

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 3765 of 2019**

Nav Durga Fuel Pvt. Ltd. Registered Officer At Unit No. 08, 6th Floor,
 Infinity Benchmark, Plot G-1 Block EP And GP, Sector - V Salt Lake City ,
 Kolkata - 700091, Through Authorized Signatory, Rakesh Pandey S/o
 Gajanand Pandey, Age 53 Years, R/o Village Saraipali, Ghargoda Road
 Tahsil and District Raigarh Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Water Resource Department,
 Mahanadi Bhawan, New Raipur District Raipur Chhattisgarh
2. The Sub Divisional Officer Water Resource, Sub Division Raigarh, District
 Raigarh Chhattisgarh
3. The Nayab Tahsildar Tamnar, Tahsil And District Raigarh Chhattisgarh
4. The Executive Engineer Water Resources, Division - Raigarh District
 Raigarh Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Tarkeshwar Nande, Advocate
For State	:	Mr. Ayaz Naved, GA

Hon'ble Shri Justice P. Sam Koshy**Order on Board****21/10/2019**

1. The challenge in the present writ petition is for initiation of the revenue recovery proceedings dated 16.09.2019 Annexure P-1 whereby the petitioner has been asked to pay the charges for the Water that is being used by the petitioner establishment to the tune of Rs. 33,39,718/-.

2. Substantial ground that the petitioner raises is that the petitioner charges would not be leviable from the petitioner as the provisions of the Chhattisgarh Irrigation Act, 1931, would not be applicable so far as the petitioner establishment is concerned. As the said charges would be applicable in the event if the water is derived from the river, canal or any other open source. Further contention of the petitioner is that on an earlier occasion when the similar notice was issued in the bunch of writ petition filed before this High Court in WPC No. 2533/2016 and other analogous writ petitions including the writ petition preferred by the petitioner i.e. WPC 2625/16. All of which got disposed of vide order dated 13.07.2017. Further contention of the petitioner is that immediately after disposal of the aforesaid bunch of writ petitions the petitioner had made detailed representation vide Annexure P-7 dated 31.07.2017 to the respondent No.1. However, till date the said representation according to the petitioner has not been decided and the before deciding the said representation the respondents have again issued revenue recovery notice (RRC). Contention of the petitioner is that respondents perhaps are relying upon the Annexure P-8 dated 24.08.2018 which is also under challenge in the present writ petition whereby it is held that since the representations which the parties were supposed to file within the stipulated period have not been filed, their claim stood rejected.
3. According to the petitioner no such order dated 24.08.2018 has been issued to the petitioner or have been served upon the petitioner intimating them in respect of rejection of their representation or rejection of their claim that they have made. From the perusal of the Annexure P-7 it appears the representation dated 31.07.2017 filed by the petitioner was received in the office of the respondents on 01.08.2017. If the representation of the petitioner pending consideration from 01.08.2017, this Court does not find any good reason why the authorities should not have decided the representation on its merits, particularly, when this

Court in its order dated 13.07.2017 had specifically directed the State authorities to decide the representation on its merits.

4. Given the aforesaid facts and circumstances of the case, this Court is of the opinion that no fruitful purpose would be served in keeping the writ petition pending rather ends of justice would be served if the writ petition is disposed of directing the respondent No.1 to consider and decide the representation which the petitioner has filed on 13.07.2017 (Annexure P-7) received by the respondents on 01.08.2017 at the earliest.
5. Till the respondent No.1 takes a decision on the representation filed by the petitioner they would stand restrained from taking any further steps on the revenue recovery notice (RRC) proceedings issued Annexure P-1 dated 16.09.2019.
6. It is made clear that this Court has not expressed any opinion so far as the claim of the petitioner on merits is concerned. Respondent No.1 is expected to decide the same purely in accordance with the law governing the field.
7. With the aforesaid observations, the writ petition stands partly allowed and disposed of.

**Sd/-
(P. Sam Koshy)
Judge**

Rohit