

(1991) 12 RAJ CK 0021

In the Rajasthan High Court

Case No : Civil Writ Petition No's. 7, 52, 72, 112, 295, 1076, 1698 and 1935 of 1991

Dr. Kailash Chandra Kotia and Others

APPELLANT

Vs

Rajasthan State Industrial Development and Investment Corporation Ltd.

RESPONDENT

Date of Decision : 06-12-1991

Acts Referred:

Contract Act, 1872 — Section 14, 39

Citation : (1991) 2 RLW 282 : (1992) 1 WLC 519 : (1991) WLN 276

Hon'ble Judges : Inder Sen Israni, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Inder Sen Israni, J.—In all the writ petitions, mentioned above, it has been prayed that the orders by which, the plots allotted to each of the petitioners for establishing Nursing Home, were cancelled, be quashed and set aside. Since in these petitions, a common question of law has been raised, they are decided by one single order. The facts & Annexures as stated in Writ Petition No. 7/91 are mentioned to understand the legal question raised in these petitions.

2. The Respondent-RIICO published an advertisement on February 19, 1988, in Rajasthan Patrika" (Anx. 1), by which, applications were invited from Doctors for allotment of plots existing in the Industrial area of RIICO at various places in Rajasthan. The petitioner, in response to the said advertisement, applied on December 15, 1988, for allotment of a plot to him in Jaipur, since he is a Doctor of repute and Specialises in heart disease. On December 20, 1988, the respondent asked the petitioner for payment of 25% of the total cost of plot, which was to be allotted for establishing a Nursing Home/Hospital in Sanganer industrial area, at Jaipur. The petitioner deposited an amount of Rs. 75,000/- vide Anx. 2 dated January 25, 1989 and further amount of Rs. 75,000/- vide Anx. 3 dated March 20, 1989, as directed by the respondent vide Anx. 4 dated

December 22, 1988. The petitioner also complied with condition (b) of Anx. 4, by providing documentary proof for an amount equivalent to five per cent of the total investment to the satisfaction of the respondent. Vide Anx. 5 dated February 4, 1989, the petitioner was informed by the respondent that the management has considered his application for allotment of one thousand square metres land and was asked to send the required information as mentioned therein, before March 20, 1989. Vide Anx. 6A dated February 21, 1989, the petitioner informed the respondent regarding compliance of all points, except point No. 2 and stated that he will deposit the development charges before March 20, 1989. Vide Anx. 6B of the same date, a project report was sent for Nursing Home/Clinic. Vide Anx. 6C of the same dated, a lay out plan of the Nursing Home/Heart House was also given. Vide Anx. 7 dated April 3, 1989, the respondent issued an allotment letter, regarding plot No. S-2 measuring one thousand square metres, at Sanganer industrial area, for setting up Nursing Home, on the terms & conditions mentioned therein. Vide Anx. 15 dated April 9, 1990, the respondent asked the petitioner to deposit Rs. 1510/-, regarding service charges and economic rent, which was deposited vide photo-stat copy of receipt Anx. 14 dated April 21, 1990. Vide Anx. 9 dated December 27, 1989, the respondent asked the petitioner to submit a comprehensive project report alongwith details and prospective blue Porint, which was done vide letter dated February 26, 1990 (Anx. 10). Thereafter, possession of the allotted plot No. SP-2 was given to the petitioner on March 3, 1990 as is clear from the copy of possession letter dated March 3, 1990 (Anx. 11). Vide Anx. 12, the respondent asked the petitioner to execute a lease-deed, regarding allotted plot. Anx. 13 is the site-plan attached with the said letter. The petitioner, on July 17, 1990 (Anx. 16), requested the respondent for getting the lease-deed executed, since he had completed all the conditions. He further stated that construction of Nursing Home has been already delayed by one year, on this account. A further representation in this regard was sent on August 21, 1990 (Anx. 17). The petitioner, all of a sudden, received a letter dated December 19, 1990 (Anx. 18), informing him that the plot allotted to the petitioner has been cancelled and that a cheque, regarding the amount deposited by the petitioner, plus nine per cent interest thereon, is sent alongwith the said letter. Hence, this petition.

