SUNITA GOSWAMI

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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 2856 of 2017

Reserved on 17/08/2026
Pronounced on 20/08/2026

1 - Krishnanand Singh S/o Rajendra Bahadur Singh, Aged About 45 Years Colonizer, “Kundala Vasundhara City”, Resident of Kedarpur, Ambikapur, District Surguja (CG).

2 - Smt. Kusum Mittal, W/o Shri Balwant Mittal, Aged About 50 Years,

3 - Smt. Manju Devi Bansal, W/o Shri Shyam Sunder, Aged About 35 Years,

4 - Smt. Savita Devi, W/o Shri Madan Lal Agrawal, Aged About 50 Years,

5 - Smt. Mira Devi, W/o Shri Narendra Agrawal, Aged About 45 Years,

6 - Smt. Sangita Agrawal, W/o Shri Vinod Agrawal, Aged About 40 Years,

7 - Smt. Rashmi Agrawal, W/o Shri Ashok Agrawal, Aged About 40 Years,

8 - Ashok Singhaniya, S/o Shri Moharilal, Aged About 45 Years,

9 - Smt. Sushila Devi, W/o Shri Shivdas Agrawal, Aged About 45 Years,

10 - Smt. Sangita Agrawal, W/o Shri Rakesh Kumar, Aged About 35 Years,

11 - Dinesh Agrawal, S/o Shri Nanhu Agrawal, Aged About 45 Years,

12 - Dr. Premsukh Kerkatta, S/o Nahun Kerketta, Aged About 55 Years,

13 - Smt. Vavita Agrawal, W/o Shri Gopal Agrawal, Aged About 43 Years,

14 - Rupesh Agrawal, S/o Shri Tekchand Agrawal, Aged About 38 Years,

15 - Smt. Premlata Agrawal, W/o Shri Vinod Agrawal, Aged About 52 Years,

16 - Arvind Kumar Bansal, S/o Shri Bhagiram Agrawal, Aged About 55 Years,

17 - Anand Kumar Agrawal, S/o Shri Shyamlal Agrawal, Aged About 58 Years,

18 - Vijay Kumar Jain, S/o Shri Kapoor Chandra Jain, Aged About 47 Years,

19 - Nishant Sharma, S/o Shri K.M. Tiwari, Aged About 45 Years,

20 - Smt. Sarita Agrawal, W/o Shri Vijay Agrawal, Aged About 52 Years,

21 - Smt. Gayatri Agrawal, W/o Shri Sunil Agrawal, Aged About 43 Years,

22 - Ishwar Chandra Jain S/o Shri Kapoor Chandra Jain, Aged About 52 Years,

23 - Smt. Mamta Jain, W/o Shri Manoj Jain, Aged About 38 Years,

24 - Amit Swarnkar, S/o Anil Swarnkar, Aged About 36 Years,

25 - Miss Illa Sharma, D/o Shri Dr. N.P. Sharma, Aged About 41 Years,

26 - Smt. Rekha Devi, W/o Shri Sanjay Agrawal, Aged About 45 Years,

27 - Padamnabh Sharma, S/o Shri Shastika Sharma, Aged About 44 Years,

28 - Smt. Sunita Agrawal, W/o Shri Sushil Agrawal, Aged About 38 Years,

29 - Smt. Anita Agrawal, W/o Shri Vishnu Agrawal, Aged About 50 Years,

30 - Indrajeet Singh, S/o Late Shri Amrik Singh, Aged About 51 Years,

31 - Mahendra Singh Chavda, S/o Late Shri Santosh Singh Chavda, Aged About 55 Years,

