

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (PIL) No.53 of 2016**

Surendra Singh Bagga S/o Late Gyani Inder Singh Bagga, Aged About 62 Years R/o Main Road, Bishrampur, Police Station Bishrampur, Tahsil and District Surajpur (Chhattisgarh)

---- Petitioner

Versus

1. Union Of India Through The Secretary, Ministry Of Coal, Shastri Bhawan, New Delhi.
2. Chairman, Coal India Ltd., 1, Netaji Subhash Road, Kolkata (West Bengal)
3. South Eastern Coalfields Ltd., (A Subsidiary Of Coal India Ltd.), Having Its Registered Office At Vasant Vihar, Seepat Road, Bilaspur (CG) Through Its Chairman & Managing Director.
4. Collector, District Surajpur (Chhattisgarh)
5. Superintendent Of Police, Dist. Surajpur (Chhattisgarh)
6. Area General Manager, South Eastern Coalfields Ltd., Bishrampur Area, Tahsil And Distt. Surajpur (Chhattisgarh)
7. Arun Das Minj, S/o Sukhdev Das Minj, Aged About 42 Years R/o !- B/205, S. E. C. L, Colony, Bishrampur, Police Station Bishrampur, Tahsil & District Surajpur (Chhattisgarh)
8. Bakshish Singh, S/o Late Gurudayal Singh, Aged About 62 Years R/o 1- C/66, S. E. C. L, Colony, Bishrampur, Police Station Bishrampur, Tahsil & District Surajpur (Chhattisgarh)
9. Baldev Singh, S/o Late Gurudayal Singh, Aged About 61 Years R/o 1- C/66, S. E. C. L, Colony, Bishrampur, Police Station Bishrampur, Tahsil & District Surajpur (Chhattisgarh)
10. Gurjeet Singh Mann, S/o Late Gurudayal Singh, Aged About 50 Years Clerk Grade-2, S E C L, Bhatgaon, R/o 1- C/98 S. E. C. L, Colony, Bishrampur, Police Station Bishrampur, Tahsil & Distt. Surajpur (Chhattisgarh)
11. Smt. Manju Singh, W/o Gurjeet Singh, Aged About 45 Years Working As Police Constable, R/o 1- C/98, S. E. C. L, Colony, Bishrampur, Police Station Bishrampur, Tahsil & Distt. Surajpur (Chhattisgarh)
12. Gafoor Ali Ansari, Clerk Gr. II S E C L, R/o Qtr. No. 1- B/33 S. E. C. L, Colony, Bishrampur, Police Station Bishrampur, Tahsil & Distt. Surajpur (Chhattisgarh)

13. Maneesh Singh, S/o Shri Krishna Singh, Aged About 32 Years Contractor, R/o Village Satpata , Bishrampur, Police Station Bishrampur, Tahsil & District Surajpur (Chhattisgarh)
14. A. N. Singh, Senior Overman, Amera O P C , R/o Qtr. No. B/70, Residing At Ambikapur, District Surguja (Chhattisgarh)
15. M. L. Gupta, The Then Chief General Manager, South Eastern Coalfields Ltd., Head Office, Basant Vihar, Seepat Road, Bilaspur (Chhattisgarh)
16. G. L. Patle, City Superintendent District Surajpur (Chhattisgarh)
17. Jai Ram Sharma, S/o Jeevan Lal Sharma, Aged About 62 Years Retd. Security Officer, S E C L R/o Village Shivnandanpur Bishrampur, District Surajpur (Chhattisgarh)

---- Respondents

For Petitioner	: Mr. Sushil Dubey, Advocate
For Respondent No.1	: Mr.N.K.Vyas, Assistant Solicitor General
For Res.No.2, 3, 6	: Mr.Vaibhav Shukla, Advocate
For Res.No.4 & 5	: Mr.A.S.Kachhawaha, Addl.A.G.
For Res.No.7 to 11, 13 & 17	: Mr.Suresh Pandey, Advodate

Hon'ble Shri Deepak Gupta, Chief Justice

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

Per Deepak Gupta, Chief Justice

26/09/2016

1. The petitioner, by means of this petition purportedly filed in the public interest, has submitted that the respondents No.7 to 14 are in illegal occupation of quarters and lands belonging to the South Eastern Coalfields Limited (hereinafter referred to as "SECL") without any authority. He has also prayed for a general direction to remove all illegal and unlawful encroachment from the lands of the SECL in Bishrampur area.
2. We had issued notices to the respondents. Reply filed by the SECL

reveals alarming and shocking facts. According to the SECL, there are more than 600 cases pending under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 against various persons and the list of such persons have been attached with the reply. In addition thereto, the SECL has attached the notices issued to those persons against whom eviction orders have been passed, who are more than 60 in numbers.

3. As far as the private respondents are concerned, according to the SECL, cases against respondents No.7 to 12 are pending and respondents No.13 and 14 have already vacated the premises/land, which were in their possession.
4. The SECL is a public sector undertaking. It is expected that the officials who work with the SECL, on retirement or otherwise when they cease to have any right to occupy the government accommodation, should vacate the same immediately as per rules. In case, they do not vacate the premises/quarters, then SECL must take immediate action against them for their eviction.
5. In this behalf, we make a reference to the judgment of the Apex Court in the matter of **S.D.Bandi vs. Divisional Traffic Officer, Karnataka State Road Transport Corporation and Others**¹, wherein the Apex Court while dealing with the case relating to unauthorised occupants of government accommodation beyond the period prescribed by law has given the following suggestions:-

“ 33.1 As a precautionary measure, a notice should be sent

¹ (2013) 12 SCC 631

to the allottee/officer/employee concerned under Section 4 of the PP Act three months prior to the date of his/her retirement giving advance intimation to vacate the premises.

33.2 The Department concerned from where the government servant is going to retire must be made liable for fulfilling the abovementioned formalities as well as follow-up actions so that rest of the provisions of the Act can be effectively utilised.

33.3 The principles of natural justice have to be followed while serving the notice.

33.4 After following the procedure as mentioned in SR 317-B-11(2) and 317-B-22 provisos 1 and 2, within 7 working days, send a show-cause notice to the person concerned in view of the advance intimation sent three months before the retirement.

33.5 Date of appearance before the Estate Officer or for personal hearing as mentioned in the Act after show-cause notice should not be more than 7 working days.

33.6 Order of eviction should be passed as expeditiously as possible preferably within a period of 15 days.

33.7 If, as per the Estate Officer, the occupant's case is genuine in terms of Section 5 of the Act then, in the first instance, an extension of not more than 30 days should be granted.

33.8 The responsibility for issuance of the genuineness certificate should be on the Department concerned from where the government servant has retired for the occupation of the premises for next 15 days and further. Giving additional responsibility to the Department concerned will help in speedy vacation of such premises. Baseless or frivolous applications for extensions have to be rejected within seven days.

33.9 If as per the Estate Officer the occupant's case is not genuine, not more than 15 days time should be granted and and thereafter, reasonable force as per Section 5(2) of the Act may be used.

33.10 There must be a time-frame within how much time the Estate Officer has to decide about the quantum of rent to be paid.

33.11 The same procedure must be followed for damages.

33.12 The arrears/damages should be collected as arrears of land revenue as mentioned in Section 14 of the Act.

33.13 There must be a provision for compound interest, instead of simple interest as per Section 7.

33.14 To make it more stringent, there must be some provision for stoppage or reduction in the monthly pension till the date of vacation of the premises.

33.15 Under Section 9(2), an appeal shall lie from an order of eviction and of rent/damages within 12 days from the day of publication or on which the order is communicated respectively.

33.16 Under Section 9(4), disposal of the appeals must be preferably within a period of 30 days in order to eliminate unnecessary delay in disposal of such cases.

33.17 The liberty of the appellate officer to condone the delay in filing the appeal under Section 9 of the Act should be exercised very reluctantly and it should be an exceptional practice and not a general rule.

34. It is unfortunate that the employees, officers, representatives of people and other high dignitaries continue to stay in the residential accommodation provided by the Government of India though they are no longer entitled to

such accommodation. Many of such persons continue to occupy residential accommodation commensurate with the office(s) held by them earlier and which are beyond their present entitlement. The unauthorised occupants must recollect that rights and duties are correlative as the right of one person entail the duties of another person similarly the duty of one person entails the right of another person. Observing this, the unauthorised occupants must appreciate that their act of overstaying in the premise directly infringes the right of another. No law or directions can entirely control this act of disobedience but for the self-realisation among the unauthorised occupants. The matter is disposed of with the above terms and no order is required in IAs for impleadment and intervention.”

6. These observations of the Apex Court made in paragraph 34 have been quoted with approval in **Lok Prahari vs. State of U.P. and others**² in which the Apex Court has held as follows:-

“43. So far as allotment of bungalow to private trusts or societies are concerned, it is not in dispute that all those bungalows were allotted to the societies/trusts/organizations at the time when there was no provision with regard to allotment of government bungalows to them and therefore, in our opinion, the said allotment cannot be held to be justified. One should remember here that public property cannot be disposed of in favour of any one without adequate consideration. Allotment of government property to someone without adequate market rent, in absence of any special statutory provision, would also be bad in law because the State has no right to fritter away government property in favour of private persons or bodies without adequate consideration and therefore, all such allotments, which have been made in absence of any statutory provision cannot be upheld. If any allotment was not made in accordance with a statutory provision at the relevant time, it must be discontinued and must be treated as cancelled

2 AIR 2016 SC 3537

and the State shall take possession of such premises as soon as possible and at the same time, the State should also recover appropriate rent in respect of such premises which had been allotted without any statutory provision.”

7. The SECL is a public sector undertaking and it is indeed surprising that there are more than 600 occupants illegally occupying the government quarters and lands and even after eviction orders have been passed, the said orders are not being implemented.
8. The stand of the SECL is that whenever they go to execute the eviction orders, they get no assistance from the local administration and this affects the law and order situation being created and they are unable to implement their orders, therefore, in addition to the suggestion given by the Apex Court in **S.D.Bandi** case (**supra**), which may also be taken into consideration by the SECL while dealing with the case, we further issue the following directions:-
 - (i) After issuing the notice to the employee concerned as provided in **S.D.Bandi** case (**supra**) as far as possible the proceedings are to be completed within three months and not more than six months.
 - (ii) The SECL may also formulate a policy, if already not there, fixing a penal rate of rent, which should be much more than the market rate of rent.
9. We further direct that once eviction orders are passed, the SECL should approach the respondent No.4/Collector and respondent No.5/Superintendent of Police of the area concerned who shall

ensure that adequate police force and administrative support is made available to ensure that eviction orders are executed.

10. Needless to state that every citizen is bound to follow the rule of law. We are issuing the directions to ensure that public property is not frittered away and that government officers should help in implementing the rule of law by executing the lawfully issued eviction orders.
11. It can be no answer on behalf of the administration to say that for any reason they cannot implement such orders. The rule of law can never be negated by any authority. The respondent No.4/Collector and respondent No.5/Superintendent of Police must ensure that the machinery under them helps the SECL for vacating the unauthorized occupants.
12. As far as more than 600 cases which are pending are concerned, we direct the SECL to appoint more than one officer as Estate Officer, if necessary, to ensure that all proceedings are completed within a period of three months from the date of receipt of a copy of this order and thereafter if the eviction orders are passed and in case appeals filed, the appellate authority shall ensure that they are disposed of within a period of three months from the date of filing of the appeals. Those eviction orders, which became final, must be implemented within a period of three months from having become final.
13. On behalf of the private respondents, it is urged that the petitioner

himself is in occupation of the land belonging to the SECL as well as the Government land.

14. We direct respondents No.4 to 6 to verify the allegations made by the respondents. We permit the private respondents to file a detailed application in this regard to respondents No.4 to 6 within a period of six weeks from today. If such application is filed, the concerned officer shall verify the allegations within a period of four weeks thereafter. If it is found that the petitioner is also an encroacher of the government land, then eviction proceedings shall be initiated against him also and shall be completed within a period of three months thereafter.
15. We hope and expect that the petitioner who has filed the present Public Interest Litigation shall himself vacate the public land if it is found to be in his illegal possession.
16. With the aforesaid observations, the writ petition is disposed of. Security money deposited by the petitioner be refunded to him.

Sd/-

(Deepak Gupta)
Chief Justice

Sd/-

(Sanjay K.Agrawal)
Judge