

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 4407 of 2019**

Green Housing Development Society Through Its President Prakash Chand Gupta, S/o Late Shri Govind Prasad Gupta, Aged About 71 Years, Registered Office At 46, Lal Ganga Shopping Mall, G.E. Road, Raipur, District- Raipur, Chhattisgarh

---- **Petitioner****Versus**

1. State Of Chhattisgarh Through The Secretary, Revenue Department, Mantralaya, Mahanadi Bhawan, Atal Nagar Naya Raipur, District- Raipur, Chhattisgarh
2. The Commissioner Raipur Division, Raipur, Chhattisgarh
3. The Collector Raipur, District- Raipur, Chhattisgarh
4. The Upper Collector Raipur, District- Raipur, Chhattisgarh

---- **Respondents**

For Petitioner	:	Mr. Anshuman Shrivastava, Advocate
For State	:	Mr. V. R. Tiwari, Additional AG

Hon'ble Shri Justice P. Sam Koshy**Order on Board****06/12/2019**

1. The challenge in the present writ petition is to the initiation of the proceedings by the respondent No.2 pursuant to the order passed by the State Government dated 30.09.2019 Annexure P-2.
2. The facts of the case is that the petitioner at the first instance is a society had approached the Collector under Section 237 of the Chhattisgarh Land Revenue Code for grant of allotment and diversion of land enabling the petitioner to construct the housing colony.
3. According to the petitioner the said land against which the allotment was sought, was not reserved for any particular purpose but was reserved for the purpose of Shamilat Charagan Land. According to the petitioner the application of the petitioner was on a couple of occasions rejected by the

Collector. Thereafter on an appeal by the petitioner before the State Government the matter has always been remitted back. This time again the matter vide order dated 30.09.2019 stands remitted back to the Collector for its adjudication. The grievance of the petitioner herein is that the matter stands remitted by the State Government to the Collector but Annexure P-1 has been issued by the Commissioner respondent No.2, Raipur Division and Commissioner in turn has proceeded to decide the case on merits and have call for the records from the office of the Collector vide Annexure P-1, this according to the petitioner was totally uncalled for as it was not the Commissioner who had to decide the matter on merits afresh. Therefore, proceedings before the Commissioner be quashed/set aside and matter be sent to respondent No.3 for final adjudication on the application for allotment/diversion moved by the petitioner under Section 237 of the Chhattisgarh Land Revenue Code.

4. Contention of the petitioner that the Commissioner having wrongly initiated proceedings in pursuant to the order dated 30.09.2019 passed by the Secretary is not in dispute by the Learned Additional Advocate General.
5. If we see the order dated 30.09.2019 in paragraph 6 & 7, the concerned Secretary of the department considered entire case on merits and have reached to the conclusion that matter needs fresh adjudication and has accordingly remitted the matter back to the Collector for taking a decision a fresh after giving fair and reasonable opportunity of hearing on due verification of contentions raised by the petitioner. The order passed by the Learned Secretary was not remitting it back to the first Appellate Court i.e. the office of the Commissioner but it clearly indicates that order was remitting the matter back to the Collector for taking an appropriate decision.

6. Given the aforesaid facts and circumstances of the case, this Court is of the opinion that order sheet dated 18.10.2019 and notice issued by the respondent No.2 pursuant to Annexure P-1 is bad in law and without authority in the light of the order dated 30.09.2019 passed by the Secretary, Government of Chhattisgarh, Department of Revenue and Disaster Management, Raipur.
7. Accordingly, Annexure P-1 dated 18.10.2019 and consequential notice issued stands set aside/quashed and it is ordered that respondent No.3 Collector to immediately call for the records and proceed and decide the matter in accordance with the directives given by Secretary in his order Annexure P-2 dated 30.09.2019.
8. It is expected that Collector while deciding the case under Section 237 will take into consideration the observations made by the Secretary in his order dated 30.09.2019 and shall grant a fair and reasonable opportunity of hearing to the petitioner and shall also decide the matter after appropriate verification of the claim and contentions put forth by the petitioner.
9. Expecting an early decision by the Collector preferably within a period of six months the present writ petition stands disposed of.
10. With the aforesaid observations, the writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCC No. 380 of 2020

1. Green Housing Development Society, Through Its President Prakash Chand Gupta, S/o Late Shri Govind Prasad Gupta, Aged About 71 Years, Registered Office At 46, Lal Ganga Shopping Mall, G.E. Road, Raipur, District : Raipur, Chhattisgarh

---- Applicant

Versus

1. State Of Chhattisgarh, Through The Secretary, Revenue Department, Mantralaya, Mahanadi Bhawan, Atal Nagar Naya Raipur, District : Raipur, Chhattisgarh
2. The Commissioner, Raipur Division, Raipur, District : Raipur, Chhattisgarh
3. The Collector, Raipur, District : Raipur, Chhattisgarh
4. The Upper Collector, Raipur, District : Raipur, Chhattisgarh

-----Respondents

For Applicant	: Mr. Anshuman Shrivastava, Advocate
For State	: Smt. Sunita Jain, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

10.08.2020

1. The present MCC has been filed seeking modification of the Order passed by this Court in WPC No. 4407 of 2019. The modification that has been sought is so far as the observations made by this Court in Paragraph 8 of its order dated 06.12.2019 is concerned.
2. According to the counsel for the applicant, the observation made by this Court in paragraph 8 is for directing the Collector to decide the case under Section 237 of the Chhattisgarh Land Revenue Code is being construed as if this Court had directed the Collector to decide

the entire issue.

3. Needless to mention that the order has been passed by this Court only to the extent that once when the State authorities in the department of the Government have remitted back the matter to the Collector to take a decision afresh, it is only expected that the District Collector shall exercise the powers to the extent as conferred upon him/her under Section 237 of the Chhattisgarh Land Revenue Code, 1959 whatever be the procedure prescribed under the said Code.
4. The Order dated 06.12.2019 passed in WPC No. 4407 of 2019 stands modified/clarified to the aforesaid extent and the MCC, accordingly stands allowed and disposed off.
5. It is expected that the Collector shall now proceed and decide the matter as expeditiously as possible keeping in view the period prescribed by this Court in the original writ petition.
6. Let a copy of this Order be made a part of record of WPC No. 4407 of 2019.

Sd/-
(P. Sam Koshy)
Judge