

HIGH COURT OF JAMMU & KASHMIR
AT JAMMU

OWP No.1986/2018

IA No.1/2018

Date of order: 29.09.2018

Nazir Chowdhary and ors

vs.

State of J&K & ors

Coram:

Hon'ble Mr. Justice Sanjay Kumar Gupta, Judge

Appearing counsel:

For petitioner (s) : Mr.Kapil Sharma, Advocate.

For respondent(s) : Mrs. Seema Shekhar, Sr. AAG.

i/	Whether to be reported in	:	Yes/No
	Press/Media		
ii/	Whether to be reported in	:	Yes/No
	Digest/Journal		

1. In this petition, the *petitioners inter alia* seek the following reliefs:

(A) **Mandamus:-**

Command and direct the respondent No.6 to decide the representation of the petitioner as per the recommendation of the respondent No.2,3&4 who have submitted the detailed report after conducting the survey of the Ward no.70 and other adjoining wards and thereby deleting the name of the residents of ward No.70 Sainik Colony Sector-D(Extn), Jammu whose names by the deliberate attempt on the part of the respondents are included in the voter list of ward No.74 Sunjwan, Jammu and include the name of above stated residents in the voter list of ward No.70 Sainik Colony Sector-D(Extn), Jammu to where they originally belong.

(B) **Certiorari:**

Quash and set aside the report issued by respondent No.3,4 &5 dated 20.09.2018 whereby the respondents had shown their inability for altering the boundaries of the wards forming the subject matter of this writ petition AND quash and set aside the voter list dated 31.08.2018 of ward No.74 of Sunjwan, Jammu to the extent, it includes the name of the residents of Ward No.70 Sainik Colony Sector-D(Extn), Jammu.

2. Brief facts of the case are that the petitioners are the registered voter of Ward No.70 Sainik Colony Sector-D(Extn.), Jammu and voter list to this effect has been notified by the respondents in respect of Municipal Election, to be held as per the respondents, in the final week of October 2018. The area which falls under Ward No.70 Sainik Colony Sector-D(Extn.), Jammu was earlier falls under the Rural Area and vide notification dated 04.08.2018 the area falling under Ward No.70 Sainik Colony Sector-D(Extn), Jammu has been included within the limits of Jammu Municipal Corporation. The Ward No.74 of the Sunjwan is at the distance of near about 6 km from Ward No.70. In between these two Wards there lies an area name as Village Chowdhai which is still a rural area. The petitioner No.6 also intends to contest the election from Ward No.70 of village Sunjwan and he has filled up the nomination from. Vide notification dated 04.08.2018 there were total 1468 voters in the Ward No.70 and near about 720 voters in the ward No.74 of village Sunjwan, but later on 514 voters were added in the voter list of ward no.74 vide notification dated 31.08.2018. On 02.09.2018 an application was moved

before the Tehsildar Bahu Jammu for correction of the voter list of ward no.74. This application was acted upon and the physical verification was conducted, which otherwise was not conducted by the concerned BLO and as per the so called verification serial No.7-74, 109, 117-119, 126-137, 181-194, 235-267, 314-317, 364-381, 396-397,404-413, 415-416, 421-453, 506-554, 568-731, 1101-1114, 1184-1230, 1236-1274, 1279-1297, 1362-1370, 1402-1410, 1415-1421, and 1433-1448 are suggested to be incorporated in the voter list of the ward no.74. The total numbers of the voters which are suggested to be incorporated in Ward No.74 are 516. This recommendation was given by the concerned BLO in the first week of September, 2018. It is further stated that the recommendation which was given by the concerned BLO for the incorporation of the above cited voters in the voter list of ward no.74 was already acted upon by the concerned authority on 31.08.2018 whereby no opportunity was afforded to the residents of the Ward No.70 Sainik Colony Sector-D(Extn), Jammu for their transposition in the Ward No.74, which clearly shows the malafide on the part of the respondents whereby they have inducted the residents of Ward No.70 Sainik Colony Sector-D(Extn), Jammu in the voter list of Ward No.74 of Sunjwan, Jammu. The residents of Ward No.70 were not aware of the fact that 516 voters are incorporated in the voter list of Ward No.74. On 18.09.2018 when the residents of the Ward No.70 Sainik Colony Sector-D(Extn), Jammu came to the knowledge of the above cited fact, they moved a representation before the District Election Officer and on the basis of the said representation a committee was constituted by the District Election Officer, Jammu for enquiring into the matter which was conducted by respondents Nos.3, 4

& 5. On the basis of the said enquiry it was suggested that the voter list of Wards Nos.70 and 74 can't be altered at this juncture.

3. During course of the arguments, learned counsel for the petitioners has produced a photocopy of the decision of the Committee, whereby the representation filed by the petitioners, have already been decided on 20.09.2018.

4. In view of the above, the writ petition has become infructuous, so the instant writ petition is, accordingly, **dismissed** as having being rendered infructuous. However, the petitioners, if so advised, may file a fresh representation before the competent authority and the said authority after receipt of the same shall consider it in accordance with law governing the subject and pass appropriate orders.

(Sanjay Kumar Gupta)
Judge

Jammu:
29.09.2018
Vijay