
(2008) 11 CAL CK 0054
In the Calcutta High Court
Case No : A.P.O. No. 430 of 2007

LGW Limited and Another

APPELLANT

Vs

The State of West Bengal and Others

RESPONDENT

Date of Decision : 06-11-2008

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : AIR 2009 Cal 16 : (2009) 1 CALLT 336 : (2009) 1 CHN 1

Hon'ble Judges : Tapan Mukherjee, J;Pranab Kumar Chattopadhyay, J

Bench : Division Bench

Advocate : Arunabha Ghosh, Mr. Dwaipayan Sengupta and Mr. Anindya Lahiri, for the Appellant;Amal Baran Chatterjee and Mr. Prafulla Ghosh, for the Respondent

Final Decision : Allowed

Judgement

Pranab Kumar Chattopadhyay, J.—This appeal has been preferred at the instance of the writ petitioner assailing the judgment and order dated 24th September, 2007 passed by a learned single Judge of this Hon"ble Court whereby and whereunder the said learned Judge dismissed the writ petition on merits.

2. The appellants herein specifically stated in the writ petition that the Government of West Bengal issued an advertisement in the newspapers inviting applications with regard to distribution of plots of land in Salt Lake City for the purpose of construction of godowns in respect of cement, steel etc. It has also been mentioned in the said writ petition that pursuant to the aforesaid advertisement appellants herein applied for a plot of land for the purpose of construction of its own composite centre. It was further submitted on behalf of the appellants that the Deputy Secretary to the Government of West Bengal by the letter under Memo No. 2360-UD/0/M/SL(AL/NR)-6L-11/97 dated June 3, 1997 requested the Special Engineer, S.L.R & D Circle to locate a plot measuring 6 to 8 cottahs in Salt Lake City for the purpose of allotment to the writ petitioner No. 1. The text of the said letter is quoted hereunder:

"Government of West Bengal

Urban Development Department

18, Rabindra Sarani, Calcutta - 700 001

No. 2360-UD/0/M/SL(AL/NR)-6L-11/97 dated the 3rd June, 1997

From: The Deputy Secretary to the

Government of West Bengal.

To: The Special Engineer

S.L.R & D Circle

Sech Bhawan, Salt Lake,

Calcutta - 700 091

Sub : Allotment of land at Salt Lake to L.G.W. Limited.

Sir,

I am directed to request you to locate a plot measuring 6 to 8 cottahs in Salt Lake City for allotment to L.G.W. Limited for construction of Company's own composite centre and send a report regarding availability of the land.

Yours faithfully,

Sd/-

Deputy Secretary to the

Government of West Bengal."

The Special Engineer by the Memo dated 19th November, 1997 informed the Principal Secretary as hereunder:

"Government of West Bengal

Urban Development Department

From: The Special Engineer,

Salt Lake R cl. & Dev. Circle

Sech Bhavan, Bidhannagar,

Calcutta - 91.

To: The Principal Secretary to the

Government of West Bengal

U.D. Department,

18, Rabindra Sarani, Cal - 1.

Sub: Allotment of land at Salt Lake to L.G.W. Ltd.

Ref : Your Memo No. 2360-[UD/0/H/SL/AL (NR.)-6L-11/97 Dt. 3.6.97.

Sir,

In response to your letter under reference, I am to enclose herewith a copy of memo No.1026 dated 27.8.97 of the Executive Engineer, Design, S.L.R.D. Circle being the report on the above subject matter. In view of what has been reported by the Executive Engineer, Design, S.L.R.D. Circle, plot No. KB-20 in Sector -III of Bidhannagar, measuring about 8 cottahs may be allotted to L.G.W. Ltd. for construction of Company's own Composite Centre which is lying vacant at present.

Enclo : As stated.

Yours faithfully,

Sd/-

Special Engineer

Salt Lake Recl. & Dev. Circle.

