CGHC010138242021 2026:CGHC:45192

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HIGH COURT OF CHHATTISGARH AT BILASPUR

SHYNA AJAY
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WPC No. 2383 of 2021

Order Reserved on : 16.09.2026

Order Pronounced on : 27.10.2026

Brijesh Kumar Agrawal S/o Late Shri Rajendra Agrawal, Aged About 41 Years R/o Ward No. 15, Lailunga Road, Gharghoda, District Raigarh Chhattisgarh.

... Petitioner(s)

versus

1 - State Of Chhattisgarh Through - The Secretary, Panchayat and Rural Development Department, Mantralaya, Atal Nagar, Raipur, District Raipur Chhattisgarh.

2 - The Collector, Raigarh, District Raigarh Chhattisgarh.

3 - Nagar Panchayat Gharghoda, Through - The Chief Municipal Officer, Nagar Panchayat Gharghoda, District - Raigarh Chhattisgarh

... Respondent(s)

(Cause Title downloaded from CIS Periphery)

For Petitioner(s)	:	Mr. Prafull N. Bharat, Senior Advocate with Mr. Harshal Chouhan, Advocate
For Respondent/State	:	Mr. Akhilesh Kumar, Government Advocate
For Respondent No.3	:	Mr. Ghanshyam Patel, Advocate

SB: Hon’ble Mr. Justice Amitendra Kishore Prasad

C A V Order

1. By way of the instant writ petition, the petitioner calls in question the legality and propriety of the order dated 02.06.2021 passed by Respondent No. 3 - Chief Municipal Officer, Nagar Panchayat, Gharghoda, District Raigarh, C.G.), whereby the allotment of Shop Nos. 9 and 10 in favour of the petitioner has been cancelled pursuant to certain complaints made against him before the District Administration, Raigarh along with a consequential direction commanding the petitioner to vacate and hand over peaceful possession of the subject shops.

2. The petitioner has prayed for the following reliefs in the petition :

> *10.1 To call for the records of the case for the kind perusal of this Hon'ble Court.*
> *10.2 To issue an appropriate writ or order and declare that the order dated 02.06.2021 Annexure P-1 and order dated 11.12.2020 Annexure P-2 are illegal, bad in law.*
> *10.3 To issue an appropriate writ or order and quash the order dated dated 02.06.2021 Annexure P-1 and order dated 11.12.2020 Annexure P-2 and permit the petitioner to complete the remaining construction.*
> *10.4 Any other relief deemed fit in the facts and circumstances of the case may also be granted.*

3. Brief facts of the case are that Respondent No. 3, a Nagar Panchayat constituted under Section 5 of the C.G./M.P.

Municipalities Act, 1961, duly allotted Shop Nos. 9 and 10 situated near Jaistambh, Gharghoda, to the petitioner for a period of three years vide agreement dated 01.04.2019, which was subsequently registered on 16.07.2019 (Annexure P/3). Owing to the dilapidated condition of the subject shops, the petitioner filed an application for renovation/reconstruction on 09.07.2020, which was sanctioned by Respondent No. 2 vide order dated 10.09.2020 subject to certain conditions and the petitioner duly deposited the requisite fees as demanded by Respondent No. 3. Subsequently, the petitioner commenced construction, however, abruptly and without justification, Respondent No. 3 passed an order dated 11.12.2020 cancelling the permission (order) dated 10.09.2020 under the pretext of a proposal passed on 22.9.2017 by the Council of Nagar Panchayat, Gharghoda regarding construction of a shopping complex over the said area. Immediately upon receipt thereof, the petitioner submitted a detailed representation/application on 15.12.2020 (Annexure P/7) stating that the construction was being raised lawfully after obtaining due permission. However, despite the petitioner acting strictly in accordance with valid sanction, Respondent No. 3 issued notices dated 04.01.2021 (Annexure P/8) and 11.02.2021 (Annexure P/9) to stop construction, with which the petitioner fully complied as communicated vide reply dated 15.02.2021 (Annexure P/10). Shockingly, without issuing any show cause notice or affording any opportunity of hearing, Respondent No. 3 passed the impugned order dated 02.06.2021 (Annexure P/1)

cancelling the allotment and directing vacant possession, relying upon an ex-parte order dated 25.05.2021 passed by the Collector, Raigarh, which was never served upon the petitioner. It is alleged that the impugned actions are illegal, arbitrary, violative of the principles of natural justice and motivated by extraneous considerations at the instance of local influential political persons seeking to unlawfully dispossess the petitioner from the subject premises. Hence, this Petition.

