

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2369 of 2016

- Radhelal Dadsena S/o Shri Prabhulal Dadsena, Aged About 32 Years R/o Village Baradoli, Thana & Tahsil Basna, Civil & Revenue Distt. Mahasamund (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Urban Administration Department, Capital Complex, Mahanadi Bhawan, New Raipur, Civil & Revenue District Raipur (Chhattisgarh)
2. Collector, Mahasamund District Mahasamund (Chhattisgarh)
3. Sub Divisional Officer (Revenue), Saraypali, Distt. Mahasamund (Chhattisgarh)
4. Chief Municipal Officer, Municipal Council Basna, Distt. Mahasamund (Chhattisgarh)
5. Shri Bhagat Ram Wadhwa, R/o Ward No. 9 Basna, Thana & Tahsil Basna, Civil & Revenue Distt. Mahasamund (Chhattisgarh)

---- Respondent

For Petitioner	Shri Sunil Sahu, Advocate
For Respondent-State	Shri Arun Sao, Dy. AG

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

21/09/2016

1. The petitioner has prayed for quashment of the impugned order dated 15.09.2016, by which the Nagar Panchayat, Basna has directed the petitioner to remove the unauthorized/illegal construction, failing which the construction shall be removed at his cost.
2. It is argued that the order has been passed without giving any opportunity of hearing to the petitioner, therefore, it is in violation of the principles of natural justice.
3. It appears, the respondent No.5 has made a complaint against the petitioner on 14.09.2016 and on the very next day, the impugned order has been passed on 15.09.2016, therefore, it appears, there is violation of the principles of natural justice.
4. At this stage, learned State counsel would submit that the concerned Municipality shall be intimated to adhere to the principles of natural justice.
5. Considering the entire facts situation of the case, the writ petition is disposed of with a direction that before proceeding to enforce the impugned order, the Nagar Panchayat, Basna shall provide opportunity of hearing to the petitioner. The petitioner may appear before the Chief Municipal Officer, Nagar Panchayat, Basna on any working day within a period of 4 weeks from today and submit his reply on the issue.

The Nagar Panchayat shall thereafter consider the petitioner's reply and pass a speaking order in the matter before proceeding to demolish the illegal or unauthorized construction, if it is found so. It will be open for the Nagar Panchayat to demarcate the land/construction so as to ascertain whether the petitioner has raised any illegal or unauthorized construction.

6. Till the Nagar Panchayat passes an order or for a period of 10 weeks from today, whichever is earlier, the subject construction shall not be demolished.
7. Accordingly, the writ petition stands disposed of in the above stated terms.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA

Nirala