

HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P.(C) No. 1070 of 2020

Smt. Vijay Laxmi Sharma, W/o. Late G.P. Sharma, Aged About 80 Years,
R/o. Dipak House, Jalgrih Marg, Tikrapara, Raipur, Chhattisgarh.

---- **Petitioner**

Versus

1. State Of Chhattisgarh, Through The Secretary, Ministry Of Urban Administration & Town Planning, Mantralay, Mahanadi Bhawan, Naya Raipur, District Raipur.
2. Municipal Corporation Raipur, Through Its Commissioner.
3. The Commissioner, Municipal Corporation, Raipur.
4. The Zone Commissioner, Zone-4, Near Press Club Municipal Corporation, Raipur.

---- **Respondents**

For Petitioner	:	Mr. B.P.Sharma, Advocate
For State/Respondent No.1:	:	Mr. Ashish Tiwari, Govt. Advocate
For Respondent No.2 to 4	:	Mr. V.R.Tiwari, Senior Advocate with Mr. Atul Kumar Kesharwani, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

01.09.2021

Heard

1. The present petition is being filed for the following reliefs :

“10.1 A writ and/ or an order in the nature of appropriate writ do issue calling the records from the respondent authorities concerned for perusal of this Hon'ble Court, if thinks fit in the facts & circumstances of case.

10.2 A writ and/ or an order in the nature of writ of mandamus do issue directing the respondent authorities to act in accordance with Part-5 of the Act of 1956 and also in accordance with constitutional provisions relating to public health etc. and construct and/ or repair drains and of discharging sewage in the areas of residence of petitioner within the time frame as may be fixed by this Hon'ble Court to prevent making out of epidemic like jaundice, hepatitis & corona in the facts and circumstances of the case.

10.3 A writ and/ or an order in the nature of writ of certiorari do issue quashing the notice dated 5.5.2020 (Annexure P-3) and allow the petitioner to use and enjoy her property for her

utmost benefit without any threat of any epidemic or disease which may emanate on account of acts of omission and commissions on the part of respondent authorities mentioned in preceding paragraphs i.e. duties under Chapter 5 of the Act of 1956.

10.4 A writ and/ or an order in the nature of writ of mandamus do issue directing the respondents to pay damages to the petitioner, as may be fixed by this Hon'ble Court, for their acts of negligence and carelessness which has resulted into spreading foul smell and making a breeding place of flies, mosquitoes etc. and thus creating an environment of spreading epidemic like jaundice, hepatitis and Covid-19 and thus creating health hazard for petitioner and her family members.

10.5 Cost of the proceedings.

10.6 Any other writs and directions that may be deemed fit and just in the facts & circumstances of case.”

2. During pendency of this petition, the reply has been filed. The main grievance of the petitioner is that because of fact no drainage was existing, water logging and still water used to accommodate, therefore, the respondent No.1 be directed to act in accordance with the provisions of the Municipal Corporation Act so as to avoid the outbreak of any disease. In the reply touching the subject issue following relevant part of reply would be relevant, which is reproduced herein below :

“3. It is respectfully submitted on behalf of the answering respondent [State] that, the petitioner and one Deepak Sharma had been issued a notice dated 05/05/2020 [Annex. P-3] by the Zone Commissioner, Zone No. 4, Municipal Corporation, Raipur mentioning therein that in the open land, house has been constructed and the drainage has been blocked by throwing debris into the same and due to that, the water is not discharging, therefore, the petitioner was directed for cleaning the drain so that the water may be duly discharged and it was also directed to submit the documents pertaining to ownership of land and sanctioned map, therefore, in compliance of the said notice, the petitioner replied the same vide reply dated

14/05/2020 [Annex. P-4] mentioning the irregularities prevailing in the locality due to lack of proper drainage system and the same is causing different diseases.

4. It is submitted that, looking to the reply of petitioner, the area was surveyed by the authorities of the Municipal Corporation, Raipur and after looking to the lack of proper drainage system as contended by the petitioner, a proposal dated 20/05/2021 was prepared by the Municipal Corporation, Raipur for construction of proper drainage for Shahid Brigadier Usman, Ward No.63, Raipur where the petitioner is residing and the said proposal has been also accorded sanction on 06/07/2021 by the Directorate, Urban Administration & Development, Chhattisgarh whereby an amount of Rs. 98.37 lakhs have been sanctioned for the construction of drainage in the aforesaid locality / ward where the petitioner is residing. Copy of the Proposal dated 20/05/2021 along with Sanction dated 06/07/2021, by the Directorate, Urban Administration & Development, Chhattisgarh are collectively filed herewith as ANNEXURE R-1 for kind perusal of the Hon'ble Court."

3. In view of such reply, since the sanction of the amount has already been made for construction of the drainage in the aforesaid locality/ ward, it is expected that the said work would be carried out as early as possible within an outer limit of six months.
4. With such observation, at this stage, the petition stands disposed off.

Aks

Sd/-
(Goutam Bhaduri)
Judge