



2026:CGHC:9456-DB



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 463 of 2026

1 - Pankaj Joshi S/o Shri Balkrishna Joshi Aged About 47 Years R/o Own Shops At Balani Chowk, Rajendra Ward, Mungeli, Dist. Mungeli C.G.

2 - Jawahar Sonkar S/o Churavan Sonkar Aged About 20 Years R/o Own Shops At Balani Chowk, Rajendra Ward, Mungeli, Dist. Mungeli C.G.

3 - Naresh Shukla S/o Late Shri Vishnuprasad Shukla Aged About 55 Years R/o Own Shops At Balani Chowk, Rajendra Ward, Mungeli, Dist. Mungeli C.G.

4 - Ramkrishna Tiwari S/o Shivshankar Tiwari Aged About 55 Years R/o Own Shops At Balani Chowk, Rajendra Ward, Mungeli, Dist. Mungeli C.G.

... Petitioners

versus

1 - State Of Chhattisgarh Through The Secretary Of Ministry Of Urban Administration And Development Department, Mahanadi Bhavan, Mantralaya, Naya Raipur, Dist.- Raipur C.G.

2 - Collector Of Mungeli, Dist. Mungeli C.G.

3 - Sub-Divisional Officer, Division- Mungeli City, Mungeli, Dist. Mungeli C.G.

4 - Tehsildar Of Mungeli, Dist. Mungeli C.G.



5 - Chief Municipal Officer, Office Of Municipal Council- Mungeli, Dist.-
Mungeli C.G.

6 - Vikas Singh Thakur, Navagarh, Dist.- Bemetara C.G. (Contractor Of R-5)

---- **Respondents**

(Cause title taken from Case Information System)

For Petitioners	:	Mr. Pallav Mishra, Advocate
For Respondents 1 to 4/State	:	Mr. Priyank Rathi, Govt. Advocate
For Respondent No.5	:	Mr. Shikhar Shukla, Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Ravindra Kumar Agrawal, Judge

Order on Board

Per Ramesh Sinha, C.J.

24/02/2026

1. This writ petition under Article 226 of the Constitution of India has been preferred by the petitioners, who are stated to be shop owners carrying on their business at Balani Chowk, Rajendra Ward, Mungeli, District Mungeli (C.G.), calling in question the legality, validity and propriety of the order dated 04.04.2025 bearing No. 99/Municipal Council/2025-2026 issued by respondent No.5 – Chief Municipal Officer, Municipal Council, Mungeli, whereby a decision has been taken to construct/erect an idol of Goddess Maa Parmeshwari in the middle of Balani Chowk, Mungeli. The grievance of the petitioners is that the proposed erection of the idol at the midst of the said square, which is asserted to be one of the busiest and narrowest squares of



the city, would result in obstruction of traffic movement, cause public inconvenience, and substantially interfere with the ingress and egress of the petitioners' shops, thereby adversely affecting their right to carry on trade and business. It has been further pleaded that despite submission of several representations before the competent authorities objecting to the proposed construction and suggesting an alternative suitable location, no effective action has been taken and the respondents are proceeding with the implementation of the impugned order, constraining the petitioners to invoke the extraordinary jurisdiction of this Court.

2. The petitioners have filed the present petition seeking for the following reliefs:-

“10.1 This Hon'ble Court may kindly be pleased to allow the petition filed by the petitioner;

10.2 This Hon'ble Court be pleased to quash the impugned order dated 04.04.2025, issued by CMO, Municipal Council of Mungeli, bearing number 99/Municipal Council/2025-2026 or direct the R-5 to establish or erect the idol in some other suitable place so as not to disturb traffic of the road and block the entries and exit of the petitioner's shop;

10.3 Any other relief as deem fit by this Hon'ble Court.”

3. The facts of the case as emerges from the pleadings of the petition are that, the petitioners are shop owners carrying on their respective



businesses at Balani Chowk, Rajendra Ward, Mungeli, District Mungeli (C.G.), which is one of the busiest and narrowest commercial squares of the city and serves as a principal approach road to the main market. In the year 2023, Respondent No. 5 – Chief Municipal Officer, Municipal Council, Mungeli, proposed erection of an idol of Goddess Maa Parmeshwari in the middle of the said square. The petitioners raised objections to such proposal on the ground that construction of any permanent structure in the midst of the road would cause serious traffic congestion and adversely affect their business activities. However, the petitioners expressed their consent for installation of the idol or construction of a temple at an alternative suitable place near the square, and submitted a representation to that effect.

