

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (PIL) No. 81 of 2019**

Raju Sinha S/o Chandrabhan Sinha, aged about 42 years, R/o village Narayangarh, Tahsil Dongargarh, District Rajnandgaon, Chhattisgarh.

----Petitioner**Versus**

1. State of Chhattisgarh, Through: the Secretary Department of School Education, Mahanadi Bhawan, Naya Raipur, Chhattisgarh.
2. The Collector, Rajnandgaon, District Rajnandgaon, Chhattisgarh.
3. Sub Divisional Officer (Revenue), Dongargaon, District Rajnandgaon, Chhattisgarh.
4. The Tahsildar, Chhuriya, District Rajnandgaon, Chhattisgarh.
5. Chandrika Prasad Dadsena S/o Late Kanhaiya Lal Dadsena, Aged about 65 years, Caste Kalar, R/o Rangitola, Tahsil Chhuriya, District Rajnandgaon, Chhattisgarh.

----Respondents

For Petitioner	:	Shri Punit Ruparel and Shri Ram Narayan Sahu, Advocates.
For Respondent/State	:	Shri Gagan Tiwari, Deputy Government Advocate.
For Respondent No. 5	:	Shri Anup Majumdar, Advocate.

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

Judgment on Board**Per P.R. Ramachandra Menon, Chief Justice****17/12/2019**

1. This petition, styled as a Public Interest Litigation, has been preferred by the Petitioner with the following prayers:

"10.1 That the Hon'ble Court may kindly be pleased to call for the entire record pertaining to the case of the petitioner.

10.2 That, the Hon'ble Court may kindly be pleased to direct the respondent authorities to vacate the Khasra No. 80/1 rakba 0.263 hectare and khasra No. 80/2, rakba 0.081 hectare land, which is reserved for the Primary School and Middle School by the Education Department at village Rangitola, Tahsil Chhuriya, District Rajnandgaon, Chhattisgarh from the illegal possession of the Respondent No. 5 and demolish the illegal construction over it.

10.3 Any other relief, which may deem fit and proper in the circumstances of the case, in the interest of justice."

2. The sum and substance of the grievance is that there is an unauthorised encroachment into the Government land by the 5th Respondent and despite bringing it to the notice of the authorities concerned, no proper action has been taken so far. It is also pointed out that the factum of unauthorised construction has been reported by the Revenue authorities as well.
3. When the matter came up before this Court on 16.10.2019, after getting instructions from the Respondents, it was submitted that the learned counsel representing the State that a complaint was obtained as to the alleged encroachment/unauthorised construction. When the matter was enquired into by the Tahsildar, the enquiry revealed that there was no encroachment over the Government land from the part of the 5th Respondent. Time was sought for to put forth in writing as to the facts and figures. Accordingly, a return dated 15.11.2019 has been filed by the Respondent State, also producing copies of some documents as Annexure R/1 to R/4.
4. The learned counsel for the Petitioner points out that the version of the Respondents that there is no unauthorised construction or encroachment is not correct, as borne by the factual finding rendered by the Revenue Inspector vide Annexure R/4 dated 20.09.2019 addressed to the Tahsildar.
5. The learned counsel for the 5th Respondent submits that the construction effected by the said 5th Respondent is exclusively within his property having the title and this fact has been substantiated before the revenue authorities.

6. Shri Gagan Tiwari, the learned Deputy Government Advocate submits that the construction effected by the 5th Respondent was in his property and not on any Government property as revealed in the enquiry. It is also added that there was some doubt as to the nearby wall, which was having a measurement of 5'X3'. The said wall was constructed by the nearby school to prevent cattle from entering into the school compound. It is also brought to the notice of this Court by the learned Government counsel, after getting instructions, that the said wall has been demolished by the School authorities. In the said circumstance, we do not find it necessary to keep this matter pending.
7. The writ petition stands closed. It is however made clear that, if at all there is any encroachment or unauthorized construction by anybody in the Government land, it shall be open for the Government to initiate appropriate proceedings to cause the same to be removed by resorting to appropriate provisions of law.

Sd/-
(P.R. Ramachandra Menon)
CHIEF JUSTICE

Sd/-
(Parth Prateem Sahu)
JUDGE