

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 131 of 2021**

- M/s Divakriti Construction Through Proprietor Prashant Divakriti, S/o Late Shri T. P. Divikriti, Aged About 62 Years, Of M/s Divakriti Construction, R/o - Shankar Nagar Raipur Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Department Of Transport, Mantralaya, (Dks Building Raipur C.G.), Naya Raipur, Atal Nagar, Raipur Chhattisgarh
2. The Collector, Raipur Chhattisgarh.
3. The Joint Director, Town And Country Planning Department, District, - Raipur Chhattisgarh
4. The Executive Engineer, Madhya Pradesh State Road Transport, Corporation, Bhopal (M.P.)
5. Chhattisgarh Infrastructure Development Corporation (CIDC), Through Managing Director, Raipur Chhattisgarh. **---- Respondents**

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- Shri Neeraj Choubey, counsel for the petitioner.
 - Shri Lalit Jangde, Dy. GA for the State/respondent.
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D.B.: Hon'ble Shri Justice Manindra Mohan Shrivastava**Hon'ble Smt. Justice Vimla Singh Kapoor****Order on Board****Per Manindra Mohan Shrivastava, J.****16.08.2021**

Heard.

This writ appeal arises out of order dated 03.02.2021 passed by learned Single Judge in the writ petition of the petitioner whereby the writ petition has been dismissed.

2. The then M.P. State Road Transport Corporation (for short MPSRTC) had floated a tender for construction of flats way back in the year 1996 pursuant to which, the petitioner and other contractors/builders submitted their tenders. In course of time, a lease was executed in favour of the petitioner by the then M.P.SRTC on 04.09.1996. An agreement was entered

into between the then M.P. State Road Transport Corporation and the petitioner on 13.09.1996. In that agreement, it was mentioned that the petitioner would carryout certain constructions over a land admeasuring 35 X 148.5 meters.

Under the said agreement, the petitioner was allowed to make allotment of shops and flats by way of lease agreement, sale, purchase and would pay ground rent to the corporation.

3. However, it appears that there were certain encroachments and therefore, no further proceedings towards handing over the possession of the land to the petitioner could be completed and no construction could be done by the petitioner. The petitioner made representations for handing over possession by removing encroachment.

4. At this juncture, State of Madhya Pradesh was reorganized under Madhya Pradesh reorganization Act, 2000 and separate State of Chhattisgarh was carved out. M.P. State Road Transport Corporation was dissolved and its assets and liabilities were apportioned between successors States of Madhya Pradesh and Chhattisgarh. In the State of Chhattisgarh, no transport corporation was established but the assets and liabilities of erstwhile M.P. State Road Transport Corporation which were allotted to the State of Chhattisgarh were handed over to Chhattisgarh infrastructure development corporation.

The petitioner having not heard anything from the respondent authorities nor possession of land handed over to him, kept on making representations and finally filed a writ petition before this Court registered as WP No. 96/2003 which was disposed off vide order dated 25.04.2003 directing the petitioner to make detailed representation and consideration of the same. Later on, this order was modified on 22.07.2003 extending the period. The representation of the petitioner was however not decided even after the order of the Court and the petitioner again filed a petition registered

as WP No. 711/2005 ventilating grievance that, even though, agreement was entered into between the petitioner and the M.P. State Road Transport Corporation, petitioner has not been allotted work by handing over vacant site and the petitioner has come to know that without issuing any work order in his favour for construction of shopping complex, now the authority in the State are proposing to raise certain construction through the local body. Prayer, therefore, was made to restrain respondent from raising construction towards the disputed land and complete other formalities to enable the petitioner to carry out the work. A reply was also filed by the respondent No.4. Vide order dated 15.11.2017, that writ petition was disposed off with a direction to decide representation. Thereafter, an order came to be passed on 21.01.2020 rejecting petitioner's representation which was again impugned by filing WPC No. 64/2021 finally dismissed by the impugned order passed by the learned Single Judge.

5. The rejection vide order dated 21.01.2020 state that the allotment was cancelled on 18.04.2000 and the land has now been allotted to the Public Works Department whereon residential houses have also been constructed and no land is available near the then depo of M.P. State Road Transport Corporation which could be allotted to the petitioner.

6. According to learned counsel for the petitioner though agreement was entered into in his favour in the year 1997, the possession was not handed over to him because of the encroachment. The reason assigned in the order of rejection dated 21.01.2020 regarding cancellation of agreement and non availability of land are factually incorrect because only a part of the land was withdrawn and handed over to the Public Works Department and about 5.84 acres of land is still available for allotment. He would further submit that though a decision was initially taken to cancel the agreement but later on that was also withheld and the petitioner till date has not received any communication canceling the agreement entered into between the

petitioner and the then M.P. State Road Transport Corporation and to that extent the learned Single Judge has not appreciated that the reason assigned in the impugned order of rejection were incorrect misleading and non existent.

7. We find that initially the then M.P. State Road Transport Corporation had floated a tender for construction of houses for its staff. There was no mention of construction of any shopping complex. This exercise was undertaken way back in the year 1996 to provide residential facility for the employees of the State Road Transport Corporation. However, it appears that though a work order was issued to the petitioner on 26.09.1996, the site could not be handed over to the petitioner because of the encroachment on the land and thus no work could be initiated by the petitioner and the matter remained stalled. Moreover, it appears that upon reorganization of State, the M.P. Road Transport Corporation was dissolved and the assets and liabilities were apportioned between the States of Madhya Pradesh and Chhattisgarh under the Reorganization Act, 2000 and in the State of Chhattisgarh no State Road transport corporation was established. The apportioned assets and liabilities falling to the share of Chhattisgarh were brought under the control of Chhattisgarh Infrastructure Development Corporation. In this manner, the site could never be handed over to the petitioner nor any construction ever made by the petitioner over the site. There is lot of dispute with regard to cancellation of the agreement. Moreover, upon reorganization of State and Raipur being made the capital of new State of Chhattisgarh, at least some part of the land was admittedly surrendered in favour of the Public Works Department. While in the order dated 21.01.2020 rejecting representation, the land is shown to have been utilized for various purposes, the petitioner has raised factual dispute regarding the same and according to him still 5.84 acres of land remains vacant.

8. Be that as it may, at this distance of time, no writ can be issued in favour of the petitioner because the then requirement of construction of flats for employees of M.P. Road Transport Corporation no longer exists. There is no material on record to show that State of Chhattisgarh or respondent No. 5 have decided to continue with the project of construction of flats obviously because the State Road Transport Corporation no longer exists and whether or not the requirement of construction of staff quarters is still existing is not known.

9. Grant of relief in exercise of extraordinary jurisdiction under Article 226 of Constitution of India is discretionary in nature. Even though we find that some agreement was executed in favour of the petitioner way back in the year 1996, in view of subsequent development and the position as it stands today, no relief can be granted after 25 years, particularly when there is lot of dispute of factual nature with regard to availability of the land. The petitioner if so advised could only seek private law relief of damages by taking recourse to ordinary remedy of civil dispute. Writ Court is not inclined to pass any direction in favour of the petitioner towards construction of staff quarters.

10. In view of our consideration as above, we are not inclined to interfere with the order passed by the learned Single Judge and the writ appeal is therefore **dismissed**.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Sd/-

(Vimla Singh Kapoor)
Judge