

(2008) 11 DEL CK 0229
In the Delhi High Court
Case No : LPA 484 of 2008

Dr. R.N. Gupta Technical Educational Society	APPELLANT
Vs	
Delhi Development Authority and Another	RESPONDENT

Date of Decision : 25-11-2008

Acts Referred:

Citation : (2008) 11 DEL CK 0229

Hon'ble Judges : A.P. Shah, C.J;Dr. S. Muralidhar, J

Bench : Division Bench

Advocate : Aseem Mehrotra, for the Appellant; Rajiv Bansal, for the Respondent

Final Decision : Dismissed

Judgement

1. This appeal is directed against the impugned judgment dated 1st July 2008 passed by the learned Single Judge dismissing the Appellant's Writ Petition (Civil) No. 6693 of 2003.

2. The Appellant is engaged in the activity of imparting higher education in the field of medicine and management. It claims to run institutes at Agra (Uttar Pradesh), Gurgaon (Haryana) and at Delhi. In 1992 the Appellant opened an institute known as the Agra Institute of Technology at Jia Sarai, New Delhi in a rented premises and approached the All India Council of Technical Education Board ("AICTE") for approval. The Appellant applied to the Delhi Development Authority ("DDA") on 23rd June 1994 for allotment of land with a view to complying with the requirement of the AICTE for grant of approval. Meanwhile, the Appellant also changed the name of the Institute to Aditya Institute of Technology on 27th October 1994. An intimation was sent to the DDA to that effect. By a letter dated 12th January 1995 the DDA required the Appellant to submit the sponsorship/recommendation from the concerned Ministry/ Department of Delhi Administration or the AICTE. By a letter dated 4th July 1995 the AICTE informed the DDA about the approval granted to the Appellant to run the Aditya Institute of Technology. The AICTE sought confirmation from the DDA

about the allotment of land to the institute. By a letter dated 18th September 1995 the DDA directed the Appellant to submit a bank balance certificate and this was complied with.

3. By a letter dated 16th August 1996 the Directorate of Training and Technical Education, Government of National Capital Territory of Delhi granted the sponsorship to the Appellant and requested the DDA to allot it 3 acres of land. More than a year thereafter the DDA informed the Appellant that the land of the Appellant's choosing was not available and that land in a rural area, public or semi-public facilities would be considered for allotment in due course.

4. By letters dated 3rd February 1997 and 8th March 1997 the Appellant wrote to the DDA stating that it should be allotted land in the Dwarka Institutional Area. Further, it was pointed out that one of the conditions of the AICTE for granting approval of institution was that permanent infrastructure should be provided to the students within three years from the date of approval. It was pointed out by the Appellant that three years' period was going to expire shortly.

5. By a Resolution dated 15th September 1997 the Institutional Allotment Committee of the DDA recommended that land should be allotted to the Appellant at Dwarka "as per Master Plan norms with the consent of Planning Department of DDA." Despite the above recommendation no land was allotted to the Appellant by the DDA. According to the Appellant, the DDA had taken a decision in 1999 to allot 3.5 hectares of land to the Appellant in Sector 9, Dwarka but the Appellant came to know of this much later. With no information on allotment, the Appellant was compelled to file a Writ Petition (Civil) No. 4020 of 2000 seeking a direction to the DDA for allotment of land to its institute. On 9th August 2000 the learned Single Judge of this Court disposed of the W.P. (C) No. 4020 of 2000 by the following order:

CW 4020/2000

Counsel for the respondent says that she has not received any instructions.

Rule.

This petition can be disposed of at this stage. It has been contended by Counsel for the petitioner that as per the resolution of the respondent in the meeting of the Institutional Allotment Committee held on 15.9.1997, it was resolved by the respondent that the petitioner shall be allotted land at Dwarka in technical institutional area as per Master Plan norms. The respondent vide their letter dated 18.1.2000 addressed to the petitioner, inter alia, informed that the case of the petitioner for allotment of land has been recommended by the Institutional Allotment Committee and the allotment-cum-demand letter will be issued to the petitioner. However, no such allotment-cum-demand letter has been issued. In view of the decision taken by the respondent way back in 1997 for issuance of the allotment-cum-demand letter and no allotment having been made by the respondent, I direct the respondent to issue allotment-cum-demand letter within

a period of two months from today.

Rule is made absolute.

Petition is allowed.

6. According to the Appellant, consequent upon the aforementioned order, it wrote a letter dated 28th September 2000 to the DDA seeking issuance of a allotment-cum-demand letter. On 16th October 2000 DDA issued a provisional letter of allotment to the Appellant informing it that it was being allotted a plot of 8061.135 sq.mt. of land at Sector-3, Dwarka for which it would have to pay a provisional premium @ Rs. 50 lacs plus 12% enhancement per acre with annual ground rent @ 2.5% per annum. Accordingly, the Appellant was asked to deposit Rs. 2.25 crores (approximately) within 60 days of the letter.

7. Instead of complying with the demand, the Appellant wrote to the DDA on 22nd October 2000 stating, inter alia, as under:

As per the letter at a above your esteemed office allotted 8061.135 sq.mt. (Approx 2 acres) land to this institute for which the Society will remain over grateful to you.

The allotted land is considered inadequate to establish the infrastructure facilities required as per the stipulations laid down by AICTE and the State Government. In this regard we would like to draw your kind attention to the letters at Annexure-I, Annexure-II and the Annexure-III.

AICTE, North West Regional Office vide their letter at Annexure-I recommended that 7-10 acres of land may be allotted to infrastructure facilities required for conduct of the Course. However, the Department of Training and Technical Education, New Delhi vide their letter at Annexure-II directed that only three acres of land (two acres for infrastructure and one acre for sports/games facilities) has been approved by the Government of Delhi to our college.

