

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC NO. 2443 OF 2020**

1. Mehattrin Bai Sahu, aged about 75 years, W/o Late Lakhan Sahu, R/o Ward No.13, Fingeshwar, District Gariyabnd (CG)
2. Annu Bai Morey, aged about 40 years, W/o Rekhram Morey, R/o Ward No.12, Siddhi Vinayak Nagar, Fingeshwar, District Gariyaband (CG)
3. Sushila Patkar, aged about 54 years, W/o Chote Lal Patkar, R/o Ward No.13, Block Colony, Fingeshwar, District Gariyaband (CG)
4. Bahura Bai Sinha, W/o Premlal Sinha, aged about 68 years, R/o Ward No.5, Parshu Ram Ward, Fingeshwar, District Gariyaband (CG)
5. Hemnarayan Mahilang, S/o Kuber Ram Mahilang, aged about 35 years, R/o Ward No.13, Block Colony, Fingeshwar, District Gariyaband (CG)
6. Girawar Ram Sahu, aged about 46 years, S/o Dukalu Ram Sahu, R/o Ward No.1, Darripar, Fingeshwar, District Gariyaband (CG)
7. Hemant Kumar Sahu, aged about 26 years, S/o Sadhram Sahu, R/o Ward No.13, Fingeshwar, District Gariyaband (CG)
8. Tarachand Sahu, aged 24 years, S/o Sadhram Sahu, R/o Ward No.13, Fingeshwar, District Gariyaband (CG)
9. Shivumari, aged about 41 years, W/o Santashrit, R/o Ward no.13, Block Colony, Fingeshwar, District Gariyaband (CG)
10. Durgesh Kumar Sahu, aged 33 years, S/o Mahesh Ram Sahu, Ward No.2, Darripar, Fingeshwar, District Gariyaband (CG)

... Petitioner(s)**versus**

1. State of Chhattisgarh, through Secretary, Department of Revenue and Disaster Management, Govt. of Chhattisgarh, Mahanadi Bhawan, Atal Nagar, Naya Raipur, District Raipur (CG)
2. Collector, Gariyaband, District Gariyaband (CG)
3. Nayab Tahsildar, Fingeshwar, District Gariyaband (CG)

... Respondent(s)

For Petitioners	:	Mr.Siddharth Rathod, Advocate.
For Respondents	:	Mr. Sudeep Verma, Dy. A.G.

Hon'ble Mr. Justice P. Sam Koshy**Order on Board****28.10.2020**

1. Challenge in the present writ petition is to the notices (Annexure P-1) issued to the Petitioners.
2. Contention of the learned Counsel for Petitioners is that the Petitioners No.2 to 10 are landless labourers and the Petitioner No.1 has now become landless after her land situated at Village Kareta, Block Rajim, Tahsil Bindranawagarh, Raipur was acquired by the State Government for the purpose of construction of Ganiyari Dam.
3. According to the learned Counsel for Petitioners, the Petitioners on account of poverty entered upon the Government land situated at Khasra No.1629 at Village Fingeshwar, Tahsil Rajim, District Gariyaband and have been residing at the said

place for more than four decades and are also living on the small cultivation/agricultural work that they are carrying for their livelihood. Petitioners are now aggrieved by the notices (Annexure P-1) which have been issued by Respondent No.3 calling upon them to take appropriate steps in respect of the land in their possession for settlement in their name subject to the Petitioners paying requisite fees as per the prevailing guidelines. According to the Petitioners, for the last 40 years, they have been peacefully and uninterruptedly staying on the said place and also been paying all the taxes payable and have also got individual electricity connection in their favour and the respondent authorities ought to have taken steps to allot *Pattas* in their favour, instead the impugned notices (Annexure P-1) have been issued.

4. Learned State Counsel, on the other hand, opposing the petition submits that as of now there has been no order adverse passed against the Petitioners calling upon them to approach the High Court under the Writ jurisdiction. Learned State Counsel further submits that the authorities in fact have taken steps in ensuring that the land which is in possession of the Petitioners be allotted in their name subject to their fulfilling the requisites as stipulated in the prevailing guidelines, one of which is the payment of fees/charges as determined by the State Government. Further contention of the learned State Counsel is that subject to the Petitioners completing the formalities required, the property can be allotted or settled in their favour.

5. Having heard the contentions put forth on either side and on perusal of record, undisputedly the Petitioners do not have any indefeasible right created in their favour over the property which stands in their possession. From the pleadings of the Petitioners themselves it is evidently clear that as on date their status is that of an encroacher on the said land. Though they have made constructions and are also paying taxes to the local bodies, however, there is no specific document establishing the title of the Petitioners over the said property. Another undisputed fact is the guidelines which the State Government has framed, where subject to payment of the requisite fees/charges, the land in possession of a person for long can be allotted to him. Now, if we look into Annexure P-1, the notices under challenge, the contents of

the said notices by itself is self-explanatory whereby the Petitioners have been called upon by the Respondent No.3 to complete the requisite formalities by which the proceedings for allotment/settlement of the land can be completed in favour of the respective Petitioners.

6. In view of the aforesaid undisputed factual matrix of the case, this Court does not find any good reason to interfere with impugned notices (Annexure P-1). Petitioners have also not been able to show as to whether there is any discretionary powers conferred upon the State authorities so far as the charges which are leviable for allotment/settlement of land. As long as the guideline framed by the State Government is in force in as much as the same having not been set aside by any judicial forum or having not being withdrawn by the State Government themselves, the settlement/allotment of land can only be under the prevailing guidelines governing the field and the Petitioners also would be bound by the same.

7. So far as the fact that the Petitioners being in possession of the said property for ages is concerned, this Court finds that it was for this reason that the State Government has issued the impugned notices calling upon the Petitioners for taking steps for settlement/allotment of the said land in their favour, subject to the Petitioners fulfilling the requisite requirements under the guidelines. In that event, the only option now left for the Petitioners is to either avail the benefits as per the prevailing guidelines and get the property allotted in their favour in terms of the guidelines governing the field or else may approach the authorities for some rehabilitation package, if available.

8. Let the Petitioners in this regard approach the Respondents No. 2 and 3 immediately within a period of two weeks and the Respondents No. 2 and 3 in turn may take appropriate decision in accordance with the rules and guidelines governing the field. It is expected that the respondent authorities may consider the same sympathetically within the powers which otherwise stand conferred upon them under the rules and guidelines. Subject to the Petitioners' making a representation within a period of two weeks to Respondents No. 2 and 3 and till the Respondents No. 2 and

3 take a decision on the same, it is expected that the respondent authorities may not take any coercive steps against the Petitioners.

9. With the aforesaid observations, Writ Petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

/Sharad/