

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (PIL) No. 20 of 2017**

- Shamkarlal Agrawal S/o Late Harphool Agrawal Aged About 55 Years Village Chandrakhuri R/o Post Baitalpur Tahsil Patharia Chowki Sargaon District Mungeli (Chhattisgarh)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Department Of Panchayat Evam Gramin Vikas Naya Raipur Chhattisgarh.
2. Collector, Mungeli (Chhattisgarh)
3. Sub Divisional Officer (Revenue), Patharia, Tahsil Patharia, District Mungeli Chhattisgarh.
4. Chief Executive Officer, Janpad Panchayat Patharia, District Mungeli Chhattisgarh.
5. Shri Atmaram Vani S/o Late Babulal Vani, Sarpanch, R/o Village Chandrakhuri Post Baitalpur, Tahsil Patharia, District Mungeli Chhattisgarh.
6. Shri Ganpad Sahu S/o Jagatram Sahu, Panchayat Secretary, R/o Village Chandrakhuri Post Baitalpur, Tahsil Patharia, District Mungeli (Chhattisgarh)

---- Respondents

For Petitioner	:	Shri Salim Kazi, Advocate
For State	:	Shri YS Thakur, Additional Advocate General
For Respondents 5 and 6	:	Shri Avinash Mishra, Advocate

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

Order on Board**Per Thottathil B. Radhakrishnan, Chief Justice****03.07.2017**

1. Heard the learned counsel for the petitioner, the learned Additional Advocate General and the learned counsel appearing for respondents- 5 and 6.

2. This Writ Petition is filed as Public Interest Litigation seeking action by the official respondents against alleged encroachment of government land. The private respondents- 5 and 6 have filed counter affidavit pointing out this Writ Petition essentially in the garb of Public Interest Litigation but is politically motivated and is a result of a political rivalry between the Petitioner and his wife on the one hand and the respondents- 5 and 6. It is further contended that no action is called for in this Writ Petition.
3. As regards the official respondents are concerned, the second respondent, Collector, Mungeli District has filed an affidavit sworn to on 24.03.2017, following the order issued by this Court at the stage of admission on 13.02.2017. It is stated in that affidavit, among the other things, the jurisdictional Sub-Divisional Officer (Revenue) was directed to inquire into the matter, who in turn called for a report from the Tahsildar. It is submitted that the report of the Tahsildar and the Sub-Divisional Officer (Revenue) shows that certain lands are apparently trespassed upon by certain persons unauthorizedly.
4. We do not think that it is appropriate for us to now delineate the various findings or criticism levied in that affidavit against the occupants because what is required is that the jurisdictional authorities have to initiate appropriate action in accordance with applicable laws to prevent further encroachment and also to recover lands which are in the occupation of trespass. Such procedure could be carried forward only in accordance with law and with notice to the parties meaning thereby that such proceedings could be had only with due hearing of the occupants. Therefore, it would not be appropriate for us to make any observation on the merits or de-merits of the alleged trespass.

5. For the aforesaid reasons, this writ petition is ordered directing that in the wake of affidavit filed by the Collector, Mungeli District the said officer will ensure that due action follows in accordance with the applicable laws. As regards, all illegal and unauthorized occupations of government land in Mungeli District, by whomsoever it may be, official respondents-2 to 4 will do the needful to ensure that such action follows at the earliest and concludes in accordance with law within an outer limits of 8 weeks from the receipt of copy of this order. We clarify that the direction contained herein is without prejudice to any appellate or revisional remedy that may be available to any party in relation to any such proceedings.
6. We also clarify that this Court is not expressing anything now on the grant or cancellation of leases since that is also a matter which may gain the attention of the District Collector ultimately.
7. This Writ Petition is ordered accordingly.

Sd/-
(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-
(Sharad Kumar Gupta)
Judge