

HIGH COURT OF CHHATTISGARH, BILASPUR**WPIL No. 65 of 2020**

- Chhattisgarh Pradesh Trito Varg Shashkiya Karamchari Sangh, Through its General Secretary, Vijay Kumar Jha, S/o Late Ratanlal aged about 60 years R/o Turihatri, Purani Basti Raipur District Raipur Chhattisgarh
- Idris Khan S/o Nawab Khan, aged about 60 years R/o H-9, Irrigation Colony, Shanti Nagar, Raipur District Raipur Chhattisgarh

---- Petitioners**Versus**

1. State of Chhattisgarh Through The Secretary, Water Resources Department, Mahanadi Bhawan, Mantralaya, Atal Nagar, Nawa Raipur District Raipur Chhattisgarh
2. Secretary Housing And Environmental Department, Mahanadi Bhawan, Mantralaya, Atal Nagar, Nawa Raipur District Raipur Chhattisgarh
3. Chhattisgarh Grih Nirman Mandal Through Its Commissioner, Head Quarters, Paryavaran Bhawan, North Block Sector -19, Atal Nagar, Naya Raipur District Raipur Chhattisgarh
4. Estate Directorate Indrawati Bhawan, Atal Nagar, Naya Raipur District Raipur Chhattisgarh
5. Collector Raipur District Raipur Chhattisgarh

---- Respondents

For Petitioners	: Shri Anoop Mazumdar, Advocate
For State / Respondents No. 1, 2, 4 & 5	: Shri S.C. Verma, Advocate General with Chandresh Shrivastava, Deputy Advocate General

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice**Hon'ble Shri Parth Prateem Sahu, Judge****Judgment on Board****Per, P. R. Ramachandra Menon, Chief Justice****22.07.2020**

1. Eviction of Government Employees from old and dilapidated Government Quarters for re-development, taken as a policy decision, that too; after providing them alternate accommodation at such other appropriate place is put to challenge in this writ petition filed by an Association of the Employees' and a Member, styled as a 'Public Interest Litigation'.

2. The reliefs sought for appear to be rather 'strange', in so far as the Prayer No.1 is a collective prayer which could only be an individual grievance, if any, and further, the Prayer No.2, to re-vest the land in question to the Water Resources Department is virtually contrary to the stand of the said Department as reflected from the materials on record.

The Prayers are in the following terms :

“10.1. That, the respondent authorities may be directed not to dismantle the houses situated in Irrigation Colony, Shanti Nagar, Raipur and further allow the present residents to continue to inhabit in the government quarters which were already allotted to them by Respondent No.4.

10.2. That, the consent/order dated 17/06/2020 may be declared as illegal may kindly be quashed and the land and buildings situated at Irrigation Colony, Shanti Nagar, Raipur may be re-vested to the Water Resources Department.

10.3. Any other relief, which this Hon'ble Court may deemed just and fit in facts and circumstances of the case.

3. The Respondents 1, 2, 4 and 5 / State have filed a preliminary objection, particularly, with reference to the maintainability of the writ petition.
4. We heard Mr. Anoop Majumdar, the learned counsel appearing for the Petitioners as well as Mr. Chandresh Shrivastava, the learned counsel appearing for the Respondents concerned.
5. The 1st Petitioner is a Society of Class-III Government Employees' and the 2nd Petitioner is a Member. It is stated that the 1st Petitioner Society has been working for the welfare and interest of its members including in service matters and even in personal disputes arising out of the

service. The Petitioners contend that they are projecting the plight of the residents of the Irrigation Colony, Shanti Nagar, who are being forcibly evicted during the monsoon period and the ongoing Covid-19 pandemic.

6. The case of the Petitioners is that the Government of Chhattisgarh has constructed Government Quarters for the residential needs of its Employees at different places, such as Shanti Nagar, Shankar Nagar, Sahid Bhagat Singh Chowk etc. The issue projected herein is with reference to Shanti Nagar, Raipur, where 300 Government Quarters were constructed about 4 decades ago, in the land comprising of 19.79 acres. It is pointed out by the Petitioners that a re-development project has been launched by the State Government for construction of new houses, pursuant to which the Water Resources Department has proposed to handover the Quarters and Site at Shanti Nagar, which is known as Irrigation Colony, to the Department of Accommodation and Environment. The Water Resources Department has demanded 407 Houses for the Employees of the Irrigation Department and re-development/re-construction is stated as being made by the Chhattisgarh Housing Board. It was accordingly, that Annexure-P/1 decision was taken by the 1st Respondent to accord its consent to transfer the property to the State Accommodation and Environment Department vide Annexure-P/1. The Petitioners have also conceded that the eviction is sought to be pursued, by issuing necessary notices, after serving allotment orders as to the new accommodation at different

places, which is stated as about 15 kms. away from the present location. It is the case of the Petitioners, that huge amounts have already been invested towards the maintenance and repairs of the residential houses at Shanti Nagar and as such, the present move, incurring further expenditure, will result in drainage of public money and hence to be interdicted. Some other contentions are also raised to the effect that, the proposed re-development sought to be made by the Water Resources Department or the Housing Board is contrary to the notified Master Plan of the Raipur City and that the same is without the consent and approval of the State/Cabinet. Though the Petitioners have preferred Annexure-P/8 representation to stop the eviction and demolition of the buildings, it has not yielded any positive result and hence the writ petition.

7. The reply filed from the part of the State is to the effect that the writ petition itself is not maintainable, having no element of 'public interest' involved in it. It is pointed out that allotment of house accommodation is a part of service benefit granted as a matter of 'privilege' and those who have not availed the said benefit, are entitled to get House Rent Allowance as per the relevant rules. It is pointed out that no Public Interest Litigation is maintainable in service matters in view of the rulings rendered by the Apex Court in ***Duryodhan Sahu v. Jitendra Kumar Mishra***¹, ***B. Singh (Dr.) v. Union of India***², ***Dattaraj Nathuji***

¹ (1998) 7 SCC 273

² (2004) 3 SCC 363

Thaware v. State of Maharashtra³, Gurpal Singh v. State of Punjab⁴, Hari Bansh Lal v. Sahodar Prasad Mahto⁵ and Madan Lal v. High Court of J&K⁶. In the light of above rulings, it is stated that, the abuse of process of the Court in filing vexatious and experimental litigation of this nature has to be dealt with seriously, imposing exemplary cost. The Respondents point out that, though the 1st Petitioner - Society has contended that the writ petition has been filed on behalf of the Members, many such Government Employees have already availed the alternate accommodation offered by the Government without raising any objection or grievance. Involvement of any 'public cause' is nowhere demonstrated in the writ petition and that the decision taken to have 're-development' of the land of 19.76 acres where the government quarters were situated in the Irrigation Colony at Shanti Nagar is a 'policy decision'. It is also pointed out that the quarters were constructed in the said land decades ago and the buildings are old and dilapidated. The Respondents contend that many of the quarters were constructed 60 years ago (F-1 to F-8 and E-1 and E-2 Type); whereas the other quarters were constructed about 36 years ago (D-1 to D-4 Type); adding that they are beyond repair as on date, which led to the conscious decision to dismantle the entire colony and to redevelop the area by making proper planning and framing scheme.

³ (2005) 1 SCC 590

⁴ (2005) 5 SCC 136

⁵ (2010) 9 SCC 655

⁶ (2014) 15 SCC 308

8. The Respondents assert in paragraph 7 of the reply statement that, any development or demolition would take place only after proper new allotment of accommodation to the occupants in accordance with the relevant rules. Copies of some new allotment orders issued have already been produced by the Petitioners as Annexure-P/4. The employees, as per the relevant rules, are entitled to have the Quarters allotted under the relevant/particular category and no person can claim as a matter of right, to occupy a particular house in a particular locality. It is also pointed out that, there is absolutely no basis for attempting to brand the action of the Respondents as arbitrary or inhuman, referring to the Monsoon and Covid-19 Pandemic; for the reason that, none of the occupants from the Irrigation Colony at Shanti Nagar is intended to be evicted without allotting alternate accommodation as per the rules, based on the eligibility. It is asserted that, none of the rights of the Petitioners has been violated; much less any fundamental right.
9. Going by the pleadings and proceedings and the submissions made across the Bar, it is seen that the grievance of the Petitioners is mainly with regard to the 'alternate accommodation' given by the Respondents at a different place, about 15 kms away. The Government accommodation cannot be claimed as a matter of right, but sprouts of as a 'privilege' based on the norms stipulated in this regard. The eligible employees belonging to the particular class are allotted accommodation of the particular type, based on their eligibility, and if any of the employees has not availed the said benefit, they are

provided the benefit of 'House Rent Allowance', as per the relevant Service Rules. Even going by the pleadings raised by the Petitioners, the constructions were effected about 4 decades ago and huge amounts have already been invested for repair and maintenance. If the Government has decided to put an end to the recurring expenses because of the old and dilapidated nature of the buildings and have decided to effect 're-development' in accordance with law, it is a 'policy decision', which cannot be tinkered with in any manner. Since it is asserted in crystal-clear terms that, no person from the Colony will be evicted without providing alternate accommodation, the so called difficulties / hardships cited by the Petitioners with reference to Monsoon and Covid-19 Pandemic do not hold any water at all.

10. During the course of hearing, we raised a specific query as to the alleged 'public interest' involved, which could not be satisfactorily answered by the learned counsel for the Petitioners, despite his earnest efforts. The pleadings and proceedings clearly reveal that the course of action is clearly related to a 'private / individual grievance'. The fact that several Members of the 1st Petitioner are residing in the Government accommodation in the area, will not change the colour and character of the proceeding, to make it as a 'Public Interest Litigation', involving a public cause. As held by the Apex Court in the decisions cited (*supra*), no Public Interest Litigation will be maintainable in respect of 'service matters' and since the grievance projected herein is in relation to the service of the employees, the writ petition is not

maintainable, either on facts or in law.

11. The motive of the Petitioners in filing the proceeding as a 'Public Interest Litigation' is revealed as a shortcut or more convenient method to raise the challenge. It is also relevant to note that the Petitioner - Society has not given the particulars of the Members, who are occupants of the Government Quarters in the area and have not satisfied the individual Court fees in respect of such Members in respect of their individual grievance, if any.
12. In the above facts and circumstances, the writ petition is dismissed, being devoid of any merit. The security deposit of Rs.5000/- effected by the Petitioners stands forfeited.

Sd/-

(P.R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge