

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 39 of 2020**

(Arising out of order dated 16/12/2019 passed by learned Single Judge in WPC No. 4597 of 2019)

- Maa Vaishnav Associates Private Limited, Through: its Proprietor Sanjay Agrawal son of Mahangilal Agrawal, aged about 45 years, Baikunthpur, district Koriya, C.G.

-----Appellant/Petitioner**VERSUS**

1. State of Chhattisgarh through: Secretary, Urban Administration Department, Mantralaya, Mahandai Bhawan, Atal Nagar, Nawa Raipur, District Raipur C.G.
2. Director, Directorate, Urban Administration Department, Indrawati Bhawan, Atal Nagar, Nawa Raipur, District Raipur C.G.
3. Chief Municipal Officer, Municipal Corporation Baikunthpur, District Koriya, C.G.
4. Assistant Director, Nagar तथा Gram Nivesh, Regional Officer, Ambikapur, District Surguja, C.G.
5. President, Municipal Corporation Baikunthpur, District Koriya C.G.
6. Ashok Jaiswal, President, Municipal Corporation Baikunthpur, District Koriya, C.G.

-----Respondents

For Appellant	:	Mr. Sameer Oraon, Advocate
For Respondents	:	Mr. Sudeep Agrawal, Dy.A.G.

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice**Hon'ble Shri Parth Prateem Sahu, Judge****Judgment on Board****Per Parth Prateem Sahu, J.****15/01/2020**

1. Challenge in this appeal is to the order dated 16-12-2019 passed by learned Single Judge in WP(C) No. 4597/2019 whereby learned Single Judge declined to interfere with the show-cause notice challenged in the writ petition on the ground that it is only a show-cause notice and no writ can be issued against the show-cause notice and it has further been observed that the interim direction of stopping the construction is by way of an interim arrangement till any order which may be passed after the reply submitted by the appellant.

2. Learned counsel for the appellant submits that the appellant is a land developer and having valid land development permission from competent authority, he is also having registration as colonizer and constructing a colony named as 'Mahangi Lal Agrawal Colony'. He submits that the purpose of notice dated 27-11-2019 (Annexure P-1) is not only with respect to the show-cause notice but also it comes within the purview of the order as under the notice it has been directed to stop the construction, secondly, he also points out that the provisions of law as mentioned in the notice are not applicable in his case and the notice itself is liable to be set aside.
3. Per contra, learned counsel for the respondent-State submits that the notice virtually is the show-cause notice, asking him to make his submission so that the appellant can satisfy the authority that the colony which the appellant is constructing is in accordance with law and after taking prior approvals from all the competent authorities. He also submits that in the second-paragraph of the notice, the provisions have rightly been mentioned i.e. Section 339 (A)(B)(C)(D) (E)(F) but for the name of the Act, therefore the submission made by the learned counsel for the appellant is not correct.
4. We have heard learned counsel for the parties and perused Annexure P-1.
5. We are not convinced with the arguments made by the learned counsel for the appellant that Annexure P-1 notice/ letter dated 27-11-2019 is an order. The contents of the notice/ letter only mention show-cause as to why action should not be taken against him if there is non-compliance of the provisions of law as mentioned in the show-cause notice. The restrain order made in the notice/ letter is only a temporary arrangement till the authority takes any decision on the notice and the reply submitted by the appellant.
6. So far as, the submission made by learned counsel for the appellant that provision is wrongly mentioned in notice is concerned, appellant can raise all his pleas in his reply before the authority issued notice to him.

7. It is a settled law that writ petition is not maintainable against show-cause notice as it is not an order affecting the rights of the party. In view of the above, we do not find any infirmity in the impugned order passed by learned Single Judge. However, looking to the facts and circumstances of the case and also looking to the submissions made by the appellant that construction of the colony has been made to stop, it is directed that the 3rd respondent/ Chief Municipal Officer will decide the case within a period of 2 weeks from the date of submission of reply by the appellant to the show-cause notice dated 27-11-2019.
8. In view of above, writ petition is disposed of accordingly.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge