

1995 (1) G. L. H. 831
R. K. ABICHANDANI, J.

Bhavnath Group Gram Panchayat and Another ...Petitioner
Versus
State of Gujarat and Others....Respondents

Special Civil Application No. 5530 of 1982*

D/- 14-11-1994

* Special Civil Application challenging the non-consideration of application under Section 96(1) of Gujarat Panchayats Act, 1961.

Gujarat Panchayats Act, 1961 - S. 96(1) - Inclusion of land within village site different from vesting of land or property in the village Panchayat.

Under S. 96 of the said Act, the State Government may subject to such conditions and restrictions as it may think fit to impose, vest in a Panchayat any property referred to therein in the Gram or Nagar, as the case may be, vested in the Government. It appears that the petitioner Panchayat demanded that the said area be vested in it under the provisions of S. 96 alongwith other properties. The question of vesting properties of the Government in the Panchayat under S. 96(1) is different from the question of including an area in a village site and does not deal with the demand of the petitioner Panchayat for considering the question of vesting of certain properties in the Panchayat under the provisions of S. 96(1) of the Act. It would be for the Government to consider and decide as to what properties of the nature included in S. 96(1) of the said Act should be vested by it in the Panchayat. It appears that the respondents have not considered the question of vesting of properties under S. 96(1) on the basis of the demands made by the petitioner Panchayat and the communication dated 18th September 1982, which refers to the Government not accepting the request for inclusion of the said 57 acres of land within the village site, is quite different from considering and deciding the question of vesting property in the Panchayat under S. 96(1). (Para 6)

Appearances:

Mr. K. S. Nanavati, Advocate for the petitioner

Mr. P. S. Champaneri, Assistant Government Pleader instructed by Purnanand and Co. for respondent

R. K. ABICHANDANI, J.:-

1.

The petitioner No. 1-Gram Panchayat and it's (*sic.*) Deputy Sarpanch who is petitioner No. 2 have prayed for a direction on the respondent-State and it's (*sic.*) officials to vest the areas in question including the Bhavnath area admeasuring 57 acres in the petitioner Panchayat.

2. Petitioner No. 1 is a Group Gram Panchayat constituted under the provisions of The Gujarat. Panchayat Act, 1961 (hereinafter referred to as "the said Act". It appears that in exercise of the powers delegated to the Development Commissioner by the Government Notification dated 18th June 1963 read with Government Notification dated 5th May 1994,. The Development Commissioner issued notification dated 5th August 1976, declaring as a new Gram the local area shown in column 3 of the Schedule to that notification which is referred to by both the sides from the judgment delivered by this Court on 25/16.6.1986 in Special Civil Application No. 1818 of 1979 by the Hon'ble Mr. Justice A. M. Ahmedi (has he then was) and which Schedule reads as under:- [*@page831*]

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Sr. No.	Taluka	Local area	Population	Name of Gram framed	Area included in the Gram shown in Co. 5.
1.	Junagadh	Bhavnath (Area of Ashok Shilalekh to Bhavnath Taleti and Girnar Parikrama area) 2. Boriyo 24 3. Surajkund 20 4. Rupayatan 150	787	Bhavnath Gram Panchayat	1. Bhavnath (Area inclusive of Ashok Shilalekh to Bhavnath Taleti and Girnar Parikarma area) 2. Boriyo 3. Surajkund 4. Rupanyatan

3. Thereafter, a corrigendum was issued on 1st September 1978, cancelling the original schedule and substituting it by the following schedule which is annexed to this petition.

Sr. No.	Taluka	Local area	Population	Name of Gram framed	Area included in the Gram shown in Co. 5.
1.	Junagadh	1. Area from Ashok Shilalekh to Bhavnath Taleti	577	Bhavnath	1. Area inclusive Ashok Shilalekh to Bhavnath Taleti.
2.		2. Girnar Hills and 150 Girnar Parikrama area 3. Bordevi 4. Surajkund			2. Girnar Hills and Parikarma area) 3. Bordevi 4. Surajkund

4. In the Special Civil Application No. 1818 of 1979 this Court had set aside the corrigendum in so far as it related to the area known as Girnar Hills on the ground that such inclusion was not in conformity with Section 96(1) of the said Act. Thus, only to that limited extent the corrigendum came to be set aside. In the present petition the claim of the petitioner Panchayat is for vesting certain areas including the Bhavnath area admeasuring 57 acres in the Panchayat under the provisions of Section 96 of the said Act. That aspect of the matter is totally different from the subject-matter of Special Civil Application No. 1818 of 1979 decided on 25/16-6-1986.

5. Of the notified areas, The said land of 57 acres originally belonged to the Forest Department but later admittedly came to be transferred to the Revenue Department of the respondent-State. The change entry came to be effected in village form No. 6 in March 1975. The petitioner Panchayat moved the respondents to formally vest Bhavnath village including Bhavnath (Taleti) areas in the Panchayat and also to vest other areas by issuing appropriate notification under the provisions of Section 96 of the Act. According to the petitioner-*[@page832]* Panchayat, since Bhavnath Taleti area applications were made to the Collector as well as the State, the Panchayat was unable to undertake development work in the village. By letter dated 18th September 1982, at Annexure 'D' to the petition, the office of the Collector informed the Sarpanch of the petitioner-Panchayat that the application dated 18th July 1979, which was for including 57 acres in the village site, was rejected.

6. Under Section 96 of the said Act, the State Government may subject to such conditions and restrictions as it may think fit to impose, vest in a Panchayat any property referred to therein in the Gram or Nagar, as the case may be, vested in the Government. Admittedly the disputed area of 57 acres is vested in the Government. It appears that the petitioner Panchayat demanded that the Said area be vested in it under the provisions of Section 96 alongwith other properties. The question of vesting properties of the Government in the Panchayat under Section 96(1) is different from the question of including an area in a village site. The letter at Annexure 'D' dated 16th September 1982, refers to the question of inclusion of the area in the village site and does not deal with the demand of the petitioner-Panchayat for considering the question of vesting of certain properties

in the Panchayat under the provisions of Section 96(1) of the Act. It would be for the Government to consider and decide as to what properties of the nature included in Section 96(1) of the said Act should be vested by it in the Panchayat. It appears that the respondents have not considered the question of vesting of properties under Section 96(1) on the basis of the demands made by the petitioner-Panchayat and the communication dated 18th September 1982, which refers to the Government not accepting the request for inclusion of the said 57 acres of land within the village site, is quite different from considering and deciding question of vesting property in the Panchayat under Section 96(1).

7. Under the above circumstances, the concerned respondent authorities are directed to consider the demand of the petitioner-Panchayat regarding vesting of the properties including 57 acres of the Bhavnath area and take appropriate decision in accordance with law as expeditiously as possible. Rule made absolute accordingly with no order as to costs.

(VSM) Rule made absolute.