Memo No. 1L-347/3788/1 dated 19.11.97"

3. According to the appellants, there was complete silence thereafter from the end of the respondent authorities and, therefore, a writ petition being W.P. No. 10 of 2001 was filed on behalf of the appellants before this Hon"ble Court which was finally disposed of by a learned single Judge of this Court on September 11, 2002 whereby and whereunder the Principal Secretary, Urban Development Department, Government of West Bengal was directed to consider the claim of the appellants regarding allotment of land in the Salt Lake area and pass a reasoned order. In compliance with the aforesaid direction; said Principal Secretary passed a reasoned order on 10th October, 2002 rejecting the claim of the appellants herein.

4. Challenging the aforesaid reasoned order passed by the Principal Secretary, another writ petition being W.P. 340 of 2003 was filed by the appellants herein before this Hon"ble Court which was finally disposed of by Soumitra Pal, J., by an order dated June 29, 2004 whereby and whereunder the said learned Judge specifically held that the earlier order dated 10th October, 2002 passed by the Principal Secretary could not be sustained, since the rejection of the representation of the appellants herein was not justified.

5. The learned single Judge, therefore, by the aforesaid order dated 29th June, 2004 again directed the Principal Secretary to pass a reasoned order after considering the representation of the appellants afresh. Pursuant to the aforesaid direction of Soumitra Pal, J., Principal Secretary considered the representation of the appellants afresh and passed a reasoned order on 30th September, 2004 rejecting the prayer of the appellants with regard to the allotment of the plot in

question in Salt Lake.

6. The appellants thereafter again filed a writ petition being W.P. No. 958 of 2005 challenging the aforesaid order dated 30th September, 2004 passed by the Principal Secretary and the said writ petition was finally disposed of by the judgment and order under appeal dated 24th September, 2007 passed by the learned single Judge.

7. Assailing the aforesaid judgment and order under appeal it has been argued on behalf of the appellants that the learned single Judge arrived at an erroneous conclusion upon observing that no application was submitted on behalf of the appellants in connection with the allotment of plots of land in the Salt Lake area. The learned counsel of the appellants submits that the aforesaid conclusion is contrary to the earlier specific findings of another learned single Judge of this Hon'ble Court.

8. Mr. Arunabha Ghosh, learned counsel of the appellants referred to the earlier judgment dated 29th June, 2004 passed in the previous writ petition filed by the appellants herein being W.P. No. 340 of 2003 Soumitra Pal, J. specifically held that an application was submitted by the appellants herein claiming allotment of plot of land. Mr. Ghosh submits that the learned single Judge in the judgment and order under appeal failed to appreciate that the earlier conclusive findings of another learned single Judge of this Hon'ble Court with regard to the submission of application by the appellants herein for allotment of plots of land could not be ignored and no contrary findings could be arrived at subsequently when the earlier findings of the learned single Judge of this Court had reached finality in absence of any challenge thereto.

9. Mr. Ghosh submits that the learned single Judge erroneously held that the other allottees were not similarly circumstanced with the appellants since Soumitra Pal, J., another learned single Judge of this Court while deciding the earlier writ petition being W.P. No. 340 of 2003 specifically held that the appellants herein were on the same footing with the other allottees. Mr. Ghosh also submits that in the judgment and order under appeal learned single Judge upheld the impugned order dated 30th September, 2004 passed by the Principal Secretary without appreciating that the said order was passed by the Principal Secretary without following the specific guidelines as laid down by Soumitra Pal, J. in the order dated 29th June, 2004 passed in the earlier writ petition filed by the appellants herein being W.P. No. 340 of 2003.

10. Mr. Ghosh further submits that the respondent authorities used to allot the plots in question in Salt Lake area in pick and choose manner without framing any principle or guidelines in this regard. Mr. Ghosh also submits that the respondent authorities are not free to distribute the plots of lands in pick and choose manner without framing and following proper guidelines since the public property cannot be squandered away by persons in power. Mr. Ghosh referred to and relied on the following decisions of the Hon'ble Supreme Court in support of

his aforesaid contentions:

- 1) Ramana Dayaram Shetty Vs. International Airport Authority of India and Others,
- 2) Ram and Shyam Company Vs. State of Haryana and Others,
- 3) Shri Sachidanand Pandey and Another Vs. The State of West Bengal and Others,
- 4) Kasturi Lal Lakshmi Reddy, Represented by its Partner Shri Kasturi Lal, Jammu and Others Vs. State of Jammu and Kashmir and Another,
- 5) Comptroller and Auditor-general of India, Gian Prakash, New Delhi and Another Vs. K.S. Jagannathan and Another,
- 6) Common Cause, A Registered Society Vs. Union of India (UOI) and Others,
- 7) Common Cause, A Registered Society Vs. Union of India and Others,

11. Mr. Amal Baran Chatterjee, learned counsel representing the State-respondents submits that the appellants herein had no legal right to claim allotment of the plot in question. Mr. Chatterjee further submits that the appellants herein cannot establish any right over the concerned plot of land on the basis of the interdepartmental communications namely, the letter of the Deputy Secretary dated 3rd June, 1997 addressed to the Special Engineer, S.L.R & D. Circle and the subsequent letter of the said Special Engineer dated 19th November, 1997 addressed to the Principal Secretary to the Government of West Bengal. Mr. Chatterjee also submits that the aforesaid interdepartmental communications cannot confer any right in favour of the appellants herein and, therefore, the appellants cannot pray for issuance of any direction from this Hon"ble Court upon the respondent authorities for allotment of the plot of land in question in favour of the said appellants.

12. Mr. Chatterjee submits that no discriminatory treatment has been made by the respondent authorities while dealing with the claims of the appellants herein for allotment of the plot in question in Salt Lake area. According to Mr. Chatterjee, the appellants herein did not make out any case of discrimination in an appropriate manner in the writ petition. The learned counsel or the State-respondents further submits that the appellants herein did not challenge the policy, guidelines and/or scheme of the Government with regard to allotment of commercial plots in the writ petition and, therefore, the said appellants are not entitled to make out any new case for the first time before the appellate Court. Mr. Chatterjee referred to and relied on the following decisions in support of his aforesaid arguments:

- 1) Ramrao and Others Vs. All India Backward Class Bank Employees Welfare Association and Others, (Paragraphs 25 and 26)
- 2) Ishwar Dutt Vs. Land Acquisition Collector and Another,

3) Bengal Peerless Housing Development Co. Ltd. Vs. Urmila Roy and Others,

13. On examination of the judgment and order under appeal we find that the learned single Judge has specifically observed that no application was filed on behalf of the appellants herein in response to the advertisement for distribution of the plot of land in question in Salt Lake area. The aforesaid observation of the learned single Judge is quoted hereunder:

"5.1. Having considered the submissions of the parties it appears that no application was made by the petitioner."

14. In the writ petition, it has been specifically submitted on behalf of the appellants as hereunder:

"5. That the Government of West Bengal had published an advertisement for allotment of plot of land for commercial purposes in various local newspapers. Pursuant to the said advertisement, your petitioners applied for a plot of land in Salt Lake for construction of its own composite center."

(Emphasis added)

15. The respondent authorities filed an affidavit in connection with the aforesaid writ petition appellants herein before the learned single Judge wherein the said respondent authorities never denied the claim of the appellants herein regarding submission application for allotment of the plot of land. Paragraph 4 of the said affidavit-in-opposition filed on behalf of the respondent authorities before the learned single Judge is quoted hereunder:

"4. With reference to paragraph 5 of the writ petition I state that an advertisement was published in "Dainik Basumati" for setting up of godown required for storing cement, steel etc. Application for allotment of the aforesaid godown has no bearing with the present application."

