(2016) AIR(HP) 101 : (2016) 3 HimLR 1571 : (2016) ILRHP 1235

High Court of Himachal Pradesh

Case No: C.W.P. No. 359 of 2016.

Ranjan Singh and Others		APPELLANT
	Vs	
State of Himachal Pradesh and Others		RESPONDENT

Date of Decision: April 19, 2016

Acts Referred:
Constitution of India, 1950 â€" Article 226

Citation: (2016) AIR(HP) 101 : (2016) 3 HimLR 1571 : (2016) ILRHP 1235

Hon'ble Judges: Mansoor Ahmad Mir, C.J.; Tarlok Singh Chauhan, J.

Bench: Division Bench

Advocate: Raju Ram Rahi, Advocate, for the Appellant; Shrawan Dogra, Advocate General with Anup Rattan, Romesh Verma, Additional Advocate Generals and J.K. Verma, Deputy Advocate General and R.L. Chaudhary, Advocate, for the Respondent

Final Decision: Dismissed

Judgement

Tarlok Singh Chauhan, J. - The petitioners are residents of Patwar Circle Charana, consisting of four Mohals and are aggrieved by the action of

the respondents, whereby the aforesaid Patwar Circle has been excluded from Sub Tehsil Haripurdhar and included in upgraded Tehsil

Nohradhar.

2. It is averred that in the year 2013, the Government had intended to create Sub Tehsil, Haripurdhar due to geographical conditions of the area as

also to provide better services to the people of the nearby villages and also to further avoid inconvenience faced by them pertaining to revenue

work. This decision was also aimed to have better administrative control by excluding some Patwar Circles from Tehsil Renukaji and some Patwar

Circles from Sub Tehsil Nohradhar and in this process four Patwar Circles of Charana i.e. P.C. Tikkri Dasakna, Badhol, Bhalai and Bhavi were

excluded from Sub Tehsil Nohradhar and had been included in Sub Tehsil Haripurdhar.

3. For this purpose, the Deputy Commissioner, Sirmour had directed the Sub-Divisional Officer Sangrah to enquire into the matter and submit his

report. The said officer conducted the enquiry and also sought consent of the concerned Patwar Circle and Panchayats and submitted his detailed

report vide letter dated 1.11.2013. On the basis of this report, Sub Tehsil Haripurdhar came to be created, which apart from other Patwar Circles

comprised of four Patwar Circles of Charana.

4. However, thereafter the Government issued notification dated 4th February, 2016, whereby Sub Tehsil Nohradhar was upgraded to that of a

Tehsil with its headquarter at Naura, which though consisted of nine Patwar Circles, but the Patwar Circle Charana was excluded.

5. This action of the respondents has been impugned in this writ petition on the ground that the aforesaid decision has been taken illegally,

arbitrarily without seeking public opinion or conducting any enquiry or affording opportunities of hearing or filing objections to the effected

residents and therefore, should be quashed and set aside.

6. The respondents in their reply have stated that earlier also the Patwar Circle Charana was a part and parcel of Sub Tehsil, Nohradhar and when

Sub Tehsil Haripurdhar was created by the Government vide notification dated 25.7.2014, the Patwar Circle Charana was excluded from Sub

Tehsil Nohradhar and included in newly created Sub Tehsil Haripurdhar.

7. However, some residents of the Patwar Circle Charana had been raising their voice time and again through various representations against

inclusion of Patwar Circle, Charana in Sub Tehsil Haripurdhar. Thereafter, when members of Gram Panchyat of Sub Tehsil Nohradhar including

Gram Panchayat, Charana requested to upgrade Sub Tehsil Nohradhar, then, the Government after considering the demand of the local people

and further in order to provide better services to the people of the nearby villages, excluded Patwar Circle Charana from Sub Tehsil Haripurdhar

and included the same to the upgraded Tehsil Nohradhar.

8. Before proceeding further, we may notice that as many as sixteen residents of Charana have moved application being CMP No. 1821 of 2016,

seeking their impleadment as party-respondents and this Court vide order dated 4.4.2016 permitted these applicants to assist the Court.

