

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1194 of 2021

- Aftab Ahmad Khan, S/o Shri Altaf Khan, Aged About 55 Years R/o. Farid Nagar, Kohka, Bhilai, District Durg Chhattisgarh Through Its Power Of Attorney Holder Shujauddin, S/o. Sirajuddin, Aged About 53 Years, R/o. 16/9, Radhika Nagar, Supela, Bhilai, District Durg Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh, Through - Secretary, Housing And Environment Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Atal Nagar, Nawa Raipur, District Raipur Chhattisgarh
2. Director, Town And Country Planning, Raipur, Indrawati Bhawan, Atal Nagar, Nawa Raipur, District Raipur Chhattisgarh
3. Additional Chief Secretary Of Housing And Environment Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Atal Nagar, Nawa Raipur, District Raipur Chhattisgarh.
4. Joint Director, Town And Country Planning, Durg, District Durg Chhattisgarh.
5. Commissioner, Land Records, Chhattisgarh, Directorate, Indrawati Bhawan, Atal Nagar, District Raipur Chhattisgarh.
6. Collector (Land Records Branch) Durg, District Durg Chhattisgarh.,
7. Sub - Divisional Officer (Revenue) Durg, District Durg Chhattisgarh.,
8. Additional Tehsildar, Durg, District Durg Chhattisgarh
9. Tehsildar, Durg, District Durg Chhattisgarh.
10. Municipal Corporation Bhilai, Through Its Commissioner, Municipal Corporation Bhilai, District Durg Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Manoj Paranjpe, Advocate
For State	:	Mr. Amrito Das, Addl. A.G.
For Respondent No. 10	:	Mr. H.B. Agrawal, Senior Advocate along with Mr. Amit Tirkey, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

02.03.2021

1. Heard.
2. Learned counsel for the petitioner submits that after the regularization

of the superstructure under Chhattisgarh Anadhikrit Vikas Ka Niyamitikaran Adhiniyam 2002 (henceforth 'the Act of 2002'), the petitioner had paid the amount and no appeal was preferred under Section 9 of the Act of 2002, however recently on the private complaint being made, the State Government has started the suo-moto proceeding in exercise of power under Section 10 of the Act of 2002. He submits that since the suo-moto proceeding has been commenced by the State Government in exercise of power under Section 10 of the Act of 2002 after lapse of 5 years, as the regularization was made in the year 2017, the petitioner is entitled for hearing so that the rules of natural justice are complied with. He further submits that on the basis of complaint on which the initial proceeding started, the petitioner may be given the documents so that he can made addition to his written submission which is already filed in absence of the documents.

3. Learned State counsel would submit that the suo-moto power is exercised when the fraud is unearthed.

4. Section 10 of the Act of 2002 reads as under:-

“10. Power of the Government.-(1) The Government may either suo-moto, or on an application filed by any person, for the purpose of satisfying itself as to the correctness, legality or propriety of any order passed by [Director Urban Planning and Development] or Authority under this Act, call for the records and may also direct that pending examination of the record, such order be held in abeyance.

(2) The Government may modify or reverse the orders of the [Director Urban Planning and Development] or

authority under this Act as it may deem fit. No such order shall be passed by the Government unless the interested parties have been given an opportunity of being heard.”

5. Sub-Section 2 of Section 10 of the Act of 2002 would show that no order shall be passed by the Government unless the interested party have been given an opportunity of being heard. Since the proceeding under Section 10 of the Act of 2002 has been commenced on the basis of a complaint, therefore in order to advance the cause of justice, it is directed that the petitioner may be served with a copy of the complaint on which the suo-moto proceeding has been started so that he can made any addition on reply which is filed. Thereafter, the authority after hearing the petitioner shall pass the order within a period of 30 days, in accordance with the Act of 2002. The petitioner shall appear before the authority on 9th March 2021.
6. With the aforesaid observation/ direction, the writ petition stands disposed of.

Sd/-

(Goutam Bhaduri)

JUDGE