3. The respondent, in its return in para 4 has stated that no prior approval of the Ifra 1 structure Development Committee (for short "ID Committee") of RIICO was taken before making the allotment in favour of the petitioner, hence the said allotment cannot be said to be legal, valid and proper. It is submitted that lease-deed was not executed, since the allotment made in favour of the petitioner was not valid and legal. It is further submitted that the letter dated December 19, 1990 Anx. 18), regarding cancellation of allotment, was issued in pursuance to the decision of the ID Committee. It is also submitted that since Hospitals/ Nursing Homes were categorised as "industry", with a view to attain the broad objective of health for every one by 2000 A.D., then Chairman and Managing Director of RIICO decided to take up the promotion of viable hospitals and

nursing homes all over Rajasthan in private sector and invited applications for allotment of plots for the above purpose, forty doctors applied for allotment of land in different areas enclosing cheque/demand drafts for twenty five percent of the land cost. Twenty seven applications were received for Malviya Industrial Area, six for Sanganer Industrial Area and 7 for Vishwakarma Industrial Area. The RIICO, keeping in view the potential and land cost incidence in the project fixed the rate of allotment for various industrial areas, i.e. Rs. 200/- per sq.m. for Malviya, Rs. 150/- per sq.m. for Sanganer and Rs. 125/- per sq.m. for Vishwakarma. The Project report and construction plans were called from the applicants, but the same have not been approved till today in respect of any of the allottees. It is further pleaded in para 5 that it was mandatory to have got these allotments approved from the ID Committee, which was not done. A representation was also made to the Hon"ble Minister for Industries against the allotments, which was forwarded to the Corporation, with a direction to cancel/suspend the allotments. The entire matter was placed before the ID Committee which, in its meeting, held on November 30,1990, came to the conclusion that it would not be advisable to establish so many hospitals/clinics in the industrial areas of the corporation and that the approval of the ID Committee was not obtained. Therefore, the allotments made be cancelled and refund be made to the applicants of the amounts deposited by them towards the cost of the land alongwith simple interest at 9% per annum, to be calculated from the date of deposit. It was submitted by the learned Counsel that this reply or similar reply filed in any other petition may be read in respect of all the petitions.

4. It is submitted by the learned Counsel for all the petitioners that in petition No. 7/91, the petitioner has fulfilled all the conditions laid down by the respondent and has deposited total amount of the cost of the land allotted to him. The lease-deed was not executed inspite of several representations given by the petitioner. Anx. 18, cancelling the allotment of the petitioner, mentions no reason for the same & has been issued arbitrarily, illegally and with mala-fide intention. It is further submitted that since the petitioner has fulfilled all the conditions of the allotment as laid down in Anx. 7, the principle of "promissory estoppel" will apply and the respondent now cannot be allowed to cancel the allotment of the petitioner. It is also submitted that contract is now complete & respondent cannot go back on the same. All the petitioners shall suffer heavily on account of price escalation, since the cost of construction has gone higher by at least 50%. The land was allotted for particular object, which has been fulfilled. It is further pointed out that it was not necessary to get the allotments approved by the I.D. Committee and even if it was necessary, it is internal matter of the respondent-RIICO, for which the petitioners cannot be held to be liable. At the most, it is an irregularity and not an illegality. No reason has been shown in any of the letters of cancellation issued to various allottees and the plea of prior approval by the I.D. Committee is only an after thought to cover the arbitrary illegal and mala-fide action of the RIICO. It is also pointed out that substantive right has been created in each of the petitioners, which cannot now be taken

away. In writ Petition No. 72/91, it is submitted that even two rooms have been constructed and the clinic has already started functioning. It is further, submitted that cyclostyled letters, regarding cancellation of allotments were sent to each of the petitioners, which show no application of mind and arbitrariness of the action.