32 - Smt. Amarjeet Kaur, W/o Shri Surendra Singh Chavda, Aged About 51 Years,

33 - Smt. Rajkumari Devi, W/o Shri Umesh Agrawal, Aged About 45 Years,

34 - Smt. Sudha Goyal, W/o Shri Ishwar Goyal, Aged About 50 Years,

35 - Punam Chandra, S/o Late Shri Ram Kumar Agrawal, Aged About 51 Years,

36 - Smt. Sangeeta Bhagat, S/o Shri Sonshay Bhagat, Aged About 56 Years,

37 - Dr. Renuka Mas, S/o Late Shri James Kerketta, Aged About 44 Years,

38 - Krishna Kumar Kesharwani, S/o Shri M.L. Kesharwani, Aged About 52 Years,

39 - Smt. Urmila Dubey, W/o Shri J.P. Dubey, Aged About 60 Years,

40 - Vishal Agrawal, S/o Shri Kailash Chandra Agrawal, Aged About 38 Years,

41 - Sanjay Agrawal, S/o Sita Ram Agrawal, Aged About 38 Years,

42 - Sita Ram Agrawal, S/o Shri Mahavir Agrawal, Aged About 46 Years,

43 - Smt. Pushpa Singh, W/o Shri A.K. Singh, Aged About 55 Years,

44 - Manish Singh, S/o Shri Sudhakar Singh, Aged About 38 Years,

45 - Irshad Khan, S/o Shri Abdul Hakim Khan, Aged About 41 Years,

46 - Sudhir Singh, S/o Late Shri Madan Singh, Aged About 43 Years,

47 - Vinod Agrawal, S/o Shri Khajanchilal Agrawal, Aged About 48 Years,

48 - Ramesh Agrawal, S/o Indrasen Agrawal, Aged About 56 Years,

49 - Shankar Lal Agrawal, S/o Late Ghisu Ram Agrawal, Aged About 52 Years,

50 - Smt. Sweta Goel, W/o Deepak Goel, Aged About 38 Years,

51 - Smt. Pinki Agrawal, W/o Roshan Agrawal, Aged About 34 Years,

52 - Satish Bansal, S/o Rishi Ram Agrawal, Aged About 35 Years,

53 - Smt. Sunita Pottani, W/o Prem Chand Pottani, Aged About 58 Years,

54 - Preetam Gupta, S/o Mohan Prasad Gupta, Aged About 38 Years,

55 - Ajay Kumar, S/o Bhola Prasad Gupta, Aged About 43 Years,

56 - Ashok Kumar Goel, S/o Raja Ram Agrawal, Aged About 52 Years,

57 - Smt. Birmati Agrawal, W/o Devi Prasad Agrawal, Aged About 42 Years,

58 - Smt. Chandrakala Agrawal, W/o Prem Chand Agrawal, Aged About 55 Years,

59 - Smt. Kalavati Agrawal, W/o Bajrang Agrawal, Aged About 60 Years,

60 - Ramesh Agrawal, S/o Radhakishan Agrawal, Aged About 38 Years,

61 - R. Gupta, S/o M. Gupta, Aged About 52 Years,

62 - Arun Kumar, S/o Ram Mitra Gupta, Aged About 42 Years,

63 - Smt. Ranjana Pathak, W/o Rajiv Pathak, Aged About 45 Years,

64 - Smt. Gayatri Devi, W/o Kailash Goel, Aged About 48 Years,

65 - Smt. Shalini Agrawal, W/o Mukesh Agrawal, Aged About 40 Years,

66 - Smt. Santosh Agrawal, W/o Bhajan Kumar Agrawal, Aged About 45 Years,

67 - Ms. Rashmi Singh, D/o Rishi Singh, Aged About 26 Years,

68 - Sachin Kumar Singh, S/o Rishi Singh, Aged About 30 Years,

69 - J.K. Shrivastava, S/o Late R.K.Shrivastava, Aged About 59 Years,

70 - Dr. Faizul Firdousy, S/o Dr. N.H. Firdousy, Aged About 45 Years,

71 - Smt. Rekha Singh Naik, W/o Late Vishnudev Naik, Aged About 46 Years,

72 - Smt. Rukmini Agrawal, W/o Tek Chand Agrawal, Aged About 55 Years,

73 - Smt. Kiran Agrawal, W/o Ratan Agrawal, Aged About 45 Years,

74 - Pawan Agrawal, S/o Ram Ratan Agrawal, Aged About 50 Years,

75 - Naresh Agrawal, S/o Ramdhari Agrawal, Aged About 48 Years,

76 - Manoj Agrawal, S/o Gyani Ram Agrawal, Aged About 45 Years,

77 - Gopal Prasad Gupta, S/o Kalicharan Gupta, Aged About 45 Years,

78 - Ghyan Shyam Agrawal, S/o Late Janki Das Agrawal, Aged About 60 Years,

79 - Mukesh Sharma, S/o Uma Shankar Sharma, Aged About 44 Years,

80 - Dr. Nagendra Pandey, S/o Ramji Pandey, Aged About 60 Years,

81 - Pramod Gupta, S/o J.P.Gupta, Aged About 51 Years,

82 - Smt. Santosh Goel, W/o Sanjay Goel, Aged About 38 Years,

83 - Raman Singh Chhawda, S/o Mahendra Singh Chhawda, Aged About 35 Years,

84 - Smt. Harmeet Kaur, W/o Manjit Singh Chhawda, Aged About 50 Years,

85 - Smt. Chandrakala Goel, W/o Shyam Lal Goel, Aged About 53 Years,

86 - Suresh Kumar Agrawal, S/o Late Jeewan Lal Agrawal, Aged About 48 Years,

87 - Smt. Sharda Agrawal, W/o O.P. Agrawal, Aged About 65 Years,

88 - Smt. Suman Agrawal, W/o Dharmendra Agrawal, Aged About 33 Years,

89 - Smt. Mamta Agrawal, W/o Brijbhan Agrawal, Aged About 39 Years,

90 - Smt. Anjali Bhattacharya, W/o Malay Bhattacharya, Aged About 38 Years,

91 - Smt. Asha Devi, W/o Vinod Agrawal, Aged About 45 Years,

92 - Smt. Alka Singh, W/o Dinesh Kumar Kashyap, Aged About 55 Years,

93 - Smt. Saroj Agrawal, W/o Om Prakash Agrawal, Aged About 56 Years,

94 - Ishwar Chand Jain, S/o Late Prakash Rai Jain, Aged About 44 Years,

95 - Anil Kumar, S/o Late Jhandu Ram Agrawal, Aged About 42 Years,

96 - Smt. Neeru Agrawal, W/o Vivek Agrawal, Aged About 42 Years,

97 - Sandeep Jaiswal, S/o Lakshmi Jailwal, Aged About 38 Years,

98 - Kishan Lal Sharma, S/o Late Waji Chanddra Sharma, Aged About 62 Years,

99 - Poonam Chand, S/o Late Ram Kumar Agrawal, Aged About 55 Years,

100 - Vijay Agrawal, S/o Late K.L. Agrawal, Aged About 56 Years,

101 - Rajesh Agrawal, S/o Kapoor Chand Agrawal, Aged About 52 Years,

102 - Smt. Mandeep Kaur, W/o Narendra Tuteja, Aged About 39 Years,

103 - Smt. Lalita Agrawal, W/o Vinod Agrawal, Aged About 35 Years,

104 - Ram Roop Agrawal, S/o Late Rameshwar Lal Agrawal, Aged About 55 Years,

105 - Shantilal Bothra, S/o Shri Kasturchand Bothra, Aged About 56 Years,

106 - Smt. Preeti Soni, W/o Deepak Soni, Aged About 42 Years,

107 - Shyam Sunder, S/o Jagdish Agrawal, Aged About 52 Years,

108 - Om Prakash, S/o Ramjeevanlal Agrawal, Aged About 65 Years,

109 - Piyush Mittal, S/o Late Balwant Mittal, Aged About 40 Years,

110 - Rajesh, S/o Shri Nanhu Agrawal, Aged About 39 Years,

Petitioners No. 2 to 110 are R/o Kundala Vashundhara City, Kharsiya Road, Ambikapur, District Surguja (CG).

... Petitioners

versus

1 - State of Chhattisgarh Through Secretary, Urban Administration And Development Department, Mahanadi Bhawan, New Mantralaya, District Raipur (CG)

2 - The Joint Director, Urban Administration And Development, Ambikapur, District Surguja(CG).

