

(2012) 09 KAR CK 0088

In the Karnataka High Court

Case No : Writ Petition No. 30622 of 2009 (BDA)

M/s. Anupama Education Society (r)

APPELLANT

Vs

The Commissioner, Bangalore Development Authority and
Indian Education Society

RESPONDENT

Date of Decision : 13-09-2012

Acts Referred:

Citation : (2012) 09 KAR CK 0088

Hon'ble Judges : Anand Byrareddy, J

Bench : Single Bench

Advocate : K.V. Jayachandrappa, for the Appellant; Praveen Kumar Raikote, Advocate for Respondent Nos. 1 and 2, Shri C.S. Prasanna Kumar, Advocate for M/s. Kumar and Kumar, for the Respondent

Judgement

Anand Byrareddy

1. Heard the learned counsel for the petitioner and the learned counsel for the respondents. The respondents having entered appearance, the counsel have not chosen to file Statement of objections. Hence, the petition is considered on the pleadings and the submissions made by the counsel for the petitioner. The petitioner is said to be a Society registered under the Karnataka Societies Registration Act, 1961 with the object of running educational institutions which was established in the year 1992, and is running a School at No. 40, 2nd Cross, Kirloskar Colony, Basaveshwarnagar, in a rented premises on a monthly rent of Rs. 20,000/- since the year 2007. The petitioner -Society was badly in need of a vacant site for construction of a building of its own and therefore, had made an application with the respondent - BDA on 30.04.2002. The Bangalore Development Authority is said to have notified a Civic Amenity site bearing No. 2 measuring about 832 square metres at Vinayaka House Building Co-operative Society Layout at Bhoopasandra Village, Bangalore for allotment. The petitioner - Society found the same to be suitable for its requirement of running its educational institution and had applied for the site by depositing the necessary

registration charges and an initial deposit of Rs. 99,258/- as on 12.06.2002. No allotment was made in favour of the petitioner - Society. The petitioner made a second application in respect of the site bearing No. 4/A measuring 1,752 square metres of Gnanabharathi Layout, Second Block, Nagadevanahalli, Bangalore, again paying the requisite registration charges and a deposit of Rs. 2,10,240/- as on 24.09.2003. Again, there was no allotment made in favour of the petitioner. Such applications were made again in respect of Site No. 1 measuring 1,347 square metres situated at NTI House Building Co-operative Society, Vidyaranyapura, Bangalore and again made a deposit of Rs. 1,61,725/- as on 30.03.2005 and met with the same fate. The petitioner had applied for the fourth time as on 17.01.2007, which was again not considered. The further application on 31.07.2007 by making a deposit of Rs. 6,56,000/- in respect of civic amenity site No. 2 measuring 2,624 square metres at Karnataka State "D" Group Employees" House Building Co-operative Society, Srigandadakaval, reserved for school purpose. It transpires that the third respondent had also filed an application for allotment of a suitable site and it was the claim of the third respondent that it had made four attempts in seeking such a site and it was also revealed that the third respondent had already been granted a civic amenity site No. 4/A of Gnanabharathi Layout, Second Block, Nagadevanahalli, Bangalore, measuring 1,752 square metres, in spite of which, the third respondent was seeking a second allotment. This was itself a ground to reject the application of the third respondent. However, it now transpires that there were eight applications apart from the petitioner's and the third respondent's in respect of the said site No. 2 of Gnanabharathi Layout. The first respondent by its resolution dated 20.12.2007, has cryptically allotted the site in favour of the third respondent notwithstanding that it has already been allotted a site and no reasons are indicated to eliminate the petitioner or other applicants while conferring this benefit on the third respondent notwithstanding that it already held a site in its favour, as allotted by the first respondent. It is that which is sought to be questioned in the present petition.

2. In the absence of any statement of objections filed by either of the respondents and on a plain perusal of the resolution passed by the first respondent and the several applications said to have been received in respect of the very site in question, it is evident that there is blatant discrimination insofar as the consideration of the merit of the several applications is concerned. The first respondent which is the custodian of public property in considering the allotment of land in favour of the parties such as the petitioner, would necessarily have to take into consideration the relative merit and thereafter to make such allotment in accordance with such Rules and Regulations as are applicable. It is to be seen that the petitioner has diligently made applications over the years in seeking the conferment of an appropriate site for the purpose of establishing its educational institution and no reasons are indicated as to the manner in which the first respondent has proceeded to confer a second civic amenity site in favour of the third respondent and to deprive the petitioner of the same. There is

therefore, an apparent discrimination and would necessarily have to be set at naught. Accordingly, on that short ground, the writ petition is allowed. The allotment made in favour of the third respondent is set-aside. The resolution Annexure-"J" insofar as Sl. No. 58 of the Agenda item, by which the allotment is made in favour of Respondent No. 3, stands quashed. Consequently, the Respondents 1 and 2 are directed to reconsider the merit of all the applicants who have approached for allotment of the said site in question and after considering their relative merit, an appropriate allotment to be made in favour of the most meritorious applicant, as expeditiously as possible, in any event, within a period of eight weeks if not earlier, from the date of receipt of a certified copy of this order.