5. It is contended by Mr. A.K. Sharma and Mr. N.R. Chaudhary, learned Counsel for RIICO, that as per RIICO Disposal of Land Rules, 1979, it was mandatory to get prior approval of the ID Committee, regarding making allotments in favour of the petitioners. It is further contended that as per Schedule of Delegation of Powers of the Committees of the Board of Directors of RIICO, the ID committee has been delegated powers, inter alia, to approve terms and conditions of allotment of plots. This, however, was not done. It is also contended that the ID Committee felt that considering all relevant factors, it will not be advisable to establish so many hospitals/clinics in the industrial area of the Corporation. Therefore, such allotments cannot be said to be legal, valid and proper. It is pointed out that lease-deed has not been executed so far, therefore, the allotments cannot be said to be complete in all respects. The petitioners have no subsisting rights in the plots allotted, since the amount deposited by each of the petitioners alongwith interest at 9% per annum was returned back to them, even though, the same was not accepted. The cancellation of allotment was made for the reasons mentioned above and as such, it cannot be termed to be either mala-fide or arbitrary in any way. It is further pointed out that a representation was received by the Hon'ble Minister for Industries, against the said allotments, which was forwarded to RIICO, with a direction to cancel/suspend the allotments.

6. I have heard both the parties and gone through the documents on record. Before the legal aspect of the matter is examined, it will be appropriate to briefly go through the factual aspect of each petition. The factual aspect of Petition No. 7/91 has been already discussed in detail above. In Petition No. 57/91, allotment was made vide Anx. 2 dated, December 23, 1989. The total amount was deposited as required by RIICO. On December 29, 1989, possession letter (Anx. 4) was issued and possession was handed over vide Anx. 3 of the same date. On January 19, 1990, lease-deed was executed vide Anx 5. On June 22, 1990 (Anx. 7), the petitioner applied to be given permission for Construction. However on December 19, 1990 vide Anx. 7, the allotment was cancelled. In Petition No. 72/91, on deposit of full cost of the land, allotment letter dated January 4, 1991 (Anx 6) was issued to the petitioner. The petitioner was handed over possession of the plot vide Anx. 11 dated January 6, 1990. The project report, as required, was given vide Anx. 8 and plans of construction were submitted vide Anx. 12. Vide Anx. 12-A a request was made to RIICO for issuing the plans, so that, construction can be commenced. Anx. 13 is bill of RSEB, regarding electric consumption and Anx. 14 is bill of water consumed. Water connection was supplied by RIICO. Anx. 15 is advertisement, regarding starting of medical services in two rooms, which were constructed on the plot.

In Petition No. 295/91, In Petition No. 112/91, vide Anx. 5 dated March 3, 1989,

land was allotted to the petitioner in Malviya Nagar Industrial Area. The petitioner had already deposited Rs. 50,000/- vide Anx. 4 dated January 9, 1989 and vide Anx. 6 deposited the remaining amount of Rs. 50,000/-, plus Rs. 500/- as Security deposit. He was called upon to furnish security vide Anx. 7 dated December 27, 1989, which was furnished vide letter dated December 27, 1989. Allotment letter dated December 23, 1989 (Anx. 8) was issued to the petitioner, on the terms and conditions, mentioned therein. Site plan (Anx. 10) was issued to the petitioner, regarding plot No. SP-1. Vide Anx. 12 dated December 19, 1990, the allotment was cancelled. In Petition No. 295/91 the petitioner applied for allotment of land in Malviya Nagar & 25% of the amount of the cost of land, Rs. 21,000/- were deposited on January 23, 1989, as required. Vide Anx. 5 dated February 9, 1989, he was informed that since no land was available, at present in Malviya Nagar, he cannot be allotted land in the said area. The petitioner on March 20, 1989 (Anx. 7), replied that he may be allotted land in Sangner Industrial Area. The respondent RIICO vide Anx. 8 dt. January 9, 1990, informed the petitioner, regarding offer of allotment of 1000 sq. m. in Industrial Area, Sangner, on the terms and conditions mentioned therein. The petitioner, thereafter, deposited the total amount of Rs. 1,50,500/- as demanded and also filed other documents as required by RIICO. A sketch map (Anx. 9) was given to the petitioner by RIICO, indicating allotment of plot No. SP-3 to him. The petitioner submitted a plan for construction to RIICO on July 17, 1990, alongwith covering letter (Anx. 10). However, suddenly, on December 19, 1990 (Anx. 11), he was informed that it was not possible to allot plot to him for Nursing Home and the amount deposited by him was returned to him alongwith 9% interest by a cheque. In Petition No. 1076/91, vide Anx. 1 dated January 25, 1989, the petitioner and his wife Dr. Veena Singhal deposited Rs. 1,00,000/-. A plot bearing No. SP-4 was allotted to the petitioner, on the terms and conditions, mentioned in Anx. 3 dated December 23, 1989. Vide Anx. 4 dated January 16, 1990, he deposited further amount of Rs. 9,126/-, as demanded by the respondents. Vide Anx. 5 dated Jan., 17, 1990, possession of plot No. SP-4 measuring 540 sq. m. at Malviya Ind. Area was handed over to the petitioner. Vide Anx. 7 dated, April 30, 1990 the petitioners deposited further amount of Rs. 1090/-, as desired by the respondents. On December 10, 1990 (Anx. 8), the respondents cancelled the allotment of the petitioners and returned back the amount by a cheque alongwith 9% interest per annum. In Petition No. 1698/91, petitioners are husband and wife and both are Doctors. They applied for allotment of a plot. As required by the respondents, petitioners deposited amount of Rs. 50,000/- vide Anx. 3. By a letter dated December 19, 1989 (Anx. 4), the petitioners were informed to deposit, in all, Rs. 1,50,000/- towards development charges for the plot measuring 1000 sq.m., after deducting the amount already deposited, which was done vide Anx. 5 dated May 25, 1989. Thereafter, allotment letter dated December 28, 1989 (Anx. 6) was issued. A further amount of Rs. 1546/-, as demanded, was deposited on February 10, 1990 (Anx. 7). The possession of the plot was given on February 20, 1990 (Anx. 8). The allotment of the petitioners was cancelled by letter dated December 19,

