

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WRIT APPEAL NO. 310 OF 2016

Smt. Manglin Yadav @ Rukhmani, W/o Gangaram Yadav, aged about 45 years, R/o Ward No. 46, Fokatpara, Gaya Vihar, Nutan Chowk, Sarkanda, Bilaspur, Police Station Sarkanda, District Bilaspur (C.G.)

... Appellant

Versus

1. State of Chhattisgarh, through the Secretary, Urban Administration and Development Department, Mahanadi Bhawan, New Mantralaya, Capital Complex, Naya Raipur, District Raipur (C.G.)
2. The Collector, Bilaspur, District Bilaspur (C.G.)
3. The Municipal Corporation Bilaspur, District Bilaspur, through the Commissioner Municipal Corporation, Bilaspur, District Bilaspur (C.G.)
4. The Commissioner Municipal Corporation Bilaspur, District Bilaspur (C.G.)

... Respondents

For Appellant	:	Mr. J.R. Verma, Advocate.
For Respondents 1 & 2	:	Mr. Y.S. Thakur, Dy. Advocate General.
For Respondents 3 & 4	:	Mr. A.S. Kachhawaha, Advocate.

Hon'ble Shri Deepak Gupta, Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Judgment on Board

Per Deepak Gupta, C.J.

21/07/2016

1. This writ appeal has been filed against the order dated 11.4.2016 passed by the learned Single Judge in Writ Petition (C) No.250 of 2014 and other analogous writ petitions.
2. The writ appellant was residing at Nutan Chowk, Area Bilaspur. It is not disputed that the writ appellant/her predecessors were granted land on lease in this area in the year 1984. It is also not disputed that this area was a slum. The Central Government has made funds available to the State Government and Municipal Corporations to

rehabilitate the slum dwellers in properly constructed houses. In Bilaspur town such houses to rehabilitate the persons belonging to economically weaker sections of the Society have been constructed in Imlibhata, Vijyapuram, Palm Enclave near Science College, Nehru Nagar, near Dabripara Science College, Ashok Nagar, Radhika Vihar, Phase-2 and Harshringar.

3. The writ appellant along with other residents of Nutan Chowk area was asked to shift to the houses constructed in Imlibhatha. The writ appellant and the other residents of Nutan Chowk refused to do so and filed the writ petitions and raised various contentions, but in view of subsequent development of demolition of her house, it is not necessary to deal with all the contentions.

4. It would suffice to mention that the learned Single Judge rejected the writ petitions filed by the writ appellants and other persons on various grounds. In all the writ petitions, one finding which was arrived is that the writ appellant and other writ petitioners were in possession of the land much beyond the land leased out to them. Learned Single Judge while dismissing all the writ petitions gave liberty to the writ petitioners to avail the facility of obtaining allotment of house at Imlibhata or at any other project of similar nature wherein similar houses are ready for allotment by complying the terms of allotment.

5. We have been informed by Mr. J.R. Verma, counsel for the writ appellant that in fact on 14th June, 2016 the house of the writ appellant situated at Nutan Chowk has been demolished and now she is praying for proper rehabilitation. Her prayer in this regard is that she is very poor person having work near the Nutan Chowk area and, therefore, she desires to be accommodated in colonies near Nutan Chowk.

6. We are inclined to agree with the writ appellant only to the limited extent that if the houses are available for the residential purposes near Nutan Chowk or any nearby area, then the Municipal Corporation, Bilaspur should make an attempt to accommodate the writ appellant. However we cannot give any direction that the writ appellant be accommodated at a place of her choice. We find that that there are eight alternative locations i.e., Imlibhata, Vijyapuram, Palm Enclave near Science College, Nehru Nagar, near Dabripara Science College, Ashok Nagar, Radhika Vihar, Phase-2 and Harshringar, in which number of houses are lying vacant and the writ appellant can be accommodated therein. We have also found that some of the persons have shifted. If the appellant has shifted to the accommodation given to her by the Municipal Corporation, then she cannot file any application for change of the premise. If the writ appellant has not occupied any house in the above-stated area, then she can file application that she be allotted the house in particular Colony and the Municipal Corporation, Bilaspur shall make efforts to give accommodation in the place of her choice. However, in case more number of persons apply for one area than the houses available, then the Municipal Corporation, Bilaspur shall make allotment by draw of lots.

7. We make it clear that the priority should be given to those persons who have not approached the Court challenging the action on the part of Municipal Corporation and the State Government and thereafter the claim of the writ appellant shall be considered.

8. With the aforesaid observations, the writ appeal is disposed of.

Sd/-
(Deepak Gupta)
Chief Justice

Sd/-
(P. Sam Koshy)
Judge