
(2017) 02 GUJ CK 0088
In the Gujarat High Court
Case No : 11047 of 2000

LP VANIA & ORS.

APPELLANT

Vs

GUJARAT INDUSTRIAL DEVELOPMENTCORPN & ORS.

RESPONDENT

Date of Decision : 16-02-2017

Acts Referred:

Citation : (2017) 02 GUJ CK 0088

Hon'ble Judges : Mohinder Pal

Bench : Single Bench

Advocate : BD KARIA, HRIDAY BUCH, MB GANDHI, TRUSHA M GANDHI

Judgement

1. The petitioners are aggrieved from inaction on the part of the respondents, vide which, respondents- Gujarat Industrial Development Corporation (hereinafter referred to as "GIDC") has failed to implement the scheme regarding disposal of land vested under it.

2. The land of survey no. 2063 of Wadhwan taluka, District Surendranagar, came to be occupied by respondent no. 1- GIDC for an industrial estate, and accordingly, industrial plots of 500 sq. yards and 1000 sq. yards were carved out. Out of the aforementioned plots, 16 plots were allotted to different persons as per the resolution of the State Government. The petitioners belonging to the weaker section of society, desirous of setting up their business, moved applications in the year 1999 for allotment of such plots, and accordingly, deposited Rs. 10,000/- each, as required under the policy. The respondents, vide their resolution, accepted the applications of the petitioners and issued communication in this regard in the month of April, 1999. Respective copies of such acceptance letters are annexed with the

petition. It seems that, thereafter, someone from the respondent - GIDC, raised up a point that area of the plots admeasuring 500 sq. yards may be too big for the petitioners, and accordingly suggested that in lieu of 500 sq. yards, the petitioners can be allotted plots admeasuring 300 sq. yards. It was also pointed

out that, as such, reduction in size will be against the original plan, the necessary approval from the Municipality in this regard be taken. It will be relevant to point out that the things did not move further, and as a result, the petitioners remain deprived of the plots applied by them. It is further the case of the petitioners that in the year 2001, the respondent - GIDC allotted some of the plots to respondent no. 3 - Trust engaged in charitable activities. It is the grievance of the petitioners that allotment of plots to the Trust was against the policy of GIDC as none of the purpose mentioned in the notification was going to be served by such allotment. Further more, respondent no. 3 could not have been allotted plots when applications moved by the petitioners for allotment of the plots for commercial purpose were pending and Rs. 10,000/- each, have been deposited by them.

3. Learned counsel for the petitioners has submitted that there was no reason for respondent-GIDC not to have allotted the

plots to the petitioners in view of the fact that the petitioners have complied with all formalities as required in the notification available at Annexure-A. According to him, some of the plots were still lying vacant but as the petitioners being persons from lower strata of the society are being deprived of allotments of plots. He has drawn attention to the earlier interim order passed by this Court in the year 2015, wherein, it has been said that "it appears that 15 years time has elapsed and the people belonging to Scheduled Castes is unequally treated in the State by the GIDC". According to him, allotment of industrial plots to respondent no. 3 - Trust and depriving the petitioners from such allotment when applications made by them prior in time were pending was nothing but violation of the own policy of the GIDC. Finally, it has been argued that the allotment made in favour of respondent no. 3 - trust be cancelled and the plots allotted to respondent no. 3 - Trust be allotted to the petitioners.

4. On the other hand, learned counsel Mr. M.B. Gandhi for the respondents-GIDC has submitted that, in fact, the petitioners needed plots having an area of 300 sq. yards. As the size of the plots available with the GIDC was 500 sq. yard and 1000 sq. yards, the same could not be allotted to the petitioners.

According to him, the GIDC has considered this matter in the office, however, no final decision could be taken and under these circumstances, the allotments could not be made to the petitioners.

