



2026:CGHC:18691



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 1837 of 2026

Susen Sarkar S/o Jitendra Sarkar Aged About 64 Years (Wrongly Mentioned As Sujen Sarkar), Lal Bahadur Shastri Ward No. 51, Near 36 Mall, G.E. Road, Telibandha, Raipur, District- Raipur (C.G.)

... Petitioner

versus

1 - State Of Chhattisgarh Through- Secretary, Department Of Urban Administration And Development, Mantralaya, Mahanadi Bhawan, Nava Raipur, Atal Nagar, District- Raipur (Chhattisgarh).

2 - Municipal Corporation Raipur, Through The Commissioner, Municipal Corporation, Raipur, Near Police Station Mova, Raipur, District- Raipur (C.G.).

3 - The Zone Commissioner Zone Number 9, Municipal Corporation, Raipur, Near Police Station Mova, Raipur, District- Raipur (C.G.)

... Respondent(s)

For Petitioner	: Mr. Vaibhav A. Goverdhan, Advocate
For Respondent/ State No.1	: Mr. Sabhyasanchi Choubey, G.A.
For Resopondent No.2	: Mr. Pankaj Agrawal, Advocate

**Hon'ble Shri Justice Amitendra Kishore Prasad****Order on Board****23/04/2026**

1. This petitioner has been filed by the petitioner seeking
for the following reliefs:-

"I. That, the Hon'ble Court may kindly be pleased to issue a writ/writs in the nature of certiorari quashing the impugned notice dated 27.03.2026 (Annex. P-1) issued by the respondent no. 3;

II. That, the Hon'ble Court may kindly be pleased to issue a writ/writs, mandamus restraining the Respondents from demolishing the shops or dispossessing the Petitioner except by following the due process of law.

III. That, the Hon'ble Court may kindly be pleased to issue a writ/writ, order / orders and the respondent authorities may kindly be directed to regularize / settle the petitioner in the present place by accepting requisite lease rent or, license fees, or,

IV. That, the Hon'ble Court may kindly be pleased to issue a writ/writ, order / orders and the respondent authorities may kindly be directed to re-settle the petitioner at any nearby area.

V. That, this Hon'ble Court may kindly be pleased to grant any other relief(s), which is deemed fit and proper in the aforesaid facts and circumstances of the case."



2. The case of the petitioner, in brief, is that he is a law-abiding citizen who has been in peaceful and continuous possession of his house and a small restaurant situated at Lal Bahadur Shastri Ward No. 51, near 36 Mall, Raipur for the last about 25 years, which is his sole source of livelihood. It is submitted that the petitioner's establishment is supported by various documents, including Gram Panchayat certification, registration under the Food Safety and Standards Act, 2006, Shops and Establishments Act, Udyam Registration, payment of property tax, and a permanent electricity connection. Despite such long-standing possession and official recognition, respondent No. 3, without issuing any show cause notice or affording an opportunity of hearing, issued the impugned notice dated 27.03.2026 directing removal of the alleged encroachment within 24 hours. It is contended that the action of the respondents is arbitrary and contrary to law, as no due procedure has been followed. The petitioner further submits that, in view of his settled possession, he had a legitimate expectation of regularization or rehabilitation. However, upon approaching the authorities, no relief was



granted, compelling the petitioner to approach this Hon'ble Court.

3. Learned counsel for the petitioner submits that the impugned notice dated 27.03.2026 is arbitrary, illegal and contrary to settled principles of law, and is liable to be set aside as it has been issued in violation of Articles 19(1)(g) and 21 of the Constitution of India. It is contended that the notice has been issued in gross breach of the principles of natural justice, particularly *audi alteram partem*, as no show cause notice or opportunity of hearing was afforded to the petitioner prior to directing removal within 24 hours. It is further submitted that the State itself has recognized the petitioner's occupation and business by granting statutory registrations and accepting taxes, thereby creating a legitimate expectation that he would not be dispossessed without due process of law. Reliance is placed on judicial precedents holding that the right to livelihood forms an integral part of Article 21 and that even alleged encroachers cannot be evicted without following fair procedure. It is thus argued that the impugned action is high-handed, violative of constitutional safeguards, and liable to be quashed, and in



any event, the petitioner is entitled to either regularization or rehabilitation in view of his long-standing possession and dependence on the said establishment for livelihood.

4. Learned counsel for the respondent Municipal Corporation submits that the impugned notice has been issued in accordance with law and that an efficacious alternative remedy is available to the petitioner under Section 403 of the Municipal Corporation Act, hence, the present writ petition is not maintainable. Learned State counsel further opposes the submissions advanced on behalf of the petitioner and contends that the impugned notice dated 27.03.2026 has been issued by the competent authority in due discharge of its statutory duties. It is submitted that the petitioner is in unauthorized occupation of government land and has no legal right, title or interest therein, and therefore, is liable to be evicted in accordance with law. It is further contended that the grant of licenses, registrations or payment of taxes does not confer any legal entitlement or ownership rights upon the petitioner over the land in question. It is also submitted that there is no violation of Articles 19(1)(g) or 21 of the Constitution, as the action has been taken in public interest



for removal of encroachment. The allegations of arbitrariness, *mala fide* and violation of principles of natural justice are specifically denied, and it is prayed that the petition, being devoid of merit, deserves to be dismissed.

5. I have heard learned counsel for the parties at length and perused the material available on record.

6. Having heard learned counsel for the parties and upon perusal of the material available on record, this Court is of the considered view that the impugned notice pertains to removal of alleged encroachment, against which an efficacious alternative statutory remedy is available to the petitioner under Section 403 of the Municipal Corporation Act. In view of the availability of such remedy, this Court is not inclined to entertain the present writ petition on merits.

7. However, considering the fact that the impugned notice involves demolition of the petitioner's premises, this Court deems it appropriate, in the interest of justice, to grant limited protection to the petitioner so as to enable him to avail the alternative remedy.

8. Accordingly, the petitioner is directed to approach the competent authority by availing the alternative remedy



available under law. The petitioner shall appear before the Municipal Corporation, Raipur on 04.05.2026 and file an appropriate application/representation along with all supporting documents.

9. Till the petitioner approaches the concerned authority and appropriate orders are passed thereon, the respondents are directed not to take any coercive steps pursuant to the impugned notice dated 27.03.2026. Upon such application being filed, the competent authority shall consider and decide the same expeditiously, strictly in accordance with law, after affording due opportunity of hearing to the petitioner.

10. With the aforesaid observations and directions, the writ petition stands disposed of.

No order as to costs.

**Sd/-
(Amitendra Kishore Prasad)
Judge**