

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 1885 of 2020**

1. Spin Packaging Limited Through Its Director, Ram Awatar Agrawal, S/o Late Jagmohan Das Agrawal, Aged About 57 Years, R/o Vidya Nagar Bilaspur, Tehsil And District- Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
2. Sunil Kumar Shah S/o Late Shri Balram Shah Aged About 56 Years Director Of Spin Packaging Limited, R/o Main Road Torwa, Bilaspur, Tehsil And District - Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Petitioners**Versus**

1. State Of Chhattisgarh Through Secretary, Department Of Revenue And Disaster Management, Mahanadi Bhawan, Atal Nagar, Mantralaya, Naya Raipur, District - Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. State Of Chhattisgarh Through Secretary, Water Resources Department, Mahanadi Bhawan, Atal Nagar, Mantralaya, Naya Raipur, District - Raipur Chhattisgarh., District : Raipur, Chhattisgarh
3. Commissioner Bilaspur Division Bilaspur, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
4. Collector Bilaspur District - Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
5. Additional Collector Bilaspur District - Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
6. Sub- Divisional Officer (Revenue) Bilha Tahsil - Bilha, District - Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
7. Tehsildar Bilha District - Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Surfaraj Khan, Advocate
For State	:	Mr. Mateen Siddiqui, Dy. AG

Hon'ble Shri Justice P. Sam Koshy
Order on Board

25/08/2020

1. The challenge in the present writ petition is to the order Annexure P-1 dated 15.10.2019 passed by the Sub Divisional Officer(Revenue), Bilha District Bilaspur whereby the SDO has reviewed the order passed by the Additional Collector earlier on 18.04.2019. The challenge is also to the order of the Commissioner, Bilaspur Division dated 02.08.2019 Annexure P-2 whereby the Commissioner, Bilaspur Division has granted sanction to the Additional Collector to review the earlier order passed by the Additional Collector dated 18.04.2019 Annexure P-3.
2. The limited ground on which the petitioners has filed the present writ petition is that while entertaining the application of the Additional Collector placed before Commissioner for a permission to review under Section 51 of the C.G.L.R.C, no notice was issued to the petitioner as is mandatorily required under the provision of law.
3. Counsel for the petitioner in support of his contentions relied upon judgement of this Court passed in the case of Vijay Kumar Dadriwal Vs. State of Chhattisgarh & Others in WPC 953/2020 decided on 19.03.2020 wherein in a similar situation, this Court had allowed the writ petition on the ground of notice not been issued while entertaining the application under Section 51 and matter stood remanded accordingly.
4. Mr. Mateen Siddiqui, Dy. AG representing the State on seeking instructions from the respondents fairly concedes that learned Commissioner, Bilaspur before passing the order dated 02.08.2019 admittedly had not issued any notice. However, Dy. AG tried to justify

the action of the respondents stating that at the first instance there was no requirement that the Additional Collector to have sought for sanction of permission under Section 51 for review for the reason, as per the Section 11 of the C.G.L.R.C. the term Collector includes Additional Collector also. According to the State counsel subsequent to the sanction being granted by the Commissioner, concerned SDO has infact issued notice to the petitioners before passing the impugned order Annexure P-1 dated 15.10.2019, therefore it cannot be said that the petitioner has not been given any opportunity of hearing before the impugned order Annexure P-1 was passed.

5. Having heard the contentions put forth on either side and on perusal of records the fact which is not in dispute is that under Section 51 of the Chhattisgarh Land Revenue Code, the person in whose favour the order has been passed and against whom the permission to review against which the review has been sought is required to give an opportunity of hearing before passing an order on the application under Section 51.
6. The law is well settled in this regard and there are catena of decisions by this Court itself, so also from the Madhya pradesh High Court on the subject matter. The Division Bench of the M.P. High Court in the case of Biharilal Vs. State of M.P. & Others, (2010) 2 M.P.H.T. 115. So also this High Court in WPC 1243/2016 dated 10.05.2016 and WPC 1416/2018 decided on 12.03.2018 has reiterated the principle of requiring the beneficiary be given an opportunity of hearing while entertaining the application under Section 51. The same view has also been followed by this Court in the recent past in WPC 953/2020 decided on 19.03.2020.

7. Given the aforesaid legal position as it stands this Court is of the opinion that the order passed by Commissioner, Bilaspur dated 02.08.2019 granting sanction to the Additional Collector to review as order dated 18.04.2019 is perse illegal and contrary to the provision of C.G.L.R.C. itself and therefore the same is not sustainable and deserves to be set aside/quashed and it is ordered accordingly. Since the order of the Commissioner dated 02.08.2019 is being held to be bad in law all subsequent consequential proceedings drawn by the authorities including the final order passed on 15.10.2019 Annexure P-1 also would be an order passed which is void ab-initio and thus would require to be set aside/quashed and it is ordered accordingly.
8. The matter stands remitted back to the office of the Commissioner, Bilaspur, Division for reconsidering the application under Section 51 that has been filed by the Additional Collector seeking review of his order dated 18.04.2019 and Commissioner in turn is directed to pass a fresh order granting the opportunity of hearing to the petitioner.
9. With the aforesaid observations, the writ petition stands allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge