

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 141 of 2016

1. Aadarsh Machhuwa Sahakari Samiti Maryadit Village Ratanpur, Through President Gendlal Dhiwar, S/o Late Aghori Dhiwar, Aged About 71 Years, R/o Village Ratanpur, Karayapara, Ward No.12, Tah Kota, Distt. Bilaspur, Civil And Revenue Distt. Bilaspur, (Chhattisgarh). Registration No.2745.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Agriculture (Fisheries) Department, Mahanadi Bhavan, Mantralaya, New Raipur, (Chhattisgarh)
2. Director, Fisheries Department, Indravati Bhavan, New Raipur, (Chhattisgarh)
3. Deputy Director, Fisheries Department, Bilaspur, Distt. Bilaspur, (Chhattisgarh)
4. Commissioner, Bilaspur Division, Bilaspur, (Chhattisgarh)
5. Additional Collector, Bilaspur, Distt. Bilaspur, (Chhattisgarh)
6. Municipal Council, Ratanpur, Distt. Bilaspur, (Chhattisgarh)
7. Mahamaya Macchuwa Sahkari Samiti, Ratanpur, Distt. Bilaspur (Chhattisgarh)

---- Respondent

For Petitioner	Shri M.K. Sinha, Advocate
For Respondent/State	Shri Avinash Singh, Panel Lawyer
For Respondent No.6	Shri Manoj Paranjape, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

21/06/2016

1. The petition is directed against the order dated 31-7-2015 passed by the Additional Commissioner, Bilaspur Division, Bilaspur, rejecting the petitioner's appeal, which, in turn, was preferred against the order passed by the Collector, Bilaspur, on 28-4-2015. By the impugned order, the Divisional Commissioner has refused to interfere with the Collector's order and as a result the allotment order and consequent execution of lease for a period of three years has been set aside.
2. Admittedly, this Court has refused to pass any interim order in favour of the petitioner and, thereafter, fresh proceedings were drawn by the Municipal Council for allotment of lease for a period of ten years for rearing of fishes. The petitioner participated in the said freshly drawn proceedings, which is pending finalisation.
3. In view of the above matter, Shri Paranjape, learned counsel for the respondent No.6, would submit that the writ petition has been rendered infructuous.
4. Contesting the submission, Shri Sinha, learned counsel for the petitioner, would submit that a sum of Rs.2,25,000/- was paid by the petitioner towards installment when the allotment was made in his favour and in addition an amount of Rs.50,000/- was paid as security deposit and e-stamping certificate of the value of Rs.54,202/- was deposited with the Municipal Council for execution of the lease.

5. According to the learned counsel for the petitioner, as per the information available with him, the petitioner has been declared successful in the fresh proceedings.
6. Be that as it may, in either event, when the petitioner has become successful in obtaining the allotment or has become unsuccessful, this writ petition would not survive because the petitioner has already participated in the freshly drawn proceedings. At the same time, the petitioner is fully justified in seeking refund of the amount of installment, security deposit and the e-stamping certificate, which he has deposited with the Municipal Council pursuant to the first allotment, which has been cancelled by the impugned proceedings, therefore, without interfering with the impugned order, the writ petition is disposed of with a direction that in the event the petitioner is unsuccessful in the freshly drawn proceedings the installment amount of Rs.2,25,000/-, security deposit amounting to Rs.50,000/- and e-stamping certificate of the value of Rs.54,202/- be returned to the petitioner and in the event the petitioner is successful, the petitioner may apply before the Municipal Council for adjustment of the above-stated amounts in the fresh allotment proceedings.

Sd/-

Judge

Prashant Kumar Mishra

Gowri