

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (PIL) No. 72 of 2017

1. Smt. Saraswati Bajpai W/o Shri M. M. Bajpai, Aged About 62 Years R/o Krishna Vihar, A-03 Koni Road, Bilaspur, Tahsil & District Bilaspur (Chhattisgarh).
2. Smt. Archana Tiwari D/o Babulal Mishra, Aged About 37 Years R/o Krishna Vihar, A-02 Koni Road, Bilaspur, Tahsil & District Bilaspur (Chhattisgarh).
3. Smt. Shail Sharma Wd/o Late Shri Lakhanlal Sharma, Aged About 61 Years R/o M I G-06, Krishna Vihar, Koni Road, Bilaspur, Tahsil & District Bilaspur (Chhattisgarh).
4. Priyanka Pandey W/o Shri Vijay Pandey, Aged About 34 Years R/o 353/59, Mahamaya Chowk, Dev Nagar Koni Road Bilaspur, Tahsil & District Bilaspur (Chhattisgarh).
5. Geeta Acharya Wd/o Late Shri D. C. Acharya, Aged About 45 Years R/o M I G-A/6, Krishna Vihar, Koni Road, Bilaspur, Tahsil & District Bilaspur (Chhattisgarh).
6. Gauri Chaudhary W/o Shri Sagar Chaudhari, Aged About 37 Years R/o Krishna Vihar, Koni Road, Bilaspur, Tahsil & District Bilaspur (Chhattisgarh).
7. Subodh Kumar S/o Sharad Kumar Jain, Aged About 27 Years R/o Krishna Vihar A- 64/65 Koni Road, Bilaspur, Tahsil & District Bilaspur (Chhattisgarh).
8. Ramavtar Kaushik S/o Shri Panau Ram Kaushik, Aged About 40 Years R/o Deu Nagar Koni, Tahsil & District Bilaspur (Chhattisgarh).

---- Petitioners

Versus

1. State of Chhattisgarh Acting Through Principal Secretary, To The Chief Minister & Chairman Chhattisgarh Environment Conservation Board, New Raipur (Chhattisgarh).
2. State Of Chhattisgarh, Urban Development Department Government Of Chhattisgarh, Raipur (Chhattisgarh).
3. Collector, Bilaspur (Chhattisgarh).
4. Municipal Corporation Bilaspur, Acting Through Its Commissioner, Bilaspur (Chhattisgarh).
5. Regional Officer, Chhattisgarh Environment Conservation Board, Vypar Vihar, Near Pt. Deendayal Upadhyay Garden Bilaspur (Chhattisgarh).
6. M. S. W. Solution (Ltd.), Through Manager Mr. Penchuri Murlidharan R/o A 25 Green Garden Colony Mungeli Road Bilaspur (Chhattisgarh) 495001.

---- Respondents

For Petitioners	:	Shri K.A. Ansari, Senior Advocate assisted by Shri Devesh G. Kela, Advocate
For Respondents No.1 to 3/State	:	Shri Y.S. Thakur, Additional Advocate General
For Respondent No.4/Corporation	:	Shri Malay Kumar Bhaduri, Advocate
For Respondent No.5	:	Shri Animesh Tiwari, Advocate

Hon'ble Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri Justice Sharad Kumar Gupta

Judgment on Board

Per Thottathil B. Radhakrishnan, Chief Justice

13.07.2017

1. This writ petition is filed seeking relief against an order issued on 31.12.2015 by the Sub Divisional Officer, Bilaspur acting on the report dated 05.12.2015 made by the Tahsildar, Bilaspur; and for directions requiring the official respondents to stop the dumping of solid waste/garbage in land bearing Kh. No. 407 area 1.352 hectare of Village Koni, Tahsil & District, Bilaspur; and also for further incidental orders.
2. We have heard the learned Senior counsel for the Petitioners and the learned Additional Advocate General, the learned counsel for the Bilaspur Municipal Corporation and the learned counsel for the Chhattisgarh Environment Conservation Board.
3. The learned Senior counsel for the Petitioner, making reference to certain pleadings, on facts pointed out that the land in question is not one which ought to be used for dumping waste and lands are available with the Government in areas which are not that far away from the locality in question. He accordingly pleaded that there may be a direction to shift the activity of dumping waste to elsewhere.
4. In this writ petition, the fundamental thrust, among other things is on the burning of plastic among the solid waste and also about the indiscriminate handling of solid waste in the location concerned. On the basis of the pleadings and the submissions made by the learned Additional Advocate General for the State, the learned counsel for the Bilaspur Municipal Corporation and the learned counsel for the Chhattisgarh Environment Conservation Board, it is noted that the location in question is treated as a transit-point where waste is collected, segregated and

transported to the end treatment point where biodegradable and non-biodegradable waste could be differently treated as is required to satisfy the norms of the environmental laws. We may immediately mention that the fact of the matter remains that the so called end points for management of the solid waste does not appear to have taken off in the manner it is required by the laws. That position notwithstanding, an effort was taken in the course of this writ petition, to put requisite controls in place for the immediate management of the problems pointed out by the Petitioner.

