

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. : 2581 of 2018.

Decided on: 31.10.2018.

Harsh Nayar

....Petitioner.

Versus

State of H.P. and others

...Respondents.

Coram

The Hon'ble Mr. Justice Surya Kant, Chief Justice.

The Hon'ble Mr. Justice Ajay Mohan Goel, Judge.

Whether approved for reporting?¹

For the petitioner : Mr. K.B. Khajuria, Advocate.

For the respondents : Mr. Ashok Sharma, Advocate
General with M/s. J.K. Verma,
Adarsh Sharma and Nand Lal
Thakur, Additional Advocate
Generals for respondents No. 1, 2
and 5.

: Mr. Avinash Jaryal, Advocate for
respondent No. 3.

: Mr. Tara Singh Chauhan,
Advocate for respondent No. 4.

Surya Kant, Chief Justice (Oral)

The petitioner has been served with order dated 4th August, 2018 (Annexure P-5), by Municipal Council, Chamba, informing that he has raised unauthorized construction on government land, as per the report of Kanungo dated

¹ Whether reporters of the local papers may be allowed to see the judgment?

30.07.2018. The Executive Officer of the Municipal Council has further informed that “No Objection Certificate”, earlier issued by the Municipal Council, stands cancelled and coercive action like disconnection of electricity and water supply will also be resorted to. Pursuant thereto, the Himachal Pradesh State Electricity Board Limited has also issued impugned communication dated 10th August, 2018 ((Annexure P-6), for disconnection of the electricity meter installed in the premises of the petitioner.

2. The petitioner’s case appears to be that the ground floor and first floor both were constructed in the year 2012 after getting the building plan sanctioned from the Municipal Council, but now, third floor has been raised, which is stated to be unauthorized construction. He submits that if he is given some time, he would approach the State Government under Section 206 of H.P. Municipal Act, 1994, for the regularization of the unauthorized construction raised by him.

3. The writ petition is accordingly disposed of with liberty to the petitioner to approach the prescribed Authority under Section 206 of H.P. Municipal Act, 1994 for regularization of his possession and compounding the

unauthorized construction raised by him in accordance with law, within a period of 10 days alongwith revised building plan, if need be, and let the competent authority take appropriate decision on the petitioner's request, as early as possible and preferrably within a period of six weeks. In case, State Government decides to compound the illegality and allot the land to the petitioner, subject to such terms and conditions, as may be imposed by the competent Authority, petitioner shall then apply to the Municipal Council, Chamba, for regularization of the unauthorized construction raised thereon in accordance with law. The decision of the Municipal Council will depend upon the outcome of the proceeding under Section 206 of the Act, referred to above.

3. The petition stands disposed of in terms of the above directions, so also pending miscellaneous application(s), if any.

(Surya Kant)
Chief Justice

(Ajay Mohan Goel)
Judge

October 31, 2018
(narender/YSC)