



CGHC010294852024

2026:CGHC:35723



NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 4335 of 2024**

- 1** - Manbodh Srivas S/o Shri Ramdayal Srivas Aged About 50 Years
R/o Ward-8, Khantipar, Kharsia Distt- Raigarh Cg.
- 2** - Vishwanath Bharti S/o Shri Govind Ram Bharti Aged About 38 Years
R/o Khalipar, Ward 8 Kharsia, Distt- Raigarh Cg.
- 3** - Dharmendra Chouhan S/o Shri Vishwanath Chouhan Aged About 47
Years R/o Khalipar, Ward No, -8 Khalipar, Ward No-8 Kharsia, Distt-
Raigarh.
- 4** - Mihamal Sachdeo S/o Shri Ramandas Aged About 70 Years R/o
Sindhi Colony, Kharsia, Distt- Raigarh (C.G.).
- 5** - Chandrashekhar Yadav S/o Shri Vijyanand Yadav Aged About 45
Years R/o Sanjay Nagar, Kharsia, Distt- Raigarh.
- 6** - Nazir Khan S/o Mohammd Niyaz Khan Aged About 55 Years R/o
Sindhi Colony, Kharsia Distt- Raigarh C G.

--- Petitioner(s)**versus**

1 - State Of Chhattisgarh Through The Secretary To The Govt. Of Chhattisgarh, Department Of Urban Administration And Development , Mantralaya, Mahanadi Bhawan Naya Raipur P.S.- Rakhi, Raipur C G.

2 - Municipal Council Kharsia Through Chief Municipal Officer Kharsia, Distt- Raigarh C G.

3 - The Collector Distt- Raigarh.

4 - The Chief Municipal Officer Municipal Council Kharsia, Distt- Raigarh.

--- Respondent(s)

WPC No. 4471 of 2024

1 - Ganpat Miri S/o Shri Vishram Miri, Aged About 64 Years R/o Ganj- Pichhe Kharsia, Tahsil Kharsia, District- Raigarh (C.G.)

---Petitioner(s)

Versus

1 - State Of Chhattisgarh Through Secretary, Department Of Urban Administration And Development, Mahanadi Bhawan Mantralaya, Atal Nagar, Naya Raipur, District- Raipur (C.G.).

2 - Director, Urban Administration And Development Department Raipur, District Raipur (C.G.).

3 - Collector Raigarh, District- Raigarh (C.G.).

4 - Sub Divisional Officer (R), Kharsia, District Raigarh (C.G.).

5 - Chief Municipal Officer, Municipal Council Kharsia, District Raigarh (C.G.).

6 - President, Municipal Council Kharsia, District- Raigarh (C.G.).

7 - President, Allotment Samiti, Municipal Council Kharsia, District-Raigarh (C.G.).

--- Respondent(s)

WPC No. 4380 of 2024

1 - Sunil Kumar Agrawal S/o Late Chandrabhan Agrawal Aged About 40 Years R/o Dabhra Road Kharsiya, P.S. And Tahsil Kharsiya District Raigarh (C.G.).

2 - Smt. Shakuntala Devi Agrawal W/o Late Chandrabhan Agrawal Aged About 60 Years R/o Dabhra Road Kharsiya, P.S. And Tahsil Kharsiya District Raigarh (C.G.).

---Petitioner(s)

Versus

1 - State Of Chhattisgarh Through The Secretary Department Of Urban Administration And Development, Mahanadi Bhawan, Mantralaya, Atal Nagar, New Raipur, District Raipur (C.G.).

2 - Director Urban Administration And Development Department, Raipur District Raipur (C.G.).

3 - Collector, Raigarh District Raigarh (C.G.).

4 - Sub Divisional Officer (R) / Kharsiya District Raigarh (C.G.).

5 - Chief Municipal Officer Municipal Council Kharsiya, District Raigarh (C.G.).

6 - President Municipal Council, Kharsiya District Raigarh (C.G.).

7 - President Allotment Samiti Municipal Council Kharsiya, District Raigarh (C.G.).

--- Respondent(s)

WPC No. 4388 of 2024

1 - Saddar (Safdar) Jaiswal S/o Late Bhiya Lal Jaiswal, Aged About 60 Years R/o Hamalpara Ward No. 02 Kharsiya, P.S. And Tahsil Kharsiya District Raigarh. Chhattisgarh.

