



2026:CGHC:27892-DB



CGHC010255862026



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NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****WPC No. 3496 of 2026**

1 - Lakheshwar Prasad Rai S/o Late Madan Lal Aged About 67 Years
R/o Bazar Chowk, Nagar Panchayat Bhatgaon, Distt Balodabazar
Chhattisgarh

2 - Jani Lal Dhiwar S/o Tiharu Lal Dhiwar Aged About 61 Years R/o
Ward No. 9, Dipara Para, Bhatgaon, District Balodabazar Chhattisgarh

3 - Akhilesh Nageshwar S/o Panchram Nageshwar Aged About 50
Years R/o H. No. 151, Birpara, Bhatgaon, District Balodabazar
Chhattisgarh

4 - Preetram Dhiwar S/o Bazaru Ram Dhiwar Aged About 59 Years R/o
Ward No. 9, Diprapara, Nagar Panchayat Bhatgaon, District
Balodabazar Chhattisgarh

5 - Kartik Ram Dhiwar S/o Fatte Ram Dhiwar Aged About 40 Years R/o
Nagar Panchayat Bhatgaon, District Balodabazar Chhattisgarh

... Petitioners**versus**

1 - State of Chhattisgarh Through Secretary, Revenue Department,
Mantralay, Atal Nagar, Nava Raipur, District Raipur Chhattisgarh

2 - Secretary Water Resources Department, Mantralay, Atal Nagar,
Nava Raipur, District Raipur Chhattisgarh

3 - Collector District Sarangarh-Bilaigarh Chhattisgarh

4 - Sub Divisional Officer (Revenue) Bilaigarh, District Sarangarh-
Bilaigarh Chhattisgarh

5 - Sub Divisional Officer Water Resources Department, Sub-Division
Bhatgaon District Sarangarh-Bilaigarh Chhattisgarh



6 - Chief Executive Officer Water Resources Department, Sub-Division
Kasdol District Balodabazar-Bhatapara Chhattisgarh

7 - Chief Municipal Officer Nagar Panchayat Bhatgaon District
Sarangarh-Bilaigarh Chhattisgarh

8 - President-In Council Nagar Panchayat Bhatgaon District
Balodabazar-Bhatapara Chhattisgarh

... Respondents

For Petitioners	:	Mr. Akhtar Hussain, Advocate
For State/Respondents	:	Mr. Prasun Bhaduri, Dy. Advocate General
For Respondent No.7 (caveator)	:	Mr. Vikram Pratap, Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Ravindra Kumar Agrawal, Judge

Order on Board

Per Ramesh Sinha, Chief Justice

07.07.2026

1. Heard Mr. Akhtar Hussain, learned counsel for the petitioners.
Also heard Mr. Prasun Bhaduri, learned Deputy Advocate General,
appearing for the State/respondents.
2. The present writ petition has been filed by the petitioners with the
following prayers:

*"10.1 Issue an appropriate writ, order or direction,
preferably in the nature of Certiorari, quashing the
impugned decision/ order/ administrative approval
whereby the respondents have decided to utilize the
Government pond land recorded as Talab/ Jalashaya/
Nistar for commercial purposes.*

*10.2 Issue an appropriate writ, order or direction,
preferably in the nature of Certiorari, quashing the tender*



notice/e-auction notice/work order/allotment order issued for construction of shops or any other A commercial establishment over the said pond land.

10.3 Issue an appropriate writ, order or direction, preferably in the nature of Mandamus, restraining the respondents, their officers, agents, contractors, or any person acting under their authority from raising any commercial construction, creating third-party rights, leasing, allotting, or otherwise changing the nature and character of the pond land.

10.4 Direct the respondents to maintain and preserve the subject land as a pond/water body in accordance with the constitutional mandate under Articles 21, 48-A and 51-A(g), the Public Trust Doctrine, and the law laid down by the Hon'ble Supreme Court.

10.5 Direct the respondents to restore the pond to its original condition, if any filling, excavation, construction, or alteration has already been undertaken, by removing all encroachments, debris, or structures at the cost of the persons responsible.

10.6 Direct the respondents to prepare and implement a conservation, rejuvenation, and maintenance plan for the pond, including measures for desiltation, protection of the catchment area. prevention of encroachment, and restoration of its water-holding capacity.

10.7 Declare that Government land recorded in the revenue records as Talab, Jalashaya, Nistar, or any other water body cannot be diverted or utilized for commercial purposes except in accordance with law and consistent with the constitutional obligation to protect natural resources.

10.8 Pass any other relief protecting the rights of the petitioners, in the interest of justice.”



3. Brief facts of the case are that the petitioners, residents of Village Bhatgaon, have filed the present public interest litigation contending that the land bearing Khasra No. 2052, recorded in the revenue records as Government pond (Adbandha Pond)/Jalashaya/Nistar/Irrigation land, has historically been used for irrigation, fishing, cattle use and other public purposes. According to the petitioners, although the Water Resources Department had proposed beautification of the pond in the year 2021, the Nagar Panchayat, Bhatgaon subsequently resolved to construct a commercial complex over the said land and sought a No Objection Certificate from the Water Resources Department. The petitioners allege that commercial shops have been constructed by filling up a portion of the pond and, thereafter, a public notice dated 23.12.2025 was issued inviting auction of the shops constructed as Dr. Bhimrao Ambedkar Commercial Complex. It is the case of the petitioners that despite submitting representations before the authorities, including the Collector and other public authorities, no effective action was taken to stop the alleged illegal construction. Aggrieved by the continued construction over the alleged pond area, the petitioners have preferred the present writ petition seeking appropriate directions for removal of the construction and protection of the water body.