9. These applicants have opposed the claim of the petitioners by filing an application for vacation of interim order which had earlier been passed by

this Court on 17.2.2016. It was averred that the revenue Circle Charana was rightly included in Tehsil Nohradhar as per demand of general public,

which was evident from the representation submitted by the general public on 17.7.2014 to the Sub Divisional Officer, Sangrah, wherein it was

requested that Patwar Circle, Charana may not be included in Sub Tehsil, Haripurdhar and same be included in Tehsil Nohradhar. Thereafter,

separate representations were received from various authorities/persons/bodies to the similar effect, on the basis of which enquiry was conducted

through Naib Tehsildar Nohradhar, who recommended that Patwar Circle Charna should be kept in Tehsil Nohradhar.

We have heard learned counsel or the parties and gone through the records of the case.

10. The moot question that arises for consideration is whether the decision made by the Government for excluding the Patwar Circle, Charna from

Sub Tehsil, Haripurdhar and including it to upgraded Tehsil Nohradhar, District Sirmour, is open to judicial review, if so to what extent.

11. It is not in dispute that the official respondents prior to taking the impugned decision and issuing notification dated 4.2.2016 had received

various representations including those from the residents of Patwar Circle, Charana itself for including them in Sub Tehsil Nohradhar. It was only

thereafter that based on the enquiry report submitted by the Sub Divisional Officer, Sangrah that impugned notification dated 4.2.2016 was finally

issued.

12. This Court in CWP No. 621 of 2014, titled Nand Lal and another v. State of H.P., reported in 2014(2) HLR (DB) 982, was dealing with

identical issue, wherein the petitioners had called in question the decision made by the Government, whereby it decided to open a degree college at

Diggal, District Solan, instead of Ramshaher (Nalagarh), District Solan and it was held that since it was a policy decision, the same was not open

to judicial review. It is apt to reproduce the following observations:-

4. Heard. The moot question for consideration in this writ petition is-whether the petitioners can question the decision made by the

Government for opening a Government Post Graduate College at Diggal, District Solan.

5. During the process of consideration of the issue, the residents of various Gram Panchayats of Ramshehar area made resolution(s) and

represented to the Government for sanctioning and opening a Degree College at Ramshehar (Nalagarh), District Solan, instead of at Diggal,

District Solan. After considering all the documents and keeping in view the policy-norms, governing the field, the respondents made decision

to open the said college at Diggal.

6. The petitioners are aggrieved for the reason that the State Government has not made decision in accordance with the facts, their

contentions read with norms and policy.

7. It is a beaten law of land that Government decision and policy cannot be subject matter of a writ petition, unless its arbitrariness is shown

in the decision making process.

8. It is averred that Panchayats of the area of Ramshehar have made demand for sanctioning and opening the said college at the said place,

which is centrally located and is feasible also.

9. The Apex Court in Sidheshwar Sahakari Sakhar Karkhana Ltd. v. Union of India and others, 2005 AIR SCW 1399, has laid down the

guidelines and held that Courts should not interfere in policy decision of the Government, unless there is arbitrariness on the face of it.

10. The Apex Court in a latest decision reported in Manohar Lal Sharma v. Union of India and another, (2013) 6 SCC 616, also held that

interference by the Court on the ground of efficacy of the policy is not permissible. It is apt to reproduce paragraph 14 of the said decision

as under:

14. On matters affecting policy, this Court does not interfere unless the policy is unconstitutional or contrary to the statutory provisions or

arbitrary or irrational or in abuse of power. The impugned policy that allows FDI up to 51% in multi-brand retail trading does not appear to

suffer from any of these vices.

14. The Apex Court in the case titled as Mrs. Asha Sharma v. Chandigarh Administration and others, reported in 2011 AIR SCW 5636

has held that policy decision cannot be quashed on the ground that another decision would have been more fair, wise, scientific or logical

and in the interest of society. It is apt to reproduce para 10 herein:

10. The Government is entitled to make pragmatic adjustments and policy decisions, which may be necessary or called for under the

prevalent peculiar circumstances. The Court may not strike down a policy decision taken by the Government merely because it feels that

another decision would have been more fair or wise, scientific or logic. The principle of reasonableness and non-arbitrariness in

governmental action is the core of our constitutional scheme and structure. Its interpretation will always depend upon the facts and

circumstances of a given case. Reference in this regard can also be made to Netai Bag v. State of West Bengal [(2000) 8 SCC 262].

15. It appears that the respondents have examined all aspects and made the decision. Thus, it cannot be said that the decision making

process is bad. The Court cannot sit in appeal and examine correctness of policy decision. The Apex Court in the case titled as

Bhubaneswar Development Authority and another v. Adikanda Biswal and others, reported in (2012) 11 SCC 731 laid down the same

principle. It is apt to reproduce para 19 of the judgment herein:

19. We are of the view that the High Court was not justified in sitting in appeal over the decision taken by the statutory authority under

Article 226 of the Constitution of India. It is trite law that the power of judicial review under Article 226 of the Constitution of India is not

directed against the decision but is confined to the decision making process. The judicial review is not an appeal from a decision, but a

review of the manner in which the decision is made and the Court sits in judgment only on the correctness of the decision making process

and not on the correctness of the decision itself. The Court confines itself to the question of legality and is concerned only with, whether the

decision making authority exceeded its power, committed an error of law, committed a breach of the rules of natural justice, reached an

unreasonable decision or abused its powers.

13. Similar reiteration of law thereafter are found in decisions rendered by this Court in CWP No. 4625 of 2012, titled as Gurbachan v. State of

H.P. and others, decided on 15.7.2014, CWP No. 3862 of 2014, titled as Surinder Kumar v. State of H.P. and others, decided on 15.7.2015

and yet again in a recent decision in CWP No. 4044 of 2015, titled as Gramin Janta Kalyan Samiti, Kuthera v. State of H.P. and others, decided

on 28.3.2016.

14. The scope of judicial review and its exclusion was a subject matter of a recent decision by three Judges of the Hon''ble Supreme Court in

Census Commissioner and others v. R. Krishnamurthy (2015) 2 SCC 796 and it was held that it is not within the domain of Courts to embark

upon enquiry as to whether particular public policy is wise and acceptable or whether better policy could be evolved, Court can only interfere if the

policy framed is absolutely capricious or not informed by reasons or totally arbitrary and founded on ipse dixit offending Article 14. It was held as

under:

23. The centripodal question that emanates for consideration is whether the High Court could have issued such a mandamus commanding

the appellant to carry out a census in a particular manner.

24. The High Court has tried to inject the concept of social justice to fructify its direction. It is evincible that the said direction has been

issued without any deliberation and being oblivious of the principle that the courts on very rare occasion, in exercise of powers of judicial

review, would interfere with a policy decision.

25. Interference with the policy decision and issue of a mandamus to frame a policy in a particular manner are absolutely different. The Act

has conferred power on the Central Government to issue Notification regarding the manner in which the census has to be carried out and the

Central Government has issued Notifications, and the competent authority has issued directions. It is not within the domain of the Court to

legislate. The courts do interpret the law and in such interpretation certain creative process is involved. The courts have the jurisdiction to

declare the law as unconstitutional. That too, where it is called for. The court may also fill up the gaps in certain spheres applying the

doctrine of constitutional silence or abeyance. But, the courts are not to plunge into policy making by adding something to the policy by way

of issuing a writ of mandamus. There the judicial restraint is called for remembering what we have stated in the beginning. The courts are

required to understand the policy decisions framed by the Executive. If a policy decision or a Notification is arbitrary, it may invite the frown

of Article 14 of the Constitution. But when the Notification was not under assail and the same is in consonance with the Act, it is really

unfathomable how the High Court could issue directions as to the manner in which a census would be carried out by adding certain aspects.

It is, in fact, issuance of a direction for framing a policy in a specific manner.

