CGHC010290562022 2026:CGHC:43707

RUCHI YADAV Digitally signed by RUCHI YADAV

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 3909 of 2022

1 - Mukesh Kumar Mittal S/o Late Shri Laddu Gopal Mittal Aged About 40 Years R/o Gopal Traders, Near Jai Stambh Chowk, Gharghoda, District - Raigarh, Chhattisgarh.

... Petitioner(s)

versus

1 - State Of Chhattisgarh Through The Secretary, Department Of Urban Administration, Mahanadi Bhawan, Mantralaya, Atal Nagar Naya Raipur, District : Raipur, Chhattisgarh

2 - The Collector Raigarh, District : Raigarh, Chhattisgarh

3 - The Sub Divisional Officer (Revenue) Sub-Division Gharghoda, District : Raigarh, Chhattisgarh

4 - The Tehsildar Tehsil Gharghoda, District : Raigarh, Chhattisgarh

5 - The Chief Municipal Officer (Cmo) Nagar Panchayat - Gharghoda, District : Raigarh, Chhattisgarh

... Respondent(s)

(Cause title taken from CIS Periphery)

For Petitioner(s)	:	Mr. Anuroop Panda, Advocate
For Respondent/State	:	Mr. Sangharsh Pandey, G.A.

SB: Hon'ble Mr. Justice Amitendra Kishore Prasad

Order on Board

08/10/2026

1. By way of this petition, the present petitioner has prayed for following reliefs:-

> "i. To kindly call for the records of the case from the respondents.
>
> ii. To kindly quash the impugned order dated 05/09/2022 (ANNEXURE P/1) issued by the respondent no. 03 and the respondents may kindly be restrained from demolishing the shop No 8 of the petitioner situated at Jai Stambh Chauk Gharghoda and to take any further coersive action in the matter.
>
> iii. To kindly direct the respondents to decide the representation dated 05.09.2022 made before Respondent No. 5 and in accordance with the records, after providing proper opportunity of hearing.
>
> iv. To kindly make any other order that may be deemed fit and just in the facts and circumstances of the case including awarding of the costs to the petitioners."

2. Learned counsel for the petitioner submits that the concerned Sub-Divisional Officer (Revenue), Gharghoda, has forwarded a report to the Chief Municipal Officer, Nagar Panchayat, Gharghoda, stating that the petitioner has raised excess construction, despite the layout having

been sanctioned by the Nagar Panchayat, Gharghoda, and that the said construction is required to be demolished within three days. It is further submitted that, although the impugned communication/report does not specifically name the petitioner, a perusal thereof indicates that a direction has been issued for demolition of the construction raised by the petitioner, with the assistance of the concerned Tehsildar, Gharghoda, as well as the Station House Officer of the concerned Police Station, Gharghoda. The concerned SDO has also directed the authorities to submit a compliance report in respect of the report dated 05.09.2022.

3. Learned counsel for the petitioner further submits that the petitioner was never afforded an opportunity of hearing, nor was any notice issued to him calling upon him to explain whether the construction in question was covered by the sanctioned layout or whether any excess construction had been raised. Without affording the petitioner any opportunity to place his case and without following the principles of natural justice, the report/communication has been forwarded to the concerned authority of the Nagar Panchayat, Gharghoda, thereby creating an immediate threat of demolition of the construction raised by the petitioner.

4. It is contended that such an action cannot be sustained in law. Learned counsel submits that the layout plan of the petitioner has already been sanctioned and approved by the Nagar Panchayat, Gharghoda, and, therefore, if any excess construction has been raised, the competent authority to take action in accordance with law would be the Nagar Panchayat, Gharghoda, and not the Sub-Divisional Officer (Revenue).

It is further submitted that, in any event, if any action for demolition was proposed to be taken against the petitioner, a proper notice ought to have been issued to him, affording him an opportunity to submit his explanation. As no such notice was issued and the petitioner was not afforded any opportunity of hearing, the impugned action is in violation of the principles of natural justice and, therefore, is liable to be quashed.

5. Learned State counsel submits that the petitioner cannot challenge the impugned order/report as the same has not been issued in the name of the petitioner. It is, therefore, contended that the present petition, having been filed against an order/report which does not specifically concern the petitioner, is not maintainable.

6. Having heard learned counsel for the parties and having perused the record, particularly the report dated 05.09.2022, it appears that the concerned Sub-Divisional Officer (Revenue), Gharghoda, directed the Tehsildar, Gharghoda, as well as the In-charge/SHO of the concerned Police Station, Gharghoda, to take steps for removal of the excess construction allegedly raised by the petitioner within three days and to submit a report in that regard. It further appears that the concerned Sub-Divisional Officer (Revenue) directed initiation of action against the Chief Municipal Officer, Gharghoda, as well as the Sub-Engineer, Nagar Panchayat, Gharghoda, who had sanctioned the layout plan in favour of the petitioner.

7. From perusal of the aforesaid report, it is quite vivid that the petitioner is directly affected by the action proposed therein, as the construction raised by him has been directed to be removed. Therefore, merely

because the report dated 05.09.2022 does not specifically bear the name of the petitioner, it cannot be said that the petitioner has no locus to challenge the same. Since the report directly affects the petitioner's property and creates an immediate threat of demolition of the construction raised by him, the petitioner is certainly entitled to challenge the same. Accordingly, the contention raised by learned State counsel that the petitioner cannot maintain the present writ petition is misconceived and cannot be accepted.

8. It is further evident from the record that the petitioner was not afforded any opportunity of hearing before directing removal of the alleged excess construction. Even if the layout plan had been sanctioned by the competent authority, the concerned Sub-Divisional Officer (Revenue), before directing demolition of the construction, was required to issue an appropriate notice to the petitioner and afford him an opportunity to submit his explanation and relevant documents. The principles of natural justice could not have been dispensed with in the facts and circumstances of the present case.

9. At the most, if the concerned authority was of the view that the petitioner had raised excess or unauthorized construction, an appropriate show-cause notice ought to have been issued to the petitioner, calling upon him to explain as to why action for removal of such construction should not be taken against him. However, no such opportunity was afforded to the petitioner. Consequently, the report dated 05.09.2022, insofar as it directs removal of the construction raised by the petitioner without affording him an opportunity of hearing, cannot be sustained in law and is hereby quashed to that extent.

10. So far as the alleged excess construction raised by the petitioner is concerned, it is left open to the competent authority, if it is of the opinion that the petitioner has raised any excess or unauthorized construction over the land in question, to initiate appropriate proceedings in accordance with law by issuing due notice to the petitioner. In such an eventuality, the petitioner shall be at liberty to submit his reply along with all relevant documents and the competent authority shall thereafter consider the same and pass an appropriate order, strictly in accordance with law, after affording due opportunity of hearing to the petitioner.

11. With the aforesaid observations and directions, the present petition stands **disposed of.**

Sd/-

(Amitendra Kishore Prasad)
Judge

Ruchi