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HIGH COURT OF CHHATTISGARH, BILASPUR**WPIL No. 52 of 2015**

- Pradeep Upadhyay S/o Late Shri Laxmi Prasad Upadhyay, Aged About 48 Years By Occupation Advocate, R/o Gali No. 10, Idgah Bhata, Raipur (Chhattisgarh)

---- Petitioner**Versus**

1. The Union Of India Through Secretary, Ministry Of Urban Development, Govt. Of India, New Delhi.
2. The State Of Chhattisgarh, Through The Principal Secretary Department Of Transport, Secretariat, Naya Raipur (Chhattisgarh).
3. The State Of Chhattisgarh, Through Its Secretary, Urban Administration And Development Department, Naya Raipur (Chhattisgarh).
4. The Regional Transport Authority, Raipur (Chhattisgarh)
5. The Municipal Corporation Raipur, Through Its Commissioner, Distt. Raipur (Chhattisgarh)
6. The Durg, Bhilai Urban Public Transport Society, Through Its Secretary, Durg (Chhattisgarh)
7. The Raipur Urban Public Transport Society, Through Its Secretary Raipur (Chhattisgarh)
8. The Rajnandgaon Urban Public Transport Society (R U P T S), Through Its Secretary, Rajnandgaon, Distt. Rajnandgoan (Chhattisgarh)
9. Sunil Chatra, S/o Shri Sachhidananda Chatra, Aged About 39 Years Proprietor Of Sri Durgamba Transit Pvt. Ltd. Raipur, Main Road Kundapura, District Udapai, Karnataka.

---- Respondents**And****WPC No. 1831 Of 2015**

- Durg Zila Bus- Minibus Malik Sangh (Registration No. 10822) Through Its President Prakash Deshlahra, Aged About 60 Years, S/o Late Shri Phoolchand Deshlahra, R/o New Adarsh Nagar, Durg Distt. Durg (Chhattisgarh)

---- Petitioner**Vs**

1. The State Of Chhattisgarh Through The Principal Secretary Department Of Transport, Secretariat, Naya Raipur (Chhattisgarh)
2. The State Of Chhattisgarh, Through The Secretary, Urban Administration And

Development Department, Naya Raipur (Chhattisgarh)

3. The Union Of India, Through Secretary, Ministry Of Urban Development, Govt. Of India, New Delhi
4. The Regional Transport Authority, Raipur (Chhattisgarh)
5. The Municipal Corporation, Durg, Through Its Commissioner, Distt. Durg (Chhattisgarh)
6. The Durg-Bhilai Urban Public Transport Society, Through Its Secretary, Durg (Chhattisgarh)
7. Jai Durga Ambe Bus Service Bangalore, Karnatak, Office At Amanaka, Near University, Raipur (Chhattisgarh)

---- Respondents

And

WPC No. 1839 Of 2015

- Abdul Safiq S/o Shri Abdul Hakim Raza, Aged About 55 Years, President Chhattisgarh Pradesh Mini Bus Sangh, R/o 17/993, Ramaniya, Arbiya Madarsa, Moudahapara, Raipur Chhattisgarh

---- Petitioner

Vs

1. State Of Chhattisgarh Through The Principal Secretary, Department Of Transport, Secretariat, Raipur Chhattisgarh
2. The State Of Chhattisgarh, Department Of Urban Administration And Development, Raipur Chhattisgarh
3. The Union Of India, Through Secretary, Ministry Of Urban Development, Govt. Of India, New Delhi,
4. The Regional Transport Authority, Raipur Chhattisgarh
5. The Municipal Corporation Raipur, Through The Commissioner, District Raipur Chhattisgarh
6. The Durg Bhilai Urban Public Transport Society, Through Its Secretariat, Municipal Corporation, Bhilai, Chhattisgarh
7. The Raipur Urban Public Transport Society, Through Its Secretary, Municipal Corporation, Raipur, Chhattisgarh
8. The Rajnandgaon Urban Public Transport, Society (Rupts), Through Its Secretary, Rajnandgaon, Municipal Corporation, Distt. Rajnandgaon, Chhattisgarh
9. The Jai Durga Ambe Bus Service, Bangalore (Karnatka) Office At Amanaka Bus Dipo Raipur, Chhattisgarh

---- Respondents

For Petitioner	:	Shri Brajesh Dubey. Advocate
For Respondents	:	Shri H.B. Agrawal, Sr. Advocate assisted by Smt. Meera Jaiswal, Shri N.K. Vyas, Assistant Solicitor General for Union of India, Shri A.S.Kachhawaha, Addl. Advocate General for the State, Shri B.P. Sharma and Shri Sourabh Sharma, Advocates for respective respondents.

**Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice &
Hon'ble Shri Justice Pritinker Diwaker**

Order on Board

By Chief Justice

22/03/2017

1. This bunch of petitions relates to the complaint raised by different writ petitioners as to the modality in which the benefit of Jawaharlal National Urban Renewal Mission (for short 'JnNURM) is being utilized in the State of Chhattisgarh.
2. Having heard learned Sr. counsel and the learned Advocates on all sides and also the learned Assistant Solicitor General and the learned Additional Advocate General, we see that the issues sought to be raised are, by and large, matters relating to governance and effectuation of the Central Government policy put through JnNURM. This includes financing purchase of buses and ancillary infrastructure for urban transport systems.
3. In so far as the State of Chhattisgarh is concerned, for the purpose of JnNRUM, it is divided into 21 clusters which appear to reflect the 21 districts of this State. The guidelines for financing purchase of buses and ancillary infrastructure for urban transport systems under JnNURM were issued by the Ministry of Urban Development in July, 2013 by the Government of India through the Urban Transport Division under the Ministry of Urban Development. Those guidelines, amongst other things, constitute a State Level Steering Committee in terms of Clause 8 of those

guidelines. The different sub clauses thereof enumerate Chairman and Members of that Committee. The Secretary, Urban Development of the State concerned would be the Member Secretary of that Committee. Clause 9 provides that the State Level Steering Committee would be assisted by a State Level Nodal Agency for implementation of the JnNURM scheme. The duties of the State Level Nodal Agency are enumerated in sub clauses 'a' to 'g' of Clause 9.1 of the guidelines. Going further down, we see that the guidelines also refer to the provisions which authorize the state level handling of different relevant matters.

4. The State Level Steering Committee, even going by its constitution is essentially a high level committee with heads of different departments including the Ministry being involved, and is headed by the Chief Minister or the Urban Development Minister or the Minister of Housing of the State. The Nodal Agency is also identified at the instance of State Level Steering Committee.
5. In the aforesaid background of the managerial system of JnNURM, as operative in the different States, we are of the firm view that judicial tinkering would be impermissible as a substitute to the management and operation of JnNURM by the executive. Of course, if judicial review becomes an inevitable requirement as a last resort, we would not shy away from it.
6. Many of the petitioners in these writ petitions tried to complain that the provisions of JnNURM as envisaged for the State of Chhattisgarh are being unauthorizedly manipulated to take away the JnNURM scheme benefit from the real beneficiaries. The plea appears to be that areas not covered by the scheme are extended benefit of the scheme and that such exercise would be adverse to the real beneficiaries of the scheme.

7. If the petitioners have any grievance as aforementioned, they can raise it before the State Level Steering Committee which, if it finds necessary to have the involvement of the State Level Nodal Agency, it may call for such assistance, and shall decide on such objections and complaints and render appropriate decision as may be required in relation to managing and carrying forward the JnNURM in the State of Chhattisgarh, as is envisaged under that scheme. It is so directed. We order these writ petitions without expressing anything on merits of the complaint sought to be raised by the writ petitioners or the defence taken by the institutions of governance, leaving open the door for the petitioners to make appropriate complaint or representation to the State Level Steering Committee under JnNURM. We are sure that the High Level Committee will take an independent decision without delay having regard to the object sought to be achieved by JnNURM and they would do it promptly within a period of four months from the date of receipt of any complaint from any of the petitioners. Needless to say that any institution or person eligible to be heard in relation to any such issue, would be extended opportunity of hearing in accordance with law.
8. Writ petitions are ordered accordingly.

Sd/-

(Thottathil B. Radhakrishnan)

Chief Justice

Sd/-

(Pritinker Diwaker)

Judge