1990 and a cheque returning the amount deposited alongwith interest at the rate of 9% per annum was sent. The petitioners, by a registered letter dated February 2, 1991 returned back the refund cheque received by them. In Petition No. 1935/91, the respondents vide letter dated December 22, 1988 (Anx. 4) called upon the petitioner to deposit 25% of the total cost of land, which was done vide Anx. 5. The petitioner was informed on January 16, 1989 (Anx. 6) that he will be allotted a plot bearing 800 sq. m. The Nursing Home/Hospital should be made functional within two years from the date of allotment of the land. On February 1, 1989, the petitioner was allotted plot No. SP-2 in Industrial Area VKI, Jaipur (Anx. 8). A site plan was also issued to the petitioner. Map of the Nursing Home was submitted on January 16, 1990 (Anx. 10). Since some persons were making unauthorised encroachments on the allotted plots the petitioner constructed a boundary wall at the cost of Rs. 90,000/-. The petitioner received letter dated November 14, 1990 (Anx. 11) from the Regional Manager RIICO, informing him that the petitioner had constructed wall without taking approval from the Corporation and that the construction should be made after approval of RIICO. It was submitted by the learned Counsel that wife of the petitioner Mrs. Kiran malpani did not join on the post of Medical Officer, even though she was selected by RPSC vide Anx. 13 dated October 30, 1990, in view of the proposed Nursing Home. The petitioner requested on December 19, 1990 (Anx. 14) for early approval of the map. The allotment of the petitioner was cancelled on December 19, 1990 (Anx. 15).

7. From the facts stated above, it can be said that RIICO invited applications, by way of publishing an advertisement, from Doctors for allotment of plots in the Industrial Areas of RIICO, at various places, in Rajasthan. All the petitioners, in response to the same, applied on various dates for allotment of plots for establishing Nursing Home/Hospital. These applications were considered by RIICO. Except in Petition No. 295/91, allotment letters, regarding plots, were issued to each of the petitioners and on depositing the required amount, in full, possession of the same was also handed over to each of the petitioners. The project reports, as required by RIICO, were also filed and site maps were also issued by RIICO. Some of the petitioners submitted their plans for construction of Nursing Home/Hospitals as one of the conditions for allotment was to construct the Nursing Home/Hospital within a period of two years from the date of allotment. However, no sanction was granted by RIICO. Some of the petitioners constructed compound wall to save the plots from unauthorised encroachments and one of the petitioners constructed two rooms to start the hospital to cater the needs of area. Thus, the offer was made and accepted, the required amount was deposited, allotment letters were issued and possession was handed over. Thereafter, a letter dated December 19, 1990, was issued to each of the petitioners, informing them regarding cancellation of the plots. The amount alongwith interest at the rate of 9% per annum was sent by way of cheque, which was not accepted by any of the petitioners. The contents of the letter dated December 19, 1990 show that it is not a speaking order and no