26. In this context, we may refer to a three-Judge Bench decision in Suresh Seth v. Commr., Indore Municipal Corporation, (2005) 13

SCC 287 wherein a prayer was made before this Court to issue directions for appropriate amendment in the M.P. Municipal Corporation

Act, 1956 so that a person may be debarred from simultaneously holding two elected offices, namely, that of a Member of the Legislative

Assembly and also of a Mayor of a Municipal Corporation. Repelling the said submission, the Court held: (SCC pp. 288-89, para 5)

5Ã¯Â¿Â½Ã¯Â¿Â½In our opinion, this is a matter of policy for the elected representatives of people to decide and no direction in this regard can be

issued by the Court. That apart this Court cannot issue any direction to the legislature to make any particular kind of enactment. Under out

constitutional scheme Parliament and Legislative Assemblies exercise sovereign power to enact laws and no outside power or authority can

issue a direction to enact a particular piece of legislation. In Supreme Court Employees" Welfare Assn. v. Union of India (1989) 4 SCC

187 (SCC para 51) it has been held that no court can direct a legislature to enact a particular law. Similarly, when an executive authority

exercises a legislative power by way of a subordinate legislation pursuant to the delegated authority of a legislature, such executive authority

cannot be asked to enact a law which it has been empowered to do under the delegated legislative authority. This view has been reiterated

in State of J and K v. A.R. Zakki, 1992 Supp (1) SCC 548. In A.K. Roy v. Union of India, (1982) 1 SCC 271, it was held that no

mandamus can be issued to enforce an Act which has been passed by the legislature.

27. At this juncture, we may refer to certain authorities about the justification in interference with the policy framed by the Government. It

needs no special emphasis to state that interference with the policy, though is permissible in law, yet the policy has to be scrutinised with

ample circumspection.

28. In N.D. Jayal and Anr. v. Union of India and Ors.(2004) 9 SCC 362, the Court has observed that in the matters of policy, when the

Government takes a decision bearing in mind several aspects, the Court should not interfere with the same. In Narmada Bachao Andolan v.

Union of India (2000) 10 SCC 664, it has been held thus: (SCC p. 762, para 229)

229. ""It is now well settled that the courts, in the exercise of their jurisdiction, will not transgress into the field of policy decision. Whether to

have an infrastructural project or not and what is the type of project to be undertaken and how it has to be executed, are part of policy-

making process and the courts are ill-equipped to adjudicate on a policy decision so undertaken. The court, no doubt, has a duty to see that

in the undertaking of a decision, no law is violated and people''s fundamental rights are not transgressed upon except to the extent

permissible under the Constitution.

29. In this context, it is fruitful to refer to the authority in Rusom Cavasiee Cooper v. Union of India, (1970) 1 SCC 248, wherein it has

been expressed thus: (SCC p. 294, para 63)

63Ã¯Â¿Â½.It is again not for this Court to consider the relative merits of the different political theories or economic policies... This Court has the

power to strike down a law on the ground of want of authority, but the Court will not sit in appeal over the policy of Parliament in enacting a

law"".

30. In Premium Granites v. State of Tamil Nadu, (1994) 2 SCC 691 while dealing with the power of the courts in interfering with the policy

decision, the Court has ruled that: (SCC p.715, para 54)

54. it is not the domain of the court to embark upon unchartered ocean of public policy in an exercise to consider as to whether a particular

public policy is wise or a better public policy could be evolved. Such exercise must be left to the discretion of the executive and legislative

authorities as the case may be. The court is called upon to consider the validity of a public policy only when a challenge is made that such

policy decision infringes fundamental rights guaranteed by the Constitution of India or any other statutory right.

31. In M.P. Oil Extraction and Anr. v. State of M.P. and Ors.(1997) 7 SCC 592, a two-Judge Bench opined that: (SCC p. 611, para 41)

41..... The executive authority of the State must be held to be within its competence to frame a policy for the administration of the State.

Unless the policy framed is absolutely capricious and, not being informed by any reason whatsoever, can be clearly held to be arbitrary and

founded on mere ipse dixit of the executive functionaries thereby offending Article 14 of the Constitution or such policy offends other

constitutional provisions or comes into conflict with any statutory provision, the Court cannot and should not outstep its limit and tinker with

the policy decision of the executive functionary of the State.

32. In State of M.P. v. Narmada Bachao Andolan and Anr.(2011) 7 SCC 639, after referring to the State of Punjab v. Ram Lubhaya

Bagga (1998) 4 SCC 117 , the Court ruled thus: (SCC pp. 670-71, para 36)

36. The Court cannot strike down a policy decision taken by the Government merely because it feels that another decision would have

been fairer or more scientific or logical or wiser. The wisdom and advisability of the policies are ordinarily not amenable to judicial review

unless the policies [pic]are contrary to statutory or constitutional provisions or arbitrary or irrational or an abuse of power. (See Ram Singh

Vijay Pal Singh v. State of U.P., (2007) 6 SCC 44, Villianur Iyarkkai Padukappu Maiyam v. Union of India, (2009) 7 SCC 561 and State

of Kerala v. Peoples Union for Civil Liberties, (2009) 8 SCC 46.)

33. from the aforesaid pronouncement of law, it is clear as noon day that it is not within the domain of the courts to embark upon an enquiry

as to whether a particular public policy is wise and acceptable or whether a better policy could be evolved. The court can only interfere if

the policy framed is absolutely capricious or not informed by reasons or totally arbitrary and founded ipse dixit offending the basic

requirement of Article 14 of the Constitution. In certain matters, as often said, there can be opinions and opinions but the Court is not

expected to sit as an appellate authority on an opinion.

15. Notably, scope of judicial review was yet again subject matter of a very recent decision rendered by the Hon''ble Supreme Court in Center for

Public Interest Litigation v. Union of India W.P.(C) No. 382 of 2014, decided on 8.4.2016, wherein the spectrum usage charges granted to

various telecom companies by the Government of India was questioned and it was held that unless a policy decision was found to be arbitrary,

based on irrelevant considerations or malafide or against statutory provisions, the same does not call for any interference by the Court in exercise

of powers of judicial review. It is apt to reproduce the following observations:-

19. Such a policy decision, when not found to be arbitrary or based on irrelevant considerations or mala fide or against any statutory

provisions, does not call for any interference by the Courts in exercise of power of judicial review. This principle of law is ingrained in stone

which is stated and restated time and again by this Court on numerous occasions. In Jal Mahal Resorts (P) Ltd. v. K.P. Sharma, (2014) 8

SCC 804, the Court underlined the principle in the following manner:

116. From this, it is clear that although the courts are expected very often to enter into the technical and administrative aspects of the matter,

it has its own limitations and in consonance with the theory and principle of separation of powers, reliance at least to some extent to the

decisions of the State authorities, specially if it is based on the opinion of the experts reflected from the project report prepared by the

technocrats, accepted by the entire hierarchy of the State administration, acknowledged, accepted and approved by one Government after

the other, will have to be given due credence and weightage. In spite of this if the court chooses to overrule the correctness of such

administrative decision and merits of the view of the entire body including the administrative, technical and financial experts by taking note of

hair splitting submissions at the instance of a PIL petitioner without any evidence in support thereof, the PIL petitioners shall have to be put

to strict proof and cannot be allowed to function as an extraordinary and extra-judicial ombudsmen questioning the entire exercise

undertaken by an extensive body which include administrators, technocrats and financial experts. In our considered view, this might lead to a

friction if not collision among the three organs of the State and would affect the principle of governance ingrained in the theory of separation

of powers. In fact, this Court in M.P. Oil Extraction v. State of M.P., (1997) 7 SCC 592 at p. 611 has unequivocally observed that:

41. The power of judicial review of the executive and legislative action must be kept within the bounds of constitutional scheme so that

there may not be any occasion to entertain misgivings about the role of judiciary in out-stepping its limit by unwarranted judicial activism

being very often talked of in these days. The democratic set-up to which the polity is so deeply committed cannot function properly unless

each of the three organs appreciate the need for mutual respect and supremacy in their respective fields.

117. However, we hasten to add and do not wish to be misunderstood so as to infer that howsoever gross or abusive may be an

administrative action or a decision which is writ large on a particular activity at the instance of the State or any other authority connected

with it, the Court should remain a passive, inactive and a silent spectator. What is sought to be emphasised is that there has to be a

boundary line or the proverbial laxman rekha while examining the correctness of an administrative decision taken by the State or a central

authority after due deliberation and diligence which do not reflect arbitrariness or illegality in its decision and execution. If such equilibrium in

the matter of governance gets disturbed, development is bound to be slowed down and disturbed specially in an age of economic

liberalisation wherein global players are also involved as per policy decision.