This requirement was further deliberated upon by the Department of Training and Technical Education New Delhi vide their letter at Annexure-III. The letter also brought out various norms and guidelines for the construction of buildings and other support services.

In view of the stipulations and guidelines laid down by the Department of Training and Technical Education, New Delhi and the State Government, in respect of the building and other infrastructure facilities two acres land allotted now is considered inadequate.

Therefore you are requested to kindly consider our request sympathetically and allot us one more acre of land so that the required infrastructure facilities for the institute can be established which we have three acres of land.

8. The DDA did not reply to this letter and this led to a reminder being sent by the Appellant to it on 5th December 2000 requesting that the DDA should allot

the Appellant three hectares of land at rates prevailing in 1997. According to the Appellant, it kept writing to the DDA several letters in 2000 and 2002. Thereafter the Appellant filed Civil Writ Petition No. 4236 of 2002 in this Court which came to be disposed of by the following order dated 4th August 2003:

CWP No. 4236/2002

Learned Counsel for the respondent states that though the decision on the application of the petitioner was taken some time back, the same has not been communicated to the petitioner. Learned Counsel assured that the needful be done within two weeks from today.

Needless to say that the petitioner would have the right to challenge the decision, if the petitioner is aggrieved by the same. The writ petition is accordingly dismissed with liberty to the petitioner to challenge the decision to be communicated to the petitioner within two weeks from today, if so advised. It will be open to the petitioner to raise any ground, as may be permissible to law including the grounds raised in the present writ petition.

Dasti to learned Counsel for the parties.

9. Consequent upon the aforementioned order, the DDA sent a letter dated 22nd August 2003 to the Appellant stating as under:

With reference to your letter dated 9.10.2000 on the subject noted above, I am directed to inform you that your request for allotment of land for one acre has been examined but it is regretted to say that the same cannot be acceded to.

10. This led the Appellant to file Writ Petition (Civil) No. 6693 of 2003 which has been dismissed by the learned Single Judge by judgment dated 1st July 2008. The learned Single Judge held that the Appellant could not possibly seek a direction to the DDA to allot 3.5 hectares of land. Merely because the AICTE's requirements stipulated that a technical institute will have to hold a minimum extent of land for seeking approval, the DDA could not be compelled to allot land to that extent. It was observed that if the Appellant required land beyond what was offered by the DDA, it was free to buy it from the market. As regards the ground of discrimination it was held by the learned Single Judge that the mere advertence to allotments made to other societies of larger plots itself did not amount to discrimination against the petitioner. The learned Single Judge also negated the plea of the Appellant that the cost of the plot allotted should be of the year 2000. The plea was held to be barred by laches.

11. We have heard the submissions of Mr. Aseem Mehrotra, learned Counsel for the Appellant and Mr. Rajiv Bansal, learned Counsel for the DDA.

12. It is submitted that the Appellant could not be held at fault for not approaching the Court earlier since admittedly it was only after the order passed by this court on 4th August 2003 that the DDA communicated to the Appellant on 22nd August 2003 its decision to reject the application for allotment of land.

We are unable to agree with the submission. The narration of facts hereinabove indicates that the Appellant never really paid any amount pursuant to the allotment-cum-demand letter issued on it by the DDA on 16th October 2000. Instead it contested both the extent of the land as well as cost of the land. The Appellant kept making repeated representations thereafter and waited till 2002 to file a further writ petition, i.e. W.P. (C) No. 4236 of 2002. This writ petition came to be dismissed on 4th August 2003 with certain directions and thereafter the rejection letter was sent to it by the DDA on 22nd August 2003. In the circumstances it is not possible to accept the contention of learned Counsel for the Appellant that there was no delay on behalf of the Appellant in approaching the Court for relief.

13. Learned Counsel for the DDA sought to place reliance upon the judgment of the Division Bench of this Court in *Pragati Educational and Welfare Society v. Delhi Development Authority* 2008 (102) DRJ 663 (DB) to contend that an applicant for allotment should not be made to suffer for the delay by the DDA in communicating to the applicant its decision. Further, it was submitted that earlier decision taken in 1997 was also not communicated till 16th October 2000. Even then, the extent of land as approved by the Institutional Allotment Committee was arbitrarily reduced to approximately 2 acres, which was plainly insufficient.

14. Having examined the judgment of the Division Bench of this Court in *Pragati Educational and Welfare Society*, we find that it is distinguishable in its application to the facts of the present case. There the Applicant Society had already deposited an amount of nearly Rs. 40 lakhs with DDA and was led to believe that it would be allotted an institutional plot. On the facts of that case, the Division Bench of this Court held that notwithstanding the change in policy, the DDA should not be permitted to resile from its decision to allot land to the Appellant. As far as the present case is concerned, the admitted position is that after receiving the allotment-cum-demand letter dated 16th October 2000 the Appellant never made any deposit of any sum and also did not choose to agitate the issue in Court for nearly two years thereafter.

15. The policy of the DDA concerning the allotment of institutional plots has undergone change since 1997. The Appellant has also separately challenged the consequent amendment to the Nazul Land Rules. We are informed that the plot in question is proposed to be auctioned with reserve price of Rs. 31 crores. This fact is sufficient to negative the plea of the Appellant for allotment of the plot on the same terms as those contained in the allotment-cum-allotment letter issued to it on 16th October 2000.

16. We find no error in the impugned judgment dated 1st July 2008 of the learned Single Judge. The appeal is dismissed.