

**IN THE HIGH COURT OF HIMACHAL PRADESH AT
SHIMLA**

CMPMO No. 137 of 2014

Reserved On 18.11.2025

Decided on 28.11. 2025

Sushil Kumar & Ors.

...Petitioners

Versus

State of H.P. & Ors.

...Respondents

Coram

Hon'ble Mr. Justice Ajay Mohan Goel, Judge

¹Whether approved for reporting?

**For the petitioners : Mr. Ajay Shrma, Senior
Advocate, with Ms. Arshita
Sharma, Advocate.**

**For the respondents : Mr. Pushpinder Jaswal,
Additional Advocate General,
for respondents No.1 and 2.**

**Mr. Nitin Thakur, Advocate,
for respondent No.3.**

Ajay Mohan Goel, Judge (Oral)

By way of this petition, the petitioners have challenged the order passed by the learned Divisional Commissioner, Mandi, District Mandi, H.P., in Case No. 11/2009, dated 12.02.2014, passed in a petition filed under Section 54 of the H.P. Holdings (Consolidation and Prevention

of Fragmentation) Act, 1971 (hereinafter referred to as the “Act”).

2. The case of the petitioners is that the State of Himachal Pradesh issued a declaration which was published in the Official Gazette as per Section 14 of the Himachal Pradesh Holdings (Consolidation and Prevention of Fragmentation) Act, 1971. In terms of this notification, the Mohal of the petitioners was declared for holdings consolidation proceedings. Thereafter, the proceedings were undertaken as per the scheme prepared under Section 29 of the Act. In terms of the provisions of Section 30 of the Act, a person aggrieved by the proceedings can resort to Section 30 and thereafter Sections 50 and 56 of the 1971 Act.

3. Further, upon the completion of the work of consolidation, the State of Himachal Pradesh published a notification dated 14.05.1986 under Section 16 of the Act, and in terms thereof, the declaration made under Section 14 of the Act was cancelled. According to the petitioners, after the cancellation of the declaration, in terms of the provisions of

Section 16(2), said area ceased to be under consolidation operations.

4. The private respondent filed an application under Section 56 of the Act before respondent No. 2, which was dismissed vide Annexure P-1 on 22.03.1999. Thereafter, the private respondent again filed an application under Section 54 of the Act, and in terms of order dated 25.02.2000, the case was remanded back to the Consolidation Officer. As per the petitioners, this order was challenged before this Court by way of CMPMO No. 50/2000, and the order dated 25.02.2000 was set aside, with a direction to the authority to hear the case afresh as per rules.

5. Thereafter, a notification was published in the Rajpatra conferring the powers of Director of Consolidation of Holdings upon the Divisional Commissioners, and respondent No. 1 heard the matter after the order passed by the High Court and decided the same vide impugned order dated 12.02.2014, whereby the revision of the private respondent has been allowed.

6. Learned Senior Counsel for the petitioners submitted that a perusal of the impugned order Annexure P-3 demonstrates that the order was solely based on the report of the Consolidation Officer dated 28.07.1999, which in fact was wrongly mentioned as such because the report is actually dated 16.08.1999, as is evident from Annexure P-4. Learned Senior Counsel also argued that the Consolidation Officer, in the concluding part of the report, specifically, categorically and unequivocally recorded that the petitioners had not invoked the powers under Sections 30(2), 30(3), 30(4) and 54 of the Act.

7. Learned Senior Counsel further submitted that, otherwise also, as the area ceased to be under consolidation after issuance of the notification dated 14.05.1986, no proceedings were maintainable under the Consolidation Act, and this aspect of the matter has been completely ignored by the learned authority, which passed the impugned order without jurisdiction. Learned Senior Counsel also argued that, while passing the impugned order, the authority did not take note of the order dated 22.03.1999 passed by respondent No. 2, which

had attained finality and could not have been re-agitated or re-decided.

8. Learned Senior Counsel thus submitted that as there was a patent illegality in the impugned order, the petition was liable to be allowed.

9. In support of his submissions, learned Senior Counsel has relied upon the judgment passed in CWP No. 55 of 2003 along with CWP No. 209 of 2006, titled *Jaswant Singh & Ors. vs. State of H.P. & Ors.* and other connected matters, decided on 10.03.2005.

10. On the other hand, learned counsel for the respondents has supported the order passed by the authority by submitting that the power vested under Section 54 of the Act was invoked by the authority in a petition filed by the contesting respondent and that there was no infirmity in the order, which was in accordance with the settled position at the spot that had gone unnoticed earlier.

