

HIGH COURT OF CHHATTISGARH AT BILASPURWP No. 1245 of 2002

Murari Lal Jaiswal S/o Krishna Lal Jaiswal, aged about 43 years,
Proprietor Samrat Hotel, R/o Bouripara, Ambikapur, District Surguja
(C.G.).

---Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Housing, Environment, Urban Administration and Development, Mantralaya, D.K.S. Building, Raipur (C.G.).
2. Collector, Surguja at Ambikapur, District Surguja (C.G.).
3. Municipal Council Ambikapur, Through its Chief Municipal Officer, Municipal Council Ambikapur, District Surguja (C.G.).
4. Guru Prasad Jaiswal S/o Shri Barsati Lal Jaiswal, Bouripara, Ambikapur, District Surguja (C.G.).

---Respondents

For petitioner	:	Shri Ashish Surana, Advocate.
For State	:	Shri Chandresh Shrivastava, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

24/10/2018

1. The challenge in the present Writ Petition is to the two orders passed by the Collector on 26/03/2002 and the order of the State Government dated 11/06/2002.
2. The facts of the case in brief is that, the whole dispute revolves around a shop No.1 located at School Road, Ambikapur. The said shop was originally allotted on lease to the respondent No.4 – Guru Prasad Jaiswal who is a relative of the present petitioner.

3. In due course of time, since, it is said that the respondent No.4 could not manage the shop, it was handed over to the petitioner for its operation and the Municipal Council, Ambikapur vide resolution dated 19/10/2001 decided to execute the lease in favour of the petitioner and in due course, a lease was also executed on 01/11/2001 and since then the petitioner has taken the possession of the said shop and is operating his business from the said shop.

4. Meanwhile, the respondent No.4 is said to have raised an objection/appeal before the Collector in respect of the lease which has been executed in favour of the petitioner on 01/11/2001.

5. The Collector vide his order dated 26/03/2002 allowed the appeal and held that the resolution of the Municipal Council dated 19/10/2001 is bad in law.

6. It is this order of the Collector which was put to challenge before the State Government in a revision under Section 323(2) of the Chhattisgarh Municipalities Act, 1961.

7. The Revisional Authority also vide the impugned order Annexure-P/1 dated 11/06/2002 rejected the Revision Petition of the petitioner which led to the filing of the present Writ Petition.

8. The present Writ Petition was admitted and pending consideration before this Court for last about 16 years.

9. During the course of hearing today, the counsel appearing for the petitioner fairly submits that, pending the Writ Petition before this Court, the

original lease which was executed in his favour on 01/11/2001 got expired on 31/10/2004 and it was immediately renewed for a period of another 3 years and since then the petitioner's lease is being continuously renewed every 3 years in as much as it was renewed for the first time in the year 2004, thereafter again it was renewed in the year 2007, further in the year 2011, 2014-15 and the last renewal has been done in the year 2017-18.

10. He further submits that, as a result of the lease in favour of the petitioner, he is still operating the business from the said shop and as such by efflux of time it appears that the grievance of the parties stands redressed and nothing further remains to be adjudicated upon provided the respondents may not act upon the order passed by the Collector dated 26/03/2002 and the order of the Revisional Authority dated 11/06/2002.

11. The respondent No.4 in spite of service chose not to represent.

12. The Municipal Council has entered appearance and have filed their reply in which they have stated that the Municipal Council intends to go in for a fresh auction of the shop after due consultation with the petitioner as well as with the respondent No.4.

13. Given the aforesaid factual matrix of the case taking note of the fact that in spite of the fact that the orders of the Collector and the State Government goes against the petitioner, he has been granted periodical renewal on 5 occasions of 3 years period each. This Court is thus of the opinion that no fruitful purpose would be served in keeping the Writ Petition pending, rather ends of justice would meet if the petitioner is permitted to continue with the

business during the currency of the present lease which is in his favour and thereafter the Municipal Council would be at liberty to proceed further if they intend to do so in accordance with law governing the field.

14. On account of the fact that, the petitioner has got renewal of his lease 5 times, the orders of the Collector as well as of the State Government passed in the Revision has lost its efficacy and it is ordered that the same shall not be acted upon.

15. The Writ Petition accordingly stands disposed off.

Sd/-

(P. Sam Koshy)
JUDGE

Sumit