(Emphasis added)

16. In the order dated 10th October, 2002, Principal Secretary, Urban Development Department, Government of West Bengal also did not mention that no application was submitted on behalf of the appellants herein in response to the advertisement for allotment of land in Salt Lake area. While rejecting the claim of the appellants herein allotment of the land in question, the said Principal Secretary in the order dated 10th October, 2002 specifically observed as hereunder:

"18. Therefore, in view of the above guidelines of the Government there is no scope for the undersigned to make any allotment of land in Salt, Lake particularly the said plot No. KB-20 in favour of the petitioner-company at this stage.""

17. Furthermore, in the previous writ petition filed on behalf of the appellants herein, Soumitra Pal, J. specifically held that application was submitted on behalf

of the appellants and the aforesaid finding of fact in the earlier writ petition was not only final but also binding upon the parties to the proceeding as no appeal was preferred therefrom. The finding of Soumitra Pal, A as recorded in the order dated 29th June, 2004 passed in connection with the writ petition being W.P. No.340 of 2003 is quoted hereunder:

"..... Though the two letters might be inter-departmental exercise relating to the search of a suitable plot of land but the letter dated 19.11.97 goes to show that an enquiry was made about the allotment of plot of land pursuant to an application by the petitioners....."

18. The learned single Judge in the judgment and order under appeal, therefore, could not arrive at a contrary finding ignoring the earlier specific finding of Sournitra Pal, J. in the previous writ petition filed by the appellants herein being W.P. No. 340 of 2003. In our opinion, the learned single Judge committed an error in arriving at the conclusion that no application was filed on behalf of the appellants herein for allotment of plot in question in view of the aforesaid earlier specific finding of another learned single Judge of this Hon"ble Court this regard.

19. We, therefore, do not accept that no application was filed by the appellants herein as observed by the learned single Judge in the judgment and order under appeal.

20. The appellants herein specifically cited several instances in the writ petition with regard to allotment of plots of land in pick and choose manner and alleged discriminatory treatment by the respondent authorities.

21. The Principal Secretary, Urban Development Department, Government of West Bengal affirmed an affidavit before this Court at the time of hearing of this appeal wherein it has been disclosed that the allotment of commercial plots at Salt Lake prior to 1999 (with which we are concerned now) was considered on case to case basis with the approval of the then Minister-in-charge, Urban Development Department or the Chief Minister. The relevant paragraph of the said affidavit affirmed by the Principal Secretary, Urban Development Department is quoted hereunder:

"3. That it is stated that from the available records it appears that prior to 1999, the allotment of commercial plots at Salt Lake was considered on merit on case to case basis with the approval of Minister in Charge, Urban Development Department/Chief Minister. It was also decided in 1987 and further in 1993 that project reports with relevant details including its viability; source of funding etc. shall be scrutinized in such a case."

22. In the aforesaid affidavit, Principal Secretary, Urban Development Department, Government of West Bengal did not mention any other policy or guidelines in the matter of allotment of commercial plots at Salt Lake. It has not been argued on behalf of the respondent authorities that the claim of the appellants for allotment of commercial plot was rejected upon considering the

project report and/or source of funding or due to non-approval of the then Minister-in-charge, Urban Development Department/Chief Minister.

23. From the admitted records of the respondent authorities we find that the Deputy Secretary to the Government of West Bengal, Urban Development Department requested the Special Engineer, S.L.R & D. Circle by the written communication dated 3rd June, 1997 to locate a plot measuring 6 to 8 cottahs in Salt Lake City for allotment to the appellant No.1 and the said Special Engineer in response to the aforesaid written request informed the Principal Secretary to the Government of West Bengal under Memo No.1L-347/3788/1 dated 19th November, 1997 that Plot No. KB-20 in Sector-III of Bidhannagar measuring about 8 cottahs might be allotted to the said appellant No.1.

24. In the aforesaid circumstances, it cannot be said that the respondent authorities decided not to allot commercial plot in favour of the appellants at the relevant time upon scrutinizing the case of the said appellants on merit.