11. I have heard learned counsel for the parties and carefully gone through the impugned order.

12. One of the grounds of challenge to the impugned order on behalf of the petitioners is that the same is without jurisdiction. Learned Senior Counsel vehemently argued that after the publication of the notification under Section 16 of the Act dated 14.05.1986, as the area ceased to be under consolidation, proceedings under the Consolidation Act were not maintainable. This Court, in CWP No. 55 of 2003, titled *Jaswant Singh & Ors. vs. State of H.P. & Ors.* along with connected matters, decided on 10.03.2025, on the said issue, has held as under:-

“7. The H.P. Holdings (Consolidation of Prevention of Fragmentation) Act, 1971 has been introduced to provide for the consolidation of agriculture holdings and for preventing the fragmentation of agricultural holdings in the State of Himachal Pradesh and for the assignment or reservation of land for common purposes of the village. Chapter-III of the same deals with revision and correction of records and consolidation of holdings. In terms of Section 14 of the Act, the State Government may declare that in the interests of the general public and for the purposes of better cultivation of land it has decided to make a scheme of consolidation for any estate or a

group of estates or a sub-division of an estate and such declaration shall be published in the Official Gazette and in the estate or estates concerned in the prescribed manner. The effect of publication is provided in Section 15 of the Act and in terms thereof, on the publication of the declaration under Section 14, an estate, group of estates or a sub-division of an estate, as the case may be, shall be deemed to be under consolidation operations from the date of such publication until the publication of the Notification that the consolidation operations have been closed. Section 16 of the Act deals with cancellation of declaration under Section 14 and it provides that the State Government may at any time, cancel the declaration made under Section 14 in respect of the whole or any part of the area specified therein and where a declaration has been cancelled in respect of any area under Sub-section (1), then such area shall, with effect from the date of cancellation, ceases to be under consolidation operations.”

13. In the present case, as per the petitioners the notification under Section 16 of the Act was issued, according to the petitioners, on 14.05.1986. The proceedings initiated by the contesting respondent herein, against the acts committed during the course of consolidation, were initiated after the issuance of the Section 16 notification. Though the private respondents have not filed any response to the contents of the petition, however, there are instructions imparted by the learned Additional

Advocate General by the Office of Divisional Commissioner, Mandi Division, dated 14.10.2016, the relevant portion reads as under:-

“Kindly refer to your office letter No. CMPMO No. 137/2014-27420 dated. 29.9.2016 regarding the subject cited above. In this regard it is submitted that the Govt. of HP vide Notification No. Raj-Bhu-A(P)(14)(1)Hamirpur50/80-4120-73 dated 13.5.1986 had taken decision to consolidate the land of village Samlehra along with other villages under Consolidation Act and in pursuance to the above notification the consolidation proceedings were started in village Samlehra in the year 1993 and the same were completed in the year 1995. It is wrong hence denied categorically that after completion of whole of the work of consolidation Respondent State published Notification dated 14.5.1986 u/s 16 of the Act declaring section 14 as cancelled. It is further submitted that no such Notification u/s 16 regarding declaring section 14 as cancelled has ever been issued by the Govt. of HP regarding village Samlehra and as such this plea has been wroglly and illegally taken by the present petitioner before the Hon'ble High Court of HP. It is further submitted that the order dated 12.2.2014 passed by this court was rightly passed as this court was having jurisdiction to entertain the appeal U/S 54 as the court was vested with the powers of the Director Consolidation of Holdings u/s 54 of the Consolidation Act (Reference : No.Rev.2F(8)-7/88 dated 2nd March, 2009. Copy of Notification dated 13.5.1986 is herewith attached for kind perusal please.”

14. In terms of these instructions, the consolidation proceedings of village Samlehra along with some other villages were started in the year 1993 and were completed in the year 1995. Further, as per these instructions, no notification under Section 16 regarding any declaration having been issued qua cancellation of the notification under Section 14 of the Act was

issued by the Government of Himachal Pradesh regarding village Samlehra. This Court is of the considered view that these are extremely important aspects of the matter which require consideration and adjudication by the learned Divisional Commissioner, Mandi Division, Mandi, and the answers to these issues should be supported by contemporaneous record. However, the order under challenge does not reflect anything with regard to the issues raised in this petition.

15. Therefore, in the light of the observations made hereinabove, this petition is allowed to the extent that the order passed by the Divisional Commissioner, Mandi Division, Mandi under Section 54 of the Act is quashed and set aside, and the matter is remanded back to the authority concerned to decide afresh after answering the issues of jurisdiction as raised in this petition. Pending miscellaneous applications, if any, also stand disposed of.

(Ajay Mohan Goel)
Judge

November 28, 2025
(*Shamsh Tabrez*)