3 - The Joint Director, Town And Country Planning, Ambikapur, District Surguja (CG)

4 - The Collector, Ambikapur, Surguja, District Surguja (CG).

5 - Municipal Corporation, Ambikapur, Through Its Commissioner, Municipal Corporation, Ambikapur, District Surguja (CG).

6 - Commissioner, Municipal Corporation, Ambikapur, District Surguja (CG).

7 - District Regularization Authority, Through Its Chairman - Cum - Collector Ambikapur, Surguja, District Surguja (CG).

8 - Smt. Pramila Sharma, Widow of Late Shri Minakshi Prasad Sharma, Aged 65 Years,

9 - Shri Padmashekhar Sharma, S/o Late Shri Minakshi Prasad Sharma, Aged About 60 Years,

10 - Smt. Ratna Agnihotri, D/o Late Minakshi Prasad Sharma, Aged About 56 Years,

11 - Shri Shashtika Sharma, S/o Late Akhilanand Sharma, Aged About 76 Years,

12 - Dr. Shri Narendra Prasad Sharma, S/o Late Akhilanand Sharma, Aged About 72 Years,

13 - Shri Anupam Sharma, S/o Late Shri Surendra Prasad Sharma, Aged About 42 Years,

14 - Shri Anurag Sharma, S/o Late Shri Surendra Prasad Sharma, Aged About 38 Years,

15 - Shri Saraswati Sharma, D/o Late Shri Akhilanand Sharma, Aged About 65 Years,

Respondents No. 8 to 15 are Resident of Darripara, Ambikapur, District Surguja (CG).

16 - Alok Dubey, S/o Late T.N. Dubey, Aged About 50 Years, Councilor, Nagar Palik Nigam, Ambikapur, R/o Shivayan Villa, Pratappur Naka, Police Station Gandhi Nagar, Ambikapur, District Surguja (CG).

--- Respondents

For Petitioners	:	Shri Manoj Paranjape, learned Senior Advocate appears along with Shri Shashwat Mishra and Shri Kabir Kalwani, Advocates
For State/Respondents No. 1 to 4 & 7	:	Shri Akhilesh Kumar, Government Advocate
For Respondents No. 5 & 6	:	Shri Bhupendra Singh, Advocate appears along with Ms. Soniya Kuldeep, Advocate
For Respondents No. 8 to 15	:	Shri Deepak Sharma, Advocate appears on behalf of Shri Sushil Sahu, Advocate
For Respondent No. 16	:	Shri Ratnesh Kumar Agrawal, Advocate appears along with Shri Sourav Agrawal and Shri Abhinav Dubey, Advocates

Single Bench : Hon'ble Shri Justice Sanjay S. Agrawal

CAV Order

1. By virtue of this petition, the petitioners are questioning the legality and propriety of the order dated 04.07.2012 (Annexure P-19) passed by the State Government directing the Commissioner, Municipal Corporation, Ambikapur to remove the illegal construction made in violation of the provisions prescribed under the Chhattisgarh Municipal Corporation Act, 1956 (hereinafter referred to as 'the Act, 1956') and also, the order dated 07.12.2016 (Annexure P-22) passed by the Commissioner, Municipal Corporation, Ambikapur directing the petitioners for the removal of illegal construction within the period of 15 days, else the same shall be removed as per the provisions prescribed under the Act, 1956.

2. According to the petitioners, the respondents No. 9 to 15, who were the owners of the land, bearing Khasra Nos. 4551, 4553, 4554, 4555, 4557, 4567

and 4550/2, total admeasuring 6.143 hectares, situated at Banda Bahara, Ambikapur, entered into an agreement with the petitioner No.1- Krishnanand Singh, who was the Colonizer by profession, for establishment of the Residential and Commercial Complex. It is pleaded in the petition that the petitioners No. 2 to 110 have purchased the houses from them, i.e. the respondents No. 9 to 15, which were duly constructed on their lands by the said Colonizer after obtaining the requisite permission and sanction from the Municipal Corporation, Ambikapur on 08.08.2007 (Annexure P-4).

