

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

WPIL No. 37 of 2017Kamal Kumar Dubey **Versus** Union of India

WPIL/67/2017

27/01/2020	Shri Ashish Shrivastava, Shri Sudiep Shrivastava and Shri Sandeep Dubey, Advocates for the respective Petitioners. Shri B. Gopa Kumar, Assistant Solicitor General for the Union of India. Shri Anumesh Shrivastava, Advocate for Respondent No. 2/Airport Authority of India Ltd. Shri S.C. Verma, Advocate General with Shri Sudeep Agrawal, Deputy Advocate General for the State. The learned counsel appearing for the parties submit in a common voice that though Shri Satish Chandra Verma, Advocate was appearing in the earlier round of litigation on behalf of a private party, virtually supporting the cause of the Petitioners, presently by virtue of change in circumstances, Shri Sudiep Shrivastava, Advocate appears on behalf of the said party and the former counsel is now occupying Constitutional Office as the learned Advocate General of the State. The learned counsel submit that the parties do not have any objection in Shri Satish Chandra Verma appearing in the capacity as the Advocate General of the State; more so, when the matter is a Public Interest Litigation. It is recorded accordingly. Pursuant to the order dated 13.12.2019 passed by this Court, some additional Respondents (Airline operators) have been brought into the party array.

Issue urgent notice to the additional Respondents No. 5 to 10 by speed post, returnable within two weeks.

With reference to the materials already brought on record, the learned Advocate General submits that earnest efforts are being taken from part of the State to carry out necessary works on war footing for up-gradation of the existing Airport at Chakarbhata in Bilaspur (hereinafter called 'Bilaspur Airport') having 2C license, to be raised to '3C category' and that steps will be pursued to submit application to have a full-fledged Airport of '4C category' license. The learned Advocate General submits that, as on date, 40 seater Aircrafts can operate at any time by virtue of the 2C license and two Airlines have already come forward to have operation in the Bhopal-Bilaspur-Bhopal sector and *Prayagraj/Allahabad-Bilaspur-Bhopal-Jabalpur-Bilaspur-*Prayagraj/Allahabad Sector. It is also pointed out that the exiting facilities in the said Airport can facilitate landing and takeoff in respect of still higher seating capacity Aircrafts as well and reference is made to the Hon'ble Prime Minister's visit to Jagadapur Airport during May, 2018 when three Embraer Aircrafts had landed and parked at the Bilaspur Airport (having 50 to 60 seating capacity). It is further pointed out that, several other Airports in the country which are having a lesser extent of airstrip when compared to Bilaspur Airport are given 3C license by the Director General of Civil Aviation (DGCA), particulars of which are given below:

Sl.	Name of Airport	Name of Airlines	Runway length
1.	Kangra Airport (Dharamsala)	Alliance Air, Spice Jet	1372 M (AIP)
2.	Keshod Airport (Gujarat)	Alliance Air (yet to be scheduled)	1372 M (AIP)
3.	Pant Nagar Airport (Utrakgand) (IFR)	Alliance Air, Air Heritage & Deccan	1097 M (AIP) (TORA 1646 M)

		Charters	
4.	Porbandar Airport (IFR)	Spice Jet & True Jet	1372 M (AIP)
5.	Kulu Manali Airport	Alliance Air & Pawan Hans	1052 M (AIP)
6.	Kolhapur Airport	Alliance Air, Indigo & True Jet	1372 M
7.	Teju Airport (Arunachal Pradesh)	Alliance Air	1372 M
8.	Tuticorin Airport	Indigo & Spice Jet	1351 M
9.	Agati Airport	Alliance Air, Air India	1291 M

It is prayed that the Respondents may be directed to provide the “Viability Gap Fund” in respect of Bilaspur Airport (as places to be connected are more than 600 Kms), so that sufficient number of Airline operators will come to start the operations from Bilaspur. With reference to the steps being taken to provide sufficient infrastructure making the Bilaspur Airport to '3C category', it is to be noted that for operating small Aircrafts up to 40 seater category, the present '2C license' is enough. But, because of the higher operational cost, no flight operator will be interested to start operations in a limited sphere Under 3C category, it may either be of providing for day landing/take off as envisaged under Visual Flight Rules(VFR) or those providing for Instrument Flight Rules (IFR) which includes both day landing as well as night landing. In the case of 4C category, both the features i.e. day landing as well as night landing are there. As to the various steps being taken by the State to provide for '3C VFR' category, it is stated that the following operational requirements are to be satisfied:

- (i) Widening of basic strip from 80 M to 150 M
- (ii) Relocation of fencing on runway 35 side outward from the existing location
- (iii) Relocation of perimeter road on runway 35 side outward from the existing location
- (iv) Relocation of perimeter light poles on runway 35 side outward from the existing location
- (v) Conduct of Obstacle Limitation Surface Survey for 3C VFR

It is pointed out that the works in this regard are about to commence within one week. It is stated that tender has already been floated and it will be opened on 04.02.2020. The work will be commencing within one week from the date of allotment of the tender. The learned Advocate General submits that the work will be completed within 'one month' so as to make Bilaspur Airport '3C VFR' category Airport, upon which the Airlines with higher seating capacity of 72/78 could be made operational.

Shri B. Gopa Kumar, the learned Assistant Solicitor General submits that the insinuation against the Central Government/DGCA is not correct and at no point of time, had the DGCA turned Nelson's eye to the claim of the Petitioners or the State with regard to the up-gradation Bilaspur Airport. It is pointed out that necessary funds had been provided by the Central Government; but the same was not actually utilized to an appropriate extent. It is also pointed out that the length of the runway alone is not the deciding factor and that various other requirements, in conformity with the norms prescribed by the DGCA are to be satisfied. As a matter of fact, the very application submitted by the State was only to have '2C license' and once an application is submitted for a higher categorization; subject to meeting the requirements and providing the infrastructure, a further inspection would be conducted by the DGCA and necessary

license can be issued in this regard. It is also pointed out that, if the State is desirous of having the categorization as 4C, it is open for them to make application in this regard and once they satisfy the requirements under 3C, license can be granted for 3C; subject to satisfaction of the relevant norms specified by the DGCA, pending consideration of granting license under 4C category.

Shri Ashish Shrivastava, the learned counsel for the Petitioner submits that the dire necessity to identify one more Airport in the State of Chhattisgarh, apart from the sole existing Airport at Raipur, was badly felt by the authorities concerned. Reference is made to a meeting held between the Airport Authority of India and the State Government on 30.07.2015 as borne by the Annexure R/2-1 dated 02.03.2016. Reference is also made to Annexure P/10 produced alongwith I.A. which gives the details of the Airports recently established and operated and are of 3C and 4C category; which are having more or less similar features as Bilaspur Airport is possessed of. It is also pointed out that, operation of the Airport can be made either by the State directly or through the Airport Authority of India, and that relevant Rules are the same. The prayer in the writ petition is to upgrade and grant sanction for the Bilaspur Airport to be operated as '4C category'.

Shri Sudiep Shrivastava, the learned counsel appearing for the Petitioner in WPPIL No. 67 of 2017 submits that the for operating the Airport under 3C segment, 'ATR 600' Aircraft is enough Coming to '4C category', the minimum run way length is 2200 meters. The learned counsel points out that sufficient space is available even beyond the existing airstrip, so as to make it '4C viable'. However, part of the nearby/remaining land is with the State Government, while part of such land is in the hands of the Army. When acquisition was made and nearly 980 acres were handed over to the Army by the State, it was subject to the specific condition that the Army will facilitate and provide all help to expand the

Airport for civil aviation as well. This being the position, appropriate steps are to be taken from the part of the State and also from the part of the Army, so as to make the Airport upgraded to the 4C category.

The learned counsel makes a specific reference to the various proceedings held so far. It is stated that the Hon'ble Minister for State (in-charge) for Civil Aviation in the review meeting on 'UDAAN', with reference to the demands received for connectivity of Bilaspur in Chhattisgarh had stated that Ministry was committed to connect the Bilaspur Airport under the '**UDAAN 4.0 Scheme**'. It is also pointed out that Bilaspur was identified as a 'Priority Airport' and further steps were ordered to be pursued. But later, when relevant notification was issued by the Ministry of Civil Aviation, the focus on priority regions came to be converged on North East Region, Hilly States, Jammu & Kashmir, Laddakh and Islands while 'Bilaspur' in Chhattisgarh was left out' absolutely for no reason. It is further considered that, by virtue of the topographical features and such other relevant aspects, 'Viability Gap Fund' has to be provided by the Central Government-Ministry of Civil Aviation, making Bilaspur in the priority segment. It is also brought to the notice of this Court that Bilaspur Airport is having a higher advantage in all respects, especially since there is close connectivity with the Chakrabhata Railway Station situated nearly 1 km away. It is further pointed out that, out of the total revenue being generated in Raipur Airport, more than 40% come from Bilaspur. The importance of the location can also be ascertained from the fact that the largest revenue generating Railway Station in India happens to be Bilaspur. Though the said revenue is generated mostly because of transportation of goods (iron ore, steel, coal etc), people/stakeholders travel frequently in connection with the operations relating to coal mining, iron mining, power generation, steel plants etc.

The learned Advocate General submits that the stage-wise progress with regard to the works to be carried out immediately in connection with the steps for up-gradation to 3C category and the further steps for getting it still upgraded to the 4C category will be brought to the notice of this Court. The submission made by the learned Assistant Solicitor General, that once necessary application is filed by the State in this regard, it will be considered and all co-operation will be offered from the part of the Civil Aviation Ministry and the DGCA to grant license, subject to satisfaction of the requirements to be specified by the DGCA in accordance with Rules/Norms prescribed in this regard, is recorded.

The learned counsel appearing for the Respondent No. 2/Airport Authority of India submits that the Airport Authority of India has been offering technical support to the State as and when required in connection with the development of the Bilaspur Airport and that they will continue to offer the same. So as to have effective result, it will be appropriate, if the works are caused to be carried out by the State with the involvement of the Airport Authority of India and subject to the instructions/norms/technical advice given by them, so that complaints/objections from different corners can be ruled out.

The learned Advocate General Submits that, once the '3C license' is obtained, whether the Airport could be operated either by the State directly or to be entrusted to the Airport Authority of India for proper administration, would be considered and decided as a matter of policy, also considering the best interest of all the stake holders and the public at large. The learned Advocate General submits, in response to the submission made by the learned Assistant Solicitor General-with reference to some hurdles which had come to be noted in connection with granting of '2C license', that satisfaction of the requirements to have up-gradation to 3C or 4C level, as the case may be, will be made in consultation with

the authorities of the DGCA, so that the delay in getting all the works completed for obtaining necessary licenses can be avoided.

The progress report shall be filed before this Court by the next posting date.

Post these matters on 04.02.2020.

Sd/-
(P. R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge