

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

BEFORE

HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA

ON THE 18th OF JULY, 2024

WRIT PETITION No.19101 of 2024

RANDEEP HOODA

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....
Appearance:

SHRI SIDDHARTH SHARMA - ADVOCATE FOR THE PETITIONER.

***SHRI MOHAN SAUSARKAR - GOVERNMENT ADVOCATE FOR THE
RESPONDENTS/STATE***

.....
ORDER

This petition under Article 226 of Constitution of India has been filed seeking following relief(s):-

- 7.1 To issue Writ of Certiorari and quash the order dated 18.06.2024 (Annex. P/4) passed by the Respondent No.3.
- 7.2 To issue Writ Mandamus for restraining the authorities from taking coercive actions against petitioner on the said subject matter.
- 7.3 To issue Writ Mandamus for restraining the authorities from unnecessarily harassing the Petitioner without any authority of law.

And/or

Any other relief to which the petitioner is found entitled be also granted.

2. By impugned notice dated 18/06/2024, it has been observed by SDO (Revenue), Baihar, District Balaghat that in accordance with the

report submitted by the Committee, it appears that petitioner is raising construction without seeking due mandatory clearance from various Departments. Therefore, by way of interim order it was directed that petitioner should immediately stop the construction work. It was further mentioned in the impugned notice that petitioner must appear before the concerning officer on 19/06/2024 and submit his documents pertaining to the clearances/permissions given by different Departments for construction of building in core / buffer zone, otherwise FIR shall be lodged. It is submitted by counsel for petitioner that petitioner has thereafter submitted his response. It is further submitted that since petitioner is a Film actor, therefore in order to gain cheap popularity, proceedings have been initiated. It is further submitted that copy of enquiry report on the basis of which impugned show cause notice dated 18/06/2024 has been issued, has not been supplied to the petitioner. It is further submitted that petitioner has not fixed a single brick on his land and is not involved in any type of construction as alleged by SDO (Revenue), Baihar, District Balaghat in a show cause notice dated 18/06/2024 and accordingly it is prayed that show cause notice dated 18/06/2024 be quashed.

3. *Per contra*, it is submitted by counsel for the respondents that it is well established principle of law that Writ Petition against a show cause notice is not maintainable and relied upon the judgment passed by Supreme Court in the case of **Union of India and another Vs. Kunisetty Satyanarayana** reported in **(2006) 12 SCC 28**. It is further submitted that present petition is a pre-mature petition because no order against the interest of petitioner has been passed and an opportunity has already been granted to the petitioner to put forward his case. It is

further submitted that the apprehension expressed by petitioner that show cause notice has been issued in order to gain cheap popularity is baseless. The action shall be taken strictly in accordance with law without any extraneous considerations.

4. Heard learned counsel for the parties.
5. The Supreme Court in the case of **Kunisetty Satyanarayana (supra)** has held as under:-

“13. It is well settled by a series of decisions of this Court that ordinarily no writ lies against a charge sheet or show-cause notice vide Executive Engineer, Bihar State Housing Board vs. Ramesh Kumar Singh and others JT 1995 (8) SC 331, Special Director and another vs. Mohd. Ghulam Ghouse and another AIR 2004 SC 1467, Ulagappa and others vs. Divisional Commissioner, Mysore and others 2001 (10) SCC 639, State of U.P. vs. Brahm Datt Sharma and another AIR 1987 SC 943 etc.”

6. Therefore, it is clear that a Writ Petition against show cause notice is not maintainable.
7. So far as the contention of counsel for petitioner that a direction to stop construction is a final order is concerned, the same cannot be accepted because if SDO (Revenue), Baihar, District Balaghat after relying upon the report submitted by the Committee had decided to issue temporary injunction order against six persons including petitioner, then it cannot be said to be a finding on merits.
8. Furthermore, it is clear from show cause notice that an opportunity has been given to the petitioner to put forward his case and petitioner has also filed his response claiming that he has not raised any

construction whatsoever and has also assured that in case if any construction is raised in future, then it shall be done only after taking all necessary/mandatory permissions/clearances from the relevant Departments.

9. However, it is the contention of petitioner that copy of the enquiry report has not been supplied to him.

10. Furthermore, whether petitioner is raising any construction or not, is a disputed question of fact which cannot be decided by this Court. Therefore, this petition is **disposed of** with following observations:-

- (i) In case if petitioner files an application for supply of copy of enquiry report submitted by enquiry Committee, then the same shall be supplied to the petitioner within a period of **three days** from the date of filing of such application.
- (ii) If an application is filed by petitioner for spot inspection in the presence of petitioner, then the same shall be carried out by the Competent Authority.
- (iii) While deciding the application for spot inspection, the Authority shall also fix the date and shall not leave to the discretion of the Authority carrying out the spot inspection. The date so fixed by SDO (Revenue), Baihar, District Balaghat shall be binding on all the Authorities as well as petitioner and in case if petitioner or his authorized person fails to participate in the spot inspection, then petitioner shall not have any right to claim that the spot inspection was carried out in absence of him or his authorized person.

- (iv) If petitioner has any objection to the spot inspection, then he shall file it before SDO (Revenue), Baihar, District Balaghat within a period of three days from the spot inspection.
- (v) The SDO (Revenue), Baihar, District Balaghat shall decide the show cause notice after hearing the petitioner within a period of **15 days** from the date of filing of spot inspection report.

11. It is made clear that in case if application for supply of enquiry report or for carrying out the spot inspection is not made within a period of **15 days** from today, then the observations contained in this order shall automatically lose their effect. In the meanwhile, if petitioner wants to file his supplementary reply to the show cause notice, then he shall be free to do so.

12. It is made clear that this Court has not considered the merits of the allegations made in the show cause notice or the merits of the defence raised by petitioner and the proceedings shall be decided by SDO (Revenue), Baihar, District Balaghat strictly in accordance with evidence which would come on record.

13. At this stage, it was also apprehended by counsel for the respondents that the impugned show cause notice was issued on 18/06/2024 and the petitioner was directed to file his response on 19/06/2024 i.e. on the next date. It is submitted that SDO (Revenue), Baihar, District Balaghat might have passed the final order and in that case, it may be observed that petitioner shall be free to prefer an Appeal.

14. Considered the submissions made by counsel for the respondents.

15. Since the present status of show cause notice is not clear, therefore it is observed that in case if a final order has already been passed, then the aforesaid observations shall also apply to the Appellate Authority and if necessary applications are made before the Appellate Authority, then the Appellate Authority shall pass necessary orders so as to resolve the factual dispute without any further controversy.

16. With aforesaid observation, petition is finally **disposed of**.

(G.S. AHLUWALIA)
JUDGE

S.M.