

# Office of the Election Authority

Under J&K Panchayati Raj Act, 1989

(Chief Electoral Officer, J&K)

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"Greater Participation for a Stronger Democracy"

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**Subject: Appeal titled Sansar Chand and others versus Director, Rural Development, Jammu and others, against the order dated 12-04-2018 passed by Director, Rural Development Department, Jammu.**

**ORDER No. CEO/Pvt/2019/432**  
**DATED: 30-05-2019**

Appellants have preferred to file the afore titled appeal seeking to set aside the order dated 12-04-2018 of Director, Rural Development Department, Jammu and also a direction for deleting habitation Drana from Panchayat Soura, issuing a fresh electoral roll/voter list after deleting the names of persons of habitation Drana, who have been shown in voter list of Panch Constituency Soura of Panchayat Halqa Soura.

The said appeal has been filed by appellants in pursuance to court order dated 01-12-2018 passed by the Hon'ble High Court in OWP No. 2470/2018, IA No. 1/2018 titled Sansar Chand and others versus State of J&K and others. The operative part of the said order is reproduced below:

*".... Be that as it may, this petition along with connected IA(s) isd disposed of with liberty to the petitioner to avail alternate remedy of an appeal before the Chief Electoral Officer. It is clarified that any decision taken would operate only in future and would not effect the persent process of election in any manner. In case, any appeal is preferred, the same be decided within a period of one month from the date a copy of this order is served upon him.";*

Report in the matter was sought from Director General, Rural Development Department, Jammu and the same was received on 17-05-2019. Hearing in the matter was also conducted on 15-05-2019 wherein appellants were heard, following the principle of *audi alterum partem*.

According to the report of Director General, Rural Development Department, Jammu, prior to the filing of the instant appeal and the writ petition bearing OWP No. 2740/2018, IA No. 01/2018 titled Sansar Chand and others versus State and others, appellants had already filed writ petition bearing OWP No. 78/2018 titled Sansar Chand and others versus State and others before the Hon'ble High Court, which came to be disposed of by the Hon'ble High Court by way of an order dated 19-01-2018 with a direction, operative part of the which is reproduced as under:

*"the instant petition is disposed of with a direction to the respondents to consider the objections filed by the inhabitants of Panch Constituency Tansna, Bhalla District Doda within ten days by passing a speaking order.*

*Disposed of accordingly along with connected MP."*

In compliance to the above said direction of the Hon'ble High Court, Director Rural Development, Jammu passed a speaking order vide order No. 215-DRDJ of 2018 dated 12.04.2018, whereby the ward with the highest population i.e. Ward No. 1, Tansana of Panchayat Soura was bifurcated into two wards and a new ward No. 7, Lower Tansana was created. However, petitioner challenged the said order by way of filing of writ petition bearing 'OWP No. 2470/2018 titled Sansar Chand and others Vs State and others' which was disposed by the Hon'ble High Court on 01.12.2018 with liberty to the petitioners to avail alternate remedy of an appeal before the Chief Electoral Officer. Appellants accordingly filed an appeal against order dated 12.04.2018 passed by the Director Rural Development Department, Jammu titled Sansar Chand and others Vs Director Rural Development Department Jammu and others.

Further perusal of the report reveals that District Panchayat Officer, Doda vide his communication No. DPOD/Panch/2018-19/258-62 dated 16.05.2019 submitted a factual report stating thereunder that ward No. 3 Soura (Drana) of Panchayat Soura was wrongly reflected as biggest ward, inadvertently, and its population was wrongly reflected as 461 instead of 357 and accordingly necessary rectification was made and the ward with the highest population i.e. Ward No. 01, Tansana having population of 389 souls was bifurcated into two wards. Further, it is stated that Mohra Drana cannot be deleted from Panchayat Soura as the same has been included in the said Panchayat during the process of delimitation of Halqa Panchayat, notified vide SRO No. 102 of 2007 dated 30.03.2007, keeping in view the topography of the area. Moreover, Drana being 6 Kms. away from Guraka Panchayat Headquarter and divided by a natural boundary i.e. Bangorh Nallah was made a part of ward No. 03 Soura of Panchayat Halqa Soura during the process of delimitation of Halqa Panchayats in 2006-07 and on the basis of the same Panchayat elections 2011 were held and no objection was raised by anybody. Also, none of the present appellants is a resident of ward No. 03 Soura and they are residents of Ward No. 01. Moreover, inhabitants of ward No. 3, Soura (Drana) have passed a resolution wherein they have unanimously decided to remain with Panchayat Soura being "topographically feasible.

The Director General, Rural Development Jammu has further recommended that the request/demand of the appellants being devoid of merit may be rejected.

Thus the issue raised by the appellants pertains to division of Panchayat Halqa into panch constituencies and fixing the territorial limit of each constituency in a Panchayat Halqa, which is covered under Rule 4 of J&K Panchayati Raj Rules, 1996, reproduced as under:

*4. Determination of constituencies – (1) The Director Rural Development shall be the prescribed authority to divide each Panchayat Halqa into such number of constituencies as will correspond with the number of Panches determined to be elected under sub-section (3) of section*

*4 of the Act. The Director, Rural Development shall fix the territorial limit of each constituency in a Panchayat Halqa and shall number them in a serial order, provided that, as far as possible, the number of electors in each constituency shall be equal.*


Now, therefore, in due deference to court order dated 01-12-2018, report of Director General, Rural Development Jammu and the aforesaid rule position, it transpires that the matter/issue raised by the appellants pertains to fixing the territorial limit of a constituency/ward in a Panchayat Halqa, for which the prescribed authority is Director Rural Development. Accordingly, the instant appeal is disposed of with a direction to Director General, Rural Development Department, Jammu to consider the matter/issue projected by appellants, as per extant Act/rules governing the field, under intimation to this office.

**Sd/-**  
**Election Authority**  
**Under J&K Panchayati Raj Act, 1989**  
**(Chief Electoral Officer, J&K)**

No. *6463/CEO/Pyu/2019/8060-68*  
Copy to:

Dated: *30-05-2019*

1. Secretary to Government, Department of Rural Development Department, Civil Secretariat, Jammu/Srinagar for information.
2. Director General, Rural Development Department, Jammu for information and necessary action.
3. District Panchayat Officer, Doda for information with a request to ensure that the said order is conveyed to the appellants.
4. Sh. Sansar Chand, S/o Ram Saran R/o Village Tansana, Tehsil Bhalla, District Doda for information.
5. Sh. Babu Ram S/o Beli Ram R/o Village Tansana, Tehsil Bhalla, District Doda for information.
6. Sh. Punjab Singh S/o Karan Chand R/o Village Tansana, Tehsil Bhalla, District Doda for information.
7. Sh. Santosh Kumar S/o Sh. Lekh Raj R/o Village Tansana, Tehsil Bhalla, District Doda for information.
8. Sh. Sh. Ishar Lal S/o Buchi Ram R/o Village Tansana, Tehsil Bhalla, District Doda for information.
9. Sh. Puran Chand R/o Village Tansana, Tehsil Bhalla, District Doda for information.

  
**Deputy Chief Electoral Officer,**  
**Jammu & Kashmir**