

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (C) No.1993 of 2014

Guruvinder Singh Chadda, S/o Late Mahendar Singh Chada, aged about 52 years, R/o Shyam Nagar, presently known as Mother Teresa Ward, Raipur, Telibandha, District Raipur, Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary, Government of Chhattisgarh, Department of Revenue & Disaster Management, Mahanadi Bhawan, Mantralaya, Naya Raipur, P.S. Rakhi, Chhattisgarh
2. State of Chhattisgarh, Through the Secretary, Government of Chhattisgarh, Town & Country Planning Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, P.S. Rakhi, Chhattisgarh
3. The Director, Town & Country Planning, Raipur, Chhattisgarh
4. The Collector, District Raipur, Chhattisgarh
5. The Commissioner, Municipal Corporation, Raipur, District Raipur, Chhattisgarh
6. The Nazule Officer, District Raipur, Chhattisgarh
7. The Sub Divisional Officer (Revenue), Raipur, District Raipur, Chhattisgarh
8. The Tahsildar, District Raipur, Chhattisgarh

---- Respondents

Writ Petition (C) No.2441 of 2014

Ku. Kiran Ekka, D/o Late Simon Ekka, aged about 55 years, R/o Subhash Nagar, Telebandha, Raipur, P.S. Telebandha, Civil and Revenue District Raipur (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, through Secretary, Urban Administration Department, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur (C.G.)
2. Secretary, Revenue & Disaster Department, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur (C.G.)
3. Under Secretary, Department of Revenue, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur (C.G.)

4. Municipal Corporation, Through its Commissioner, Raipur (C.G.)
5. Collector, Raipur, District Raipur (C.G.)
6. Nazul Officer, Raipur, District Raipur (C.G.)
7. Zone Commissioner, Zone No.4, Sports Complex, Municipal Corporation, Raipur (C.G.)

---- Respondents

Writ Petition (C) No.2448 of 2014

Mohanlal Dulhani, S/o Late Shri Uttam Chand Dulhani, aged about 54 years, R/o Subhash Nagar, Telibandha, Raipur, District Raipur, Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh, through the Secretary, Department of Revenue and Disaster Management, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh
2. Collector (Nazul) – Raipur, Collectorate, Raipur, District Raipur, Chhattisgarh
3. Municipal Corporation Raipur, through its Commissioner, Opposite Head Post Office, Jaisthambh Chowk, Raipur, Chhattisgarh
4. Tehsildar Nazul, Collectorate, Raipur, District Raipur, Chhattisgarh

---- Respondents

Writ Petition (C) No.2449 of 2014

Mohanlal Vadhvani, S/o Shri Motanmal Vadhvani, aged about 53 years, R/o Subhash Nagar, Telibandha, Raipur, District Raipur, Chhattisgarh, through power of attorney holder Shri Ashok Kumar Ahuja, S/o Late Shri Bhagwan Das Ahuja, aged about 43 years, R/o Subhash Nagar, Telibandha, Raipur, District Raipur, Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh, through the Secretary, Department of Revenue and Disaster Management, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh
2. Collector (Nazul) Raipur, Collectorate, Raipur, District Raipur, Chhattisgarh
3. Municipal Corporation Raipur, through its Commissioner, Opposite Head Post Office, Jaisthambh Chowk, Raipur, Chhattisgarh
4. Tehsildar Nazul, Collectorate, Raipur, District Raipur, Chhattisgarh

---- Respondents

Writ Petition (C) No.2450 of 2014

Kodamal, S/o Shri Koramal Satram Das, aged about 63 years, R/o Subhash Nagar, Telibandha, Raipur, District Raipur, Chhattisgarh
---- Petitioner

Versus

1. State of Chhattisgarh, through the Secretary, Department of Revenue and Disaster Management, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh
2. Collector (Nazul) Raipur, Collectorate, Raipur, District Raipur, Chhattisgarh
3. Municipal Corporation Raipur, through its Commissioner, Opposite Head Post Office, Jaisthambh Chowk, Raipur, Chhattisgarh
4. Tehsildar Nazul, Collectorate, Raipur, District Raipur, Chhattisgarh
---- Respondents

AND

Writ Petition (C) No.2557 of 2016

Smt. Korina Maria Chadda, W/o Shri Gurvinder Chadda, Aged about 51 years, R/o Shyam Nagar, presently known as Mother Teresa Ward, Raipur, Telibandha, District Raipur, Chhattisgarh
---- Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary, Government of Chhattisgarh, Department of Revenue & Disaster Management, Mahanadi Bhawan, Mantralaya, Naya Raipur, P.S. Rakhi, Chhattisgarh
2. State of Chhattisgarh, Through the Secretary, Government of Chhattisgarh, Town & Country Planning Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, P.S. Rakhi, Chhattisgarh
3. The Director, Town & Country Planning, Raipur, Chhattisgarh
4. The Collector, District Raipur, Chhattisgarh
5. The Commissioner, Municipal Corporation, Raipur, District Raipur, Chhattisgarh
6. The Nazule Officer, District Raipur, Chhattisgarh
7. The Sub Divisional Officer (Revenue), Raipur, District Raipur, Chhattisgarh
8. The Tahsildar, District Raipur, Chhattisgarh
---- Respondents

For Petitioners: Mr. Kishore Bhaduri, Mr. Raghavendra Pradhan,
Mr. Amrito Das and Mr. Pawan Kesharwani, Advocates.
For State: Mr. Arun Sao, Deputy Advocate General and Mr. Dilman
Rati Minj, Deputy Government Advocate.
For Municipal Corporation, Raipur: -
Mr. H.B. Agrawal, Senior Advocate with Mrs. Meera
Jaiswal, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

20/02/2018

1. Since common question of law and fact is involved in these writ petitions, they were heard together and are being disposed of by this common order.
2. This batch of writ petitions have been directed against a common order dated 5-12-2014 by which the lease of land granted to the petitioners has been cancelled by the State Government finding that the land in question is required for preservation and beautification of tank and also for widening of national highway.
3. Mr. Kishore Bhaduri, Mr. Raghavendra Pradhan and Mr. Amtio Das, learned counsel appearing for the petitioners, submit that the lease period has not come to end and there was sufficiently long time in their possession by virtue of valid lease subsisting in their favour, yet without show cause notice and without giving proper opportunity of hearing and without anything having been established by the Municipal Corporation that the land in question is required for preservation of tank and for widening of road, the lease in question has been prematurely determined by the State Government that too by a non-speaking and unreasoned order, therefore, it deserves to be set aside.

4. Mr. Arun Sao, learned Deputy Advocate General appearing for the State and Mr. H.B. Agrawal, learned Senior Advocate appearing for the Municipal Corporation, would support the impugned order.
5. I have heard learned counsel for the parties and considered their rival submissions and also gone through the record with utmost circumspection.
6. The first submission raised on behalf of the petitioners is that even show cause notice has not been served to the petitioners and opportunity of hearing has not been given to them, and more over, the lease period has not expired its full life on the date on which it was cancelled. On being asked to Mr. Sao, learned Deputy Advocate General, whether show cause notice has been served to the petitioners, he has shown to this Court a copy of the notice which has been issued to the petitioners in revenue case in the name of revenue officer in which, special case number, parties name, date and place of hearing are mentioned. It is not a show cause notice at all, even it does not bear the signature of the particular revenue officer, it is by the order of the Revenue Officer. No other show cause notice clearly stating the contents to which the petitioners have to reply has not been served to the petitioners. In all the cases, no such notices containing the charges to be replied have been issued to the petitioners in tune with the law laid down by the Supreme Court in the matter of **Oryx Fisheries Private Limited v. Union of India and others**¹. Not only this, thereafter, notices were issued and served by the Tahsildar and the order of cancellation of lease has been passed by the State Government. Before the State Government also, the reason for cancellation of lease has even not been established either

1 (2010) 13 SCC 427

by leading evidence and thereby permitting the petitioners to cross-examine the person stating the reasons requiring the land for a particular purpose i.e. preservation of tank and widening of road.

7. The Supreme Court in the matter of **Gorkha Security Services v. Government (NCT of Delhi) and others**² has laid down what should the contents of the show cause notice and stated as under: -

“Contents of the show-cause notice

21. The central issue, however, pertains to the requirement of stating the action which is proposed to be taken. The fundamental purpose behind the serving of show-cause notice is to make the noticee understand the precise case set up against him which he has to meet. This would require the statement of imputations detailing out the alleged breaches and defaults he has committed, so that he gets an opportunity to rebut the same. Another requirement, according to us, is the nature of action which is proposed to be taken for such a breach. That should also be stated so that the noticee is able to point out that proposed action is not warranted in the given case, even if the defaults/breaches complained of are not satisfactorily explained. When it comes to blacklisting, this requirement becomes all the more imperative, having regard to the fact that it is harshest possible action.

22. The High Court has simply stated that the purpose of show-cause notice is primarily to enable the noticee to meet the grounds on which the action is proposed against him. No doubt, the High Court is justified to this extent. However, it is equally important to mention as to what would be the consequence if the noticee does not satisfactorily meet the grounds on which an action is proposed. To put it otherwise, we are of the opinion that in order to fulfill the requirements of

² (2014) 9 SCC 105

principles of natural justice, a show-cause notice should meet the following two requirements viz:

(i) The material/grounds to be stated which according to the department necessitates an action;

(ii) Particular penalty/action which is proposed to be taken. It is this second requirement which the High Court has failed to omit.

We may hasten to add that even if it is not specifically mentioned in the show-cause notice but it can clearly and safely be discerned from the reading thereof, that would be sufficient to meet this requirement.”

8. Following the principle of law laid down in **Gorkha Security Services** (supra), it would be apparent that in the alleged show cause notice issued to the petitioners, name of revenue officer, special case number, parties name, date of hearing, have been mentioned and no grounds have been stated on the basis of which the lease is required to be cancelled. Therefore, the petitioners have no opportunity to even counter / reply the notice, on which ground the State proposed to determine the lease of the petitioners.
9. Even otherwise, cancellation of lease has civil consequence and it ought to have been proceeded by giving reasonable opportunity of being heard to the petitioners which has not been done. In conclusion, the cancellation of lease has been done without initiating duly constituted proceeding by leading evidence and allowing the other parties to lead / rebut the evidence. The materials relied upon by the State Government to cancel the lease has even not been supplied to the petitioners and thus, it has resulted in passing of the order in breach of the principles of natural justice. Therefore, the

order dated 5-12-2014 deserves to be quashed and it is hereby quashed. The respondents / State Government is at liberty to proceed in accordance with law. If proceeding is initiated afresh, then a duly constituted show cause notice supported by documents / material will be issued to the petitioners giving reasonable time to them to file and the parties will be entitled to lead evidence and support their respective cases and thereafter, a reasoned and speaking order will be passed strictly in accordance with law.

10. The writ petitions are allowed to the extent indicated herein-above.

No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Soma

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (C) No.1993 of 2014

Guruvinder Singh Chadda

Versus

State of Chhattisgarh and others
and other connected matters

Head Note

Valid lease granted to the petitioners near Telibandha Tank cannot be cancelled without affording an opportunity of hearing.

तेलीबांधा तालाब के समीप याचकों को दिया गया विधिमान्य पट्टा सुनवाई का अवसर उपलब्ध कराए बिना रद्द नहीं किया जा सकता।