

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP No. 38 of 2005**

1. Career Society, Bhopal (a society registered under the M.P. Society Registrikaran Adhiniyam, 1973) with registered office Career Society, Career College Campus, Govindpura, Opposite Dashahara Maidan, BHEL, Bhopal 462 023 (MP).

---- Petitioner**Versus**

1. State Of Chhattisgarh through the Secretary, Department of Civic Administration & Development, DKS Bhawan, Mantralaya, Raipur, CG.
2. Director, Department of Civic Administration & Development, DKS Bhawan, Mantralaya, Raipur, CG.
3. Municipal Corporation, Korba, through the Commissioner, Korba CG.
4. Mayor, Municipal Corporation, Korba CG.

---- Respondent

For Petitioner	Shri Jitendra Pali, Advocate
For Respondent/State	Shri Anand Dadariya, Govt. Adv.
For Respondent/Corporation	Shri H.B. Agrawal, Sr. Adv. with Ms Preeti Yadav, Advocate

Order On Board**By****Prashant Kumar Mishra, J.****12/12/2018**

1. Petitioner is seeking quashment of the notice/order/communication dated 30-12-2004 (Annexure – P/16) and

18-10-2004 (Annexure – P/19) by which the Municipal Corporation, Korba, has informed the petitioner that the petitioner has not deposited the amended/enhanced monthly rent and arrears, therefore, it should pay the arrears of Rs.3,98,372/- along with difference of three months advance rent amounting to Rs.1,49,025/- total Rs.5,45,397/- failing which the agreement shall be cancelled.

2. By interim order dated 28-4-2006 the respondents have been restrained from evicting the petitioner from the petition scheduled premises subject to the petitioner paying rentals at the rate of Rs.35,000/- per month from the date of institution of this writ petition.
3. One of the ground raised in the writ petition is that the lease rent has been enhanced unilaterally without giving any opportunity of hearing to the petitioner and that the said increase is in violation of the terms of the agreement.
4. Considering the main ground of challenge raised in the writ petition and for the fact that the dispute arise out of terms of lease agreement, instead of adjudicating the matter under writ jurisdiction it is disposed of with direction that the petitioner shall appear before the Commissioner, Municipal Corporation, Korba, within a period of 15 days from today

and on such appearance being made, the Municipal Corporation shall serve notice to the petitioner narrating the entire arrears to be paid by the petitioner and provide him opportunity of hearing to decide the issue of enhancement and arrears of rentals. The Commissioner shall consider and decide the matter within a period of 8 weeks from today, in accordance with law and on its own merits.

5. It is made clear that if the petitioner fails to appear before the Commissioner, Municipal Corporation within a period of 15 days from today, the impugned orders would be revived and the petitioner would be liable to pay the entire amount including the accumulated arrears.
6. It is further made clear that during pendency of the matter before the Commissioner, Municipal Corporation, Korba, the petitioner shall pay rentals at the rate of Rs.35,000/- per month in terms of the interim order passed by this Court.
7. At this juncture, Shri Jitendra Pali, learned counsel appearing for the petitioner, would submit that during pendency of the writ petition the petitioner has surrendered some of the area allotted to it.
8. In view of the above, the arrears of rental for the surrendered area shall be calculated only till the date of surrender. The

amount of Rs.35,000/- deposited by the petitioner during pendency of the petition shall be proportionately adjusted on the basis of area under the occupation of the petitioner.

9. It is made clear that this Court has not expressed any opinion on the merits of the case and the Commissioner, Municipal Corporation, Korba, shall decide the case of the petitioner, on its own merits, strictly in accordance with law, without treating any observation made in this order, as opinion on the merits of the case.

10. With the aforesaid observations and directions, the writ petition stands disposed of.

11. There shall be no order as to cost(s). Sd/-

Judge
Prashant Kumar Mishra

Gowri