

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

WPIL No. 37 of 2017

Kamal Kumar Dubey **Versus** Union of India

WPIL/67/2017

11/05/2023	Shri Ashish Shrivastava, Sr. Advocate with Shri Aman Pandey, Shri Jai Prakash Tiwari and Shri Ankur Diwan, Adv. for the petitioner in WP PIL No.37 of 2017. Shri Manas Vajpai along with Ms. Pragati Kaushik, Advocates on behalf of Shri Sudiep Shrivastava, Adv. for the petitioner in WP PILNo.67 of 2017. Shri Ramakant Mishra, Dy. Solicitor General with R.D.Singh & Ms Anju Swadesh Shrivastava, Adv. for the UOI. Shri Anumeh Shrivastava, Adv. for the Airport Authority of India. Shri S.C. Verma, Advocate General along with Shri H.S. Ahluwalia, Dy. Adv. General for the State. Shri Shobhit Mishra, Adv. for the IndiGo Airlines. Shri Apurv Goyal, Adv. for the Air Vistara Limited. Shri Shobhit Koshta, Advocate for Respondent No.8. Heard. After hearing preliminary submission, it is principally agreed by Union of India to handover of the land of 1012.48 acres to the State Government and the issue principally has already been approved and that only requires the sanction of the Cabinet.

The communication in this regard, which has been placed by the learned Advocate General, is kept under the seal cover.

Learned Advocate General would submit that in view of this, the Defence Ministry may be directed to hand over the possession of the land for immediate development of the Airport.

At this stage, learned counsel for the Union of India would submit that it being the resolution, it is actually to be resolved and thereafter only they can take any action to handover the land.

In view of such submission made by learned Advocate General, in his capacity, it is expected that the cabinet approval would be done as early as possible and in respect of the Union of India, they may also seek instructions to handover the entire land in view of the statement made and the submission recorded in the order.

Since it has been principally agreed between the State and the Union of India to return the land and it is submitted that the process for night landing facility has already commenced and it has been stated at the bar that 60% civil work has already completed, therefore, as an interim arrangement, 28 acres of land is permitted to be used for completion of the night landing facilities at the first phase.

In respect of **WPIL No.37/2017** affidavit of Assistant General Manager (ATSEP) dated 11/05/2023 is placed on record. Perusal

of para 6 of the affidavit reflects that Bilaspur-Bhopal-Bilaspur started on 05/06/2022 and one year would elapse on 04/06/2023. The Airlines stopped operation on 25/09/2022, therefore, as per the affidavit its performance is not as per the agreement and only 4 months out of 12 months was in operation. As such show-cause notice was issued on 02/05/2023 and Airlines was called upon to reply the same.

During the submission, our attention is invited to clause 17 of the agreement and perusal of clause 17.2 would show that in case of breach, the performance guarantee of the selected Airline Operator, prior to such termination may be invoked.

We are not in know of the fact that when the performance guarantee is going to expire. We expect that the Airport Authority of India will look into such issue so that performance guarantee is not allowed to expire by efflux of time to say it otherwise discharge the selected airlines operator to be scott free from the ensuing liability, if any.

Further in respect to approach road, the submission is made that 59 encroachers are on the way, they are to be removed.

List both the cases in the **week commencing on 19th June, 2023.**

SD/-
(Goutam Bhaduri)
Judge

SD/-
(P. Sam Koshy)
Judge

Ashu