4. Learned counsel for the petitioners submits that the petitioners are residents of Village Bhatgaon and several of them are traditional fishermen who have been dependent upon the Adbandha Pond for generations for earning their livelihood. The pond is a Government



water body recorded in the revenue records as Talab/ Jalashaya/ Nistar/ Irrigation land and has historically been used not only for irrigation, groundwater recharge and public utility purposes but also for fishing, which constitutes the sole source of livelihood for the petitioners and several other villagers. It is contended that the construction of a commercial complex by filling up a part of the pond has substantially reduced the water spread area, thereby adversely affecting fishing activities and depriving the petitioners of their means of sustenance. Such action, according to the petitioners, is arbitrary and infringes their right to livelihood guaranteed under Article 21 of the Constitution of India.

5. Learned counsel further submits that the Water Resources Department itself had proposed beautification and conservation of the Adbandha Pond in the year 2021, thereby acknowledging the public utility and environmental significance of the water body. However, the Nagar Panchayat proceeded with the construction of the commercial complex by overriding the proposal of the Water Resources Department and without obtaining due permission from the competent authorities. It is argued that despite repeated objections and representations submitted by the villagers, including the petitioners, and even after the Sub-Divisional Officer, Water Resources Department directed stoppage of the construction and sought relevant records, the respondents continued with the construction activities. It is, therefore, submitted that the impugned action is contrary to the public trust doctrine and the settled principles governing protection of natural water bodies, besides



seriously affecting the livelihood of the petitioners who depend upon the pond for fishing. Accordingly, it is prayed that the respondents be restrained from carrying out any further construction over the pond area and appropriate directions be issued to preserve and restore the Adbandha Pond in accordance with law.

6. Per contra, learned State counsel submits that the present writ petition is based on incorrect facts and is liable to be dismissed. It is contended that the petitioners have failed to establish that the commercial complex has been constructed over the actual pond area or that any part of the water body has been illegally filled up. The respondents have already clarified that the construction activity is being undertaken on the adjoining Government land and not on the functional area of the Adbandha Pond. It is further submitted that the petitioners have not placed any authenticated survey report, demarcation report or revenue proceedings to establish that the construction has affected the pond area or caused any obstruction to the fishing activities of the petitioners. Learned State counsel further submits that the petitioners have no enforceable legal right to seek stoppage of the construction merely on the basis of apprehensions and newspaper reports. It is contended that the Nagar Panchayat has initiated the construction work after following the due procedure and obtaining necessary approvals from the competent authorities. The alleged grievance regarding loss of livelihood is without any factual foundation, as no material has been placed on record to demonstrate that the petitioners have been deprived of their fishing rights or that the pond has ceased to exist. It is



further submitted that the issues raised by the petitioners involve disputed questions of fact regarding the location of the construction, nature of the land and extent of the pond area, which cannot be adjudicated in writ jurisdiction under Article 226 of the Constitution. Therefore, no interference is warranted and the petition deserves to be dismissed.

7. Having heard learned counsel for the parties and upon perusal of the material available on record, this Court finds that the primary grievance of the petitioners is that the respondents have undertaken construction of a commercial complex by encroaching upon and filling up a portion of the Adbandha Pond, thereby affecting the livelihood of the petitioners who are traditional fishermen. The petitioners have placed reliance upon revenue records showing the existence of the pond and certain communications made by the authorities. However, the petitioners have not placed on record any authenticated survey report, demarcation proceeding or any report of the competent authority conclusively establishing that the construction in question has been raised over the actual pond area.

8. On the contrary, the respondents have disputed the allegations and have stated that the construction is being carried out on adjoining Government land and not upon the water body. The question as to whether the land over which the construction is being undertaken forms part of the pond area or not is essentially a question of fact requiring proper demarcation and examination of revenue records by the competent authorities. Such disputed questions cannot be effectively



adjudicated in exercise of writ jurisdiction, particularly when there is no unimpeachable material demonstrating violation of any statutory provision.

9. This Court is conscious of the importance of preservation of water bodies and the livelihood concerns of traditional fishermen. However, exercise of jurisdiction under Article 226 of the Constitution requires existence of a clear legal right and establishment of an unlawful action by the State authorities. In the present case, except making allegations, the petitioners have failed to demonstrate by cogent material that their fishing rights have been unlawfully affected or that the respondents have illegally diverted or encroached upon the pond land. Mere apprehension or reliance upon newspaper publications cannot be a basis for issuing a writ of mandamus.

10. In view of the aforesaid discussion, this Court is of the considered opinion that the petitioners have failed to establish any illegality or arbitrariness on the part of the respondent authorities warranting interference under Article 226 of the Constitution of India. The issues raised involve disputed questions of fact which are required to be examined by the competent authorities and cannot be adjudicated in the present proceedings.

11. Accordingly, the writ petition, being devoid of merit, is hereby **dismissed**.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice