



IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE PRANAY VERMA

ON THE 16th OF MARCH, 2026

WRIT PETITION No. 8502 of 2026

BASANT KUMAR RAWAT

Versus

INDORE MUNICIPAL CORPORATION AND OTHERS

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Appearance:

Shri Jayesh Gurnani, learned counsel for the petitioner.

Shri Rishi Tiwari, learned counsel for the caveator.
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ORDER

1. With the consent of learned counsel for the parties the matter is finally heard.

2. This petition under Article 226 of the Constitution of India has been preferred by the petitioner being aggrieved by the notice dated 26.02.2023 issued by Building Officer, Indore Municipal Corporation, Indore, respondent No.3 whereby he has directed the petitioner to remove and dismantle part of his shop within a period of seven days on the ground that the same is causing hindrance in the road widening process to be done from Nehru Pratima (Madhumilan square) to Chhawani bridge as per Indore Development Plan, 2021.

2. As per the petitioner, he is the owner of plot bearing No.58, RNT marg, Chhawani, Indore measuring 50.63 square meter. He has raised construction of a shop thereupon after obtaining building permission and



sanctioning of map from the respondent. As per the Indore Development Plan 2021 width of RNT marg excluding the road from Gandhi statue to Nehru statue is proposed as 24 meter. On 14.02.2026 respondent No.3 issued a notice to the petitioner alleging that part of his property measuring 5.35 x 3 meter falls within the proposed 24 meter road widening process from Nehru Pratima (Madhumilan square) to Chhawni bridge as per Indore Development Plan 2021 and the petitioner was called upon to appear on 16.02.2026 at the zonal office. The petitioner appeared before respondent No.3 on 16.02.2026 and submitted his reply. Another notice was issued to the petitioner on 16.02.2026 which was however later on withdrawn on 21.02.2026. Thereafter impugned notice dated 26.02.2026 has been issued to the petitioner.

3. Learned counsel for the petitioner has submitted that the aforesaid notice has been issued without affording any opportunity of hearing to the petitioner and in disregard to the principles of natural justice. Respondent No.2 by order dated 27.05.2014 had agreed that the proposed road from Nehru Pratima (Madhumilan square) to Chhawni bridge is to be widened till 60 ft. i.e. 18 meter only but by the impugned notice proposed road is stated to be widened till 24 meter. Respondent No.3 has directed the petitioner to remove illegal construction raised over the set back area of the plot contrary to building permission. The petitioner has already filed an application on 06.03.2026 for compounding of his alleged illegal construction and the same is pending before the respondents. The Indore Development Plan 2021 has already expired on 31.03.2024 and cannot be enforced on the basis of which



the impugned notice could not have been issued to the petitioner. The central alignment of the proposed road to be constructed by the respondents has not been fixed in presence of the petitioner. In M.P. No.4687/2025 (Raj Bisani V/s. State of M.P.) by order dated 05.02.2026 this Court has already held that the Indore Development Plan 2021 has already expired on 31.03.2021 hence the said plan cannot be implemented. The directions issued by this Court in W.P. No.43178/2025 (Jai Badrinath Developers and Others V/s. Indore Municipal Corporation and Others) decided on 19.11.2025 have not been followed. It is hence submitted that the impugned notice deserves to be quashed.

4. Reply has been filed by the respondents and learned counsel for the respondents has submitted that in the year 2006 an agreement was executed between the petitioner and the Municipal Corporation whereby petitioner accepted setting back of his plot by 2.45 meter x 4.53 meter and also accepted that building permission was granted after excluding 12.14 meter from the center line. He also accepted that he will have no right of construction on the set back land and corporation will be free to use the said land for construction of road. He hence now cannot go back on the agreement. The petitioner has violated the terms of the building permission granted to him and has made illegal construction on the set back land. The width of road as per Indore Development Plan 1991 is 80 ft. i.e. 24.50 meter. Though earlier the road was proposed to be widened upto 60 ft. but now the same has been proposed to be widened upto 80 ft. regarding which the respondents very much have the authority. The petitioner has been affording



due opportunity of hearing and his reply has been duly considered. The orders relied upon by the learned counsel for the petitioner are distinguishable on facts. Compounding application has been submitted by the petitioner after passing of the impugned order hence no benefit on the basis of the same can be derived by him. The petitioner having raised construction over the set back area cannot claim any legal right. It is hence submitted that the petition deserves to be dismissed.

5. I have considered the submissions of the learned counsel for the parties and have perused the record.

6. The record shows that earlier a notice was issued to the petitioner on 14.02.2026 to appear before respondent No.3 and to file his reply and for being afforded hearing in the matter. On 16.02.2026 the petitioner appeared before respondent No.3 and filed his reply. However in the latter part of the day another notice was issued to the petitioner stating that despite issuance of earlier notice no reply has been submitted by him. The fact of filing of the reply by him on that very day in the earlier part was not considered. However the notice dated 16.02.2026 was withdrawn by respondent No.3 on 21.02.2026.

7. From the impugned notice it is observed that only the reply filed by the petitioner on 16.02.2026 has been taken into consideration but the petitioner has not been afforded any opportunity of personal hearing in the matter. Since the proceedings are in respect of removal of the property of the petitioner it was imperative for the respondents to have afforded due opportunity of hearing to him to substantiate the contentions as raised by him



in his reply. While withdrawing the notice dated 16.02.2026 by notice dated 21.02.2026 it has only been stated that the petitioner shall be communicated the outcome of the reply submitted by him upon its consideration. The said procedure cannot be accepted. Since notice was issued by respondent No.3 and reply was filed by the petitioner it was mandatory for respondent No.3 to have afforded opportunity of personal hearing to the petitioner which has not been done. The impugned notice hence cannot be sustained and is accordingly set aside.

8. However considering the fact that the petitioner has already filed his reply before respondent No.3, to avoid any delay in the matter it is directed that he shall appear before respondent No.3 on 26.03.2026 between 11.00 a.m. to 3.00 p.m. for the purpose of being afforded personal hearing in the matter and thereafter a reasoned and a speaking order shall be passed. Till then and for a period of 7 days thereafter in case the same is against the petitioner no coercive steps shall be taken against him.

9. With the aforesaid, without expressing any opinion on merits, petition stands disposed off.

(PRANAY VERMA)
JUDGE