It is the case of the petitioners that although the proposal was earlier halted, in the year 2025 the respondent authorities again initiated steps for installation of the idol at the same location. Workers of the Municipal Council were seen taking measurements at the site and preparing for construction. Thereafter, Respondent No. 5 issued the impugned order dated 04.04.2025 bearing No. 99/Municipal Council/2025-2026, deciding to proceed with erection of the idol at the middle of Balani Chowk. Upon learning of the same, the petitioners submitted fresh representations before Respondent Nos. 2 to 4 objecting to the proposed construction; however, no action has been taken on their representations.

The petitioners contend that erection of the idol at the middle of the road would obstruct traffic movement at an already congested



square, create inconvenience to the general public, and block or substantially restrict the ingress and egress to their shops, thereby seriously affecting their right to carry on trade and business. It is further stated that an earlier writ petition filed by the petitioners was withdrawn with liberty to file afresh, as the contractor had not been impleaded as a party. Accordingly, the present petition has been filed challenging the impugned order and seeking appropriate relief from this Hon'ble Court.

4. Mr. Pallav Mishra, learned counsel appearing for the petitioners submits that, the present writ petition is not directed against any religious sentiment nor against installation of an idol per se, but is confined to the legality of the decision of the respondent authorities in permitting erection of a permanent religious structure in the middle of a public road at Balani Chowk, Mungeli. It is contended that the petition has been filed purely on the ground that the proposed erection is on government land forming part of a public street and square, and such action is contrary to the law laid down by the Hon'ble Supreme Court of India.

It is argued that the Hon'ble Supreme Court, in unequivocal terms, has held that no unauthorized construction of religious structures shall be permitted on public streets, pavements or other public utility spaces. Reliance is placed on the orders passed in **Union of India v. State of Gujarat, (2013) 12 SCC 417** and the subsequent directions issued in *In Re: Unauthorized Construction of Religious Structures*, wherein all the State Governments and Union Territories



were directed to ensure that no permission is granted for construction of any temple, mosque, church, gurudwara or any other religious structure on public land. Learned counsel would submit that the ratio laid down therein is binding under Article 141 of the Constitution of India and squarely applies to the facts of the present case.

It is further contended that the Bombay High Court, in **Society for Fast Justice v. The State of Maharashtra, decided on 1st October 2016**, has elaborately considered the binding nature of the aforesaid directions of the Hon'ble Supreme Court and reiterated that the State and its instrumentalities have no authority in law to grant permission for erection of religious structures on public roads or government land meant for public use. The High Court emphasized that public streets are meant for free and unobstructed movement of traffic and pedestrians, and the executive cannot regularize or permit encroachments in the guise of religious structures.

Learned counsel would submit that in the present case, the land in question is admittedly part of Balani Chowk, which is a public square and roadway under the control of the Municipal Council. Once the land is a public street vested in the local body for public use, the respondent authorities cannot divert such land for erection of a permanent religious idol or structure, as the same would amount to permitting encroachment upon public property. It is argued that the Supreme Court has categorically directed that no new religious structures shall be constructed on public land, and therefore, any order granting permission for such erection is ex facie illegal and without



jurisdiction.

It is also submitted that the action of respondent No.5 is arbitrary and violative of Articles 14 and 19(1)(g) of the Constitution of India. The petitioners, being shopkeepers carrying on lawful trade at the said square, have a fundamental right to carry on their occupation, trade and business, subject to reasonable restrictions. Erection of a permanent idol in the middle of a narrow and congested road would inevitably obstruct traffic and impede ingress and egress to their establishments. The State cannot, under the guise of administrative discretion, curtail the petitioners' constitutional rights by permitting an activity which is itself impermissible in law.