25. Undisputedly, no communication was also made rejecting the prayer of the appellants with regard to allotment of a plot of land in the Salt Lake area at the relevant time. Subsequently, however, Principal Secretary, Development Department, Government of West Bengal considered the claims of the appellants herein in compliance with the order dated 11th September, 2001 passed by this Hon'ble Court in the writ petition being W. P. No.10 of 2001 and passed a reasoned order on 10th October, 2002 rejecting the claim of the appellants. The aforesaid reasoned order of the Principal Secretary was admittedly, quashed afterwards by Soumitra Pal, J., a learned single Judge of this Hon'ble Court by the order dated 29th June, 2004 in the writ petition being W. P. No. 340 of 2003 and thereafter, the Principal Secretary again considered the matter and passed another reasoned order on 30th September, 2004 rejecting the claim of the appellants for allotment of plot of land in the Salt Lake area.

26. In both the aforesaid reasoned orders, Principal Secretary never mentioned that the claim of the appellants for allotment of plot in the Salt Lake area was considered on merit and rejected upon scrutinizing the project report or source of funding etc. The respondent authorities also did not disclose whether the case of the appellants was considered on merit at the relevant time and the approval of the then Minister-in-charge/Chief Minister was at all sought for as per the policy and/or guidelines allegedly prevailing at that point of time regarding allotment of plots at Salt Lake.

27. In any event, we do not find any written policy and/or guidelines with regard to allotment of commercial plots at Salt Lake, Undisputedly, no Government order, notification and/or Memorandum was produced before this Court authorizing the then Minister-in-charge, Urban Development Department or the Chief Minister, Government of West Bengal to accord approval in the matter of allotment of commercial plots at Salt Lake. It has also not been disclosed before this Court on what basis the then Minister-in-charge, Urban Development

Department or Chief Minister used to grant approval in the matter of allotment of commercial plots at Salt Lake area without framing any policy and/or guidelines.

28. In the case of Ramana Dayaram Shetty v. The International Airport Authority of India & Ors., reported in AIR 1970 SC 1628, Hon"ble Supreme Court observed:

"12. We agree with the observations of V. Punnen Thomas Vs. State of Kerala, that: "The Government, is not and should be as free as an individual in selecting the recipients for its largess. Whatever its activity, the Government is still the Government and will be subject to restraints, inherent in its position in a democratic society. A democratic Government cannot lay down arbitrary and capricious standards for the choice of persons with whom alone it will deal".....It must, therefore, be taken to be the law that where the Government is dealing with the public, whether by way of giving jobs or entering into contracts of issuing quotas or licences or granting other forms of largess, the Government cannot act arbitrarily at its sweet will and like a private individual, deal with any person it pleases, but its action must be in conformity with standard or norm which is not arbitrary, irrational or irrelevant. The power or discretion of the Government in the matter of grant of largess including award of jobs, contracts quotas, licences etc. must be confined and structured by rational, relevant and non-discriminatory standard or norm and if the government departs from such standard or norm in any particular case or cases, the action of the Government would be liable to be struck down, unless it can be shown by the Government that the departure was not arbitrary but was based on some valid principle which in itself was not irrational, unreasonable discriminatory.""

29. The State Government should have framed clear policies and/or guidelines in the matter of allotment of plots of land in the Salt Lake area pursuant to the advertisement published in the daily newspaper "Dainik Basumati" on February 9, 1987 as mentioned in annexure "P-1" to the writ petition. The framing of clear policies and/or guidelines in the matter of distribution of plots of land are essential in order to ensure transparency in the action of the State Government authorities in the matter of allotment of plots of land.

30. State-respondents could not produce before this Court any rules and/or guidelines framed by the Government for distribution of plots of land in the Salt Lake area at the relevant time and repeatedly submitted that the allotments were made after obtaining specific approval from the concerned Minister-in-charge, Urban Development Department or the Chief Minister. The Minister concerned or the Chief Minister could not grant any approval regarding distribution of plots of land in the absence of any rules and/or guidelines. Therefore, we are not satisfied about the transparency in the action of the State Government authorities in the matter of allotment of plots of land in Salt Lake area at the relevant time.

