

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1150 of 2017

1. Lata Goyal W/o Sanjay Goyal, Aged About 48 Years R/o Sankalp Hospital, Bhattapara, Ambikapur, Surguja, District Surguja (Chhattisgarh).
2. Sanjay Goyal, S/o Kailash Narayan Goyal, Aged About 52 Years R/o Sankalp Hospital, Bhattapara, Ambikapur, Surguja, District Surguja (Chhattisgarh).

---- Petitioners

Versus

1. State Of Chhattisgarh Through : Secretary, Urban Administration And Development, Mahanadi Bhawan, Mantralaya, Capital Complex, New Raipur, District Raipur (Chhattisgarh).
2. Municipal Corporation, Ambikapur, Surguja, Through : Its Commissioner, Municipal Corporation, Ambikapur, District Surguja (Chhattisgarh).
3. Commissioner, Municipal Corporation, Ambikapur, Surguja District Surguja (Chhattisgarh).
4. Deputy Director, Nagar Tatha Gram Nivesh, Ambikapur, Surguja, District Surguja (Chhattisgarh).

---- Respondents

For Petitioner	:	Shri Manoj Paranjpe, Advocate
For State	:	Shri Dhiraj Wankhede, Govt. Advocate
For Respondent No. 2 & 3 :		Ms. Soniya Kuldeep, Advocate under the instructions from Shri Bhupendra Singh, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

27/04/2017

1. Heard.
2. Petitioners have filed this petition aggrieved by order dated 17/04/2017 requiring the petitioners to remove alleged encroachment which is said to be affecting free discharge of water as also that petitioners are discharging the sewage of the hospital in the open land.

3. Learned counsel for the petitioners submits that by the impugned notice the petitioners were informed for the first time that authorities have formed an opinion regarding alleged act of the petitioners and the petitioners have submitted its reply but thereafter no order has been passed by the authority and he is apprehending that without consideration of their reply, the authority may proceed to remove alleged encroachment and other coercive steps may also taken against the petitioners.
4. It is found that the petitioners have submitted reply dated 17/04/2017 in which they have taken a categorical stand that the alleged activities has not been done by the petitioners and then the petitioners rushed to the Court. The respondents have not given any response to the petitioners' reply nor passed any order.
5. The allegations against the petitioners are matter of factual enquiry by the authority as to whether the petitioners are actually involved. As the petitioners have submitted reply it would require apply due application of mind by the respondents No. 3 with reference to the contents of the reply before he proceeds to take coercive steps against the petitioner.
6. At this stage, a direction is issued to respondent No. 3 to consider petitioners' reply and pass speaking order on the response of the petitioners' reply and it is only when the applicants fail to satisfy that further proceedings may be drawn. Till an appropriate order is passed, the Corporation should not to take any coercive steps. If grievance is not redressed, it will be open for the petitioners to take appropriate remedy as may be available under the law.

Sd/-
(Manindra Mohan Shrivastava)
Judge