Learned counsel would therefore submit that the impugned order dated 04.04.2025 issued by respondent No.5 is in teeth of the binding dicta of the Hon'ble Supreme Court and is liable to be quashed. It is prayed that this Hon'ble Court may enforce the law declared by the Apex Court and restrain the respondents from proceeding with the illegal erection of the religious structure on government land forming part of the public road at Balani Chowk.

5. Mr. Priyank Rathi, learned Govt. Advocate appearing for the Respondent Nos. 1 to 4/State submits that, the writ petition is misconceived and devoid of merit, as the impugned decision has been taken by the competent municipal authority strictly in accordance with law and within the ambit of its statutory powers under the relevant municipal enactments governing management of municipal property



and public spaces. It is contended that the land in question vests in the Municipal Council, and the decision regarding installation of the idol has been taken after due administrative consideration and keeping in view local requirements and public sentiment. It is further submitted that the reliance placed by the petitioners on the directions of the Hon'ble Supreme Court in *In Re: Unauthorized Construction of Religious Structures and Union of India v. State of Gujarat* is misplaced, inasmuch as those directions prohibit unauthorized constructions and encroachments on public land, whereas in the present case the action is being undertaken by the municipal authority itself and not by any private encroacher. There is no material on record to demonstrate that the proposed structure is contrary to any statutory prohibition or binding guideline.

It is further argued that the allegations regarding obstruction of traffic and interference with ingress and egress of the petitioners' shops are speculative and unsupported by any technical material such as a traffic assessment report or site plan. Matters relating to urban planning, traffic regulation and utilization of municipal land fall within the exclusive domain of the executive authorities, and judicial review under Article 226 is limited to examining the decision-making process and not the merits of the administrative decision, as held by the Hon'ble Supreme Court in *Tata Cellular v. Union of India*. In absence of arbitrariness, mala fides or violation of any statutory or constitutional provision, no interference is warranted and the writ petition deserves to be dismissed.



6. Mr. Shikhar Shukla, learned counsel appearing for Respondent No.5 – Municipal Council, Mungeli submits that, the present writ petition is wholly misconceived, not maintainable and liable to be dismissed at the threshold. It is contended that the petitioners have challenged only the work order dated 04.04.2025, whereas the said work order is merely a consequential step arising out of the Technical Approval dated 13.03.2024 granted by the Directorate, Urban Administration & Development Department and the Notice Inviting Tender (NIT) dated 21.06.2024 issued by the Municipal Council for beautification and installation of the idol of Goddess Maa Parmeshwari. Neither the Technical Approval nor the NIT has been assailed in the present writ petition. In absence of challenge to the foundational actions, the consequential work order cannot be independently questioned. The petition, therefore, suffers from a fundamental defect and is liable to be dismissed on this ground alone.

It is further submitted that the petitioners have approached this Hon'ble Court for the third time on the same cause of action. The earlier WPC No. 239/2026 was withdrawn on 20.01.2026 without securing liberty to file afresh. Thereafter, WPC No. 305/2026 was again withdrawn on 22.01.2026. Despite having had sufficient opportunity, the petitioners have once again filed the present petition with the very same defects, inasmuch as neither the Technical Approval dated 13.03.2024, nor the NIT dated 21.06.2024, nor the subsequent Resolution dated 18.06.2025 passed by the elected body of the Municipal Council has been challenged. The repeated filing of



petitions without curing the defects demonstrates lack of bona fides and amounts to abuse of the process of law.

Learned counsel would further submit that the allegation that the idol is being erected in the middle of the road is factually incorrect. The proposed site is situated on the side of the road within the municipal compound area and occupies a pedestal of approximately 60 square feet. The project is part of a beautification plan duly approved by the competent authorities and ratified by a resolution of the elected Municipal Council. The decision has been taken in accordance with statutory powers vested in the Municipal Council, and there is no violation of any binding direction of the Hon'ble Supreme Court. The directions in *In Re: Unauthorized Construction of Religious Structures* pertain to unauthorized encroachments, whereas in the present case the action is being undertaken by the municipal authority itself pursuant to due approval.

It is also contended that the plea regarding obstruction of business is a mere pretext. The representations annexed with the petition reveal that objections were raised by certain festival committees, and the present petition is an indirect attempt to prevent the installation for reasons unrelated to traffic or business concerns. In any event, disputed questions of fact regarding location, traffic flow and alleged obstruction cannot be adjudicated in writ jurisdiction. The petitioners, if so advised, have an efficacious alternative remedy in accordance with civil law for seeking injunction. In these circumstances, it is respectfully submitted that the writ petition, being



devoid of merit and filed repeatedly with the same defects, deserves to be dismissed with costs.

7. We have heard learned counsel for the parties at length and perused the pleadings and documents brought on record.
8. The principal challenge in the present writ petition is to the work order dated 04.04.2025 issued by respondent No.5 for installation of an idol of Goddess Maa Parmeshwari at Balani Chowk, Mungeli. It is not in dispute that the said work order is preceded by Technical Approval dated 13.03.2024 granted by the Directorate of Urban Administration & Development Department and the Notice Inviting Tender dated 21.06.2024 issued by the Municipal Council, pursuant to which the work order has been issued. Admittedly, neither the Technical Approval nor the NIT has been assailed in the present writ petition. It is a settled principle of law that when a consequential order is challenged without questioning the foundational action, the writ petition is liable to fail on that ground alone.
9. Further, the record reflects that the petitioners had earlier approached this Court by filing WPC No. 239/2026 and thereafter WPC No. 305/2026, both of which were withdrawn. The present petition has been filed for the third time without curing the foundational defects, as the Technical Approval, NIT and the subsequent Resolution dated 18.06.2025 passed by the elected Municipal Council remain unchallenged. Repeated invocation of writ jurisdiction on the same cause of action without rectifying defects cannot be countenanced and



amounts to abuse of the process of law.

10. The scope of judicial review under Article 226 of the Constitution of India is limited to examining the decision-making process and not the merits of administrative decisions. In **Tata Cellular v. Union of India, (1994) 6 SCC 651** the Hon'ble Supreme Court has held that the Court does not sit as an appellate authority over administrative decisions and interference is warranted only when the decision is arbitrary, mala fide or in violation of statutory provisions. Similarly, in **State of U.P. v. Johri Mal, (2004) 4 SCC 714** it has been reiterated that judicial review is concerned with the legality of the decision and not with the correctness of the decision itself.
11. In the case at hand, no material has been placed to demonstrate that the impugned action is in violation of any statutory embargo. The directions issued by the Hon'ble Supreme Court in **In Re: Unauthorized Construction of Religious Structures, (2010) 14 SCC 770** were intended to prevent unauthorized encroachments on public streets and public utility places. The present case, however, pertains to a decision taken by the Municipal Council pursuant to due approval and resolution. Whether the site is appropriate from the standpoint of traffic regulation or urban planning is a matter falling within the administrative domain of the municipal authorities. Such disputed factual aspects are not amenable to adjudication in writ jurisdiction.
12. Moreover, the petitioners have an alternative remedy available in



accordance with law, if they are so advised, to seek appropriate relief before a competent civil forum in the event of actual obstruction to their alleged rights. In view of the principles laid down by the Hon'ble Supreme Court in **Commissioner of Income Tax v. Chhabil Dass Agarwal, (2014) 1 SCC 603** where an efficacious alternative remedy is available, the High Court ordinarily should refrain from exercising writ jurisdiction unless exceptional circumstances are made out, which are absent in the present case.

13. In light of the aforesaid discussion, we are of the considered opinion that the petitioners have failed to establish any arbitrariness, illegality or violation of statutory or constitutional provisions warranting interference under Article 226 of the Constitution of India. The writ petition, having been filed repeatedly without challenging the foundational actions and raising primarily disputed factual issues, does not merit consideration.
14. Accordingly, the writ petition is **dismissed**. No order as to costs.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice

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