

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPIL No. 86 of 2020**

- Nandlal Navrang S/o Parasram, aged 57 years, Caste Satnami, R/o Village Navapara, Tahsil Lormi, District Mungeli C.G.

-----Petitioner**VERSUS**

1. State of Chhattisgarh through, The Secretary, Panchayat & Rural Welfare Department, Naya Raipur, Chhattisgarh.
2. The District Magistrate, District Mungeli C.G.
3. Tahsildar, Lormi, District Mungeli, C.G.
4. Amrit Raj Chaturvedi, S/o Dujram, Caste- Satnami, Aged 45 years R/o Nawapara, Bhodu, P.H. No. 42, Tahsil Lormi, District Mungeli C.G.

----Respondents

For Petitioner	:	Mr. Faiz Kazi, Advocate.
For Respondent- State	:	Mr. Vikram Sharma, Dy. G.A.

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board**Per Parth Prateem Sahu, J.****15/09/2020**

1. The petitioner has filed this writ petition as 'Public Interest Litigation' with following reliefs.

“10.1 That this Hon'ble Court may be kind enough to direct the Respondent no. 2 to ensure strict compliance of the order dt. 03.07.2017 of this Hon'ble Court in WPIL No. 20/2017.

10.2 That this Hon'ble Court may be kind enough to direct the Respondent no. 2 to decide the Case no. no. /04/A-89/2019-20 between parties Nandram Navrang vs. Amritraj Chaturvedi at the earliest as it relates to disqualification of the office-bearer/ Sarpanch of the Panchayat on ground of encroachment of Government land.

10.3 That any other order/ direction/ relief may be passed as this Hon'ble Court deems fit and proper, in light of the facts and circumstances of this case, in the interest of justice.”

2. The submission of the learned counsel for the petitioner is, that this Court has passed an order in WPPIL No. 20/2017 directing the Collector, District Mungeli to remove the illegal and unauthorized occupation over the government land in Mungeli district in accordance with law within an outer limit of eight weeks. He submits that the petitioner has filed the representation before the Collector, Mungeli on 08-12-2017 and thereafter on 04-11-2019 but till date no appropriate action has been taken against Respondent 4 who is in unauthorized occupation of the government land by raising construction on it. The authorities are not complying with the directions issued by this Court in its words and spirit. He further points out that Respondent 4 was an elected member of the Panchayat and on account of his encroachment over the government land, he was disqualified for holding the elected post in the Panchayat. In this regard also, a representation has been filed before the Collector on 14-02-2020, but the authorities are not taking appropriate proceedings in this regard as well. He prays that a direction be issued to the respondent-authorities for taking appropriate actions.
3. Per contra, Mr. Vikram Sharma, learned Deputy Government Advocate representing the State submits that the submission made by the learned counsel for the petitioner is not correct. It is pointed out that the petitioner himself has filed the documents showing that appropriate proceeding is pending consideration before the competent authorities on both the grounds raised by the petitioner. He points out that with regard to removal of the encroachment, the Naib Tahsildar, Lormi district Mungeli has issued eviction notice on 12-03-2020 Annexure P-8 and further forwarded the enquiry report to the Collector on 15-05-2020. He submits that the competent authority has already taking into action, but looking to the period from March 2020 till date, Covid19 pandemic,

the proceedings could not be concluded. He submits that as per the relief sought by the petitioner in this writ petition, it is apparent that no 'Public Interest' is involved in the writ petition.

4. We have heard learned counsel for the respective parties and also perused the record annexed along with the writ petition.
5. The petitioner has not complied with Rule 81 of the High Court of Chhattisgarh Rule, 2007 wherein there is necessary requirement of depositing of Rs. 5,000/- as security amount at the time of presentation of Public Interest Litigation before the High Court, instead of this, application for waiver of security deposit has been filed.
6. So far as, the relief with regard to compliance of the direction issued by this Court *vide* order dated 03-07-2017, the Revenue authorities have already initiated proceedings which is apparent from Annexure P-7 and P-8 dated 15-05-2020 and 12-03-2020 respectively. The notice of eviction issued by the Naib Tahsildar, Lormi, District Mungeli shows that Respondent 4 is in unauthorized possession of 0.16 acre of land out of 2.28 acre. Annexure P-7 enquiry report submitted by the Tahsildar on total area of 2.81 acre of government land; along with Respondent 4, other villagers have also raised construction under *Pradhan Mantri Awas Yojna* and by personally taking possession over the land by raising construction of house and *badi*, but the petitioner has not arrayed any other villager(s) in the party as respondents who are in illegal/ unauthorized occupation over the government land but for the Respondent 4.
7. So far as the second argument raised by the learned counsel for the petitioner that Respondent 4 has become disqualified on account of the encroachment over the government land under the provisions of Panchayat Raj Adhiniyam. The pleadings itself show that the petitioner

moved an application on 14-02-2020 but perusal of the order-sheet Annexure P-5 passed by the Collector, District Mungeli would show that the Collector has drawn proceedings on 10-02-2020 on earlier application of the petitioner against Respondent 4 under Section 36(1) of the Panchayat Raj Adhiniyam. There was order of issuance of notice to Non-applicants therein including Respondent 4. The order-sheet of the Collector also shows that the proceedings under Section 36(1) of the said Act, were halled up due to Covid-19.

8. From the above, it is apparent that the proceedings against Respondent 4 have already been initiated and continuing before the competent authorities i.e. before the Tahsildar and before the Collector but even then the petitioner has filed this present petition and that too styled as 'Public Interest Litigation (PIL)'. The petitioner in the writ petition has not mentioned as to how the Public Interest is involved in the writ petition, particularly, when he has chosen to implead only Respondent 4 as party with regard to alleged encroachment over the government land whereas the report of the Tahsildar shows that other villagers have also been encroached over the land of same Khasra no. on which Respondent 4 has made encroachment.
9. Looking to the pleadings and submission made by the learned counsel for the parties and upon perusal of the documents enclosed with the writ petition, would show that the grievance projected does not show public cause but even then filing of the writ petition as Public Interest Litigation is a sheer misuse of the proceedings of this Court.
10. This Court while passing the order in WPPIL 20/2017 specifically mentioned that the eviction proceedings should be concluded in accordance with law and further clarified that the outer limit fixed by this Court is without prejudice to any appellate or revisional remedy available to any party in any such proceedings.

11. In view of the above, the writ petition filed as 'Public Interest Litigation' is hereby dismissed with an exemplary cost of Rs. 5,000/- to be deposited with the High Court Legal Aid Service Committee, so that the amount can be utilized for the cause of genuine litigants. The cost shall be deposited within a period of three months from today.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge