

HIGH COURT OF CHHATTISGARH, BILASPUR**WPIL No. 55 of 2017**

1. Chhattisgarh High Court Practicing Bar Association, a Registered Society, Having Its Office At New High Court Premises, Bodri, Bilaspur (Chhattisgarh) Through Its President Shri Sandeep Dubey, S/o Late Shri B. P. Dubey, Aged About 47 Years, R/o Om Zone Colony, Subham Vihar, Mangala, Dist. Bilaspur (Chhattisgarh)
2. Awadh Tripathi (Advocate), S/o Shri R. P. Tripathi, Aged About 53 Years Member Of Chhattisgarh State Bar Council, R/o Rohini Vihar, Bilaspur (Chhattisgarh)

---- Petitioners**Versus**

1. Union Of India Through Secretary, Ministry Of Law And Justice, 4th Floor, A- Wing, Shastri Bhawan, New Delhi.
2. Secretary, Ministry Of Environment Forests And Climate Change, Indira Paryavaran Bhawan, Jor Bagh Road, New Delhi.
3. Secretary, Department Of Personnel And Training, Government Of India, North Block, New Delhi.
4. Department Of Financial Services, Ministry Of Finance, Government Of India, 3rd Floor, Jeevan Deep Building, Sansad Marg, New Delhi.
5. Secretary, Ministry Of Railways, Government Of India, Rail Bhawan, New Delhi 110001
6. Secretary Ministry Of Labour And Employment, Government Of India, Shram Shakti Bhawan, Rafi Marg, New Delhi 110001
7. Secretary, Central Board Of Direct Taxes, Department Of Revenue, Ministry Of Finance, Government Of India, New Delhi.
8. State Of Chhattisgarh, Through Secretary, Law And Legislative Affairs Department, Mahanadi Bhawan, Mantralaya, New Raipur (Chhattisgarh)
9. Secretary, Department Of Revenue And Disaster Management Government Of Chhattisgarh, Mantralaya, Mahanadi Bhawan, New Raipur (Chhattisgarh)
10. Secretary, General Administration Department, Government Of Chhattisgarh, Mantralaya, Mahanadi Bhawan, New Raipur (Chhattisgarh)
11. Secretary, Commercial Tax Department, Government Of Chhattisgarh, Mantralaya, Mahanadi Bhawan, New Raipur (Chhattisgarh)
12. Secretary, Transport Department, Government Of Chhattisgarh, Mantralaya, Mahanadi Bhawan, New Raipur (Chhattisgarh)
13. Secretary, Housing And Environment Department, Government Of Chhattisgarh, Mantralaya, Mahanadi Bhawan, New Raipur (Chhattisgarh)
14. High Court Of Chhattisgarh, Village, Bodri, Bilaspur (Chhattisgarh), Through Registrar General.
15. Central Administrative Tribunal, Principal Bench, 61/35 Copernicus Marg, New Delhi- 110001, Through Its Registrar.
16. National Green Tribunal, Principal Bench, New Delhi, Faridkot House, Copernicus Marg, New Delhi, Through Its Registrar,

17. Central Bureau Of Investigation, Through Its Director, Plot No. 5- B, C G O Complex, Lodhi Road, New Delhi 110003
18. Income Tax Appellate Tribunal, Central Government Offices Building, Pratishtha Bhavan, 3rd And 4th Floor, 101, M. K. Road, Mumbai- 400020, Through Its Registrar.

---- Respondents

For Petitioners	: Shri Saurabh Dangi, Advocate
For Respondent/Union of India	: Shri N.K. Vyas, Assistant Solicitor General.
For Respondent/State	: Shri J.K. Gilda, Advocate General along with Shri U.N.S. Deo, Government Advocate
For Respondent No.5	: Shri Ghanshyam Patel, Advocate

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

Judgment on Board

Per Thottathil B. Radhakrishnan, Chief Justice

28.06.2017

1. This writ petition is instituted as a Public Interest Litigation. The Chhattisgarh High Court Practicing Bar Association and a Member of the Chhattisgarh State Bar Council have championed the cause of the people of Chhattisgarh to contend that the statutory Tribunals under different central enactments as also state enactments are to be established in the State of Chhattisgarh in such a way that they should have some nexus to the High Court of Chhattisgarh at Bilaspur in the geographical sense.
2. We have heard the learned counsel for the Petitioners, learned Advocate General and the learned Assistant Solicitor General.
3. Access to justice is one of the core doctrines of the constitutional rights of every Indian citizen. Constitutional and institutional support to the concept of access to justice is enshrined to include reasonably accessible institutions of justice delivery, even in the geographical sense. On the whole, the format of the different statute laws in the backdrop of the constitutional spectrum is to ensure that the citizens abide by the laws and is provided by remedial