31. The Minister-in-charge concerned or the Chief Minister could not have

discretionary power to distribute plots of land in Salt Lake area whimsically and without framing any rules or guidelines. Arbitrary exercise of discretionary power cannot be permitted by Article 14 of the Constitution of India. The observations of the Hon"ble Supreme Court in the case of Common Cause, A Registered Society Vs. Union of India (UOI) and Others, are very much relevant in this regard and the same are also set out hereunder:

"21. The Government today - in a welfare State - provides large number of benefits to the citizens. it distributes wealth in the form of allotment of plots, houses, petrol pumps, gas agencies, mineral leases, contracts, quotas and licences etc. Government distributes largesses in various forms. A Minister who is the executive head of the department concerned distributes these benefits and largesses. He is elected by the people and is elevated to a position where he holds a trust on behalf of the people. He has to deal with the peoples" property in a fair and just manner. He cannot commit breach of the trust reposed in him by the people.....

.....

23..... While Article 14 permits a reasonable classification having a rational nexus to the objective sought to be achieved, it does not permit the power to pick and choose arbitrarily out of several persons falling in the same category. A transparent and objective criteria/procedure has to be evolved so that the choice among the members belonging to the same class or category is based on reason, fair play and non arbitrariness Lack of transparency in the system promotes nepotism and arbitrariness. It is absolutely essential that the entire system should be transparent right from the stage of calling for the applications upto the stage of passing the orders of allotment. The names of the allottees, the orders and the reasons for allotment should be available for public knowledge and scrutiny

.....

25. This Court as back as in 1979 in Ramana Dayaram Shetty Vs. International Airport Authority of India and Others, held it must, therefore, be taken to be the law....." that even in the matter of grant of largesses including award of jobs, contracts, quotas and licences, the Government must act in fair and just manner and any arbitrary distribution of wealth would be violative of the law of the land. Mr. Satish Sharma has acted in utter violation of the law laid down by this Court and has also infringed Article 14 of the Constitution of India. As already stated a minister in the Central Government is in a position of a trustee in respect of the public property under his charge and discretion. The petrol pumps/gas agencies are a kind of wealth which the Government must distribute in" a bona fide manner and in conformity with law. Capt. Satish Sharma has betrayed the trust

reposed in him by the people under the Constitution....."

32. In the case of Shri Sachidanand Pandey and Another Vs. The State of West Bengal and Others, , Hon"ble Supreme Court held:

"39. On a consideration of the relevant cases cited at the bar the following proposition may be taken as well established; State-owned or public-owned property is not to be dealt at the absolute discretion of the executive....."

33. Mr. Amal Baran Chatterjee, learned counsel, representing the State-respondents urged before this Court that interdepartmental communications cannot confer any right on the appellants herein with regard to allotment the plot.

34. However, from the aforesaid interdepartmental communications we find that the respondent authorities admittedly, considered the claim of the appellants for allotment of plot of land in the Salt Lake area and ultimately found a vacant plot for the purpose of allotment in favour of the said appellants the year 1997. The said plot was, however, not allotted in favour of the appellants without assigning any reason by the competent authority.

35. In the aforesaid circumstances, we are to examine what prompted the respondent authorities to deny allotment in of entertaining the prayer of the said appellants for allotment of the plot and also locating a vacant plot for allotment in favour of the appellants.

