

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Reserved on 28-01-2020

Passed on 08-05-2020

WP(C) No. 5991 of 2007

- Keshav Prasad Rai, S/o- Paramsukh Rai, Aged about- 50 years, R/o- Amarkantak Road, Dhanpuri, District- Shahdol (MP)

---- Petitioner

Versus

1. State of Chhattisgarh, through Secretary, Department of Urban Development, D.K.S. Building, Mantralaya, Raipur (CG)
2. Secretary, Department of Panchayat & Rural Development, D.K.S. Building Mantralaya, Raipur (CG)
3. Collector, Bilaspur (CG)
4. Sub Divisional Officer (Revenue), Bilaspur, District Bilaspur (CG)
5. Municipal Corporation, Bilaspur, through its Commissioner, Municipal Corporation, Bilaspur, District Bilaspur (CG)
6. Gram Panchayat, Mopka, District Bilaspur (CG)

---- Respondents

For petitioner	:	Mr. B.D. Guru and Mr. Rajendra Tripathi, Advocates.
For respondent/State	:	Mr. Raghavendra Verma, GA.
For respondent No.5	:	Mr. A.S. Kachhawaha, Advocate

Hon'ble Shri Justice Ram Prasanna Sharma

CAV Order

1. This writ petition is preferred under Article 226 of the Constitution of India seeking direction to the respondent authorities to return back the land of 0.94 acres to the petitioner which is reserved for Economically Weaker Section.

2. The case of the petitioner, in brief, is that the petitioner is a colonizer having licence No. 162/B-121/2001-2002 who has been working for establishment of residential colony in land bearing Khasra No. 993/25/20, 993/25/21, 993/25/3, 993/25/18, 993/25/19 total area of 6.30 hectares in village Mopka, Gram Panchayat Mopka. 15% of the total land i.e., 0.94 acres was ear-marked for Economically Weaker Section as per Rule 10 of the Chhattisgarh Gram Panchayat (Registration of Colonizer Terms and Conditions) Rules 1999 (for short, "the Rules 1999"). However, the said land was not used for Economically Weaker Section and the competent authority fails to allot the plots/houses to the eligible persons within a period of two years. Sub rule (8) of Rule 10 of the Rules 1999 provides that if the competent authority fails to allot the plots/houses to the eligible persons within a period of two years, then such plots/houses shall be returned back to the colonizer by the competent authority. However, the competent authority has not returned back the land of 0.94 acres which was handed over to the competent authority for persons belonging to Economically Weaker Section, therefore, the act of the

respondents authority is against Rule 10 (8) of the Rules 1999. The petitioner obtained colonizer licence in respect of development of the said colony in the year 2001 and the respondents have flouted the Rule 10(8) of Rules 1999, therefore, 15% of the total area i.e., 0.94 acres shall be returned to the petitioner. The petitioner had acquired his right under Rule 10(8) of the said Rules 1999 to obtain land back.

3. On the contrary, learned counsel for the respondents would submit that amended provision of Rule 10(8) of the Rules 1999 was incorporated vide notification dated 26-5-2009 and it was not incorporated at the time of issuance of licence to the petitioner, therefore, amended Rule 2009 is not applicable in the present case. The petitioner is only entitled for compensation as per Rules, therefore, petitioner is not entitled for any relief.

4.. I have heard learned counsel for the parties.

5 The only question for consideration of this court is whether in exercise of writ jurisdiction, the land which was reserved for Economically Weaker Section can be returned to the petitioner.

6. Admittedly, colonizer licence was granted to the petitioner in the year 2001. As per Rules 1999, it was a policy decision of the State for such land which is obtained for Economically Weaker Section. There was no such provision for return of land at the time of issuance of licence. This provision is incorporated vide notification dated 22-5-

2009. The case of the petitioner is governed by Rules which was in force at the time of issuance of colonizer licence i.e., in the year 2001-2002. On the date of issuance of colonizer licence, the statute did not provide for release of land which was reserved for Economically Weaker Section. Such facility for return of land which is not otherwise from the Rules prevailing at the time of issuance of licence cannot be allowed in favour of the colonizer. In original Rule 10 (8) of CG Nagar Palika (Registration of Colonizer, Terms and Conditions) Rules 1998 it was a policy decision which has to be consciously taken by the State Government. The petitioner is only entitled for compensation for the land in question as per valuation on the date of handing over the possession of land. It is not a case where the court can exercise its writ jurisdiction in such matters which have trappings of policy.

7. In view of the above, no case for exercise of jurisdiction under Article 226 of the Constitution of India is made out. Accordingly, the writ petition is liable to be and is hereby dismissed.

Sd/-

(Ram Prasanna Sharma)

Judge

Raju