

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2079 of 2015

Omprakash S/o Shri Kartik Vishwakarma, Aged About 30 Years R/o Village Rakhi, Naya Raipur, Chhattisgarh.

---- 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, Chhattisgarh
3. Visheshwar Rai, S/o Late Annanda, Aged About 46 Years R/o Village Rakhi, Naya Raipur, Chhattisgarh

---- Respondents

For Petitioner	:	Shri Raza Ali, Advocate
For Respondents 1/State	:	Shri Satish Gupta, Govt. Advocate
For Respondent No.2	:	Shri Akash Pandey, Advocate

S.B.:Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

04/03/2016

Heard.

1. The petitioner has challenged the notice of dispossession dated 16.10.2015 (Annexure P-1) mainly on the ground that before issuing direction to vacate premises, no opportunity of hearing was afforded to the petitioner.
2. According to the petitioner and respondents, the petitioner was allotted a

house under the rehabilitation scheme of the respondent authority. The house was allotted to the petitioner treating him to be a person residing in the area of proposed acquisition prior to 10.8.2005. This is reflected from order dated 21.3.2010 (Annexure P-3). Thereafter, the petitioner was rehabilitated in the house No. 1000/A-191 and since then he was admittedly residing in the same with his family. Vide notice dated 16.10.2015, the petitioner has been asked to vacate the accommodation stating that the petitioner was illegally occupying the premises.

3. Learned counsel for the petitioner submits that the allotment in favour of the petitioner earlier granted vide order 21.3.2010 (Annexure P-3) has not been cancelled till date. No notice was issued to the petitioner proposing cancellation and allotment and as a bolt from blue, impugned notice of dispossession has been issued which is in utter violation of principle of natural justice.
4. Learned counsel for the respondents particularly counsel for respondent No.2 submits that a complaint has been received against the petitioner and many other residents of the area that they have been wrongly granted benefit of rehabilitation though they were not residing in the area proposed under acquisition prior to 10.8.2015. Having come to know of such complaint, inquiry was made and, thereafter, after collection of material disclosing aforesaid information, the allotment was cancelled on decision taken by the competent authority on the files, leading to issuance of impugned notices.
5. A report has come that respondent No.3 has died.
6. Without going into other aspect of the matter, this petition deserves to be allowed only on the short ground of complete violation of principles of nature justice.

Admittedly, the petitioner was allotted the house as a displaced person under the policy of rehabilitation. If at all, there was any complaint that the petitioner has wrongly taken the benefit of rehabilitation policy, the

proper course of action required under the law was to issue show cause notice to the petitioner disclosing material on the basis of which opinion formed, obtain his reply and then take appropriate decision which has not been done. Therefore, the impugned notice is liable to be set aside only on this count.

7. In the result, the petition is allowed. Impugned notice of dispossession dated 16.10.2015 is hereby quashed.
8. It is made clear that this order shall not come in the way of respondents authority in proceeding in accordance with law, after giving appropriate notice and affording opportunity of hearing to the petitioner.

Sd/-
(**Manindra Mohan Shrivastava**)
Judge