

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****WPC No. 26 of 2015**

Vijay Gond S/o Motiya Gond Aged About 22 years R/o Village Rakhi Naya Raipur  
Civil & Revenue District Raipur C.G.

**---- Petitioner****Versus**

1. State Of Chhattisgarh Through The Secretary Department Of Housing And Environment Mantralaya Mahanadi Bhawan Naya Raipur C.G.
2. Naya Raipur Development Authority Through The Chief Executive Officer, Naya Raipur Development Authority Mantralaya Near Mahanadi Dwar, Raipur C.G.
3. Santosh, S/o Pusau Sahu, aged about 46 years, R/O Village Rakhi, Naya Raipur, C.G.

**---- Respondents****And****WPC No. 23 of 2015**

Gotia Gond S/o Jhumuk Gond Aged About 60 years R/o Village Rakhi Naya  
Raipur Civil & Revenue District Raipur C.G.

**---- Petitioner****Versus**

1. State Of Chhattisgarh Through The Secretary Department Of Housing And Environment Mantralaya Mahanadi Bhawan Naya Raipur C.G.
2. Naya Raipur Development Authority Through The Chief Executive Officer, Naya Raipur Development Authority Mantralaya Near Mahanadi Dwar, Raipur C.G.
3. A. Shyamlal S/o Bhaktu Ram Aged About 60 Years R/o Village Rakhi Naya Raipur C.G.

3.B Sunder Lal S/o Bhaktu Ram Aged About 55 Years R/o Village Rakhi Naya  
Raipur C.G.

**---- Respondents****And****WPC No. 24 of 2015**

Sethi Gond S/o Gotia Gond Aged About 20 years R/o Village Rakhi, Naya Raipur,  
Civil & Revenue Distt Raipur, CG

**---- Petitioner****Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Housing And Environment, Mantralaya, Mahanadi Bhawan, Naya Raipur, Chhattisgarh
2. Naya Raipur Development Authority Through The Chief Executive Officer, Naya Raipur Development Authority Mantralaya Near Mahanadi Dwar, Raipur C.G.
3. Bhushan Kumar S/o Puranlal Aged About 43 Years R/o Village Rakhi, Naya Raipur, Chhattisgarh

**---- Respondents**

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|----------------------|---|-----------------------------|
| For Petitioners      | : | Shri Vivek Chopda, Advocate |
| For Respondent/State | : | Shri R.K. Gupta, Dy. A.G.   |
| For Respondent/NRDA  | : | Shri Sumesh Bajaj, Advocate |

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**Order On Board**

**27/07/2015**

Heard.

1. By this common order, the above three writ petitions are being decided as the issue arising for consideration in these cases are similar. The petitioners in the aforesaid writ petitions have been affected by the development which is being made by Naya Raipur Development Authority (NRDA).
2. The grievance of the aforesaid petitioners is that as a measure of rehabilitation, the petitioners were allotted a particular house. The details of the allotments to each of the petitioner are as below :

| <b><u>Name of the Petitioners</u></b> | <b><u>Particulars of allotted House</u></b> |
|---------------------------------------|---------------------------------------------|
| Vijay Gond [WP(C)26/2015]             | H.No.400/D-99                               |
| Gotia Gond [WP(C)23/2015]             | H.No.400/D-98                               |
| Sethi Gond [WP (C)24/2015]            | H.No.400/D-100                              |

It is relevant to mention that all these houses were allotted to respective petitioners in Village –Rakhi where, as claimed by the petitioners, they were residing in their respective houses.

3. The petitioners are aggrieved by the order of respondent-authority, whereby now the petitioners' allotment has been changed and they are being offered houses in village -Banjari. The grievance of the petitioners is that they are residents of Village -Rakhi. By virtue of this fact, they were rehabilitated by allotting house in village -Rakhi only. Now, by

impugned order, the allotment is being changed and they are being offered houses in another village, which is impermissible and illegal. It is submitted that the order of allotment of house in Village- Rakhi was most suitable and looking to the spirit of rehabilitation scheme, petitioners being residents of Village -Rakhi, allotment made to them in Village-Rakhi ought not to be disturbed.

4. Learned counsel for the respondent- NRDA firstly raised an objection on the ground of delay by submitting that the allotments have been made in favour of private respondents in the year 2014, whereas, this petition has been filed in the year 2015. Therefore, only on the ground of delay, the petitions are liable to be dismissed.

On merits, it is submitted that the petitioners have not suffered any substantial damage in the matter of their rehabilitation. According to him, the new houses which are being offered to the petitioners in substitution of earlier house, are of the same length and width and accommodation. It is submitted that the new houses offered to the petitioners, though not situated in Village- Rakhi, are nevertheless, in the adjoining village- Banjari. The issue is mainly of convenience rather than assertion of any right based on violation or injury to the petitioners' accrued rights. If at this stage, persons who have already been allotted house in Village -Rakhi are disturbed, scheme of rehabilitation would be adversely affected.

5. The private respondents in each cases, though served, have chosen not to contest the matter.

6. It is not in dispute that the petitioners are resident of Village -Rakhi. In the return filed by NRDA, there is nothing to show that the petitioners are resident of any other village. It was by virtue of this circumstances and petitioner's status that they were allotted their respective houses.

The change in allotment of house is for reasons best known to the respondent -NRDA. In the return, no reason has been assigned as to why decision was taken to change allotment of house to respective petitioners. It is not a case that change in allotment will not effect petitioners' moment from the village wherein they are presently residing. The change in the allotment is going to adversely affects their rights. Now, they will have to move to another village, may be adjoining village. Therefore, it cannot be said that the petitioners have not suffered any injury whatsoever.

7. The preliminary objection raised on the ground of delay is liable to be rejected because change in the allotment has taken place in the month of October, 2014 and the petitions have been filed in the month of June, 2015.

8. Irrespective of whether the petitioners were entitled to a prior hearing before

cancellation/modification of allotment, in order to satisfy the Court that there was some basis for changing such allotment, respondents ought to have come out with any reason relevant to the decision making. No material has been placed before this Court.

9. In view of above, the decisions of the official respondents to change allotment of houses of the petitioner in each of the petition has to be held as arbitrary and violative of Article 14 of the Constitution of India.

10. Accordingly, all the petitions are allowed. The action of respondents in changing the allotment of the petitioners is declared illegal and is therefore set aside. The petitioners shall be allotted the same houses which were earlier allotted to them.

**(Manindra Mohan Shrivastava)**

**Judge**