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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No.311 of 2019**

Smt. Pando Bai W/o Late Shri Panduram Jhadi Aged About 51 Years R/o
F O H Colony, Q.No. 552 Bacheli Tahsil And District Dantewada,
Chhattisgarh, District : Dantewada, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary Revenue Department
Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur,
Chhattisgarh.
2. Collector, Bijapur, District Bijapur, Chhattisgarh.
3. Assistant Commissioner, Tribal Development, Bijapur District Bijapur,
Chhattisgarh.
4. Sub Divisional Officer (Revenue) Bhopalpatnam District Bijapur,
Chhattisgarh.
5. Tahsildar Usoor Head Office Aavapalli, District Bijapur, Chhattisgarh.
6. Block Education Officer, Usoor Head Office Aavapalli, District Bijapur,
Chhattisgarh.
7. Sub Engineer, R.E.S. Sub Division, Usoor, District Bijapur, Chhattisgarh.

---- Respondents

For Petitioner : Shri Ashutosh Mishra, Advocate
For Respondent/State: Shri Vikram Sharma, Dy. Govt. Advocate

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Order on Board**P. R. Ramachandra Menon, Chief Justice****07.08.2019**

1. The unfortunate plight of the Petitioner is getting relief as to the payment of rent with respect to the building which was taken on lease by the Respondents/Government authorities for running a 'Balak Ashram' is the subject matter projected in this petition. Even after fixation of the rent by the authorities concerned at Rs.9461.83 per month, the higher authorities

turned back, saying that it was worth only Rs.3550/- per month and later vacated the premises, virtually leaving the Petitioner to knock at different doors including the Chhattisgarh Rent Control Tribunal, Raipur (hereinafter referred to as 'Tribunal'), but in vain.

2. The factual matrix shows that the Petitioner constructed a house in her property in village Basaguda, Tahsil Usoor, District Bijapur, Chhattisgarh bearing Khasra No.15/3, Rakba 0.020 Hectare. The State Government was intending to start a 'Balak Ashram', but, no Government building was admittedly available in the area. The building of the Petitioner was agreed to be taken on reasonable rent and the building was let out accordingly. Later, on 31.05.2013, the Block Education Officer wrote to the Assistant Commissioner for fixation of rent and as per Annexure P/3 dated 22.10.2013 instructed the Sub Divisional Officer (Revenue) to prepare a report and proceed with further steps in this regard. On 31.10.2014, the Sub Divisional Officer (Revenue), delegated the spade work to the Tahsildar and later, as per Annexure P/5 dated 23.12.2014, the rent fixation schedule was prepared by the Sub-Engineer (RES), fixing the reasonable rent as Rs.9461.83 per month. However, the authorities were not prepared to release the rent to the Petitioner, which made him to knock at different doors as mentioned above.
3. It is stated by the learned counsel representing the Government that the competent authority to decide the rent is the District Collector and not the Sub-Engineer (RES). It was accordingly, that the proceedings were forwarded by the Sub Divisional Officer to the District Collector on 26.10.2015, in terms of the Chhattisgarh Financial Code, Part 2, Annexure

6, Rule 16 and it is for the District Collector to have issued necessary certificate for fixation of rent in this regard. On receipt of the proceedings from the Sub Divisional Officer, the Collector raised some queries regarding the fixation made by the Sub-Engineer (RES) and directed the Sub Divisional Officer to conduct spot inspection and to submit a report. Accordingly, the Sub Divisional Officer inspected the spot and building and prepared a detailed report and the same was submitted before the District Collector.

4. It is revealed from Annexure R/1 report dated 25.05.2016 of the Sub Divisional Officer that, according to him, based on relevant facts and circumstances, the building was to have a reasonable rent of Rs.6516/- per month. But on receipt of the said report, the Collector unilaterally held as per Annexure P/7 dated 06.05.2016 that, as per his opinion, the building was to have only a rent of Rs.3550/- per month. This made the Petitioner to approach this Court by filing Writ Petition (C) No.2484 of 2016, wherein an interim order was passed on 12.04.2017 as borne by Annexure P/8, which reads as follows :

“Mr. Mateen Siddiqui, counsel for the petitioner/s.

Mr. Dheeraj Wankhede, G.A. for the State.

Heard.

At the outset, learned counsel for the State, on telephonic instructions, submits that the premises of the petitioner, which was taken on rent by the respondent, has been vacated. He submits that the rent at the rate of Rs.3500/- as decided by the respondent authority in respect of the period during which the accommodation was in occupation was offered but the petitioner has refused.

Learned counsel for the petitioner submits that the allegation is not correct.

Learned counsel for the respondent shall direct the concerned authority to prepare the draft of the rent payable to the petitioner in respect of the period of occupation at the rate of Rs.3500/-.

List this case on 25th of April, 2017.

Certified copy.”

5. Obviously, a submission was made from the part of the Government that the Petitioner was having an alternate remedy by filing necessary proceedings before the Tribunal, if at all he was aggrieved by the order passed by the District Collector. It was accordingly, that the matter was finalized by the learned Single Judge, as per Annexure P/9 dated 25.04.2017, holding that the Petitioner could pursue the matter before the Tribunal. The Petitioner approached the Tribunal and filed an appeal against Annexure P/7 order passed by the District Collector. But the Tribunal was of the view that the power to be invoked by the Tribunal in terms of Section 13 of the Chhattisgarh Rent Control Act, 2011 was not against any order passed by the District Collector in his administrative capacity. Holding that the order passed by the Collector was under the administrative capacity, interference was declined and the appeal was dismissed.
6. This made the Petitioner to turn back to this Court again, by filing this writ petition with the following prayers :

“10.1 This Hon'ble Court may kindly be pleased to quash the order dated 15.03.2018 (P/1) passed by the Chhattisgarh Rent Control Tribunal, Raipur.

10.2 This Hon'ble Court may kindly be pleased to quash the justification certificate dated 06.05.2016 issued by the Collector, Bijapur.

10.3 Hon'ble Court may kindly be pleased to direct the respondent State to grant rent to the petitioner from the October, 2012, alongwith interest, to the tune of Rs.9461.83 insist of Rs.3500/- per months, till date.

10.4 To kindly direct the respondent State to grant rent to the petitioner as per the rent fixation schedule issued by the Sub-Engineer, R.E.S. Sub-Division, Usoor, Bijapur.

10.5 Issue any other order or orders, writ or writs, direction or directions as this Hon'ble Court may deem fit in the facts and circumstances of the case in favour of the petitioner, in the interest of justice.”

7. We have heard both the sides elaborately. There is no dispute with regard to the sequence of events. It is conceded by both the sides that, at the time of taking the building on rent from the Petitioner, the terms of the agreement were never put in writing, but on an oral understanding that the 'reasonable rent' will be paid by the Government. After taking possession and after putting the building in use, the rent schedule was fixed by the Sub-Engineer (RES) as Rs.9461.83, which was not palatable to the District Collector, who sought it to be reassessed and recomputed by causing spot inspection through the Sub Divisional Officer. It also remains a fact, as taken note of by this Court in the interim order dated 12.04.2017, that the building was vacated by the Government/authorities. The period of occupation was admittedly from October, 2012 to April, 2016. Based on the observations and orders passed by this Court, the undisputed rent of Rs.3550/- per month was calculated for the said period and a Demand

Draft for sum of Rs.1,50,500/- is stated as released to the Petitioner, the receipt of which, is conceded. The remaining issue is only with regard to the balance, if any, payable.

8. Coming to Annexure P/7 passed by the District Collector, which is challenged herein, according to the District Collector, the building was having a reasonable rent of only Rs.3550/-. But on going through the contents of Annexure R/1 dated 25.05.2016 issued by the Sub Divisional Officer, which was prepared on the basis of the clear direction given by the District Collector to conduct a spot inspection and to evaluate the facts and figures, the Sub Divisional Officer had specifically observed that the building was to have a minimum rent of Rs.6516/- per month. Even after referring to the said figure, the District Collector simply holds that, according to 'his opinion', the building was having only a rental value of Rs.3550/- per month. From where did the District Collector get this idea remains a matter of mystery, if not astrological assumption. This is obviously for the reason for the Collector personally had not inspected the place or building, nor had the Collector obtained any further material, if he was not satisfied with the report submitted by the Sub Divisional Officer, based on his own instructions.
9. Thus, this is a clear instance of patent arbitrariness and high-handedness on the part of the District Collector in fixing the rent of the building as Rs.3550/- per month, which is not liable to be sustained. We set aside the finding given by the District Collector in the order under challenge and we accept the report submitted by the Sub Divisional Officer to the effect that the building was having a monthly rental value of Rs.6516/-.

10. In the above circumstance, the total rent payable for the period from October, 2012 to April, 2016 at the rate of Rs.6516/- per month, comes to Rs.2,80,188/-. After minusing the figure of Rs.1,50,500/- already given, the balance rent payable is Rs.1,29,688/-
11. In the said circumstances, we direct the 2nd Respondent i.e. District Collector, to make available funds forthwith and to disburse the said amount with interest at the rate of 7.5% per annum from 1st May, 2016 till the date of disbursement. The amount due as above shall be disbursed as expeditiously as possible; at any rate, within a period of 'two months' from the date of receipt of copy of this verdict.
12. The writ petition stands allowed to the said extent. No cost.

Sd/-

(P.R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge