

THE HIGH COURT OF MADHYA PRADESH
BENCH AT INDORE
(D.B.: HON'BLE Mr. JUSTICE VIVEK RUSIA AND HON'BLE
Mr. JUSTICE RAJENDRA KUMAR(VERMA) JJ.)

Writ Petition No.11616/2020

- Petitioner:- Peeyush Jain,
S/o Sudarshanji Jain,
Age-61 years, Occupation-Engineer,
Resident of 90 Vallabh Nagar, Indore (M.P.)
- Versus
- Respondent no.1:- The State of M.P
through its Chief Secretary,
Govt. of M.P., Vallabh Bhawan, Bhopal (M.P.)
- Respondent No.2:- The State Of M.P.
Through Its Principal Secretary Urban
Administration And Development Department
Vallabh Nagar, Bhopal, (M.P.)
- Respondent No.3:- Divisional Commissioner
Office of The Divisional Commissioner, Mahatma
Gandhi Road, Indore, (M.P.)
- Respondent No.4:- Collector,
New Administrative Complex, Moti Tabela,
Indore, (M.P.)
- Respondent No.5:- Indore Development Authority
Thr Chief Executive Officer,
7 Race Course Road, Indore,(M.P.)
- Respondent No.6:- Chairman,
Indore Development Authority,
7 Race Course Road, Indore, (M.P.)
- Respondent No.7:- Dainik Vishwabharman
Thr Its Editor,
Press Complex, A.B. Road, Indore, (M.P.)
- Respondent No.8:- The Indian National Press Thr Its Editor,
Free Press House, 3/54 Press Complex, A.B. Road,
Indore (M.P.)
- Respondent No.9:- Indore Samachar Associates Editor
Press Complex, Indore (M.P.)
- Respondent No.10:- Dainik Navbharat Thr Its Editor
Swadesh Bhawan, 6/54 Firoz Gandhi Press Complex,
A.B. Road, Indore, (M.P.)
- Respondent No.11:- Lokswami Dainik Samachar Patra Thr Its Editor
23-A, Firoz Gandhi Press Complex, A.B. Road,
Indore, (M.P.)
- Respondent No.12:- Sandhya Dainik Agniban Thr Editor
Press Complex, A.B. Road, Indore (M.P.)
- Respondent No.13:- Saptahik Sputnik Thr Its Editor
B-9 Press Complex, A.B. Road, Indore (M.P.)

- Respondent No.14:- Yugbharat Press Thr Its Editor
Choudhary Complex, Dakachya A.B. Road, Indore (M.P.)
- Respondent No.15:- Saptahik Aaj Ki Janta Thr Tis Editor
Press Complex, A.B. Road, Indore (M.P.)
- Respondent No.16:- Saptahik Suchak Press Thr Its Editor
12 Press Complex A.B. Road, Indore (M.P.)
- Respondent No.17:- Saptahik Apni Duniya Thr Its Editor
A.B. Road, Indore (M.P.)
- Respondent No.18:- Uni Thr Its Editor
Press Complex, A.B. Road, Indore (M.P.)
- Respondent No.19:- Malwa Samachar Press Thr Its Editor
Opposite Indore Samachar Press, Press Complex, A.B. Road, Indore (M.P.)
- Respondent No.20:- Saptahik Malwa Aanchal Its Editor
Press Complex, A.B. Road, Indore (M.P.)
- Respondent No.21:- Dainik Navin Thr Its Editor
Press Complex, A.B. Road, Indore (M.P.)
- Respondent No.22:- Saptahik Bindas Thr Its Editor
Press Complex, A.B. Road, Indore (M.P.)
- Respondent No.23:- Prabhat Kiran Publications Thr Its Editor
Swadesh Bhawan, 25 A.B. Road, Indore (M.P.)
- Respondent No.24:- Dainik Jajeev Times Thr Its Editor
Press Complex, A.B. Road, Indore, (M.P.)
- Respondent No.25:- Shaniwar Darpan, Indore Publishing And Graphics Pvt. Ltd. Thr Its Editor Press Complex, Indore, (M.P.)
- Respondent No.26:- Choutha Sansar Thr Its Editor
16-17 A.B. Road, Sapphire Twins, Scheme No. 54, Vijay Nagar, Indore (M.P.)
- Respondent No.27:- National Herald Thr Its Editor
Alfa Vision Group, 1-A A.B. Road, Press Complex, Indore (M.P.)
- Respondent No.28:- Dainik Swadesh Thr Its Editor
Swadesh Bhawan, A.B. Road, Press Complex, Indore (M.P.)
- Respondent No.29:- Dainik Dophar Thr Its Editor
Ahilya Marg, Chiman Bagh Main Road, Indore Bhakti Kalam Thr Its Editor Press Complex, Indore (M.P.)
- Respondent No.30:- Saptahik Bhakti Kalam Thr Its Editor
Press Complex, Indore (M.P.)

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- Dr. Manohar Lal Dalal, learned counsel for the Petitioner.
 - Shri Prashant Singh, learned Advocate General for the respondent/State.
 - Shri Brien Dsilva, learned senior counsel and Shri Vinay Saraf learned senior counsel the respective Respondent.
 - Shri Shailendra Polekar, learned counsel for Respondent No.23.

- Shri Vijay Singh Chouhan, learned counsel for Respondent No.10.
- Shri Manu Maheshwari, learned counsel for Respondent No.24.
- Shri Anant Prakash Polekar, learned counsel for Respondent No.7.
- Shri Devdeep Singh, learned counsel for Respondent No.28.
- Shri Anurag Baijal, learned counsel for Respondent No.9.
- Shri Rushil Shukla, learned counsel with Shri Vivek Patwa, learned counsel for the for the Respondent No.29.
- Shrey Raj Saxena, learned counsel for Respondent No.6.
- Rahul Maheshwari, learned counsel with Shri Kanhaiya Lal Yadav, learned counsel for the for the Respondent No.8.
- Ms. Kirti Dubey, learned counsel for Respondent Nos.12, 16, 17 and 22.
- Shri Amit Upadhyay, learned counsel for Respondent No.20.
- Shri Harish Joshi, learned counsel for Respondent No.26.
- Shri Aniket Naik, learned counsel for Respondent No.18.
- Shri Rahul Maheshwari, learned counsel for Respondent No.25.
- Shri Kartik Chitale, learned counsel for Respondent No.27.
- Shri Shailendra Polekar, learned counsel for Respondent No.30.

(Heard on 12.01.2022)

(Order passed on 31.01.2022)

PER VIVEK RUSIA, J.:

The petitioner has filed the present petition in the nature of Public Interest Litigation [PIL] under Article 226 of the Constitution of India raising an issue of illegal allotment of public land worth hundreds of crores at the throw-away prices to several newspapers agencies viz respondent No. 10 to 30 in gross violation of the provisions of M.P. Nagar Tatha Gram Nivesh Vikasit Bhoomiyon Bhavano Tatha Anya Sanrachnaon Ka Vyayan Niyam, 1975.

2. According to the petitioner Indore Development Authority (IDA) has allotted land in scheme no.54, PU-4 to 25 registered newspapers agencies for establishing their printing press and office. The said allotments were made on concessional rates without following a fair and transparent procedure i.e. through tender or public auction. The aforesaid allotment of land in the press complex was a subject matter of scrutiny before the Hon'ble High Court in public interest litigation filed by Vijay Kumar Tiwari vide W.P.

No.3519/1992. The Hon'ble Division Bench after examining material on record had held that no allotment should be made on a concessional basis and the IDA could only allot the land through the transparent procedure i.e. by following Rule No.5 and 6 of the Rules of 1975, vide order dated 9.12.2005 division bench of this court had aside all the allotments.

3. It is further submitted that in compliance of the aforesaid directions Indore Devpolment Authority issued a notice for cancellation of lease deed to all newspaper agencies who are impleaded as respondent nos.7 to 30 in this petition. Meanwhile in the case of *K.K. Bhalla Vs. State of M.P. & others* reported in **2006 (3) SCC 581** decided on 13.01.2006 the Apex Court has observed that establishment of the printing press would be an industry, hence the land reserved/marked for commercial purpose may not be used for industrial purpose. After the aforesaid judgment passed in the case of Vijay Kumar Tiwari and K.K. Bhalla (supra) all the newspapers agencies rushed to this court by way of writ petitions under Article 226 of the Constitution of India. A bunch of writ petitions involving common issues were disposed of, vide order dated 19.02.2008 (*Jeewan Singh V/s State of M.P.*) in a lead writ petition no.4806/2007 with the directions to the Indore Devpolment Authority to treat the applications filed by these newspaper agencies as an afresh application and consider the matter afresh for grant of such allotment in their favour with the provisions of the law. Indore Development Authority expeditiously as possible within a period of four months.

4. In compliance of the aforesaid directions given in the above bunch of writ petitions by this High Court, the Indore Devpolment Authority passed a resolution No.137 on 27.05.2008 to the effect that if the leaseholders (other than four newspapers namely *Dainik*

Dopahar, Indore Samachar, Choutha Sansar and National Herald) are willing to make the payment of difference of lease premium at the prevailing rate as per collector guidelines applicable for commercial plots on the date of allotment alongwith the interest then their allotments can be regularized. It is further submitted that Indore Development Plan 2021 (Masterplan) came into force from 01.01.2008 wherein the land use of Press Complex has been declared as 'land for commercial use' and another resolution no.251 dated 14.08.2008 was passed to the effect that the lessees will be at liberty to use the plots according to the land use described in the Master Plan and Indore Devpolment Authority would execute the amendment in the lease deed upon their request.

5. Vide order dated 29.04.2011 and 25.05.2011 the Estate Officer of Indore Development Authority made a demand to execute undertaking by the Press Owners (other than the four newspaper agencies) (supra) to undertake to use for the fresh purpose only. One of the allottees M/s Shaniwar Darpan (Indore Publishing and graphic Pvt. Ltd.) challenged the demand by Indore Devpolment Authority by filing W.P. No.3158/2012 before this court and vide order dated 22.03.2013 the writ petition was disposed of with directions to the Chairman, IDA to place the matter before the Board along with opinion referred here-in-above and to decide in light of the judgment of the Division Bench passed in W.P. No.2053/2007 afresh. According to the petitioner in compliance of the aforesaid order, no final decision has been taken by the board of Indore Devpolment Authority instead on 30.10.2014 Indore Devpolment Authority sought directions from the State Government. On 28.10.2015 the IDA Board passed a resolution no.177 imposing a condition that plots in question shall be used for printing of newspapers purposes only and the difference of amount charged by the Indore

Development Authority should be as per the prevailing Collector Guidelines of the commercial plots in the year 2008. The Indore Development Authority has referred the matter to the State Government. The Indore Press Complex submitted an objection before the State Government seeking rejection of the aforesaid resolution.

6. A Review Petition no.209/2017 was filed by the private press owners seeking clarification of the order dated 22.03.2013 passed in W.P. No.3158/2012. Vide order dated 21.12.2017 the Division Bench of this Court has disposed of the Review Petition No.209/2017 directing the IDA to reconsider the matter afresh within a period of 3 months in the matter of allotment, terms and conditions of the master plan, zonal plan and zoning regulation as per rules.

7. The Indore Devpolment Authority vide order dated 14.03.2012 has cancelled the allotment of land to Choutha Sansar (Sansar Publication Pvt. Ltd.). Against the said order Sansar Publication Private Ltd. filed a writ petition no.2801/2012 before this court. Vide order dated 14.11.2013 writ petition was allowed and against which the IDA preferred a writ appeal no.1142/2013. Vide order dated 21.02.2019 the writ appeal was allowed and order of cancellation of allotment has been upheld. Against the said order the Sanchar Publication Pvt. Ltd. has filed SLP before the Apex Court in which the order of *status quo* has been passed and it is still pending.

8. Now by way of this PIL the grievance put forth by the petitioner is that neither Indore Devpolment Authority nor State Government has not taken any final decision in light of the order passed in W.P. No.3518/1992 dated 09.12.2005, W.A. No.1442/2013 dated 21.02.2019 and W.P. No.4806/2007 dated 19.02.2008. Only in the case of Saptahik Bindas Newspaper possession has been taken by the IDA by terminating the lease deed but in the cases of other

newspaper agencies, Indore Devpolment Authority is not taking any action and rather favouring them in absence of any statutory deeds in their favour.

9. These writ petitions came up a hearing before this court on 04.09.2020 and this Court has passed the following interim order:-

“There are total number of 25 plots involved in the present bunch of cases.

The Indore Development Authority was required to take a decision keeping in view of the judgment delivered in W.P. No.3518/1992 (Vijay Kumar Tiwari Vs. State of Madhya Pradesh and others) and the judgment was delivered on 09.12.2005 and now, we are in the year 2020. The Indore Development Authority / The State of Madhya Pradesh was required to take a decision in respect of all 25 plots, however, Indore Development Authority even after expiry of 15 years has not taken any decision in the matter. Prima facie, there appears to be a willful disobedience on the part of the Indore Development Authority.

02. Shri Purushaindra Kaurav, learned senior counsel with Shri Shrey Raj Saxena, learned counsel has informed this Court that in the year 2018, new Land Allotment Rules have come into force and now, it is the State Government, which is required to take a final decision in the matter.

03. Learned senior counsel has also informed this Court that Indore Development Authority has sent a letter to the Principal Secretary, Urban Administration Department on 03.08.2019, however, no decision has been taken by the State Government / Principal Secretary, Urban Administration Department till date. It is really very very unfortunate. The matter is being delayed on the some pretext or the other by the Indore Development Authority / the State of Madhya Pradesh. The Principal Secretary, Urban Administration Department is directed to take a decision within a period of one week from today and he shall file an affidavit within one week i.e. before 11.09.2020 informing the decision taken by the State Government in the matter. If the decision has not been taken, he is directed to take decision in the matter in accordance with law and to inform this Court.

04. Another important aspect of the case is that there are serious allegations made by Shri Dalal, learned counsel, who has filed Public Interest Litigation on the subject. His contention that all kind of commercial activities are going on over the land allotted under the garb of allotment to press and therefore, in order to find out the correctness of the statement made by Shri Dalal, learned counsel, a team of senior officers belonging to Indore Development Authority, Town & Country Planning Department and Indore Municipal Corporation shall inspect all the 25 plots in question. They shall submit a detailed report after taking measurement of the structures over those

plots in question. The committee shall give a specific finding on the following issues.

(1) The total area allotted to various newspaper group.

(2) The total construction done by each and every newspaper group.

(3) Whether any commercial activities are being carried out or not and whether construction has been carried out after obtaining due permission as required under the statutory provision.

Let the report on the issues be filed within seven days.

05. The Collector, Indore is directed to coordinate with the various authorities and to ensure that the report in respect of each and every allottee as directed by this Court is forwarded on or before the next date of hearing.

06. In the present case, in W.P. No.376/2010, W.P.No.435/2012, W.P. No.11964/2012 and W.P. No.2583/13, the Indore Development Authority has taken a decision cancelling the allotment and not to regularize the allotment and the earlier allotment has been cancelled.

07. Let an affidavit be filed on behalf of the Indore Development Authority as to why in aforesaid four cases, the claims have been rejected and as to why discriminatory treatment is being done in the matter. All the minute details be filed on an affidavit by the Chairman, Indore Development Authority / Commissioner, Indore Division, Indore in respect of the order rejecting regularization in respect of four of the allottees only.

Let the same be also done within a weeks.

List the matter on 11.09.2020.

Certified copy as per rules.