reason whatsoever has been shown for cancelling the allotted plots. Therefore, it can be said that there was no fault of any of the petitioners, nor there is mention of any breach of conditions on their part, on account of which the allotment may have been cancelled. The letter merely mentions that the plot is cancelled, on account of administrative decision taken by RIICO. It was submitted by the learned Counsel for RIICO that, according to RIICO Disposal of Land Rules, 1979 (for short, "RIICO Rules"), it was mandatory to have got prior approval of Infrastructure Development Committee, before the allotment was made. Reference was made to Schedule of Delegation of Powers of the various Committees in this respect. This prior approval according to the learned Counsel, was not taken, The ID Committee came to the conclusion that it will not be advisable to establish so many hospitals/clinics in the industrial areas. Hence, the allotments were not made legally and were against the Rules.

8. It will be appropriate to look into certain provisions of the Contract Act. In the matter under consideration, the consent to enter into a contract was given by both the parties, without any coercion/undue-advantage etc. Therefore, consent was in accordance with Section 14 of the said Act. It was pointed out on behalf of RIICO that some of the petitioners deposited their amount late. However, since the RIICO accepted the amount even after the last date fixed for that purpose, issued allotment letters and handed over possession, show that it waived its right to cancel the allotments on this account. In this situation, as per provision of Section 39 of the Contract Act, respondent signified, by words or conduct, his acquiescence to continue the contract. It is, therefore, evident that when the offer is made and the other party accepts the same, deposits the full amount of the cost of the land, allotment letter is issued and possession of the land is handed over the contract is complete in all respects. Therefore, the respondents are not legally entitled to now turn back and cancel the contract of the allotment of land.

9. So far as the RIICO Disposal of Land Rules, 1979 are concerned, according to Rule 8, the possession of the allotted land has to be given to the allottee, after execution of lease agreement, but in exceptional cases, the Managing Director, if deems fit can give possession of the land, even earlier than that for reasons to be recorded in writing. Rule 12 is regarding terms and conditions of the lease and the procedure regarding payment of the amount. It is provided under rule 13 that Managing Director may refuse to schedule, of re-payment of outstanding instalments in genuine cases for reasons to be recorded in writing. Rule 22 deals with the allotment of land. It lays down that if the area is upto two acres, except for the areas located at Jaipur, the same should be allotted by District Allotment Committee. If the area of the land is upto five acres, it shall be allotted by Head of IPI Division. It further provides that Managing Director shall have full powers in all areas, regarding allotment of land. Thus, it may be pointed out that in the matters, under consideration, the allotment has been made under orders of the Managing Director, who has evidently full power to do the same Rule 24 provides regarding cancellation of the allotments. It is provided in Sub-rule (i) that "if on

the issue of show-cause notice, representation is not made by the party within thirty days, the Resident Engineer/Director (Infrastructure) would be competent to cancel the allotment." Sub-rule (ii) provides "that where a party makes representation in reply to the show cause notice, the powers of cancellation shall be exercised by the following Offices/Bodies:

(a) District Industries Centre - in respect of plots upto 2 acres.

(b) Head of I PI Division - upto 5 acres.

(c) Managing Director - Full Powers.

Therefore, from Rule 24 also, it is evident that the Managing Director has full powers regarding allotment of any land and has also full powers to cancel the same in accordance with the procedure mentioned therein. Sub-rule (bb) provides regarding the appeal on account of cancellation of the plots within one month. The learned Counsel for the respondents pointed out that the matter regarding cancellation of the plots allotted to the petitioners was considered in detail, in the meeting of ID Committee, held on November, 30, 1990. A copy of the minutes of Resolution (Item No. 8) of this meeting has been produced, which shows that the Committee was of the view after considering all relevant factors that it would not be advisable to establish so many hospitals/clinics etc. in the Industrial Areas of the Corporation. It was also pointed out that prior approval of the Committee was not obtained and that the applicants have not fulfilled the terms and conditions laid down in the letters of allotment. Therefore, it was decided to cancel all the allotments and refund the amounts alongwith simple interest at the rate of 9% per annum. Number of documents, including the resolution mentioned above, marked anx. R1/W, have been produced. From the RIICO Rules discussed above, it can be said that there is no such rule, which may require prior approval of the ID committee before any allotment is made. In this case, not only amount in lieu of the allotted plots was accepted, but allotment letters were issued to all the petitioners, except one in Petition No. 295/91 and possession of the land was also handed over.