measures and redressal mechanisms whenever that person is aggrieved by any action taken against; or needs to reach any remedy to obtain relief under the laws, including statutory provisions, schemes etc. Therefore, the requirement of centres of adjudicating process within the reasonable reach of the litigant is *sine qua non* for the effective enforcement of constitutional rights of a citizen. This, to a large extent, can be treated as embedded in the equality doctrine contained in Article 14 of the Constitution as well as the constitutional prescription as to right to access to justice which by itself is an element of social justice mechanism and which cannot be deprived even by reason of circumstances referable to financial conditions. This emanates out of Article 39A of the Constitution. It would even tend to encompass rights referable to Article 21 of the Constitution.

4. With the aforesaid aspects in mind, the primary authority to deal with the requirements of the people in a particular locality is the authority which is in governance of that geographical area. In the primary sense, that is the State, in the federal mechanism of governance under the Indian Constitution; the operation of laws under the Union as well as enforcement of the laws by the State running together in every area of concern. The State Government would be an appropriate authority to make first hand assessment of the requirement of the judicial establishments or the quasi judicial establishments, having regard to various details and data which may be relevant to take a policy decision in that matter.
5. Fiscal matters and also different aspects relating to management of environmental, administrative, service conditions etc. are some of the sectors where the progress of the judicial administration system of the Nation brought in tribunalization as a method to replace the adjudications through the traditional Courts. Once that is done, including by excluding the

jurisdiction of the traditional Courts, be they the Civil or Criminal Courts, it becomes the duty of the Governments to ensure that such Tribunals are in place as reasonable stations of access to seek and reach at justice. This can be achieved only by providing appropriate number of tribunals in the requisite location, empowering them with the needed infrastructure and facilities. Above all would be the requirement to ensure that such tribunals are manned from time to time, continuously, by people who are found fit to be appointed to such Institutions.

6. It is pointed out by the learned counsel for the Petitioner that having regard to the turn over of the commercial activities in the State of Chhattisgarh and more importantly in Bilaspur, it is the requirement that many tribunals and other judicial or quasi judicial institutions which deals with fiscal matters as well as matters relating to environment find a place for their operation within the State of Chhattisgarh which also has an extensive green belt to be protected against the onslaught of industrialization. He points out that the litigants at the grass root level are quite often inconvenienced in the financial as well as in the practical sense, to reach the Tribunals which are either in the neighboring States or far away from the State of Chhattisgarh.
7. The State of Chhattisgarh was born on the 1st of November, 2000 as a result of M.P. Reorganisation Act, 2000. Seventeen years' growth of this infant State appears to have been by maintaining the umbilical cord with the 'mother State' which is State of Madhya Pradesh. We say this because for very many activities, the tribunals or the appellate fora are in the State of Madhya Pradesh. This statement of fact is made not as a matter of disregard, but to underscore that institutionalised provisions for access to justice ought to be purpose oriented and practically feasible for the litigants to utilize. These are matters that could fall for determination in a pragmatic

manner by the State Government as a limb of governance which would have requisite facts and factors. It is all the more so because once the State Government arrives at its views in the matter it will be open to request the Central Government for such action which could be proposed to better the justice delivery system through the tribunals in the State of Chhattisgarh and for the people of that State.

8. For the aforesaid reasons, this writ petition is ordered directing that if either of the Petitioners make an adequate representation before the Chief Secretary to the Government of Chhattisgarh in relation to the factual issues raised in this writ petition, it would be treated by the Government of Chhattisgarh as a request for considering different relevant aspects. The various departments in the State of Chhattisgarh which may have a say in the matter would also then be available to place their views before the Chief Secretary for consideration. If further involvement of the Government as a unit is required, it will be open to the Chief Secretary to seek such indulgence as well. We are sure that if the petitioners place requisite materials, earnest efforts would be taken by the State Government to do the needful having regard to the totality of the facts and circumstances as well as the situations pointed out by the Petitioners. It goes without saying that the Petitioners are well informed persons and should therefore have an opportunity to make their representation and also seek personal hearing if necessary. Let the needful be done without delay.
9. The writ petition is ordered accordingly.

Sd/-
(**Thottathil B. Radhakrishnan**)
Chief Justice

Sd/-
(**Sharad Kumar Gupta**)
Judge