5. This Court has considered the submissions made by both the sides. The GIDC has come out with the policy for allotments of plots in setting up of an industrial area in different parts of the State. One such area was carved out in Wadhwan taluka, District Surendranagar. The petitioners came out with applications which were accepted by the respondents, and accordingly, deposited the required amount of Rs. 500/- and Rs. 10,000/- each, as required in the policy. It will be relevant to note that three petitioners have applied for plots admeasuring 500 sq. yards, while one of the petitioner has applied for plot admeasuring 800 sq.

yards. It could be seen that some of the more fertile brain in the Corporation has come out with hypothetical assumption that the petitioners can be allotted plots of the size of 300 sq. yards, when none of the petitioners have applied for the same. While coming out with such idea, it was known to the respondent-GIDC that the site plans at an area of 300 sq. yards will not be approved by the Municipality as that size of the plots will be against the policy. This Court is unable to

understand that why GIDC proposed to allot the plots to the petitioners of the size of 300 sq. yards when they had moved an applications for allotments of plot of 500 sq. yards.

It could be seen that the respondent no. 3 Trust has been allotted as many as five plots in the year 2001 when applications moved by the petitioners were pending. It is brought to my notice that none of these plots have been used for setting up any industry rather this is a charitable trust providing food to the people. This is nothing but abuse of the powers by GIDC by not allotting plots to the petitioners when they have completed the formality and were eligible for allotments especially in comparison to respondent no. 3 - Trust which was not to set up any industry. This court is of the considered opinion that allotment of plots to a charitable trust in an area meant for industrial growth is meaningless and without application of mind.

6. The term "plot", has been defined in the notification at Annexure-A and section 3 sub- clause (d) reads as under:

3(d): "Plot" means any land set apart (for a factory or for a building to be used for residential accommodation or any amenity or facility necessary for securing business or development of an industrial area or estate of the

Corporation and demarcated) and numbered as plot in the lay-out plan approved by the Corporation."

Close perusal of section 3(d) shows that none of the purpose mentioned are met if the allotment is made to a charitable trust, as argued by the learned counsel for the petitioner, and on the other hand, the petitioners though belonging to the lower strata of the society were fully eligible to have been allotted the plots in the year 1999.

7. The respondents-GIDC in its reply dated 10.6.2001 has also taken up a stand that commercial plots could not be allotted to the petitioners as municipality does not approve the plans for plots less than 300 sq. yards, and looking to the requirement of the petitioners, there was no need for allotments of such big plots of 500 sq. yards and 1000 sq. yards to the petitioners. Further, it has been stated that if aforesaid hurdles regarding approval of plans by Wadhwan Municipality are removed, then there is no problem with GIDC to allot the plots to the petitioners.

As discussed earlier, three petitioners have applied for plots admeasuring 500

sq. yards, while one of the petitioner has applied for plot admeasuring 800 sq. yards. There was

no reason for GIDC to have denied the plots to the aforementioned petitioners, as plots of 500 sq. yards were available with then, and further, person asking for plot admeasuring 800 sq. yards could have been offered plot of 1000 sq. yards, or at the most, could have offered a plot having an area of 500 sq. yards. This is particularly so when the respondents-GIDC has allotted plots to respondent no. 3 - a charitable trust for religious purpose in an industrial area. By any stretch of imagination, the claim of petitioners was better than that of respondent no. 3 to whom plots have been allotted and the petitioners have been deprived of, for all the years for such allotment.

8. Since the respondent no. 3 - Trust was allotted the plots in the year 2001, it may not be proper to cancel this allotment to the Trust in this proceedings. However, it is brought to my notice that number of such plots are still lying vacant which can be allotted to the petitioners.

9. Under the circumstances, ends of justice will be met by directing the respondents-GIDC to allot the plots to the petitioners as applied by them and applications accepted by the respondents. Therefore, it is directed that the GIDC will make an offer to the

petitioners for allotments of the plots as applied by them, and agreed by GIDC in their affidavit. If the petitioners are still desirous of such allotment, plots will be allotted at the rates prevalent in 1999 when the petitioners applications were accepted and the required money was deposited by them. The entire exercise will be completed within a period of one month from the date of receipt of the copy of this order. Resultantly, this petition is allowed in aforementioned terms. This Court restrain itself to impose costs upon the GIDC as ultimately general public will have to pay for the mischief of few persons in the GIDC.

10. As the main petition has been allowed, Civil Application No. 12031/2016 stands disposed of accordingly.