

HIGH COURT OF CHHATTISGARH, BILASPUR

WA No.555 of 2017

- Dhanaudas S/o Gogla Das, Aged About 65 Years R/o Ward No. 41, Shanker Nagar, Bandhwa Para, Bilaspur, Tahsil And District Bilaspur Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Urban Administration, Mahanadi Bhawan, Mantralaya New Raipur Chhattisgarh.
2. Commissioner, Municipal Corporation, Bilaspur, District Bilaspur Chhattisgarh.
3. Collector, Bilaspur, District Bilaspur Chhattisgarh.
4. Sub Divisional Officer (Revenue), Bilaspur, District Bilaspur Chhattisgarh.
5. Executive Engineer, Municipal Corporation, Bilaspur, District Bilaspur Chhattisgarh.

---- Respondents

For Petitioner	:	Shri Ashish Beck, Advocate
For Respondent/State	:	Shri R. K. Gupta, Dy.AG
For Respondent/Corporation:		Shri Pankaj Agrawal, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava
Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

23/12/2017

This writ appeal has been filed by the appellant challenging legality and validity of order dated 15-12-2017 passed by the learned Single Judge.

2. Learned counsel for the petitioner argued that the High Power Committee constituted under the Chhattisgarh Nagariya Kshetron Ke Bhoomihin Vyakti (Pattadhriti Adhikaron Ka Pradan Kiya Jana) Adhiniyam, 1984 (for short, 'the Act, 1984') acted illegally in not complying with the mandatory requirement of Rule 9 of the Chhattisgarh Nagariya Kshetron Ke Bhoomihin Vyakti (Pattadhriti Adhikaron Ka Pradan Kiya Jana) Rules, 1998 ((for short, 'the Rules, 1998'). He would further submit that the appellant was not afforded proper opportunity of hearing. According to him, the spirit of the order

passed by the learned Single Judge earlier in Writ Petition(C) No.3027 of 2016 and batch of petitions, decided on 04-07-2017, obliged the respondents to consider and decide the matter strictly in accordance with the Act of 1984 and the Rules of 1998 within a period of one month from the date of production of certified copy of this order, after hearing the parties. Further submission is that the appellant herein was not communicated the decision taken by the High Power Committee and for the first time, a copy of the said resolution was placed before the learned Single Judge for consideration at the time of hearing on 15-12-2017 and the appellant, therefore, had no opportunity to challenge the legality and validity of the decision taken by the High Power Committee.

3. Earlier, an order passed by the learned Single Judge on 04-07-2017 in the petition filed by the petitioner and many other occupants. The learned Single Judge referred the matter to the High Power Committee for consideration and decision in accordance with the Act of 1984 and the Rules of 1998, after hearing the parties.

4. The appellant herein along with others submitted a detailed representation to the Collector, who happens to be the Chairman of the High Power Committee. This fact has been stated in the writ petition itself. Further submission has been made in para 3 of the petition that the Collector had called the petitioner for discussion in the matter. Therefore, it is not correct that the direction of writ Court to take decision after hearing, was not complied with.

5. Though, learned counsel for the petitioner sought to raise arguments to assail the correctness and validity of the decision taken by the High Power Committee, copy of which has been placed on record of the writ appeal, we find that the decision is not under challenge before this Court.

6. The order passed by the learned Single Judge shows that one of the ground of dismissal of the writ petition was that the decision taken by the High Power Committee was not challenged. If the case of the petitioner is that the said decision was communicated to him on that very date, when the order was passed, the appellant had

remedy of challenging the said decision which he did not choose to do. Even in the writ appeal, the said decision is not under challenge. We do not find averment in the writ petition that the Mohalla Committee as contemplated under the Act of 1984 and the Rules of 1998 was not constituted or was not consulted in the manner required under Rule 9 of the Rules of 1998. In the absence of challenge to the decision taken by the High Power Committee, even in the writ appeal, this Court had no option but to dismiss the appeal.

7. Accordingly, this writ appeal is dismissed. The remedy is available to the petitioner under the law, in case, the petitioner chooses to challenge the aforesaid decision, if permissible under the law.

8. Before parting with the matter, we record statement of learned counsel for the respondent-Corporation that the petitioner herein has been allotted a house in the newly constructed Sai Bhoomi Parisar, Torwa, Bilaspur, which is 200 Meter away from the present place. It would be open for the appellant to pray for some time to shift in the newly allotted place.

SD/-
(Manindra Mohan Shrivastava)
Judge

SD/-
(Ram Prasanna Sharma)
Judge