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**HIGH COURT OF CHHATTISGARH AT BILASPUR****WPC No. 2509 of 2020**

Chhattisgarh Diploma Engineer Association, Jila Samiti Surguja Ambikapur, At Chopda Para, Ambikapur Surguja (Chhattisgarh) Through Its President Aalok Kumar Singh S/o Ram Badan Singh, Aged About 36 Years, Posted As Sub Engineer, Public Works Department, Bridge Division Ambikapur, R/o Behind Ambedkar Chowk, Ambikapur, District - Surguja (Chhattisgarh)

**---- Petitioner****Versus**

1. Municipal Corporation, Ambikapur, Through Commissioner, Municipal Corporation, Ambikapur, District - Surguja (Chhattisgarh)
2. Executive Engineer, Municipal Corporation, Ambikapur, District-Surguja (Chhattisgarh)

**---- Respondents**


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| For Petitioner  | : | Mr. A.K. Prasad, Advocate    |
| For Respondents | : | Mr. Pankaj Agrawal, Advocate |

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**Hon'ble Shri Justice P. Sam Koshy****Order on Board****19/10/2020**

1. The challenge in the present writ petition is to the order Annexure P/1 a notice issued by the respondent No.1 asking the petitioner to demolish the superstructure that situates in Nazul Plot No. 7/3 measuring 10640 sq.ft. where a building is constructed over 922.50 sq.ft. The notice has been issued declaring the building constructed over the said plot to be in a dilapidated condition and not in a habitable condition.
2. The counsel for the petitioner submits that the contention of the corporation in declaring the building to be in a dilapidated condition is apparently incorrect and that the petitioner has got it examined from

the Engineers of the PWD as also from Private Engineers, all of whom have given a certificate that it is not in a dangerous condition as of now.

3. Further more, it was contended that against the notice Annexure P/1 the petitioner has already preferred an appeal under Section 403 of the Municipal Corporation Act before the Appellate Committee under the Municipal Corporation Act along with an application for grant of interim relief. The writ petition has been filed only on the limited ground that till the application for interim relief is considered by the Appellate Committee, the respondents may not take any coercive steps in demolishing the said structure.
4. Counsel for the respondents-Corporation submits that the notice has been issued, taking the factual aspects, the strength of the building have all been duly inspected by the Engineers of the Corporation. The counsel for the respondents-Corporation also has contended that from the pleadings itself it would be shown that the petitioner has in haist approached this Court, in as much as, on 13<sup>th</sup> of October he has preferred an appeal under Section 403 and on the 14<sup>th</sup> of October, he has filed the writ petition which shows that he has not even waited for a reasonable time for the Appellate Committee to take appropriate steps on the appeal that he has preferred.
5. In view of the contention submitted by the counsel for the parties, this Court is of the opinion that ends of justice would meet if the writ petition is disposed of directing the respondent No.1 in ensuring that the appeal is placed before the Appellate Committee and the same is decided at the earliest in accordance with law after due verification

and inspection of the factual aspects of the case and also duly considering the contentions that the petitioner has raised in his appeal.

6. Meanwhile, purely as an interim order till that appeal is decided by the Appellate Committee, the respondents are restrained from taking any coercive steps pursuant to Annexure P/1, same may be permissible only after the appeal is decided.
7. With the aforesaid observations, the present writ petition stands disposed of.

Sd/-  
(P. Sam Koshy)  
**Judge**

Ved