

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1898 of 2019

Mohanchand Bafna, S/o. Late Tulsichand Bafna, Aged About 61 Years,
Great Genius Guys, Shop No. J-05, New Cloth Market, Pandri, Raipur,
Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh, Through Secretary, Urban Administration & Development Department, Mahanadi Bhawan, District : Raipur, Chhattisgarh
2. Raipur Development Authority, District Raipur, Chhattisgarh.
3. The Municipal Corporation Raipur, Through Commissioner, Zone No.2, Raipur, District Raipur, Chhattisgarh.
4. The Town & Country Planning, Raipur, Chhattisgarh.

---- Respondents

For Petitioner	:	Shri Y.C. Sharma, Advocate
For Respondents/State	:	Shri H.S.Ahluwalia, Dy. A.G.
For Respondent Nos. 2 & 3	:	Shri H.B.Agrawal, Sr. Advocate with Ms. Deepali Dubey, Advocate

Hon'ble Smt. Justice Rajani Dubey

Order On Board

24.05.2019

Heard.

1. The present writ petition is filed against the issuance of notice dated 08.05.2019 to the petitioner by the Municipal Corporation, Raipur. It is contended that the petitioner is the occupant of the shop of which the shop opening was initially inside the cloth market. Subsequently, with the passage of time one opening was also made towards the road, which was earlier a service road. It is stated that the said road became busy and therefore became a main road. It is contended that

the petitioner has neither encroached upon any part of land nor has obstructed the path or road, however, the Municipal Corporation in a omnibus manner referring to an order passed in WP (PIL) No.12 of 2018 dated 03.05.2018 has stated that the second shutter which is opened towards the main road should be closed, otherwise the shops shall be sealed. He would further submit that no opportunity of hearing was given to the petitioner before such order and time bound notice has been served to comply with the notice Annexure P-1.

2. Perused the order dated 03.05.2018 passed in WP (PIL) 12 of 2018 which finds reference in notice Annexure P-1. In such order the Division Bench of this Court has directed that the encroachments in the Pandri Cloth Market, Raipur shall be identified and dealt with by the Corporation in accordance with law. Primary reading of the notice would show that the petitioner has not encroached the land but notice is served for removing the additional/ illegal construction. Therefore, the direction given in WP (PIL) 12 of 2018 may not be directly applicable for the reasons stated in the notice. The petitioner as appears has not been heard before issuance of such direction. Under the circumstances, it is directed that the petitioner in pursuance to the notice dated 08.05.2019 may file their respective representations/ submissions within a period of thirty days from today before the Municipal Corporation, Raipur, who will decide the same objectively taking into the spirit of the order passed in WP (PIL) No.12 of 2018 within a further period of 3 months from the date of representation after giving fair opportunity of hearing to the petitioners after hearing them afresh. Therefore, for the present, the notice dated 08.05.2019

shall not be acted upon till then. It is further directed that the petitioner shall not cause any encroachment over the subject area or shall not obstruct the way in any manner which may lead to obstruction of traffic.

3. With the aforesaid observations, the writ petition stands disposed of.

Sd/-
(Rajani Dubey)
Vacation Judge

ashok