

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 2946 of 2020

Vipin Sharma, S/o. Gunjeshwar Sharma, Aged About 45 Years, Resident Of Block No. LIG-B 72/853, Deen Dayal Awas Bhawan, Kabir Nagar, Raipur, District Raipur Chhattisgarh.

---- Petitioner

Versus

1. Chhattisgarh Housing Board, Through Its Chairman, Sub Division 1, Raipur, District Raipur Chhattisgarh.
2. The Executive Engineer, Chhattisgarh Housing Board, Sub Division 1, Raipur, District Raipur Chhattisgarh.
3. The Commissioner, Municipal Corporation, Raipur, District Raipur Chhattisgarh.
4. The Zone Commissioner, Municipal Corporation, Zone No. 08, Raipur, District Raipur Chhattisgarh.
5. The Senior Superintendent Of Police Raipur, District Raipur Chhattisgarh.
6. Sujla Payasi W/o Shri P.K. Tiwari Aged About 50 Years R/o. 2nd Floor, Block No. LIG B72/862, Deen Dayal Awas Bhawan, Kabir Nagar, Raipur, District Raipur Chhattisgarh.

---- Respondents

For Petitioner : Mr. Atul K. Kesharwani, Advocate.

For Respondent No.1 & 2 : Mr. Sanjay Patel, Advocate

For Respondent No.3 & 4 : Mr. Mateen Siddiqui, Advocate

For State/Respondent No.5 : Ms. Sunita Jain, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

03.12.2020

Heard

1. Learned counsel for the petitioner submits that pursuant to a complaint made by the respondent No.6, a notice was served to the petitioner on 09.06.2020. It is alleged that the petitioner has illegally raised construction besides the house. He would submit that after the notice was served, the respondent No.6 has filed a petition bearing WPC No.1551 of 2020 wherein this Court on 18.08.2020 has passed the following orders :

- “1. The present writ petition has been filed being aggrieved of the action on the part of the respondent No.5 who is said to have encroached upon the common area in front of Block No. 72/853 in the Housing Board Colony situated at Kabir Nagar, Raipur.*
- 2. Counsel who normally appears for the Chhattisgarh Housing Board present during the course of the proceedings is directed to seek instructions and on instruction Learned counsel for the Chhattisgarh Housing Board submits that Housing Board has already issued a notice on 09.06.2020 to the respondent No.5 for removing the illegal construction so as to clear the common area over which all the residence of that colony are entitled to have access.*
- 3. Given the fact that respondent Housing Board has already issued a notice dated 09.06.2020, it would not be proper at this juncture for the High Court to pass any order except for the disposing of the writ petition with direction to the Housing Board to ensure that the notice dated 09.06.2020 is acted upon in its letter and spirit at the earliest in accordance with law. In the event, if Housing Board authorities approach State Police force for assistance for maintaining the law and order situation, it is expected that State Authorities shall provide necessary assistance for the same to the Housing Board.*
- 4. Let a copy of this order be also sent to the Senior Superintendent of Police, District Raipur for necessary instructions and compliance on his end. State counsel is also directed to convey the order passed by this Court to the Senior Superintendent of Police, District Raipur.*
- 5. With the aforesaid directions, the writ petition stands accordingly disposed of.”*
6. Learned counsel for the petitioner would submit that in the vicinity, lots of illegal and unauthorized constructions are existing, therefore, they may also be removed and the representation of the petitioner may be decided.

7. Perused the representation of the petitioner Annexure P-8. The submission of the petitioner appears to be logical to the extent that if the petitioner is treated for removal of encroachment then he cannot be single out as the respondent Housing Board is State within the Article 12 of the Constitution of India. No discriminatory treatment can be given to a particular person to the choice of the Housing Board.
8. In view of this, the respondent No.2 is directed to decide the representation of the petitioner i.e. Annexure P-8 which has been filed on 09.11.2020 within a reasonable time and take into the complaint of the petitioner so as to bring it to a logical conclusion.
9. With the aforesaid observation, the petition stands disposed off.

Sd/-
(Goutam Bhaduri)
Judge

Aks