---Petitioner(s)

Versus

1 - State Of Chhattisgarh Through The Secretary Department Of Urban Administration And Development, Mahanadi Bhawan, Mantralaya, Atal Nagar New Raipur, District Raipur, Chhattisgarh.

2 - Director, Urban Administration And Development Department Raipur, District Raipur, Chhattisgarh.

3 - Collector, Raigarh, District Raigarh, Chhattisgarh.

4 - Sub Divisional Officer (R) Kharsiya District Raigarh, Chhattisgarh.

5 - Chief Municipal Officer, Municipal Council Kharsiya, District Raigarh, Chhattisgarh.

6 - President, Municipal Council Kharsiya District Raigarh, Chhattisgarh.

7 - President, Allotment Samiti, Municipal Council Kharsiya, District Raigarh, Chhattisgarh.

--- Respondent(s)

WPC No. 4386 of 2024

1 - Mahesh Tank S/o Late Keshav Ji Tank, Aged About 72 Years R/o
Ward No. 04, Railway Canteen Road Sawariya Colony Kharsiya, P.S.
And Tahsil - Kharsiya, District- Raigarh (C.G.).

---Petitioner(s)

Versus

1 - State Of Chhattisgarh Through The Secretary, Department Of Urban
Administration And Development, Mahanadi Bhawan, Mantralaya, Atal
Nagar New Raipur, District-Raipur (C.G.).

2 - Director Urban Administration And Development Department Raipur,
District Raipur (C.G.).

3 - Collector, Raigarh, District- Raigarh (C.G.).

4 - Sub Divisional Officer (R), Kharsiya, District-Raigarh (C.G.).

5 - Chief Municipal Officer, Municipal Council Kharsiya, District- Raigarh
(C.G.).

6 - President, Municipal Council Kharsiya, District-Raigarh (C.G.).

7 - President Allotment Samiti Municipal Council Kharsiya, District-
Raigarh (C.G.).

--- Respondent(s)

WPC No. 4384 of 2024

1 - Radheshyam Sao S/o. Late Guddar Sao Aged About 65 Years R/o.
Ward No. 01, Kharsiya, P.S. And Tahsil - Kharsiya, District - Raigarh
(C.G.).

---Petitioner(s)

Versus

- 1** - State Of Chhattisgarh Through The Secretary Department Of Urban Administration And Development, Mahanadi Bhawan, Mantralaya, Atal Nagar, New Raipur, District - Raipur (C.G.).
- 2** - Director, Urban Administration And Development Department Raipur, District - Raipur (C.G.).
- 3** - Collector Raigarh, District - Raigarh (C.G.).
- 4** - Sub Divisional Officer (R) Kharsiya, District- Raigarh (C.G.).
- 5** - Chief Municipal Officer Municipal Council, Kharsiya, District - Raigarh (C.G.).
- 6** - President Municipal Council Kharsiya, District - Raigarh (C.G.).
- 7** - President Allotment Samiti Municipal Council, Kharsiya, District - Raigarh (C.G.).

--- Respondent(s)**WPC No. 4385 of 2024**

- 1** - Usha Rathore S/o Jhabbu Lal Rathore Aged About 45 Years R/o Ward No. 06, Purani Basti Kharsiya, P.S. And Tahsil Kharsiya, District Raigarh, Chhattisgarh.

---Petitioner(s)**Versus**

- 1** - State Of Chhattisgarh Through The Secretary Department Of Urban Administration And Development, Mahanadi Bhawan, Mantralaya, Atal Nagar, New Raipur, District Raipur, Chhattisgarh.

2 - Director Urban Administration And Development Department, Raipur District Raipur, Chhattisgarh.

3 - Collector, Raigarh District Raigarh, Chhattisgarh.

4 - Sub Divisional Officer(R)/ Kharsiya District Raigarh, Chhattisgarh.

5 - Chief Municipal Officer Municipal Council Kharsiya, District Raigarh, Chhattisgarh.

6 - President Municipal Council Kharsiya District Raigarh, Chhattisgarh.

7 - President Allotment Samiti Municipal Council Kharsiya, District Raigarh, Chhattisgarh.

--- Respondent(s)

WPC No. 4389 of 2024

1 - Pooja Shriwas W/o Dilip Shriwas, Aged About 38 Years R/o Kali Mandir Khantipar Kharsiya, P.S. And Tahsil- Kharsiya, District- Raigarh (C.G.).

---Petitioner(s)

Versus

1 - State Of Chhattisgarh Through The Secretary Department Of Urban Administration And Development, Mahanadi Bhawan, Mantralaya, Atal Nagar, New Raipur, District- Raipur (C.G.).

2 - Director Urban Administration And Development Department Raipur, District Raipur (C.G.).

3 - Collector, Raigarh, District-Raigarh (C.G.).

4 - Sub Divisional Officer (R), Kharsiya, District- Raigarh (C.G.).

5 - Chief Municipal Officer, Municipal Council Kharsiya, District- Raigarh (C.G.).

6 - President, Municipal Council Kharsiya, District-Raigarh (C.G.).

7 - President, Allotment Samiti Municipal Council Kharsiya, District-Raigarh (C.G.).

--- Respondent(s)

WPC No. 4576 of 2024

1 - Santosh Yadav S/o Itwari Prasad Yadav Aged About 45 Years R/o Sindhi Colony Chowk, Kharsiya, Raigarh, District- Raigarh, Chhattisgarh.

2 - Jaiprakash Srivas S/o Manohar Srivas Aged About 46 Years R/o Near Ram Mandir, Post Office Road Kharsiya, District- Raigarh, Chhattisgarh.

3 - Kuldeep Singh Hora S/o Malla Singh Hora Aged About 62 Years R/o Near Ram Mandir, Post Office Road Kharsiya, District- Raigarh, Chhattisgarh.

4 - Barkha Agrawal W/o Omkamal Agrawal Aged About 43 Years R/o Near Ram Mandir, Post Office Road Kharsiya, District- Raigarh, Chhattisgarh.

5 - Lata Agrawal S/o Late Shri Gajanand Agrawal Aged About 49 Years R/o Near Ram Mandir, Post Office Road Kharsiya, District- Raigarh, Chhattisgarh.

6 - Rajendra Dhritlehre S/o Ishwar Prasad Dhritlehre Aged About 40 Years R/o Near Ram Mandir, Post Office Road Kharsiya, District- Raigarh, Chhattisgarh.

---Petitioner(s)

Versus

1 - State Of Chhattisgarh Through Secretary Department Of Urban Administration And Development S.K.S. Bhavan Raipur, District- Raipur, Chhattisgarh.

2 - Collector Raigarh, District- Raigarh, Chhattisgarh.

3 - The Municipal Council Kharsiya District Raigarh Through The Chief Municipal Officer Kharsiya Raigarh, District- Raigarh, Chhattisgarh.

4 - The Chief Municipal Officer Municipal Council Kharsia, District- Raigarh, Chhattisgarh.

--- Respondent(s)

WPC No. 4590 of 2024

1 - Deendayal Singh Thakur S/o Ratan Singh Thakur Aged About 58 Years R/o Chandan Tal Ward No. 16 Kharsiya Th.- Kharsiya District- Raigarh, C.G.

---Petitioner(s)

Versus

1 - State Of Chhattisgarh Through The Secretary Department Of Urban Administration And Development, Mahanadi Bhawan, Mantralaya, Atal Nagar, New Raipur, District- Raipur, C.G.

2 - Director Urban Administration And Development Department Raipur,
District -Raipur, C.G.

3 - Collector Raigarh, District- Raigarh, C.G.

4 - Sub Divisional Officer (R) Kharsiya, District- Raigarh, C.G.

5 - Chief Municipal Officer Kharsiya, District- Raigarh, C.G.

6 - President Municipal Council Kharsiya, District- Raigarh, C.G.

7 - President Allotment Samiti Municipal Council, Kharsiya, District-
Raigarh, C.G.

--- Respondent(s)

WPC No. 4383 of 2024

1 - Tarun Singh Thakur S/o Late Somnath Singh Thakur Aged About 42
Years R/o Ganj Pichhe Ward No. 14 Kharsiya, P.S. And Tahsil Kharsiya
District Raigarh, C.G.

---Petitioner(s)

Versus

1 - State Of Chhattisgarh Through The Secretary Department Of Urban
Administration And Development, Mahanadi Bhawan, Mantralaya, Atal
Nagar New Raipur, District Raipur, C.G.

2 - Director Urban Administration And Development Department Raipur
District Raipur, C.G.

3 - Collector Raigarh District- Raigarh, C.G.

4 - Sub Divisional Officer (R)/ Kharsiya District- Raigarh, C.G.

5 - Chief Municipal Officer Municipal Council Kharsiya District- Raigarh,
C.G.

6 - President Municipal Council Kharsiya District- Raigarh, C.G.

7 - President Allotment Samiti Municipal Council Kharsiya District- Raigarh, C.G.

--- Respondent(s)

WPC No. 4387 of 2024

1 - Prem Chand Udasi S/o Late Biram Nand Udasi Aged About 51 Years R/o - Village Mouhapli P.S. And Tahsil Kharsiya District Raigarh (C.G.).

---Petitioner(s)

Versus

1 - State Of Chhattisgarh Through The Secretary Department Of Urban Administration And Development Mahanadi Bhawan Mantralaya Atal Nagar New Raipur District Raipur (C.G.).

2 - Director Urban Administration And Development Department Raipur District Raipur (C.G.).

3 - Collector Raigarh District - Raigarh (C.G.).

4 - Sub Divisional Officer (R) Kharsiya District - Raigarh (C.G.).

5 - Chief Municipal Officer Municipal Council Kharsiya District Raigarh (C.G.).

6 - President Municipal Council Kharsiya District Raigarh (C.G.).

7 - President Allotment Samiti Municipal Council Kharsiya District Raigarh (C.G.).

--- Respondent(s)

WPC No. 4978 of 2024

- 1** - Srijan Kumar Agrawal S/o Tarachand Agrawal Aged About 64 Years
R/o Station Road, Kharsiya, Ward No. 10, District- Raigarh, C.G.
- 2** - Karan Singh Thakur S/o Sitaram Aged About 59 Years R/o Sawariya
Colony, Kharsiya, Ward No. 03, District- Raigarh, C.G.
- 3** - Gulab Singh Thakur S/o Sitaram Aged About 61 Years R/o Sawariya
Colony, Kharsiya, Ward No. 03, District- Raigarh, C.G.

---Petitioner(s)

Versus

- 1** - State Of Chhattisgarh Through The Secretary, Urban Administration
And Development Department, Mantralaya, Mahanadi Bhawan Naya
Raipur Police Station Rakhi, District Raipur, C.G.
- 2** - Municipal Council Municipal Corporation Kharsiya, District Raigarh,
C.G.
- 3** - The Collector Raigarh, District- Raigarh, C.G.
- 4** - Chief Municipal Officer Municipal Corporation, Kharsiya, District-
Raigarh, C.G.

....Respondents

For Petitioner(s)	:	Mr. Anurag Dayal Shrivastava, Advocate, Mr. F.S. Khare, Advocate, Mr. Jeet Ram Patel, Advocate and Mr. Anand Bajaj, Advocate.
For Respondent(s)/State	:	Dr. Saurabh Pande, Dy. A.G.

For Respondent/ Municipal Council Kharsia/ Chief Municipal Officer Kharsia	:	Mr. R.K. Gupta, Advocate.
For Respondents No. 3 & 4 in WPC Nos. 4576/2024 and 4590/2024	:	Mr. Vibhor Goverdhan, Advocate on behalf of Mr. Shikhar Shukla, Advocate.

Hon’ble Mr. Justice Amitendra Kishore Prasad

Order on Board

12/08/2026

1. Since common question of facts and law is involved in these cases, as such, all these petitions are being disposed of by this common order.
2. The petitioners have prayed for certain reliefs in the writ petitions. Though there are some sort of differences in respect of prayer made by the petitioners in all the petitions, however, in sum and substance, the reliefs are altogether similar and identical. The reliefs prayed in **WPC No. 4335/2024 (Manbodh Srivas and others vs. State of Chhattisgarh and others)** are quoted hereinbelow in order to consider these cases and to decide the same.

“(1) to quash the decision dated 24-07-2024: ANNEX-P/1 as is mentioned in the notice dated 21-08-2024.

(2) to quash the notice dated 21-08-2024: ANNEX-P/1 issued by Respondent-4.

(3) any relief, which the Hon'ble Court considers proper,

may kindly be awarded.”

3. Learned counsel appearing for the petitioners submits that the impugned orders cancelling the allotment of the shops and directing removal of the petitioners from possession were passed by the concerned Chief Municipal Officer, Municipal Council, Kharsia, without affording the petitioners any opportunity of hearing. He submits that the shops in question were allotted to the petitioners way back in the year 2013-14, whereas the allotments were sought to be cancelled after a lapse of about ten years, vide order dated 24.07.2024, purportedly on the basis of a resolution dated 24.07.2024 and an order passed by the concerned Additional Collector. It is further submitted that, in view of the provisions contained in Section 323(1) and (2) of the Chhattisgarh Municipalities Act, 1961, even after passing of a resolution, the proposal is required to be forwarded to the Collector and, where cancellation of the allotment is contemplated, the final order can be passed only by the State Government and not by any other authority, including the Municipal Council or the Additional Collector. Therefore, the impugned orders, having been passed by authorities lacking jurisdiction, are contrary to the statutory provisions and are liable to be set aside.
4. Mr. Rajkumar Gupta, learned counsel appearing for the Municipal Council and the Chief Municipal Officer, Municipal Council, Kharsia, submits that Section 323 of the Chhattisgarh

Municipalities Act, 1961 contemplates forwarding of the proposal to the State Government and that the final order regarding cancellation of the allotment is required to be passed by the State Government itself. He submits that although the order may not clearly reflect the same, the cancellation was recommended by the Additional Collector and, according to his instructions, the final order has been passed by the State Government.

5. Having heard learned counsel appearing for the parties and having perused the material available on record as well as the provisions contained in Section 323(1) and (2) of the Chhattisgarh Municipalities Act, 1961, it is evident that the competent authority empowered to pass an order cancelling the allotment is the State Government and not any other officer or authority.
6. Section 323(1) and (2) of the Chhattisgarh Municipalities Act, 1961 reads as under:-

“323. Power to suspend execution of orders, etc. of Council-(1) If, in the opinion of the Divisional Commissioner], the Collector, or any other officer authorised by the State Government, in this behalf, the execution of any order or resolution of a Council, or of any of its Committee or any other authority or officer subordinate thereto, or the doing of any act which is about to be done or is being done by or on behalf of the Council, is not in conformity with law or with the rules or bye-laws

made thereunder and is detrimental to interests of the Council or the public or is causing or likely to cause injury or annoyance to the public or any class or body of persons or is likely to lead to a breach of the peace, he may, by order in writing under his signature, suspend the execution of such resolution or order or prohibit the doing of any such act.

(2) When any order under sub-section (1) is passed, the authority making the order, shall forthwith forward to the State Government and to the Council affected thereby a copy of the order with a statement of reasons for making it; and it shall be in the discretion of the State Government to rescind the order, or to direct that it shall continue in force with or without modification, permanently or for such period as it thinks fit:

Provided that the order shall not be revised, modified or confirmed by the State Government without giving the Council reasonable opportunity of showing cause against the order”

7. In the present case, the impugned orders have not been shown to have been passed by the competent authority which is not in accordance with the statutory mandate. It is trite law the order passed by an incompetent authority who has not been vested with powers under the law is a nullity.

8. The Hon'ble Supreme Court in the matter of ***Union of India and others vs. Rajeev Bansal and others, 2024 SCC Online SC 2693***, the Hon'ble Supreme Court has observed as under:-

“32. A statutory authority may lack jurisdiction if it does not fulfil the preliminary conditions laid down under the statute, which are necessary to the exercise of its jurisdiction. (Chhotobhai Jethabhai Patel and Co. v. Industrial Court, Maharashtra Nagpur Bench) There cannot be any waiver of a statutory requirement or provision that goes to the root of the jurisdiction of assessment. (Superintendent of Taxes v. Onkarmal Nathmal Trust) An order passed without jurisdiction is a nullity. Any consequential order passed or action taken will also be invalid and without jurisdiction. (Dwarka Prasad Agarwal v. B.D. Agarwal) Thus, the power of Assessing Officers to reassess is limited and based on the fulfilment of certain preconditions. (CIT v. Kelvinator of India Ltd. 58).”

9. Consequently, the impugned orders dated 24.07.2024 and 21.08.2024 are hereby quashed.
10. Accordingly, all the writ petitions stand **allowed**.
11. However, liberty is reserved to the competent authority to take an appropriate decision and pass a fresh order, strictly in accordance

with law, after following the procedure prescribed under the applicable statutory provisions.

Sd/-

(Amitendra Kishore Prasad)

Judge

Raghu Jat