for the final publication of the notification of creation of new Sub-Division is pending consideration before the State Government for appropriate decision. He further submits that it is a policy decision and it is for the State Government to constitute a particular Sub-Division and, as such, the instant petition deserves to be dismissed.

5. We have heard learned counsel for the parties, considered their rival submissions made herein-above and gone through the records with utmost circumspection.

6. It would be appropriate to notice the provision contained in Section 13



of the Chhattisgarh Land Revenue Code, 1959 which states as under:-

13. Power to alter, create or abolish divisions, district, sub-divisions and tahsils.-

(1)The State Government may create divisions comprising of such districts as it may deem fit and may abolish or alter the limits of such divisions;

(2)The State Government may alter the limits of any district or tahsil and may create new, or abolish existing districts or tahsils, and may divide any district into sub-divisions and may alter the limits of or abolish, any sub-division;

Provided that the State Government before passing any orders under this section on any proposal to alter the limits of any division or district or tahsil or to create new or abolish existing divisions, districts or tahsils, shall publish in the prescribed form such proposals for inviting objections and shall take into consideration any objections to such proposal.

(3)Subject to the orders of the State Government under sub-section (2), every tahsil shall be deemed to be a sub-division of a district.

7. A careful perusal of Section 13(2) of the Code, 1959 would show that the State Government is empowered to divide any district into sub-division and to alter the limits of any sub-division. As such, the legislature has conferred the power to the State Government for creation / abolition of the sub-division in a district. Creation of a new sub-division is a considered policy decision of the State Government for good governance subject to requirement of proviso to Section 13(2) of the Code, 1959 and decision has to be taken by the State



Government in accordance with Section 13(2) of the Code, 1959 and, therefore, no mandamus can be issued directing the State Government to constitute new sub-division under Section 13(2) of the Code, 1959. We may observe that the Government is expected to act and must act in a way which would make it consistent with the good administration. It is they, and no one else – who must pass judgment on this matter. We must, therefore, leave it to the government.

8. With the aforesaid observation the instant petition stands dismissed leaving the parties to bear their own costs.

Sd/-
(Sanjay K. Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice

Ankit



**Head Note**

Creation of Sub-Division in District is a considered policy of the State Government for good governance and no mandamus can be issued directing the State Government to constitute a Sub-Division under Section 13(2) of the Chhattisgarh Land Revenue Code, 1959.

सुशासन हेतु जिले में उपखण्ड का सृजन किया जाना राज्य शासन की सुविचारित नीति है तथा छत्तीसगढ़ भू-राजस्व संहिता, 1959 की धारा 13(2) के तहत उपखण्ड गठित करने का निर्देश देने वाला कोई परमादेश राज्य शासन को जारी नहीं किया जा सकता।