5. In the aforesaid context, it is worthwhile to refer to the interlocutory orders issued in this case, in their sequence, to the extent relevant. We proceed to mention them.
6. Through order dated 09.05.2017 certain submission were recorded and directions were issued. The relevant portion of the order minuted by this Court on 09.05.2017 reads as follows :

“Learned Additional Advocate General, on instructions from the third respondent Collector Bilaspur, submits that the Government officials are not undertaking any activity of burning solid waste in the area in question. He submits that he has been instructed to say on behalf of the Municipal Corporation, Bilaspur that the authorities of Municipal Corporation are also not involved in burning any solid waste in the area in question.

The District Collector, Bilaspur who is also District Magistrate for the purpose of Code of Criminal Procedure is hereby required to ensure, if necessary, with the support of the jurisdictional police, that no solid waste is burnt by any person whosoever in the area in question.

Post next Wednesday i.e. 17/05/2017 to enable the District Collector and the Municipal authorities to place their views in writing.”

7. On 17.05.2017, a short adjournment was granted and thereupon the matter was further adjourned for a short period. Following that, on 30.06.2017 an order was issued after hearing the learned counsel for the parties, the relevant portion of which reads as follows :

“We have heard learned counsel for the parties in the light of the pleadings. We deem it appropriate to implead the contractor who is entrusted with the work of waste management and removal of solid waste so far as it relates to the city of Bilaspur and attendant areas. We are shown that M.S.W. Solution (Ltd.), whose address is Through Manager, Mr. Penchuri Murlidharan, R/o A-25, Green Garden Colony, Mungeli Road, Bilaspur (C.G.) Pin Code 495 001, is the contractor. The said contractor is impleaded *suo motu*.

Issue notice to the contractor through the Special Process Server. Process fee to be paid today itself. It is further ordered that respondents No. 3 to 5 will ensure that all the earlier orders in this case are given effect to and further that there is no burning of any waste material in the area in question. The jurisdictional police will promptly act on any complaint given by any among respondents No. 3 to 5 or their officers regarding any such action. We clarify here and now that it will be wholly insufficient if respondents No. 3 & 4 or jurisdictional police were to tell us that they are unable to reach at any person who burns the waste in open in violation of the restrictions.

Post on 05/07/2017.”

8. The contractor who is involved in the transport and management of waste, at the instance of the Municipal Corporation, is impleaded as additional respondent. He has been duly served with notice.
9. After hearing the learned counsel for the parties, it is noticed that if the directions in the aforequoted interlocutory orders are given effect to, in letter and spirit, the nuisance created by the burning of plastic which is an activity that generates toxic substance could be contained. The submission of the learned counsel for the Chhattisgarh Environment Conservation Board is that officers have been deputed by that Board to regulate the activities in the site in question. We record the submissions on behalf of the Government and Municipal Corporation that the site is being utilized and will only be used as a transit-point. This obviously means that the activities in that site should not be permitted to be carried in any manner injurious to public health or to the violation of the laws governing the environment.
10. Having regard to what is afore-noted, we order this writ petition directing that the

State Government and the officials including the District Collector, Bilaspur and the subordinate revenue and other authorities as well as other authorities of the Municipal Corporation of Bilaspur and the officers of the Chhattisgarh Environment Conservation Board shall do the needful to ensure that the directions issued in the afore-quoted interlocutory orders are given effect to completely, and the activities in the site shall be regulated to ensure that there is no breach of any law relating to public health or prescriptions as to environment protection. Any direction issued by the Chhattisgarh Environment Conservation Board shall be obeyed by those dealing with the site in question. The 6th Respondent-Contractor or any person to whom the works of transit of waste materials are entrusted shall obey all directions as may be issued by the Government, the Collector Bilaspur and the authorities of the Municipal Corporation, Bilaspur and/or the Chhattisgarh Environment Conservation Board. We also clarify that this judgment has been issued by recording that the site in question is treated only as a transit-point and is not intended to be a permanent dumping place for solid waste. The District Collector, Bilaspur is directed to ensure effective supervision of the activities in the site through requisite officers under his command. The Superintendent of Police and all police officers having jurisdiction in the site in question are hereby directed to ensure that the directions or orders issued by the District Collector or the Chhattisgarh Environment Conservation Board are obeyed by all concerned.

- 11.** The writ petition is ordered accordingly.

Sd/-
(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-
(Sharad Kumar Gupta)
Judge