10. The respondent-RIICO filed a bunch of documents alongwith an application dated October 7, 1991. This bunch of documents is marked as Anx. R1/X. It relates to the allotment of the plots to the petitioners and, thereafter, cancellation of the same. From the facts mentioned in the first five pages of Anx. R1/X, it is clear that the Managing Director of RIICO, in consultation with Dr. Bhandari of SMS College and Hospital, Jaipur, came to the conclusion that there was need to provide medical facilities in the private sector and since the Nursing Homes/Clinics have been treated as Industry, the RIICO thought it appropriate to allot plots for this purpose in Rajasthan. In the first instance, it was decided to extend the Scheme to Jaipur, Sri Ganganagar and Hanumangarh. Thereafter, an advertisement was published inviting applications, in this respect. Preference was to be given to such couples, who are both doctors and categories were also made for the purpose of allotment in various industrial areas at Jaipur. The

allotment of plots in Vishwakarma area were considered in the meeting of ID Committee held on April 5, 1989. Therefore, allotments were made. One Dr. K.C. Gupta, who was also one of the applicants for allotment, complained to the Minister for Industries, regarding wrongly denying allotment to him. A meeting of ID Committee was held on November 30, 1990, in which it was decided that there was no need for so many Nursing Homes and that some of the allottees have also not fulfilled the conditions laid down in the allotment letters and further, the Government was also directed to either cancel or suspend/stay the allotments. Hence, the allotments were cancelled and the amount deposited was returned with 9% simple interest thereon. As pointed out by the learned Counsel for RIICO, on page 6, there are extracts of resolution of the minutes of the meeting, regarding delegation of powers by the Board of Directors. There is a Committee, namely, "Industrial Area Development committee". This Committee is also called Infrastructure Development Committee. On page 10, it is mentioned that this Committee had powers to approve terms and conditions of allotment of the plots and rates in the industrial areas/estates. On page 16, marked as Anx. R1/W, is the extract of copy of Item No. 8 from minutes of the meeting of ID Committee held on November 30, 1990, in which decision regarding cancellation of plots was taken. On page 19, there is a note placed for consideration of ID Committee in its meeting held on June 12, 1990, in which it is stated that, keeping in view the present rate of growth of population, Rajasthan will have population of fifty five millions by turn of century, which requires augmentation of hospitals and Nursing Homes to attain the broad objective of health for every one by 2000 A.D. The concept of promoting hospitals in the organised sector was discussed with the Director, Indian Institute of Health Management Research (IIHMR) who in principle, supported the proposal. Thereafter, by way of advertisement, applications were invited on September 19, 1988. 150 applications were received. Subsequently, forty doctors applied for allotment in different areas, enclosing Cheques/Demand Drafts for 25% amount of the cost of the land in various industrial areas in Jaipur. Thereafter, availability of land at various industrial areas of Jaipur was considered and rate of allotment was fixed. IDBI has also treated clinics as "industry" and keeping in view, the population doctor ratio calls for promoting this industry and to enable IDBI refinanced funds to flow to this "Human Industry". From the resume of contents of documents given above, it is evident that all aspect of the matter, regarding allotment of plot for establishing Nursing Homes/Clinics/Hospitals were considered before the allotments were made to the petitioners. It was also kept in view that it will be necessary to provide hospitals/clinics/nursing homes in these areas, keeping in view the growth of population in Rajasthan by the turn of century. The ID Committee considered the allotments/rates regarding Vishwakarma industrial area, in its meeting, held on April 5, 1989. If the Committee desired, it could have also considered the allotments to be made for the same purpose in two other industrial areas of Jaipur. This evidently is only an internal arrangement of the respondent-Corporation. It is for the Corporation to decide the procedure of allotment. When the applications were invited in the

name of RICO, matter was considered on merits & allotments were to be made to various persons, who fulfil the conditions laid down for allotment. Thereafter, as demanded by RIICO, the amount has been deposited & possession has been given, after the allotment letters have been issued. Thereafter it is evidently not open to the respondent RIICO to turn around and cancel the allotments, merely on the ground that the prior sanction was not obtained, regarding allotments and fixation of rates of plots in various industrial areas. As stated above, the matter regarding allotments/fixation of price for Vishwakarma industrial area was considered by the ID Committee, which could have considered the matter regarding other industrial areas also. It can, therefore, be said that it did not think it necessary to consider the matter of allotments and rates in other two industrial areas. A part from this, when the plots were considered and allotments were approved by the ID Committee, in Vishwakarma industrial area, this means that it, in principle, had agreed that there was necessity of establishing Nursing Homes/Clinics/Hospitals in various industrial areas, keeping in view the rate of growth of population by turn of the century. Therefore, now this Committee and RIICO cannot go around and say that there is no such necessity. The RIICO as an autonomous Corporation is legally bound to take decisions on merits and not on instructions of the Government of Rajasthan. Evidently, the allotments have been cancelled, merely because the Minister for Industries received a complaint and decided to cancel the allotments, even though the allotments were made, price was accepted and possession was also handed over to the allottees. In the RIICO Rules, there is no provision, by which the Minister for Industries or Government of Rajasthan may be authorised to give direction to RIICO regarding cancellation of allotments, even though, the whole contract has been completed. It is provided, as stated earlier, that the Managing Director has full powers of allotments as per Rule 22 of the RIICO. Similarly, under Rule 24 the Managing Director has full powers to cancel any allotment for reasons provided in this Rule itself. Thus, there is no scope for any interference by the Government of Rajasthan. It is also clear from the above two provisions of the RIICO Rules that the authority of the Managing Director over-rides that of ID Committee. ID Committee merely recommends, but the final authority regarding allotment is Managing Director, who has allotted plots to the various petitioners.

11. It may also be pointed out that no show cause notice whatsoever was given to any of the petitioners, as required under Rule 24 of the RIICO Rules before the allotments of plots were cancelled vide letter dated December 19, 1990 (Anx. 18). This is violative of principles of natural justice. It may further be pointed out that in this letter of cancellation, no reason whatsoever has been given for cancelling the plot. It also mentions that an administrative decision has been taken, regarding cancellation. Thus this is an order, which does not even specify reasons for cancelling allotment of each of the petitioners. This seems to be a cyclostyled letter issued to all the petitioners. Even in Anx. R1/W, the resolution passed by the ID Committee, it was not conveyed to the petitioners that prior approval of the ID Committee was not taken and applicants have not fulfilled the

terms and conditions laid down in the letters of allotment. However, no details whatsoever, regarding any of the petitioners mentioning which of the conditions have not been fulfilled have been spelt out. Apart from this when the respondent-RIICO accepted the amount from the petitioners, evidently, had waived non-fulfillment, if any, on the part of any of the petitioners. But the real reason, as stated above, is the direction of the Minister for Industries, regarding cancellation of the plots allotted and the respondent-RIICO has only acted as a good obedient boy in following the directions given. It has been held by the Apex Court in *Neelama Misra v. Harinder Kaur Paintal and Ors.* : [1990]2SCR84 that an administrative order which involves civil consequences must be made consistently with the rule expressed in the Latin maxim "*audi alteram partem*". It means that the decision maker should afford to any party to a dispute an opportunity to present his case. This principle is so well known that it is not necessary to multiply further authority on this point. Therefore, on this count also, the cancellation of the plots is illegal, unauthorised and arbitrary.

12. It was further pointed out by the learned Counsel for the petitioners that from the facts enumerated above, it is clear that the petitioners complied with all the conditions as laid down by RIICO and plots were allotted to various petitioners and possession was also handed over to them. Therefore, principles of promissory estoppel will apply against the respondents and they cannot be permitted to pass an order adverse to their own promise and are now estopped from doing so. In *Motilal Padampat Sugar Mills Co. Ltd. Vs. State of Uttar Pradesh and Others*, , the Apex Court explained the principles of promissory estoppel and stated that where one party has by his words or conduct made to the other a clear and unequivocal promise which is intended to create legal relations or affect a legal relationship to arise in the future, knowing or intending that it would be acted upon by the other party to whom the promise is made and it is in fact so acted upon by the other party the promise would be binding on the party making it and he would not be entitled to go back upon it, if it would be inequitable to allow him to do so having regard to the dealings which have taken place between the parties, and this would be so irrespective of whether there is any pre-existing relationship between the parties or not. Of course the basic requirement for invoking this principle must be present namely, that the fact-situation should be such that "injustice can be avoided only by enforcement of the promise." Thus, the doctrine of promissory estoppel is equitable doctrine and will be applied when the equity so requires. In the matter under consideration, when the contract is complete, payment has been made, possession of the plots has been handed over and the petitioners are anxious to construct their own Nursing Homes/Clinics/Hospitals, it can be said that the principle of promissory estoppel applies with full force and the injustice caused to them by cancellation of the allotted plots can be avoided only by enforcement of the promise. In *Assistant Commissioner of Commercial Taxes (Asst.), Dharwar and Ors. v. Dharmendra Trading Co. etc.* AIR 1988 S.C. 124, it was held that the Government cannot modify/withdraw the Innecentive scheme regarding sales tax

concessions and the principles of Promissory Estoppel was applied against the Government. This was a case, in which entrepreneurs starting new industries were given certain sales tax concessions, which were modified/withdrawn on the ground of misuse of Scheme and undue advantage taken by some entrepreneurs. After discussing the relevant facts the Apex Court came to the conclusion that no misuse has been placed on record by the Government and it was held that the Government cannot resile from the promise of giving concessions in the sales tax. In the present case, the RIICO respondent has not mentioned any reason, on account of which it thought appropriate to cancel the allotments. Therefore the principles of Promissory Estoppel will be applicable and the RIICO respondent cannot be allowed to resile from its promise. Considered from any angle, the order of cancellation of plots dated December 19, 1990 (Anx. 18) is illegal, unauthorised and arbitrary, and deserves to be quashed and set aside in respect of all the petitioners, except Petition No. 295/91 which is dealt with separately.

13. So far as Petition No. 295/91 Dr. Rajesh Gupta v. RIICO and Ors. is concerned, the petitioner has based his claim on letter dated January 9, 1990 (Anx. 8) written by respondent RIICO, in which it offered to allot a plot in Sanganer industrial area. The petitioner was required to fulfill certain conditions laid down therein, before February 10, 1990, which included the deposit of amount of Rs. 1,60,000/-. However, the petitioner deposited the above mentioned amount in two instalments on February 12, 1990 and February 24, 1990 as mentioned in para 10 of the return filed by the respondent. Vide Anx. 10, the petitioner submitted a plan for plot No. SP 3 in Sanganer industrial area and requested that a plot be allotted to him. However, vide letter dated December 19, 1990 (Anx. 11) he was informed by the respondent that it was not possible to allot him a plot in Sanganer industrial area. Hence, the amount was returned to him by cheque alongwith interest at the rate of 9% per annum. Thus, it is clear that neither any allotment letter was issued to the petitioner nor possession of the plot was handed over to him. Therefore, neither the contract can be said to be complete, nor the principles of Promissory Estoppel can be made applicable to this petition. The principles of natural justice cannot be made applicable also, since there was no sudden cancellation of allotment, but the petitioner was merely informed vide Anx. 11 that it was not possible to allot him a plot. It therefore, do not find any force in this petition, which is dismissed.

14. In the result, all the petitions, except Petition No. 295/91, are allowed. The letter of cancellation issued by the respondent RIICO, regarding plots allotted to each of the petitioners, is quashed and set aside. The respondents are directed to approve the plans of each of the petitioners and allow them to construct the Nursing Home/Clinic/Hospital, which they shall be liable to do within a period of two years from the date of sanction of the plans.

15. The petitions are allowed as above, with no order as to costs.