

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 168 of 2017**

- Bhakti Shekhar Mallik S/o Late Shri P. B. Malik, Aged About 48 Years R/o B/11, Gokul Nagar, Mathpuraina, Raipur, District Raipur (Chhattisgarh)

---- **Petitioner****Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Urban Administration And Development, Mantralaya, Mahanadi Bhawan, Naya Raipur, Distt. Raipur (Chhattisgarh)
2. Municipal Corporation Raipur, Through Its Commissioner, Opposite Head Post Office, Jaistambh Chowk, Raipur, District Raipur (Chhattisgarh)
3. Zone Commissioner, Municipal Corporation Raipur, Zone No. 6, Opposite Head Post Office, Jaistambh Chowk, Raipur, District Raipur (Chhattisgarh)

---- **Respondent**

For Petitioner : Shri Amrito Das, Advocate.
 For Respondent/State : Shri Ramakant Mishra, Deputy AG.
 For Respondents 2 & 3 : Shri HB Agrawal, Sr. Advocate with Smt.
 Meera Jaiswal, Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****25/01/2017**

1. The petitioner would assail the demand notice issued by the Municipal Corporation, Raipur under Section 173 of the Municipal Corporation Act, 1956 on the ground that in view of the lease deed

between the parties executed on 8.6.2007 (Annexure-P/3), the rights and liabilities of the parties would be governed under a contract and the petitioner has not defaulted in making payment of any municipal dues under the Municipal Corporation Act, 1956.

2. Shri HB Agrawal, learned Senior Counsel appearing for the Corporation on advance notice would submit that if the relationship between the parties is governed under the lease, the writ petition is not maintainable in view of the law laid down by this Court in **Prahlad Tiwari Vs. Steel Authority of India Limited & Another** {WPC No.1089/2015, decided on 20.8.2015}.
3. Considering the terms of lease as contained in Clauses-3 & 21, the petitioner may raise the dispute before the Commissioner, Municipal Corporation Raipur, who shall decide the same in accordance with terms of the lease, at the earliest, preferably within a period of 3 months from today. Before taking final decision in the matter, the Commissioner shall provide opportunity of hearing, including personal hearing to the petitioner, if he so desires.
4. Till the dispute is considered and decided by the Commissioner, Municipal Corporation, recovery under the subject demand shall remain stayed. In the event of any adverse decision, the petitioner may avail appropriate remedy as available to him in law.
5. With the aforesaid observations, the Writ Petition stands disposed of.

Sd/-
Judge
 (Prashant Kumar Mishra)