

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

Writ Petition (PIL) No. 37 of 2017Kamal Kumar Dubey **Versus** Union of India & Others

alongwith

Writ Petition (PIL) No. 67 of 2017

20/10/2020	Shri Ashish Shrivastava, Shri Sudiep Shrivastava and Shri Sandeep Dubey, Advocates for the Petitioners. Shri Ramakant Mishra, Assistant Solicitor General for Union of India/Respondent No. 1. 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. Shri Yogesh Pandey, Advocate for Respondent No. 6. Shri Apurv Goyal, Advocate for Respondent No. 7. Shri Shobhit Mishra, Advocate for the Respondent No. 8. In furtherance to the order passed by this Court about one month ago on 21.09.2020, the Respondent-State has filed a status report as to the works completed so far and the details of the ongoing works with the time proposed within which it is sought to be completed. The State has also filed an additional reply statement dated 19.10.2020 referring to the various transactions pursued in the meantime.

Heard Shri Ashish Shrivastava, the learned counsel for the Petitioner {in WPIL No. 37 of 2017}, Shri Sudiep Shrivastava, the learned counsel for the Petitioner {in WPIL No. 67 of 2017}, Shri S.C.Verma, the learned Advocate General for the State, Shri Ramakant Mishra, the learned Assistant Solicitor General representing the Union of India/Ministry of Defence and the other learned counsel appearing for the parties concerned.

The learned Advocate General points out that the civil works being carried out by the State in connection with the upgradation and development of the Bilaspur Airport from 2C to 3C with such other steps for further upgradation to 4C level are going on war footing. Specific reference is made to Annexure A/1 dated 14.09.2020 as to the request/application preferred in the prescribed format before the Joint Secretary (Land and Works) Ministry of Defence, Government of India, as preferred by the Aviation Department in the State of Chhattisgarh, requesting for transfer of the land so as to facilitate the development of the Airport to 3C VFR category. A further communication was issued on 05.10.2020 vide Annexure A/2 by the Airport Director, Bilaspur to the Director Operations (Aerostandards) New Delhi for upgradation of the Bilaspur Airport from 2C VFR to 4C IFR and also for necessary approval. On receipt of the said communication, the Director General of Civil Aviation, New Delhi informed that some other documents were also required for granting necessary 4C IFR licence, and on getting this communication, on the very next day, a meeting of the stake holders was convened to be held on 19.10.2020. It is stated that the meeting was held accordingly yesterday and further steps are being pursued on war footing.

The learned Advocate General submits that in the meanwhile, there was some resistance from the part of the Army officials at Bilaspur where the Airport is situated causing hindrance to the construction works being carried out by the Airport authorities at Khasra No. 89/4 situated at village Tilsara. Specific reference is made

by the District Collector, Bilaspur in this regard vide Annexure A/4 communication dated 17.09.2020 addressed to the Revenue Secretary, Department of Revenue and Disaster Management, Chhattisgarh also informing that because of such interference, the ongoing construction activities had to be stopped. Reference is also made by the learned Advocate General to the communication dated 12.10.2020 issued from the Defence Estate Office, Jabalpur Circle, Jabalpur Cantonment, (Madhya Pradesh) to the District Collector, Bilaspur insisting to stop the construction work relating to the 'defence land'. The learned Advocate General points out that the land in question with regard to which the dispute was raised by the Army officials was virtually consisting of two separate strips of about 78.22 acres given by the State to the Army only for maintenance and it was never allotted to them. Since the said land was required for the development of the Airport and further that the Army was having absolutely no right by way of title, possession or such other heads, it was immediately decided to be taken over by passing necessary orders. Reference is made to Annexure A/6 proceedings dated 14.10.2020, whereby the land has been taken over and put at the disposal of the Airport authorities at Bilaspur for development and expansion of the Bilaspur Airport. It is pointed out that the construction activities were delayed by a little, by virtue of interference and non co-operation from the part of the Army officials; which however has been sorted out and the property has been taken over and the work has been recommenced from 14.10.2020.

