

CF/100h
(3)

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IN THE HIGH COURT OF JUDICATURE AT BILASPUR(C.G.)

WRIT PETITION NO. 3846/2003

PETITIONER

Rickshaw Chalak Kalyan Sangh,
Lal Bahadur Shastri Ward,
Patpar, Opp. Gramin Thana,
Tahsil Bhatapara,
Dist. Raipur (C.G.)
Through its Secretary,
Prakash Chandra Dhritlahare,
S/o. Late Nathu Ram
Dhritlahare,
Aged about 32 years,
R/o. Lal Bahadur Shastri Ward,
Patpar, Opp. Gramin Thana,
Tahsil Bhatapara,
Dist. Raipur (C.G.)

P. R. No. 3846/03
Presented by Shri S. M. 29
dated 20/11/03

Versus

RESPONDENTS

1. State of Chhattisgarh,
Through Secretary,
Environment & Town
Development Department,
D.K.S. Bhavan, Mantralaya,
Raipur. (C.G.)
2. Collector,
District Raipur (C.G.)
3. Additional Collector,
Baloda Bazar,
District Raipur (C.G.)
4. Tahsildar,
Bhatapara,
District Raipur (C.G.)
5. Sub-Divisional Officer,
Bhatapara,
District Raipur. (C.G.)

RECEIVED-COPY
20/11/03
Clerk to A. G. Bilaspur



**WRIT PETITION UNDER ARTICLE 226/227 OF THE
CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN THE
NATURE OF MANDAMUS, CERTIORARI, PROHIBITION AND
FOR OTHER SUITABLE WRIT OR WRITS, ORDER OR
ORDERS, DIRECTION OR DIRECTIONS.**

01. PARTICULARS OF THE PETITIONER :

As stated above in the cause title.

02. PARTICULARS OF THE RESPONDENTS

As state above in the cause title.

आदेश पत्रक

W.P.No. 3846/03

मामला क्रमांक

सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p><u>28/11/2003</u></p> <p>Smt. Fourzia Mirza, counsel for the petitioner.</p> <p>Shri Sanjay K. Agrwal, Dy. Advocate General for the respondents/State.</p> <p>Petitioner - Rickshaw Chalak Kalyan Sangh has preferred this writ petition under Article 226/227 of the Constitution of India, challenging the order dated 13/11/2003 (Annexure P/15) issued by Tahsildar, Bhatapara, District Raipur in Revenue Case No. 12/A68/2003-2004.</p> <p>The case of the petitioner is that petitioner is a registered society and they have constructed their dwelling houses on a piece of land belonging to Government bearing Khasra No.55, Rakba 0.591 hectare, Patwari Halka No.07, village Patpar, Tahsil Bhatapara, Dist. Raipur. As per the circular issued by the Environment & Town Development Department, Government of Chhattisgarh, Raipur dated 27/12/2003, it has been decided that 450 sq. ft. of land is to be provided to the poor and homeless people on lease at very low rate for their accommodation under Rajiv Gandhi Ashraya Yojna. Accordingly, Petitioner/Sangh had</p>	

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	<p>applied on 22/09/2002 for allotment of the land on lease for housing accommodation of its members situated at village Patpar, Khasra No.55, Patwari Halka No.7, Rakba 0.591 Hectare, Tahsil Bhatapara, District Raipur, which is already in possession of the petitioner/Sangh. When the Administrative Officers tried to dispossess, the members of the petitioner/Sangh made a representation to the Chief Minister and the Chief Minister has directed respondent no.5 to enquire into the matter and take necessary action. Accordingly, as per the demand of the petitioner/Sangh, a case No.A/74 - 2001-2002 was registered in the Court of Tahsildar, Bhatapara for allocation of the ceiling land of the Government to them. Tahsildar, Bhatapara, has already conducted a revenue enquiry regarding allocation of land to the members of the petitioner Sangh and submitted his enquiry report to respondent no.4, Tahsildar, Bhatapara on 05/08/2002 and the Chief Municipal Officer, Municipal Corporation, Bhatapara has given No Objection Certificate on 03/08/2002 to respondent no.4, Tahsildar, Bhatapara and Principal Joint Director, Nagar Avam Gram Nivesh Raipur has also given No Objection Certificate to</p>	

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	<p>Tahsildar (Revenue) Bhatapara on 06/02/2002. Patwari, Bhatapara vide his letter dated 01/03/2002 has stated that the particular land is a non-agricultural ceiling land of the Government. Petitioner/Sangh again made a representation to Tahsildar, Bhatapara on 10/10/2003 for deciding the allocation case pending in his Court, but no action has been taken. They again made a representation to the same authority on 22/10/2003, but no decision has been taken, but on the contrary, a show cause notice has been issued by the Tahsildar, Bhatapara vide dated 10/11/2003 and 13/11/2003 that they have encroached the Government land, therefore, they have contravened the Section 248 of the C.G. Land Revenue Code, 1959 and a fine of Rs.1000/- has been imposed upon each member in lieu of encroachment and they have been directed to vacate the land within 30 days. Therefore, the respondent's order be quashed and set aside and they be directed not to dispossess the members of the petitioner/Sangh from the existing land and not to recover the fine amount of Rs.1000/-.</p>	

[पीछे देखिये]

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आदेश पत्रक

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित - 04-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p>I have heard the learned counsel for the petitioner Mrs. Fourza Mirza and Mr. Sanjay K. Agrwal, Dy. Government Advocate on behalf of the respondents.</p> <p>As per the averments made in the petition the members of the petitioner/Sangh are already in possession of the land for which they have requested for allotment to the members of the petitioner/Sangh and on the directions of the Chief Minister, the case has already been registered and pending before the Tahsildar, Bhatapara for allocation of the land in question to the members of the petitioner/Sangh and as per the averments made in the petition that certain steps have already been taken and no objection certificates have also been given by the Chief Municipal Officer, Municipal Corporation, Bhatapara and Principal Joint Director, Nagar Avam Gram Nivesh, Raipur. Therefore, in the given situation, when the petitioners are already in possession of the land and their matter for allotment of the land in question is already pending before the Tahsildar, Bhatapara for decision, it is just and proper to make a detailed representation raising all their grievances to him.</p>	

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आदेश पत्रक

सामला क्रमांक

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित 05-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p>Learned Dy. Government Advocate submits that the allotting authority is the Sub-Divisional Officer.</p> <p>Learned counsel for the petitioner submits that till the decision in the case is taken by the Competent Authority, the members of the petitioner/Sangh should not be vacated from the land in question.</p> <p>Having heard the learned counsel for the parties and having regard to the facts and circumstances of the case and the members of the petitioner/Sangh are already in possession of the land in question and they have put up certain structures on the land in question and the matter is pending for consideration before the Revenue Authorities for allotments of the same to the members of the petitioner/Sangh, therefore, it would be just and reasonable and fair on the part of the Revenue Authorities that they should decide the question about the allotment of the land to the members of the petitioner/Sangh and whatever decision taken on the merits of the case, thereafter only they should proceed with appropriate proceedings in accordance with law and the Revenue Authorities are directed to dispose of the representation regarding allotment of</p>	

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आदेश पत्रक

मामला क्रमांक सन् 200

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित - 06-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p>the land in question made by the petitioner/ Sangh within a period of three months from the date of receipt of copy of this order.</p> <p>With the aforesaid observations and directions, this writ petition stands disposed of. Consequently, M.W.P.No. 3458/2003 sand I.A.No.11178/2003 also stand disposed of.</p> <p>Certified copy as per rules.</p>	<p>Sd/- L.C.BHADOO Judge</p>

[पीछे देखिये]

Rajy
Bachan

29.11