4. Mr. Prafull N. Bharat, learned Senior Counsel for the petitioner assisted by Mr. Harshal Chouhan, Advocate, submits that the petitioner submitted an application seeking allotment of a shop(s) in the Shopping Complex at New Bus Stand, Gharghoda. On the basis of the said application, the Chief Municipal Officer, Nagar Panchayat, Gharghoda (Respondent No. 3 herein) vide order dated 01.04.2019 allotted Shop Nos. 9 & 10, situated near Jaistambh, in favour of the petitioner for a period of three years. Subsequently, on 16.07.2019, the said lease agreement was duly registered. Learned Senior Counsel further submits that as the subject shops were in a dilapidated condition, the petitioner submitted an application before Respondent No. 3 seeking permission for their renovation and reconstruction. The said application was duly considered by the competent authority and vide order dated 10.09.2020, requisite permission was granted to the petitioner to renovate/reconstruct the allotted shops, subject to certain conditions. The petitioner strictly abided by all the stipulated conditions and accordingly raised construction over the

premises. He further submits that the petitioner was regularly remitting the agreed monthly rent in accordance with the terms of the agreement executed between the parties. However, when the reconstruction work was nearing completion, certain complaints were lodged, whereupon Respondent No. 3 issued notices dated 04.01.2021 and 11.02.2021, directing the petitioner to halt further construction. He submits that upon receiving verbal intimation to suspend work, the petitioner personally met with the municipal authorities, who informed him of the objections raised against the construction. Learned counsel submits that the petitioner duly submitted a reply to the said notices, confirming that although the reconstruction was nearly complete by then, no further construction had been raised thereafter and the petitioner categorically submitted that no further construction would be carried out. He strenuously contends that once a valid allotment of the shop had been made and permission was duly granted to renovate/reconstruct the same, such permission cannot subsequently be withheld without plausible and cogent reasons nor can the allotment itself be cancelled arbitrarily on this ground alone.

5. Mr. Akhilesh Kumar, learned counsel for the State submits that the grievance of the petitioner is directed solely against Respondent No. 3 (Chief Municipal Officer, Nagar Panchayat, Gharghoda) regarding the impugned eviction orders dated 02.06.2021 and 11.12.2020 and no cause of action nor any specific relief has been claimed against the State. Respondents No. 1 and 2 have been

impleaded merely as formal parties.

6. Mr. Ghanshyam Patel, learned counsel for respondent No.3 submits that the impugned action taken by Respondent No. 3 is completely valid and in accordance with law. He submits that the allotment of Shop Nos. 9 & 10 near Jaistambh, Gharghoda, was purely temporary and subject to the terms and conditions of the agreement executed between the parties. Learned counsel further submits that upon receipt of serious complaints from the ward members and local residents regarding unauthorized and illegal construction/reconstruction over the premises, which was found to be detrimental to public interest and outside the scope of permissible sanction, the matter was examined by the competent Revenue Authorities. Subsequently, vide order dated 25.05.2021, the Collector, District Raigarh, found the allotment and the subsequent construction to be illegal and contrary to municipal land use, thereby directing cancellation of the allotment and recovery of vacant possession. He further submits that Respondent No. 3, being an administrative authority bound by the lawful directions of the District Collector and the statutory obligations under the C.G. Municipalities Act, 1961, merely executed the direction of the District Administration by passing the impugned order dated 02.06.2021 directing the petitioner to stop illegal construction and handover vacant possession. He further submits that the original tenure of the allotment/lease granted to the petitioner has already lapsed by efflux of time, thereby disentitling the petitioner from seeking any relief to remain in

unauthorized occupation of public property. He, therefore, submits that the writ petition is devoid of merit and liable to be dismissed.

7. Heard learned counsel for the parties and perused the documents annexed with the writ petition with utmost circumspection.

8. Evidently, the petitioner is in occupation of the subject shops on the basis of a legally enforceable allotment executed in his favour vide a registered agreement. A perusal of the impugned order shows that it does not disclose any cogent reason whatsoever for the cancellation of the allotment. Once a shop has been allotted after following due process of law, such allotment cannot be unilaterally cancelled without establishing valid reasons and without affording an opportunity of hearing to the allottee. The cancellation of allotment has been effected in utter disregard of the principles of natural justice, which is manifestly clear on the face of the impugned order/notice, rendering it legally unsustainable.

9. Furthermore**,** the objection raised regarding the expiry of the contractual period cannot be sustained at this stage for the reason that the cancellation order was passed prior to the completion of the lease term, and that too in an arbitrary manner in violation of the principles of natural justice.

10. Accordingly, the impugned order dated 02.06.2021 (Annexure P/1) is hereby quashed. However, liberty is reserved in favour of the Respondent Authorities to pass appropriate orders afresh, if

they so desire, strictly after following due process of law and upon affording a proper opportunity of hearing to the petitioner.

11. With the aforesaid observations/directions, the Writ Petition stands finally disposed of.

Sd/-

(Amitendra Kishore Prasad)
Judge

Shyna Ajay