3. Further of their contention is that one Alok Dubey, the respondent No.16 herein, filed a petition, being WPC No.1767/2015, for compliance of the order, dated 04.07.2012, whereby the State Government has directed the Commissioner, Municipal Corporation, Ambikapur to remove the illegal construction as the same has been constructed in violation of the provisions of the Act, 1956 and, vide order dated 19.11.2015 (Annexure P-16), the said petition was disposed of by this Court vide with a direction to respondent No.4- The Collector, Ambikapur, to initiate necessary action in view of the said order dated 04.07.2012 (Annexure P-19) and, the Writ Appeals, preferred there against, were also disposed of by way of a common order, dated 10.12.2015 (Annexure P-17), directing the respondent authorities to act strictly in accordance with the provisions prescribed under Sections 293 and 300 of the Act, 1956. It is pleaded further that in pursuance to the directions contained therein, the respondent No.6- Commissioner, Municipal Corporation, Ambikapur has passed the order impugned dated 07.12.2016 (Annexure P-22) directing the petitioners No.2 to 110 to remove the structures within the period of 15 days, as the same were constructed by the said Colonizer after the sanctioned period was over and, directed further that if the

same has not been vacated within the said stipulated period, then the same shall be removed in accordance with the provisions prescribed under the Act, 1956.

4. It is the further contention of the petitioners that the construction of their houses are not made illegally, but as an abundant caution, they approached the respondent No.7- District Regularization Authority, for its regularization under the Chhattisagrh Anadhikrit Vikas Ka Niyamitikaran Adhiniyam, 2002, however, even without awaiting the decision from the said authority, the order impugned, dated 07.12.2016 (Annexure P-22) has been passed by the Municipal Corporation, Ambikapur for removal of their construction, which compelled them to file the petition in the instant nature, as the alleged impugned orders (Annexures P-19 and P-22) have been passed even without issuing notices to them in utter violation of the principles of natural justice.

5. It is contended further that though, it was observed in the order impugned, dated 07.12.2016 that the Colonizer has failed to complete the construction work before the expiry of one year from the date of the sanctioned order, dated 08.08.2007, but in fact, the same has already been completed within the extended period as accorded to the said Colonizer vide letter, dated 03.08.2011 (Annexure P-13) and, the Completion Certificate was submitted on 04.01.2012 vide Annexure P-14 and the correctness of it has never been raised by the Municipal Corporation and, contended further that before passing the order impugned, dated 04.07.2012, by the State Government, neither any notice was issued to the petitioners, the affected persons, nor even the notice was issued in the said WPC No.1767/2015, filed by said Alok Dubey, before passing the order dated 19.11.2015 (Annexure P-16) by this Court, therefore, the petitioners could not got an opportunity to

place the said material fact that the construction work was already made. It is, therefore, contended that no contravention was done for the construction of the work. It is contended further that a Civil Suit, being Civil Suit No.38-A/2017, was instituted on 17.02.2017 seeking declaration to the effect that the alleged orders impugned (Annexures P-19 and P-22), be declared as null and void with a further relief for grant of permanent injunction, but based upon the advice, it was withdrawn.

6. In reply to the aforesaid contention of the petitioners, it is pleaded by the State Government that for compliance of the order impugned, dated 04.07.2012 (Annexure P-19), a petition, was earlier filed by one Alok Dubey (respondent No.16) registered as WPC No.1767/2015, which has already been disposed of by this Court vide order, dated 19.11.2015 and, the Writ Appeal preferred there against, was also dismissed vide order dated 10.12.2015, therefore, the petition as framed suffers from the principles of res-judicata and, pleaded further that since the another order impugned, dated 07.12.2016 (Annexure P-2) has been issued in consequent upon it, therefore, the petition deserves to be dismissed. It is contended further that since the applications seeking regularization of illegal development of construction made by the petitioners under the Adhiniyam, 2002 are pending consideration, therefore, the petition as framed may be disposed off.

7. The respondent Nos. 5 and 6/ Municipal Corporation, Ambikapur, in reply, submitted that vide order, dated 08.08.2007 (Annexure P-4), the petitioner No.1, the Colonizer, was permitted to construct the building work under certain terms and conditions stipulated therein and, according to which, the construction work was to be completed within the period of one year, i.e. by 07.08.2008 and, if required, he may apply for its renewal before the said

expiry period, but he neither informed for the commencement of the construction work as required under the said conditions, nor has completed within the stipulated period, nor even has applied for its renewal within the period and, instead, was continued with the construction work beyond the prescribed period and, therefore, the State Government vide its order, dated 04.07.2012 (Annexure P-19) after holding an enquiry, has directed to remove the illegal construction as per the provisions prescribed under the Act, 1956. It is contended further that for execution of the said order, the order impugned dated 07.12.2016 (Anenxure P-22) has been issued for removal of the illegal construction in exercise of the powers enumerated under sub-section (3) of Section 307 of the Act, 1956, as the said Colonizer has proceeded with the construction work even after the expiry of the sanctioned period and completed the same. The petition as framed is, therefore, liable to be dismissed.

8. I have heard learned counsel appearing for the parties and perused the entire record.

9. Admittedly, the petitioner No.1-Krishnanand Singh, the Colonizer was permitted to construct the work on 08.08.2007 over the land in question, bearing Khasra Nos. 4551, 4553, 4554, 4555, 4557, 4567 and 4550/2, total admeasuring 6.143 hectares, situated at Banda Bahara, Ambikapur. The said sanction was valid for a period of one year and, it was stipulated therein, that if the construction work is not completed within the said period of one year, the Colonizer may apply for its extension prior to its expiry. According to the respondent authorities, since the construction work was neither completed, nor the colonizer had applied for its renewal and, rather had proceeded with the said construction work, therefore, the State Government vide its order

impugned dated 04.07.2012 (Annexure P-19) has directed the Municipal Corporation, Ambikapur to remove the illegal construction made in violation of the provisions prescribed under the Act, 1956.

10. It, thus, appears from a bare perusal of the order impugned, dated 04.07.2012 (Annexure P-19) passed by the State Government that since the construction work was being carried out by the said Colonizer despite the sanctioned period of one year, granted vide sanction order, dated 08.08.2007 (Annexure P-4), was over, therefore, the Commissioner, Municipal Corporation, Ambikapur was directed for removal of illegal construction in accordance with the provisions provided under the Chhattisgarh Municipal Corporation Act, 1956. It, however, appears that the said order was passed on the basis of the enquiry report, dated 09.02.2012 (Annexure R-16/1) wherein, it was found, during the enquiry, that despite the issuance of notice, dated 27.06.2011, the Colonizer had failed to stop the construction work despite the period of one year prescribed under the building sanction order, dated 08.08.2007, was over.

11. It is to be seen that before granting the sanction for building construction work, the Commissioner, Municipal Corporation, Ambikapur had granted the Colonizer to develop the colony vide its sanctioned order No.376 dated 27.02.2007, which was later on, cancelled by the said authority vide its order dated 10.09.2008 (Annexure P-8) as the said Colonizer had failed to deposit the shelter amount of Rs.16,56,640/- (Rupees Sixteen Lacs Fifty Six Thousand Six Hundred Forty only).

12. The aforesaid cancellation order was reversed by the appellate committee of the Municipal Corporation, Ambikapur vide its order dated 08.10.2008 (Annexure P-10) in an appeal preferred by the said Colonizer

under Section 403 of the Act, 1956. The said Colonizer was, thus, authorized to develop the colony in view of the said permission order, dated 27.02.2007 and, he was there-upon permitted to construct the building construction work vide sanction order dated 08.08.2007 and, after the period provided therein is lapsed, an application (Annexure P-2) was made by him for the renewal of the building construction on 01.02.2011, which was, however, neither found to be rejected, nor allowed. Yet, the said Colonizer was directed to stop the construction work by the Commissioner, Municipal Corporation, Ambikapur on 27.06.2011, as he (Colonizer) was proceeded with the building construction work despite the sanctioned period of one year was over, owing to which, the order impugned dated 04.07.2012 (Annexure P-19) was passed by the State Government.

13. It is to be seen further that the alleged permission for building construction work was granted vide order dated 08.08.2007 (Annexure P-4) for a period of one year with a condition that the Colonizer may apply for its renewal after the expiry of the said period, if required. It is to be seen that though, the order impugned dated 04.07.2012 (Annexure P-19) has been passed by the State Government as the said Colonizer had proceeded with the construction work beyond the said period of one year, but, as observed herein-above, the Colonizer had already applied for the sanction of building construction on 01.02.2011 (Annexure P-12) though, it was mentioned therein that it was for its renewal, but the same was, however, applied for a fresh permission of building construction as is evident by the provision prescribed under Section 300 of the Act, 1956. As a bare perusal of the said provision would show that, if the erection or re-erection of the building is not commenced within one year and completed within two years or such longer

period as may have allowed by the Commissioner, the sanction for building construction shall be deemed to have lapsed, but such lapse shall not debar for filing any subsequent application for fresh sanction. The said provision is relevant for the purpose reads as under :-

> "**300**. **Lapse of sanction after one year from the date of such sanction**. Every sanction for the erection or re-erection of any building shall remain in force for one year only from the date of such sanction, or for such longer period as the Commissioner may have allowed when conveying sanction under Section 293. If the erection or re-erection of the building is not commenced within one year and completed within two years or such longer period as may have been allowed by the Commissioner the sanction shall be deemed to have lapsed; but such lapse shall not bar any subsequent application for fresh sanction under the foregoing provision of this Act".

14. In view of the aforesaid provision, it is, thus, evident that despite the sanctioned period of one year for building construction, accorded vide order dated 08.08.2007 (Annexure P-4) was over, but an application (Annexure P-12) for fresh sanction was made by the said Colonizer on 01.02.2011, however, without taking the note of it, the order impugned dated 04.07.2012 (Annexure P-19) has been passed by the State Government directing the Commissioner, Municipal Corporation, Ambikapur to remove the illegal construction made by the said Colonizer/petitioners.

15. It is to be noted here further that the Commissioner, Municipal Corporation, Ambikapur vide its order dated 03.08.2011 (Annexure P-13) has also noted the fact that the alleged application (Annexure P-12) seeking for building construction afresh was made and is pending under consideration and, accordingly, directed that the new building can be raised after the fresh permission is granted and, insofar as the buildings, which are at the stage of

completion can be completed. Further, from perusal of the application (Annexure P-14) made by the petitioners under Rule 31(2)(ch) of the Bhoomi Vikas Niyam, it appears that he has applied for the completion certificate for as many as 140 houses, which were completed by 04.01.2012 and, for the remaining 06 houses, fresh permission was granted on 10.02.2012 (Annexure P-15).

16. What is, therefore, reflected from the aforesaid facts and circumstances of the case that the Commissioner, Municipal Corporation, Ambikapur himself has permitted the said Colonizer vide its order dated 03.08.2011 (Annexure P-13), much prior to passing of the order impugned, dated 04.07.2012 (Annexure P-19), to complete the construction of the buildings, which are at the stage of completion and, a fresh building permission was accorded for as many as 06 houses on 10.02.2012, however, all these material facts have neither been taken into consideration though, the same were well within their knowledge, nor before arriving to such a conclusion, an opportunity was given to the petitioners. The order impugned, dated 04.07.2012, thus, appears to have been passed in gross violation of the principles of natural justice, which, therefore, cannot be upheld, nor the another order impugned dated 07.12.2019 passed by the Commissioner based upon it, could be upheld.

17. In view of the aforesaid background, the petition is allowed and the orders impugned dated 04.07.2012 (Annexure P-12) and the order dated 07.12.2016 (Annexure P-22), are hereby quashed.

No order as to cost(s).

Sd/-

(Sanjay S. Agrawal)
JUDGE

sunita