

(1997) 04 RAJ CK 0031
In the Rajasthan High Court
Case No : Civil Writ Petition No. 937 of 1993

New Brightways School Samiti	Vs	APPELLANT
Rajasthan Housing Board and Others		RESPONDENT

Date of Decision : 22-04-1997

Acts Referred:

Rajasthan Housing Board Act, 1970 — Section 26

Citation : AIR 1998 Raj 183 : (1998) 1 RLW 63 : (1997) 2 WLC 527 : (1997) 1 WLN 551

Hon'ble Judges : N.L. Tibrewal, J

Bench : Single Bench

Advocate : R.P. Sharma, for the Appellant; G.C. Garg, for the Respondent

Judgement

N.L. Tibrewal, J.—The petitioner, New Bright ways School Samiti is an educational society registered under the Rajasthan Societies Registration Act, 1958. In this petition under Article 226 of the Constitution the Society is seeking direction to the respondents to allot it 5,000 square metres of land adjacent to the land already allotted to it vide allotment letter dated 30-12-89. Facts need not be discussed in detail as the learned counsel for the petitioner agrees that the order dated 17-11-92 (Annexure 7) be given effect.

2. In short, petitioner"s case is that the Society is running New Brightways School since 1978-79. Initially, there were 40 students in the school and it was recognised up to Primary standard by the State Government. Subsequently, the School was raised and recognised up to Middle standard with effect from July 1, 1996 and strength of the students also increased to the extent of 450. The Society claims to be working for the up liftment of the children coming from economically and socially backward class. The Society, for having its own School building, applied in the 1986 to the Rajasthan Housing, Board (R.H.B.) Jaipur for allotment of 6,000 sq. mts. of land and vide allotment order letter dated Dec. 30, 1989, it was allotted 1008 sq. mts. of land in Sector 9 of Mansarovar Scheme. According to the Society the space/land allotted to it does not satisfy its

requirement as presently the school was running up to Secondary standard after getting recognition from the Secondary Board of Education, Ajmer. On a subsequent application made by the Society, the R.H.B. has again allotted 2100 sq. mts. of land vide allotment letter dated 17-11-1992(Annexure 7). This land adjoins to the land which was allotted to the Society earlier in the year, 1989.

3. The grievance of the Society is that it ought to have been allotted the land measuring 6,000 sq. mts. as applied by it and by allotting land measuring 1008 and 2100 sq. mts. it has been discriminated as other institutions have been allotted 6,000 sq. mts. of land.

4. This petition was filed on 9-2-93, vide order dated 15-2-93 this Court passed an interim order restraining R.H.B. from allotting the above land measuring 2100 sq. mts. to some one else.

5. Learned Counsel for the parties were heard. During the course of arguments, learned counsel for the petitioner agreed to forgo/abandon all other claims and grievances raised by the Society in this petition and restricted his prayer that the Society be given possession of the land measuring 2100 sq. mts. allotted to it vide allotment letter No. 4929 dated 17-11-92 (Annexure 7) as the Society has paid/deposited entire price of the land on the following dates :--

(i) Vide Cheque dated 15-2- Rs. 2,10,000/- 93 deposited vide Challan dated 20-2-93. (ii) Challan dated 16-7-96 Rs. 2,00,000/- (iii) Challan dated 13-8-96 Rs. 2,00,000/- (iv) Challan dated 24-9-96 Rs. 1,00,000/- (v) Challan dated 9-10-96 Rs. 2,00,000/- (vi) Challan dated 22-10-96 Rs. 1,11,000/-
----- Total Rs.10,21,000/-

6. It is not disputed that the Society applied for 6,000 sq. mts of land and it has been allotted 1008 and 2100 sq. mts. of land vide allotment letters dated 30-12-89 and 17-11-92. The Society has deposited entire price of the land measuring 2100 sq. mts. but possession of the same has not been given to it. This land as per allotment letter dated 17-11-92 is available to be given to the Society due to stay order restraining the Housing Board from allotting the said land to some one else. The Society had filed this petition feeling that it has been discriminated in the matter of allotment of land as other institutions have been allotted 6,000 sq. mts. of land. However, the Society now agrees to forgo/abandon all its claims raised in this, petition it is just and proper that the Housing Board be directed to hand over possession of the land allotted to the Society vide allotment letter No. 4929 dated 17-11-92 after verifying that payment has been made as per details given above. The possession of the land shall be handed over to the Society within four weeks on filing a certified copy of this Order.

7. During the course of arguments, I was informed that the Housing Board has no statutory rules/regulations or administrative guidelines to regulate allotment of sites earmarked for specific purpose for example, to establish High Schools, Primary Schools or Nursery Schools etc. it has been allotting the sites at reserved price on applications made by individual private persons or institutions

even without calling applications by public notice. It hardly needs any stress, the Rajasthan Housing Board being a statutory public authority, discharges its public duty while making allotment of sites earmarked for specific purpose in exercise of its discretionary powers. In absence of statutory rules/regulations or valid guide lines, exercise of discretionary powers for making allotment of such sites to private institutions or persons would not be correct in law. Allotment of such sites without public notice is an unfair procedure as it deprive others having even a better claim for the allotment of the sites. The Housing Board does not stand on the same footings as a private individual and it cannot act at the whim or fancy of its officers or under their garb or cloak for any extraneous consideration. Its every action and activity is subject to judicial review/scrutiny and is liable to be struck down if it is found arbitrary and violative of Article 14 of the Constitution.

In *Ramana Dayaram Shetty Vs. International Airport Authority of India and Others*, it has been observed :

"If Government acting through its officers is subject to certain constitutional and public law limitations, it must follow a fortiori that Government acting through the instrumentality or agency of Corporations should equally be subject to the same limitation."

8. Hence, clear and in equivocal guidelines or rules/regulations are necessary in the matter of granting largess. In all cases relevant criterion should be pre-determined by specific rules/ regulations or administrative guidelines and the same be published for the Public, The Housing Board, therefore, is required to make necessary specific rules/regulations or valid guidelines embodying the principles of equality and fair play to exercise its discretionary powers for making allotment of the sites ear-marked for specific purposes. In order to avoid arbitrariness, favouritism or otherwise unfairness, the Housing Board is directed to frame proper rules/regulations or administrative valid guidelines or scheme for allotment of the sites and vacant land ear-marked for specific purposes to private institutions or persons and would thereafter proceed with the disposal of such sites in future. Such rules or regulations shall also be published for the public information. A copy of this order be sent to the Chairman for compliance of the directions.