



HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

WPIL No.82 of 2020

Bhanu Chandrakar **Versus** State of Chhattisgarh Ors

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01.09.2020	<p>Shri Sharad Mishra, Advocate for the petitioner.</p> <p>Shri Chandresh Shrivastava, Dy. Advocate General for the State/respondents No.1, 2 & 3.</p> <p>The petitioner has approached this Court challenging the course and proceedings being taken by the respondents in connection with the alienation of the Government Land, allegedly without any regard to the relevant provisions of law. It is stated that, the land in question is being allotted to a particular political party through the 3rd & 4th respondents ie District Collector, Dhamtari & Chief Municipal Officer, Nagar Panchayat, Kurud, Dhamtari.</p> <p>The learned counsel for the petitioner submits that the property was allotted to the respondent concerned as per Annexure P-1, which clearly mentioned the purpose for which it was allotted. It is now sought to be allotted in the name of Pramod Sahu ie 6th respondent as per Annexure P-2, vide the resolution, on a lease for a period of 30 years. The learned counsel submits that no prior sanction of the Government land has been obtained and this is clearly in violation of Section 109 of the Municipalities</p>



Act, 1961. Reference is also made to the Rule 3B of the Chhattisgarh Municipalities (Transfer of Immovable Property) Rules, 1996 (for short' the Rules of 1996'), as pointed out in Paragraph No.8.11, and these requirements are also not satisfied in the instant case. The learned counsel points out that the 6th respondent has already been allotted land for the setting-up of an office vide Annexure P-4 and this being the position, by virtue of the clear mandate under Rule 3B (ii) (b) & (c) of the Rules, 1996, no further allotment shall be made again in their name. It is also pointed out that the property involved carries substantial value and if at all it is to be allotted to the deserving persons/parties in terms of Rule 3B, the same has to be in conformity with the Rules.

The learned counsel seeks to place reliance on the verdict passed by the Apex Court in the case of **Bangalore Medical Trust vs B.S. Muddappa & Ors** reported in **AIR 1991 SC 1902** to contend that the property allotted for a particular purpose cannot be diverted at all. Similarly, reliance is placed on another verdict in the case of **Akhil Bhartiya Upbhokta Congress v. State of M.P. & Ors** reported in **(2011) 5 SCC 29**, wherein the Apex Court has held that the Government land cannot be alienated or allotted in violation of the relevant rules.



Shri Chandresh Shrivastava, the learned Dy. Advocate General appearing on behalf of the State submits that the present petition styled as “Public Interest Litigation” is not maintainable, so far as the petitioner is having a private interest, being the leader of a political party. The learned counsel further submits that power is vested with the Council of the Municipality, by virtue of Section 409 of the Municipalities Act, 1961 and it is accordingly, that the power has been exercised. The learned counsel also pointed out that Rule 3B of the Act of 1996 enables allotment of the Government land to the political parties for construction of their offices. It is further pointed out that there is an effective alternative remedy under the statute, which has not been availed by the petitioner and hence, the writ petition is not maintainable.

After hearing both the sides, we are of the view that a prima facie case has been made out by the petitioner. But we do not intend to express any opinion on this aspect, as the matter can be considered only after filing a reply by the respondent/State and the respondents No.4, 5 & 6.

In the above circumstance, the writ petition stands admitted.

Shri Chandresh Shrivastava, takes notice on behalf of respondents No.1, 2 & 3/ State.



Issue urgent notice to the respondents No.4, 5 & 6 by speed post.

Post it for further consideration on **29.09.2020**.

Meanwhile, no further proceeding shall be pursued by the respondents concerned to give effect to the proceedings under challenge, till the next date of hearing.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge

