

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

W.P.(C) No. 3778 of 2021

Yogesh Narayan Tiwari S/o Late Satyanarayan Tiwari Aged About 68 Years, Sarwarakar, Shri Shankar Bhagwan Mandir Trust, Chilphi, Gram Chilphi, Rajaswanirikshak Mandal Khandsara, Tehsil and District Bemetara (C.G.), District : Bemetara, Chhattisgarh.

--- Petitioner

Versus

1. State of Chhattisgarh Through- The Collector, Bemetara, District- Bemetara (C.G.).
2. Sub Divisional Officer (Revenue) Bemetara, District- Bemetara (C.G.).
3. Ajay Tiwari Vice Chairman Zila Panchayat, Bemetara District- Bemetara (C.G.), District : Bemetara, Chhattisgarh

---- Respondents

<u>28/10/2021</u>	Mr. Ankit Pandey, counsel for the petitioner. Mr. Sudeep Agrawal, Dy.A.G. for the State-respondents. Mr. Samir Singh, counsel for the respondent No.3. Heard. It is submitted by the learned counsel for the petitioner that the petitioner is Sarwarakar of temple “Shri Shankar Bhagwan Mandir” Village- Chilphi, Tahsil and District – Bemetara, which is a private trust. On the representation made by the respondent No.3, the respondent No.1 has taken cognizance to proceed under the

provisions of C.G. Public Trust Act, 1951 (in short, "the Act, 1951"). The petitioner raised objection but his objection was dismissed by the respondent No.2 by order dated 03.03.2021. Subsequent to which order dated 12.08.2021 has been passed by the respondent No.1 on the revision filed against the order of the respondent No.2 dated 03.03.2021.

It is further submitted that the respondent No.2 does not have the authority to take up the proceeding under the provisions of the Act, 1951 as the jurisdiction vests in the Collector and such power can be exercised by any other officer only after the same is delegated to him. Relying on the judgment of M.P. High Court in case of **Santosh Singh Rathore Vs. State of M.P. & Ors.**, reported in **2020 (2) M.P.L.J. 530**. It is submitted that the work distribution memo by the Collector is not an order for delegation of powers to be exercised under the Act, 1951. Hence, the petition be admitted and interim relief be granted to the petitioner by staying the proceeding of revenue case No.116/B-121/2019-20.

Learned State counsel representing the respondent No.1 and 2 submits that similar arguments was presented earlier, when the case was before the Coordinate Bench, but the learned Judge was not inclined to pass any order and ordered for issuance of notice. There is no illegality in the proceeding drawn by the respondent No.2. Hence, the prayer for interim relief be rejected.

Learned counsel for the respondent No.3 also opposes the submissions made by the counsel for the petitioner.

After considering on the submissions, it is observed that the petitioner has raised the objection on the jurisdiction of the respondent No.2 to proceed with the case registered under the provisions of the Act, 1951. Hence, for these reasons, it is ordered that the proceeding in the case mentioned herein-above before the respondent No.2 shall remain stayed, until the next date of hearing.

The respondents are granted time to file reply.

List this case after four weeks.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

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