

(2019) 02 CHH CK 0436
Chhattisgarh High Court
Case No: Writ Appeal No. 492 Of 2017

Hazi Sahbuddin Quresi

APPELLANT

Vs

Municipal Corporation Raipur
And Ors

RESPONDENT

Date of Decision: Feb. 25, 2019

Acts Referred:

- Chhattisgarh Municipal Corporation Act, 1956 - Section 257
- Constitution Of India, 1950 - Article 19(1)(g), 21

Hon'ble Judges: Ajay Kumar Tripathi, CJ; Parth Prateem Sahu, J

Bench: Division Bench

Advocate: Pankaj Singh, Pankaj Agrawal, Sudhir Kumar Bajpai, Faiz Kazi

Final Decision: Disposed Of

Judgement

Ajay Kumar Tripathi, CJ

1. Heard learned counsel for the parties.

2. In a writ application filed on behalf of the Appellant, who was also the Petitioner, the learned Single Judge passed the following order:

30. Be that as it may, since the impugned non-establishment of new slaughterhouse after closure of old slaughterhouse has affected the rights of the

petitioner Association and its members thereof to carry-on their trade and business in meat, which is violative of their fundamental right to carry-on

trade and business guaranteed under Article 19(1)(g) of the Constitution of India, as they are dependent on the running of slaughterhouse for their

livelihood, it is directed that the Collector, Raipur will allot land to the Municipal Corporation, Raipur for the said purpose, as has been said by Mr.

Arun Sao, Deputy Advocate General, within three weeks from the date of receipt of a copy of this order and thereafter, the Corporation will establish

slaughterhouse, as statutorily mandated under Section 257 of the Chhattisgarh Municipal Corporation Act, 1956, and thereafter, the Chhattisgarh

Environment Conservation Board / other competent authority will also grant necessary permission / license for running of slaughterhouse in

accordance with law. The said project will be completed within a period of six months from the date of receipt of a copy of this order.

31. Since it is the statutory duty of the Municipal Corporation to establish slaughterhouse under Section 257 of the Chhattisgarh Municipal Corporation

Act, 1956, and the members of the petitioner Association are deprived of their fundamental right to carry trade and business of sale of meat etc., and

deprived of their right to livelihood which is included in right to life guaranteed under Article 21 of the Constitution of India, it is directed that the

Secretary and the Special Secretary of the Department of Urban Administration and Development; the Collector, Raipur; and the Commissioner,

Raipur Division, Raipur, shall oversee the issue of establishment of slaughterhouse within the aforesaid period and see that slaughter-house is

established in fact and persons eligible are allowed to carry-on their trade and business guaranteed under Article 19(1)(g) of the Constitution of India.

3. Since there was no compliance or adherence to the time frame laid down by the learned Single Judge, appeal has been preferred with a grievance

that the members of the Association are now being deprived of their livelihood since the State authorities have closed down the old slaughter house

and the new one is not yet in place. In this background, the Division Bench, vide the interim order dated 19.12.2017 allowed operation of the old

slaughter house till the new one is put in place.

4. Learned counsel representing the Raipur Municipal Corporation has explained the steps which have been taken since then and the difficulty coming

in the way in compliance of the directions of the learned Single Judge because of lack of response and enthusiasm being shown despite several

tenders having been issued in the past.

5. There is also an indication that one of the last of the tenders so invited on PPP mode, one person has responded but he has also expressed certain

reservation by making the offer conditional.

6. Keeping the above situation into consideration, the writ appeal is disposed off with an observation that the members of the Association will continue

with their profession by the interim protection which was granted by the Division Bench till the new slaughter house in question is set up and made

functional by the Respondent-Municipal Corporation.

7. We are not going into the issue whether the State Government will have to do the funding or some other mode and modality for such funding has to

be found. That is the lookout of the Municipal Corporation and the State in terms of the directions of the learned Single Judge, passed in the order

dated 23.08.2017.

8. The appeal is disposed off. The Court would surely like to remind the Respondent authorities that the judicial order and direction for compliance

cannot be stretched indefinitely.