

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Reserved on 28-01-2020

Passed on 08-05-2020

WPC No. 2725 of 2009

- M/s Geetanjali Construction (Colonizer, Developer and Builder) A Partnership Firm registered under Indian Partnership Act, 1956 through its partner Shri Sant Ram Sahu, S/o- Shri Mutan Ram Sahu, Aged about 53 years, R/o- Geetanjali House, Nehru Nagar, Ameri Road, Bilaspur (CG).

---- Petitioner

Versus

1. State of Chhattisgarh, through Secretary, Urban Administration and Development Department, Mantralaya, D.K.S. Bhawan, Raipur (CG).
2. Secretary, Department of Revenue, Mantralaya, D.K.S. Bhawan, Raipur (CG).
3. Secretary, Urban Administration and Development, Mantralaya, DKS Bhawan, Raipur (CG).
4. Secretary, Town and Country Planning Department, Mantralaya, DKS Bhawan, Raipur (CG).
5. Sub Divisional Officer (Revenue), Bilaspur, District Bilaspur (CG).
6. Municipal Corporation, Bilaspur, through its Commissioner, Municipal Corporation, Bilaspur, District Bilaspur (CG).

7. Gram Panchayat, Mangla, through its Secretary, District Bilaspur (CG)

---- Respondents

For petitioner	:	Mr. Rajeev Shrivastava, Adv.
For respondents/State	:	Mr. Raghavendra Verma, GA..
For respondent No.6	:	Mr. A.S. Kachhawaha and Mrs. Pushpa Dwivedi, Advocates.

Hon'ble Shri Justice Ram Prasanna Sharma

CAV Order

1. The petitioner has filed this writ petition under Article 226 of the Constitution of India challenging the order dated 13-5-2009 (Annexure P/1) passed by respondent No.5 - Sub Divisional Officer (Revenue) wherein it has been held that the petitioner has violated Rule 14 of the MP/CG Gram Panchayat (Registration of Colonizer Terms and Conditions) Rules, 1999 (for short, "the Rules 1999") and the development work done by the petitioner is illegal.

2. The case of the petitioner, in brief, is that the petitioner is a partnership firm and is having valid colonizer licence under the provisions of the Chhattisgarh Municipal Corporation (Registration of Colonizer, Terms and Conditions) Rules 1998 (for short, "the Rules 1998"). The petitioner purchased the land at village Mangla and obtained permission to develop the said land as a colony styled as

“Geetanjali Park, bearing Khasra No. 1459/3 total area 0.188 hectares. The petitioner is a colonizer licence holder and Geetanjali Park is situated at declared planning area. Firstly the petitioner was granted colonizer licence on 17-3-1999 vide Annexure P/6 as per provisions of the Rules 1998 for five years and thereafter it was renewed for another five years vide renewal order dated 27-2-2004 (Annexure P/7). As the area in question is within planning area as per provisions of Rule 1(3) of the Rules 1998, the colonizer licence granted to the petitioner for developing the colony was applicable for limits of Municipal Corporation. The petitioner was not required to obtain any licence for developing colony from respondent No.5 as the petitioner is holder of valid colonizer licence as per Rules 1998 but by way of abundant caution the petitioner moved an application on 19-1-2004 for grant of licence for development of Geetanjali Park as per provisions of Rule 8 of the Chhattisgarh Gram Panchayat (Registration of Colonizer, Terms and Conditions) Rules 1999 and paid licence fees for development and supervision charges to Gram Panchayat Mangla as per Annexures P/12 and P/13, but respondent vide order dated 13-5-2009 (Annexure P/1) declared the colony illegal as per provisions of Section 61 (a)(1) of the Chhattisgarh Panchayat Adhiniyam 1993 for violation of Rule 14 of the Rules 1999 which is contrary to law, therefore, the said order passed by the Sub Divisional Officer (Revenue), Bilaspur (CG) in Revenue Case No.1047/B-121/2006-2007 be quashed.

3. On the contrary, learned counsel for respondents would submit that the licence issued in favour of the petitioner was not valid because the area in question is not within municipal corporation area and the petitioner ought to have filed an application for licence before Panchayat which is not done, therefore, the order passed by respondent No.5 is not liable to be interfered with.

4. I have heard learned counsel for the parties and perused the order passed by the court below.

5. The only question for consideration of this court is whether the land in question situated at village Mangla is within planning area for which the Municipal Corporation is competent to grant licence.

6. Admittedly, Municipal Corporation granted colonizer licence in favour of the petitioner vide Annexure P/6 (Registration No. 003 dated 17-3-1999) which was valid for five years. The licence was renewed on 27-2-2004 vide renewal No. 002 as per Annexure P/7 which is valid for five years i.e., upto 26-2-2009. As per Annexure P/8 village Mangla is included in serial No.7 and it is within planning area of Municipal Corporation. By order of Joint Director, Town and Country Planning, petitioner was granted permission to develop colony. As per Annexure P/8, Panchayat Mangla received Rs.1,57,830/- for development charges and supervision charges of Rs.4,000/- and Rs.7,210/- for supervision of colony development by the said Panchayat. Even if the

land in question is not within the territory of Municipal Corporation, the same is admittedly within planning area and licence was granted for planning area. The Municipal Corporation and the Gram Panchayat both are local bodies working under the provisions of Chhattisgarh Panchayat Raj Adhijyam, 1993 and Municipal Corporation Act, 1956. It is nobody's case that the petitioner is not entitled for licence or he is disqualified for any ground, contrary to that the petitioner has already been granted licence by Municipal Corporation. When Municipal Corporation has granted licence and Gram Panchayat has received development charges as mentioned above, both are stopped from saying otherwise as per law of estoppel. Unless the licence issued by the Municipal Corporation is cancelled, the same is valid in favour of the petitioner, therefore, the petitioner was not required to get licence from respondent No.5 who is competent authority under Chhattisgarh Gram Panchayat (Registration of Colonizer, Terms and Conditions) Rules 1999.

7. Taking into consideration the totality of the fact that as the petitioner was granted licence by Municipal Corporation for planning area and Panchayat received charges for external development and supervision, respondent No.5 was not right in holding that the licence issued by Municipal Corporation is not valid. Respondent No.5 is competent authority under the provisions of Rules 1999 and he is not competent to bye-pass the order of licence granted by the Municipal

Corporation, therefore, the order passed by respondent No.5 as per Annexure A/1 is not sustainable.

8. Accordingly, the petition is allowed and the order dated 13-5-1999 (Annexure A/1) passed by respondent No.5 is hereby quashed.

Sd/-

(Ram Prasanna Sharma)

Judge

Raju