Thereafter, on the subsequent dates, further time was given to State as well Indore Devpolment Authority for submitting a compliance report. Vide order dated 03.11.2020 this Court has directed for issuance of notice to the private respondents by payment of process fees. Vide order dated 24.11.2020 the Division Bench of this Court has directed the State Government to take a final decision and submit a final report before this Court. Meanwhile, some of the private respondents have been served and today all have unanimously submitted that this petition has been rendered infructuous because the government has taken a final decision in this matter and no further compliance is needed.

10. The Indore Devpolment Authority has also filed an application

No.9877/2021 for the disposal of the writ petition as rendered infructuous after the final decision taken by the State Government as well as by the Indore Development Authority in relation to all the allotments of plots to newspapers agencies respondent nos. 10 to 30 in its scheme no.54.

11. Respondent nos.5 and 6 have filed a **compliance report** dated 24.11.2020 along with the cabinet decision dated 14.07.2021. According to the cabinet decision Department of Urban Development had issued an order dated 14.07.2021 whereby directions were given to execute a new lease deed for commercial purpose as per Indore Development Plan (Master Plan) 2021 for commercial use w.e.f. 01.04.2007 as per the collector guidelines of 2007-08 in respect of 12 newspaper agencies.

12. After the aforesaid order Indore Devpolment Authority has submitted an application challenging the maintainability of the writ petition as the same has rendered infructuous after taking the final decision by the State Government as well as the Indore Development Authority. The Indore Development Authority has submitted that during the pendency of the PIL government remanded back the matter to the IDA to take the decision. As such, in consideration of the order passed by Hon'ble Court in the present matter on 04.09.2020, the inspection was carried out on 09.09.2020 by the officers of Indore Devpolment Authority, Indore Municipal Corporation) and T&CP (Town and Country Planning). The press agencies/plot holders were provided with the opportunity of hearing and thereafter, a Resolution has been passed by the Board of IDA on 19.11.2020 whereby, which divided total of 25 plots of press into four categories.

1. That, under the **1st category**, that plot holders are carrying commercial activity along with press-related activities,

regarding which the decision was to be taken by the State Government.

S. No.	Plot No.	Name of Press	Respondent no.
1	1-B	Dainik Vishwa Bhraman	R-7
2	2	Swadesh	R-28
3	3	Free Press	R-8
4	4	Dainik Bhaskar	R-
5	6	Dainik Navbharat	R-10
6	9	Sapta.Sputnik	R-13
7	10	Yug Prabhat Press	R-14
8	12	Sapta. Suchak	R-16
9	13	Sapta. Apni Duniya	R-17
10	20-21	Behkati Kalam	R-30
11	25	Prabhat Kiran	R-23
12	27	Shanivar Darpan	R-25

The State government took decision in relation to the above-mentioned plots on 14.07.2021, which is placed on record vide compliance affidavit dated 05.08.2021. The order as follows:-

“इंदौर विकास योजना 2021 में निर्दिष्ट भूमि उपयोग के अनुसार दिनांक 01 अप्रैल 2007 से वर्ष 2007-08 की कलेक्टर गाइड लाईन में निर्धारित व्यावसायिक भूखंड की दर अनुसार प्रब्याजी एवं मध्य प्रदेश भू-राजस्व संहिता (भू-राजस्व का निर्धारण तथा पुनर्निर्धारण) नियम, 2018 में निर्धारित दरों के अनुरूप भू-राजस्व का दो गुना भू-भटक निर्धारित करते हुए नविन लीज डीड निष्पादित की जावे।”

2. That, under the **2nd category**, the plot holders are carrying activities other than that of press related. Regarding these plots, it was decided by the respondents not to regularize the lease and action of re-entry be initiated.

S. No.	Plot No.	Name of Press	Respondent no.	Case No.
1	6-A	Lok Swami	R-11	WP No.20887/20
2	7	Agni Ban	R-12	WP No.20871/20
3	11	Saptahik Aaj Ki Janta	R-15	WP No.20872/20
4	22	Saptahik Malaw Anchal	R-20	WP No.20787/20

3. That, under the **3rd category**, the plots allotted for establishing newspaper agencies is lying vacant. Regarding these, it was

decided not to regularize the lease and action of re-entry be initiated.

Sl. No.	Plot No.	Name of press	Respondent no.	Case No.
1	14	U.N.I.	R-18	WP No.18472/20
2	15	Malaw Samachar	R-19	WP No.18129/20
3	23	Dainik Navin	R-21	WP No.14388/2020 (withdrawn)
4	24	Bindas News Paper	R-22	WP No.18130/20
5	26	Dainik Rajeev Times	R-24	WP No.18136/20

IDA issued a Notice under Section 248 of the MP Land Revenue Code read with Rule 22(6) of the Vyayan Niyam,2018 to hand over the possession till 21.11.2020. When the plot holders failed to hand over the possession as such the possession of the plot has been taken on 23.11.2020 by Indore Devpolment Authority .

Being aggrieved by action of IDA, all 5 plots holders filed writ petition (WP No.18129/2020, WP No.18130/2020, WP No.18136/2020 and WP No.18472/2020), which is pending before the Hon'ble Court, wherein, IR is granted to not to create third party interest. Dainik Navin filed WP No.14388/2020 but was withdrawn.

4. That, under the 4th category, the plot holders leases were terminated earlier for other reasons. Hence, no separate decision was required to be passed.

S. No.	Plot No.	Name of press	Respondent no.	Case No.
1	A-7	Chotha Sansar	R-26	SLP pending before Hon'ble Supreme Court
2	5	Indore Samacahr	R-9	WP No.11964/2012
3	8	Dainik Dopahar	R-29	WP No.2583/2013
4	1-A	National Herald	R-27	WP No.376/2010

The leases of the above-mentioned plot holders were cancelled for default, against which the litigation is pending.

13. The petitioner has filed a reply to the aforesaid application

objecting to the disposal of the writ petition on the ground that the decision has been taken but still the respondents are in continuing with the illegal possession without execution of the deed. The petitioner is also aggrieved by the decision taken by the Indore Development Authority as well as the State Government on 14.07.2021. According to the petitioner by the order dated 14.07.2021 the IDA has regularized the allotment in favour of 12 newspaper agencies contrary to the law and caused huge loss to the State Government in crores. The petitioner is praying for rejection of IA No.14610 dated 20.10.2021 and decision on the basis of judgment passed in the case of *K.K. Bhalla Vs. State of M.P. & others* reported in *2006 (3) SCC 581*.

14. The petitioner has filed this writ petition alleging that despite directions/orders/writs and directions given by this court in writ petitions Indore Development Authority has not taken any action and sleeping over the matter which is nothing but the continuation of illegal possession by the newspaper agencies over the plots without there being any deed. This court vide order dated 19.02.2008 passed in writ petition no.4806/2007 has directed the Indore Development Authority as well as the State Government to take final order. Now Indore Development Authority has taken a decision and divided 25 allotments into five categories and explain the action taken in respect of the allotment falling in these five categories. In case of where the allotment has been cancelled the newspaper agencies concerned respondent has filed fresh petitions challenging the action. If the petitioner is having any grievance against the said decision he may intervene in those writ petitions. The State Government has taken a cabinet decision in respect of 12 newspaper agencies therefore, now no more issue is pending before the state government as well as the Indore Development Authority . The parties aggrieved by the

decision have already preferred writ petitions before this court which are liable to be examined by writ court (single bench). So far the present petition [PIL] is concerned compliance has been done by the State Government as well as by the Indore Development Authority. If the petitioner has any grievance against the decision taken by IDA he may intervene in the pending writ petitions. In this petition, the petitioner trying to assail the validity of the order/ cabinet decision by way of reply to the application for disposal which is not permissible. The purpose of filing this writ petition has been served now as the Indore Development Authority, as well as the State Government both, have taken a final decision which is the subject matter of various Writ Petitions filed by the respondent nos 10 to 30 to be decided by the single bench of this High Court as roster. Hence, this PIL has rendered infructuous.

No order as to cost.

(VIVEK RUSIA)
JUDGE

(RAJENDRA KUMAR (VERMA))
JUDGE

Ajit