20. Minimal interference is called for by the Courts, in exercise of judicial review of a Government policy when the said policy is the

outcome of deliberations of the technical experts in the fields inasmuch as Courts are not well-equipped to fathom into such domain which is

left to the discretion of the execution. It was beautifully explained by the Court in Narmada Bachao Andolan v. Union of India, (2000) 10

SCC 664 and reiterated in Federation of Railway Officers Assn. v. Union of India (2003) 4 SCC 289 in the following words:

12. In examining a question of this nature where a policy is evolved by the Government judicial review thereof is limited. When policy

according to which or the purpose for which discretion is to be exercised is clearly expressed in the statute, it cannot be said to be an

unrestricted discretion. On matters affecting policy and requiring technical expertise the court would leave the matter for decision of those

who are qualified to address the issues. Unless the policy or action is inconsistent with the Constitution and the laws or arbitrary or irrational

or abuse of power, the court will not interfere with such matters.

21. Limits of the judicial review were again reiterated, pointing out the same position by the Courts in England, in the case of G. Sundarrajan

v. Union of India AIR 2013 SC (supp) 615 in the following manner:

15.1. Lord MacNaughten in Vacher and Sons Ltd. v. London Society of Compositors 1913 AC 107: (1911-13) All ER Rep 241 (HL) has

stated:

... Some people may think the policy of the Act unwise and even dangerous to the community. But a judicial tribunal has nothing to do with

the policy of any Act which it may be called upon to interpret. That may be a matter for private judgment. The duty of the court, and its only

duty, is to expound the language of the Act in accordance with the settled rules of construction.

15.2. In Council of Civil Service Unions v. Minister for the Civil Service (1985 AC 374), it was held that it is not for the courts to determine

whether a particular policy or particular decision taken in fulfilment of that policy are fair. They are concerned only with the manner in which

those decisions have been taken, if that manner is unfair, the decision will be tainted with what Lord Diplock labels as ""procedural

impropriety.

15.3 This Court in M.P. Oil Extraction v. State of M.P. (1997) 7 SCC 592 held that unless the policy framed is absolutely capricious,

unreasonable and arbitrary and based on mere ipse dixit of the executive authority or is invalid in constitutional or statutory mandate, court''s

interference is not called for.

15.4 Reference may also be made of the judgments of this Court in Ugar Sugar Works Ltd. v. Delhi Admn. (2001) 3 SCC 635, Dhampur

Sugar (Kashipur) Ltd. v. State of Uttaranchal (2007) 8 SCC 418 and Delhi Bar Assn. v. Union of India (2008) 13 SCC 628.

15.5. We are, therefore, firmly of the opinion that we cannot sit in judgment over the decision taken by the Government of India, NPCIL,

etc. for setting up of KKNPP at Kudankulam in view of the Indo-Russian Agreement.

22. When it comes to the judicial review of economic policy, the Courts are more conservative as such economic policies are generally

formulated by experts. Way back in the year 1978, a Bench of seven Judges of this Court in Prag Ice and Oil Mills v. Union of India and

Nav Bharat Oil Mills v. Union of India, (1978) 3 SCC 459 carved out this principle in the following terms:

We have listened to long arguments directed at showing us that producers and sellers of oil in various parts of the country will suffer so that

they would give up producing or dealing in mustard oil. It was urged that this would, quite naturally, have its repercussions on consumers for

whom mustard oil will become even more scarce than ever ultimately. We do not think that it is the function of this Court or of any court to

sit in judgment over such matters of economic policy as must necessarily be left to the Government of the day to decide. Many of them, as a

measure of price fixation must necessarily be, are matters of prediction of ultimate results on which even experts can seriously err and

doubtlessly differ. Courts can certainly not be expected to decide them without even the aid of experts.

23. Taking aid from the aforesaid observations of the Constitution Bench, the Court reiterated the words of caution in Peerless General

Finance and Investment Co. Limited v. Reserve Bank of India, (1992) 2 SCC 343 with the following utterance:

31. The function of the court is to see that lawful authority is not abused but not to appropriate to itself the task entrusted to that authority.

It is well settled that a public body invested with statutory powers must take care not to exceed or abuse its power. It must keep within the

limits of the authority committed to it. It must act in good faith and it must act reasonably. Courts are not to interfere with economic policy

which is the function of experts. It is not the function of the courts to sit in judgment over matters of economic policy and it must necessarily

be left to the expert bodies. In such matters even experts can seriously and doubtlessly differ. Courts cannot be expected to decide them

without even the aid of experts.

24. It cannot be doubted that the primary and central purpose of judicial review of the administrative action is to promote good

administration. It is to ensure that administrative bodies act efficiently and honestly to promote the public good. They should operate in a fair,

transparent, and unbiased fashion, keeping in forefront the public interest. To ensure that aforesaid dominant objectives are achieved, this

Court has added new dimension to the contours of judicial review and it has undergone tremendous change in recent years. The scope of

judicial review has expanded radically and it now extends well beyond the sphere of statutory powers to include diverse forms of ''public''

power in response to the changing architecture of the Government. (See : Administrative Law: Text and Materials (4th Edition) by Beatson,

Matthews, and Elliott) Thus, not only has judicial review grown wider in scope; its intensity has also increased. Notwithstanding the same,

it is, however, central to received perceptions of judicial review that courts may not interfere with exercise of discretion merely because

they disagree with the decision or action in question; instead, courts intervene only if some specific fault can be established for example, if

the decision was reached procedurally unfair.

25. The raison d''etre of discretionary power is that it promotes decision maker to respond appropriately to the demands of particular

situation. When the decision making is policy based judicial approach to interfere with such decision making becomes narrower. In such

cases, in the first instance, it is to be examined as to whether policy in question is contrary to any statutory provisions or is

discriminatory/arbitrary or based on irrelevant considerations. If the particular policy satisfies these parameters and is held to be valid, then

the only question to be examined is as to whether the decision in question is in conformity with the said policy.

16. It would be noticed that though there may be certain sections of general public which may not subscribe and approve the decision of the

Government, but the same cannot be nullified on this ground alone. It is more settled that individual interest must yield in favour of social and public

interest and this Court would only interfere with the policy decision if the petitioners can carve out a case falling within the well settled parameters

of law relating to judicial review.

17. The official respondents have in their reply clearly set out the facts, circumstances and the events leading to the exclusion of Patwar Circle

Charana from Sub Tehsil Haripurdhar and including the same in the upgraded Tehsil, Nohradhar. The decision to upgrade Tehsil Nohradhar arose

because it had the requisite infrastructure and was already having various Government offices/branches and institutions, such as, the Executive

Engineer and Assistant Engineer, I and PH, Assistant Engineer (PWD), Range Officer (Forest), Range Officer (Wildlife), Medical Officer (PHC),

Veterinary Officer, Police Chowki, Sub Treasury, Junior Engineer (Electricity), a branch of Horticulture, Agriculture and Civil Supplies

Corporation, ITI, and Government Senior Secondary School. It was only when the residents of Patwar Circle, Charna themselves began

protesting and raising their voice time and again against the inclusion of Patwar Circle, Charana in Sub Tehsil Haripurdhar, that the impugned

decision was taken at the level of government.

18. Evidently, even the Gram Panchayat, Charana vide its resolution No.8 dated 23.4.2013 itself had requested to upgrade the Sub Tehsil

Nohradhar to a Tehsil. Once, it is so, this Court cannot ignore the resolution passed by the Gram Panchayats as these resolutions are the true

representations of the voice of the people at grass root level, who would ultimately be affected by the decision. We observe so, because the

members of Gram Panchayats are democratically elected and therefore, represent the voice of the people.

19. The petitioners have failed to point out as to how and in what manner the impugned decision of the Government is either arbitrary, irrational,

much less, capricious or whimsical. They have further failed to point out that the decision is either arbitrary or based on irrelevant consideration or

is malafide or against any statutory provisions, thus calling for no interference.

20. Having said so, there is no merit in this petition and the same is dismissed accordingly, leaving the parties to bear their costs.