

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 1208 of 2020**

Bhawani Bal Vidyamandir Higher Secondary School Chandmari, Raigarh,
District- Raigarh- A School Run By A Society- Bhawani Bal Vidya Mandir,
Chandmari, Raigarh, A Registered Society Registered Under Society
Registration Adhiniyam 1973, Through Principal- Bharat Kumar Prahraj

---- Petitioner**Versus**

1. State Of Chhattisgarh Through- Principal Secretary, Department Of Revenue And Disaster Management, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, Chhattisgarh.
2. Collector Raigarh, District- Raigarh, Chhattisgarh.
3. Nazul Officer Raigarh, District- Raigarh, Chhattisgarh.
4. Municipal Corporation Raigarh Through Its Commissioner, Municipal Corporation Raigarh, District- Raigarh, Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Anand Dadariya, Advocate
For State	:	Mr. Jitendra Pali, Dy. A.G.
For Respondent No.4	:	Mr. Pankaj Agrawal, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****12/06/2020**

1. The challenge in the present writ petition was to the notice issued by the respondent No.4 for removal of the unauthorized construction over the government land under the Municipal Corporation area in District Raigarh.
2. The contention of the learned counsel for the petitioner is that they are running a Higher Secondary School in the said premises for the last over 30 years and admittedly, the petitioner do not have any right over the said property, however looking to the need of the hour about 30 years back they had started an educational institution, which is now in operation for last three decades. That the State Government now vide

their circular dated 11.09.2019 (Annexure P/3) have floated a scheme for allotment of lease to those persons, who have encroached upon the government land with an intention of settlement and grant of lease/patta of all these illegal encroachment.

3. According to the petitioner, he has also moved an application in this regard vide Annexure P/4 dated 14.02.2020 before the respondent authorities i.e. the respondent No.3 and the application is still pending. According to the petitioner he has already given his consent and willingness for depositing the requisite fees as has been stipulated by the Government in the circular for settlement and grant of lease/patta Annexure P/3, that may be ordered to be decided at the earliest.
4. Learned Deputy Advocate General Mr. Jitendra Pali submits that this application of the petitioner shall be considered in accordance with law at the earliest.
5. So far as the respondent No.4 is concerned, the contention of the counsel for the Corporation is that the petitioner has made an illegal construction over the said piece of land and therefore the respondent No.4 in accordance with the provisions of Municipal Corporation Act has initiated action against the petitioner. In addition, the counsel for the Corporation submits that the petition also at this juncture is not maintainable in view of the remedy of filing a suit for injunction before the concerned Civil Court under Section 307(5) of the Municipal Corporation Act.
6. In view of the latest scheme of the State Government (Annexure P/3) dated 11.09.2019 and the petitioner having moved an application on 14.02.2020, this Court is of the opinion that the dispute itself can stand

redressed by directing the respondents No.2 & 3 to take a decision on the application Annexure P/4 that the petitioner has filed for settlement and grant of lease/patta over the encroached land.

7. If suppose, if the State Authorities allows the application of the petitioner then the entire dispute itself would stand redressed except the fact whether the construction made is in accordance to the prescribed norms of the Government. However, if suppose, if the respondents rejects the application, the respondent No.4 may have the liberty of proceeding further in accordance with law.
8. Accordingly, the respondents No.2 & 3 are directed to take a decision on the application Annexure P/4 filed by the petitioner at the earliest. Till such an application is decided, the respondent No.4 shall not take any coercive steps for demolition of the construction subject to the petitioner paying all requisite fees/charges that are otherwise payable.
9. Even if the application of the petitioner stands allowed by the State Authorities, the Corporation would have all the rights to proceed in accordance with law ensuring that there is no illegal construction carried out by the petitioner and the constructions are all well within the limits and norms laid down under the different provisions of law.

With the aforesaid observations, the present writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Ved