36. Unfortunately, no reason has been disclosed by the respondent authorities before this Court explaining why after locating the aforesaid vacant plot bearing the number KB-20 in Sector-III of Bidhannagar was ultimately not allotted to the appellants at the relevant time. The reasons furnished by the Principal Secretary in the order dated 10th October, 2002 were admittedly, quashed by the order dated 29th June, 2004 passed by Soumitra Pal, J. in the writ petition being W.P. No. 340 of 2003. The subsequent order passed by the Principal Secretary on 30th September, 2004 was challenged before this Hon"ble Court by the appellants in the writ petition being W.P. No. 958 of 2005, which was finally disposed of by the judgment and order under disposed of by the judgment and order under appeal dated 24th September, 2007. In the aforesaid reasoned order dated 30th September, 2004, the Principal Secretary, Urban Development Department, Government of West Bengal assigned the reasons for rejecting the claim of the appellants for allotment of the plot of land at Salt Lake. The relevant portions from the said reasoned order are quoted hereunder:

" 24. It is absolutely clear that both these letters as referred to by the petitioner-company are purely intra-departmental exercise and further action about the project report, its viability and source of funding etc. were not at all touched even. In view of the aforesaid position no formal letter of offer of allotment was issued to the petitioner-company at any stage by the Govt.
.....

.....
.....

26. Another point is required to be dealt with here is the annexure P-1 of the writ petition. Here, the petitioner-company has drawn the attention of the advertisement in respect of the godown plots only, Here, the undersigned mentions that the godown plots are not treated as commercial/industrial plots. This is a separate category of plot. Besides, the petitioner-company could not and should not refer its application for any godown plot, which might have been made long back, for construction of its own composite centre and therefore this advertisement has no bearing with the present writ petition. Furthermore, this is a very old case and such advertisement was published in February, 1987."

37. The Principal Secretary, however, did not explain in the aforesaid reasoned order why steps were taken by the competent authority to locate a plot for allotment to the appellants for construction of company's own composite centre and ultimately, Plot No. KB-20 in Sector-III of Bidhannagar was located for allotment in favour of the said appellants, which have been specifically mentioned in the aforesaid interdepartmental communications dated 3rd June, 1997 and 19th November, 1997 respectively.

38. Scrutinizing the order under appeal, we find that the learned single Judge observed:

"5.5..... The petitioner lacked the initial ingredient for allotment viz. filing an application when an advertisement was published and this cannot be rectified by orders of Court."

39. The aforesaid observations are not based on proper appreciation of facts, which we have already mentioned hereinbefore.

40. The learned single Judge has also referred to and relied on a decision of the Hon"ble Supreme Court in the case of Tarak Singh and Another Vs. Jyoti Basu and Others, , which, in our opinion, is not at all applicable in the facts of the present case as the appellants herein have undisputedly applied for a plot of land in the Salt Lake area pursuant to an advertisement published in the daily newspaper.

41. For the aforementioned reasons, neither the reasoned order dated 30th September, 2004 passed by the Principal Secretary, Urban Development Department, Government of West Bengal nor the judgment and order under appeal passed by the learned single Judge on 24th September, 2007 can be sustained. Therefore, we quash the order dated 30th September, 2004 passed by the Principal Secretary, Urban Development Department and set aside the judgment and order passed by the learned single Judge.

42. We direct the Chief Secretary, Government of West Bengal to consider the claim of the appellants regarding allotment of plot of land in Salt Lake area particularly KB-20 in Sector-III of Bidhannagar, which was located for allotment

in favour of the appellants for construction of company's own composite centre and mentioned in the Memo dated 19th November, 1997 of the Special Engineer, Salt Lake R & D. circle without any further delay but positively within six weeks from the date of communication of this order following the same yardstick as had been applied to the other plot holders at the relevant time and also taking note of the observations made by us in this judgment. The Chief Secretary will also grant an opportunity of hearing to the representative of the appellants herein and pass a reasoned order within the time mentioned hereinabove.

43. With the aforesaid observations and directions, this appeal stands allowed.

44. In the facts and circumstances of the present case, there will be, however, no order as to costs.

Let xerox copies of this judgment duly countersigned by the Assistant Registrar of this Court be supplied to the parties herein on undertaking to apply for the certified copy of the same immediately.

Tapan Mukherjee, J.

45. I agree.