

HIGH COURT OF CHHATTISGARH, BILASPUR**WP(C) No. 2417 of 2020**

1. Khirendra Bhushan Bagde S/o Govind Rao Bagde Aged About 68 Years R/o Village Pendri, Ward No. 21, Post Office Pendri, Police Station Lalbagh, Tehsil And District Rajnandgaon, Chhattisgarh
2. Dhannu Ram Thakur S/o Late Sukhi Ram Aged About 63 Years R/o Village Pendri, Ward No. 20, Nagar Palika Nigampost Office Pendri, Police Station Lalbagh, Tehsil And District Rajnandgaon, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Department Of Revenue And Disaster Management, Mahanadi Bhawan, Mantralaya, Nawa Raipur, Atal Nagar, Chhattisgarh 492001,
2. Directorate Of Town And Country Planning Through Deputy Director, Tehsil Office Campus, Bagdev Bag Road, Rajnandgaon, Chhattisgarh,
3. The Collector Office Of Collector, Rajnandgaon, District- Rajnandgaon Chhattisgarh,
4. Nazul Officer Rajnandgaon, Tehsil And District Rajnandgaon Chhattisgarh,
5. Roshan Bohra S/o Jethmal Bohra R/o Jaistambh Chowk, Rajnandgaon, Tehsil And District Rajnandgaon, Chhattisgarh

---- Respondents

For Petitioner	: Ms. K. Tripti Rao, Adv.
For State	: Mr. Sudeep Verma, Dy. G.A.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****16.10.2020**

1. The grievance of the petitioners in the present writ petition is the proceedings being drawn by the respondents No. 1 to 4 for allotment of Government land to the respondent No. 5 invoking the notification dated 11.09.2019 passed by the State Government.
2. Their dispute in the present writ is in respect of the properties that situate in Khasra No. 639 in Patwari Halka No. 43 measuring 1.7320

hectares and also in Khasra No. 641/1 in Patwari Halka No. 36 measuring 1.6570 hectares at village Pendri, Tehsil and District Rajnandgaon.

3. The aforesaid undisputed lands are Government lands and adjoining is the petitioners' properties which are agricultural field.
4. The State Government vide notification dated 11.09.2019 had issued a scheme and also had prescribed procedures and guidelines for allotment of Government Nazul Land situated in urban areas to petitioners on payment of certain charges as determined under the said notification itself.
5. It is the contention of the petitioners that plain reading of the said notification itself would show that the properties which are otherwise of public utility can not be allotted under the said notification. The properties in the present case which according to the petitioners, are one which falls under the public utility category.
6. The further contention of the petitioners is that when the petitioners came to know about the intention of the respondents in allotting the said land in the aforesaid two khasra numbers in favour of the respondent No. 5, they had immediately raised a detailed objection before the Nazul Officer at the first instance, thereafter before the collector and also before the Dy. Director, Town and Country Planning.
7. The grievance of the petitioners at this juncture is that in-spice of having approached the respondents repeatedly, no decision on the objections have been passed by the respondents. On the contrary, the

respondents are showing undue haste in finalizing the allotment of the aforesaid properties in favour of the respondent No. 5.

8. The learned State Counsel at this juncture submits that the writ petition of another person of the same vicinity questing the said allotment being made by the respondents is already seized by the Division Bench in the case of **Usha Vindhyaraj Versus State Of Chhattisgarh** and others in **WP(C) No. 2319 of 2020** and the matter is still pending consideration. Similarly, the Learned State Counsel submits that the very notification dated 11.09.2019 is subjected to challenge in more than a couple of writ petitions of Public Interest Litigation and those PIL are also pending consideration before the Division Bench of the High Court.
9. It was also contended by the State Counsel that the petitioners having raised objections, it should be expected that the authorities shall take into consideration those objections while dealing with the application for allotment in accordance with law. As of now, there is no adverse order or any order in respect of allotment being passed by the respondents and the writ petition therefore according to the State Counsel at this juncture would be too premature.
10. Having heard the contentions put forth on either side and the admitted factual matrix of the case as it stands is that the notification dated 11.09.2019 is already under challenge in a couple of writ petitions pending before the Division Bench, as such the validity and the veracity of the order is already seized before the Division Bench. As long as the notification dated 11.09.2019 is declared illegal in any manner or its operation is stayed by the Division Bench while hearing the PIL, the same remains operative and the respondents have all the rights to proceed and decide the allotment in-terms of the said notification.

11. However, once when the notification itself emphatically holds that the property of public utility shall not be allotted and there is a serious contention raised by the petitioners before the authorities of the said properties being public utility property, it is incumbent upon the respondent-authorities to decide those objections in accordance with the notification dated 11.09.2019 before taking a decision on the allotment application.
12. Leaving the issue as it stands now the writ petition itself can be disposed of at this juncture directing the respondents to consider and decide the objections raised by the petitioners in accordance with notification dated 11.09.2019 on its merits before a final order of allotment is passed, if required, the petitioner also be given an opportunity of hearing by the authorities.
13. It is also relevant at this juncture to mention that while the objections of the petitioners are decided, the respondents are directed to further take note of the letters issued by the Dy. Director Town and Country Planning i.e. Annexure P/7 dated 03.09.2020 and also Annexure P/8 dated 21.07.2020 in this regard.
14. The writ petition is disposed of, directing the respondents to take a decision on the objections of the petitioners collectively filed as Annexure P/4 before taking a final decision on the allotment of lands. The order passed by this Court is infact confined to the objections in respect of the properties of which the details have been given in the preceding paragraphs.
15. With the aforesaid direction/observation, the writ petition accordingly stands disposed of.

Sd/-

**(P. Sam Koshy)
Judge**