With reference to the contents of the status report, the learned Advocate General submits that the substantial extent of works has been completed and the balance would be cleared within 10 to 15 days' time. Reference is also made to Annexure A/7 communication issued to the OLS Surveyor for completing the OLS survey and the reply obtained to the effect that the survey team cannot be deployed

because of pre-occupations before 1st week of November, 2020.

Shri Ashish Shrivastava, the learned counsel for the Petitioner submits that appropriate order may be issued to the DGCA and other respondents concerned to offer maximum co-operation for facilitating issuance of 3C licence forthwith. Similar submission is made by Shri Sudiep Shrivastava, the learned counsel appearing for the Petitioner in WPIL No. 67 of 2017 as well, however, adding that IA No.7 of 2020 has been filed in the said case seeking for a direction to the effect that the land in question/allotment made in favour of the Army/Ministry of Defence to the extent the land is required for runway expansion to cater A-321 Aircraft (3000 meters) for Bilaspur Airport is lapsed due to non-utilization of the land for the declared public purpose.

The Respondent Union of India/Ministry of Defence who has not filed any affidavit/version so far despite the orders passed by this Court earlier, shall file their affidavit/reply forthwith; failing which it will be presumed that they do not have any objection in granting relief as sought for, particularly in view of the documents produced alongwith the IA.

Shri Ramakant Mishra, the learned Assistant Solicitor General submits that the allegation of non co-operation raised from the part of the authorities of the State against the Central Government authorities is not correct and that the said Respondents are assuring full co-operation for development of the Bilaspur Airport. It is also pointed out by the learned Assistant Solicitor General that no obstruction is being caused from the part of the Defence/Army officials for the on-going construction works and the property consisting of 78.88 acres of land has already been taken over and the constructions are being continued even as conceded by the learned Advocate General. The learned counsel submits that the version of the Central Government/Defence would be brought on record immediately.

We have already taken note of the extent of works which were done already and which was going on as given in the status report filed earlier, in our order dated 29.09.2020. Since the present position has been given in a tabulated form alongwith the status report dated 19.10.2020 filed from the part of the State, we find it appropriate to extract the said chart as well to be part of this order for easy reference:

"Progress of Work for 3C VFR up-gradation as on 17th Oct 2020

SNo	Nature of Work	Completed	PDC	Remarks
Preparation of runway strip 150 X 1610 m				
1	Grading of surface and widening of stripe from 40 m to 75 m either side of runway	95% completed	12 days	-
2	Preparation of Runway End Safety Area (RESA)	RESA 60X90 m on runway 17 side 95% completed	05 days	-
		RESA 60X90 m on runway 35 side 60% completed	15 days after chain link fencing is completed	Due to land disputed with army. Work stated from PM 14 th Oct 2020
Construction of perimeter fencing on runway 35 side and 17 Approach (2800 m)				
3	Poll fixing for chain link fencing	2650 m completed	15 days	Due to land dispute with army. Work stated from PM 14 th Oct 2020
4	Chain link fencing	1750 m completed	15 days	
5	Excavation for Cement based work	150 m remaining	15 days	-

Construction of perimeter road

6	Subgrade work of road	2500 m Completed	10 days	Due to land dispute with army. Work stated from PM 14 th Oct 2020
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Perimeter Road lighting

7	Perimeter road lighting work is in progress	60% cable laying completed	Pole fixing and remaining cable laying work will start after completion of perimeter road	-
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- Dismantling of old fencing also started."

In view of the submissions made by the learned Assistant Solicitor General that every help for expansion and development of the Bilaspur Airport will be offered and the proceedings filed from the part of the State would be considered and finalised without any delay, we find it appropriate to cause the matter to be listed for further consideration after Deepawali holidays.

The ongoing works stated as being pursued by the learned Advocate General and assured to be completed within 10-15 days' time as mentioned in the status report, shall be completed by that time and the position shall be brought on record.

Post this matter on 23rd November, 2020.

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

Sd/-
(Parth Prateem Sahu)
Judge