

(2018) 08 RAJ CK 0142
In the Rajasthan High Court
Case No : Civil Writ No. 1566 of 2012

Pankaj Sharma @APPELLANT@Hash Senior Regional Manager, Riico And Ors.

Date of Decision : 23-08-2018

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2018) 08 RAJ CK 0142

Hon'ble Judges : SANDEEP MEHTA, J

Bench : Single Bench

Advocate : U.S.Gehlot, Tribhuwan Gupta, Lalit Vyas

Final Decision : Dismissed

Judgement

Through this writ petition under Article 226 of the Constitution of India, the petitioner Pankaj Sharma has approached this Court for seeking

cancellation of the lease agreement dated 11.8.2011 executed by the respondent RIICO in favour of the respondent No.4 and seeking a direction to

take steps for fresh allotment of the said plot as per the Rajasthan Development and Investment Disposal of Land Rules, 1979.

Facts in brief are that the respondent No.4 Shri Nitin Bolia was allotted a plot No.G221 in the RIICO Industrial Area, Kaladwas, Udaipur. A strip of

land ad-measuring about 9.50 meters in width and 50 meters in length was lying vacant adjoining the said industrial plot of Shri Bolia. He prayed for

allotment of the said strip land by filing an application dated 21.6.2011 to the respondent RIICO. After following the due process of law (recording a

satisfaction that the strip land which was falling in between the industrial plot No.G221 could not be constituted as an independent chunk of industrial

land), a decision was taken to allot the said plot to the respondent Shri Bolia vide order dated 5.7.2011. The value of the plot was assessed at

Rs.4,48,000/- which Sh.Bolia deposited. In the meantime, on gaining knowledge of the application filed by Shri Nitin Bolia for allotment of the said strip

of land, the petitioner too filed an application for allotment of the said strip of land by making a date 20.6.2011 upon it. However, admittedly, the

application bears a presentation date 30.6.2011. The application of Shri Nitin Bolia however found favour from the respondent RIICO and the

disputed strip land measuring 490 sq.meters which was abutting his land was allotted to him by the officials of the RIICO and the lease deed too

was executed in his favour. The said allotment is assailed by the petitioner in this writ petition.

Shri U.S.Gehlot learned counsel for the petitioner vehemently urges that the land in question could not have been allotted to the respondent No.4 as a

strip of land looking to its size, measurement and location and rather the allotment thereof should have been made under the RIICO Land Disposal

Rules by inviting applications from all interested parties. He vehemently submits that the application filed by the petitioner for allotment of the subject

strip of land was in prior point of time as compared to the application preferred by Shri Bolia and as such, the respondents committed a grave error in

law in ignoring the same and allotting the land in question to the respondent No.4. On these grounds, he craves acceptance of the writ petition and

urges that the allotment made to the respondent No.4 should be struck down and the plot in question be put up for allotment by open auction.

Per contra, Shri Lalit Vyas learned counsel representing the respondent RIICO and Shri Tribhuvan Gupta Advocate representing the respondent

No.4 vehemently opposed the submissions advanced by the petitioner's counsel. They urge that the petitioner has intentionally and with the

objective of playing mischief, marked the date 20.6.2011 on the application (Annex.1). They pointed out that the application was as a matter of

fact submitted on 30.6.2011 by the petitioner whereas, the respondent No.4's application was submitted on 23.6.2011. They further drew the

Court's attention to the averments made in the reply wherein it is clearly demonstrated that the total area of the plot is about 450 sq.meters with

the ratio of width to length being 1:1.5 and thus, as per them, the land in question cannot be treated viable for independent allotment. They further urge

that as the strip of land in question was abutting the industrial plot of the respondent No.4, the same was rightly allotted to him after following the due

process of law while the amnesty scheme of RIICO was in vogue. On these grounds, they crave dismissal of the writ petition.

I have given my thoughtful consideration to the arguments advanced at the Bar and have gone through the material available on record.

In the opinion of this Court, Shri Vyas learned counsel representing the respondent RIICO has duly satisfied this Court with reference to the relevant

rules and regulations that the subject strip of land ad-measuring 9.5 meters x 50 meters which was adjoining the industrial plot of the respondent No.4

Sh.Bolia could not have been offered for independent allotment looking to the width-length ratio thereof. Thus, manifestly, the only person entitled to

stake for the strip of land in question would be the immediate neighbour thereof as per the prevalent rules. It may be stated here that a RIICO

industrial discharge drain exists in between the plots Nos.G221 and G222 with the subject strip of land being on the boundary of Plot No.G221. The

competent authority of the RIICO after receiving the application of the respondent No.4, gave due consideration to the entire material available on

record including the viability and feasibility of the allotment of the said piece of land as an independent chunk of land and thereafter, recorded an

objective satisfaction that the plot could lawfully be offered as a strip of land to the respondent No.4. It is pertinent to note here that the land in

question was never set apart as a separate plot in the original scheme of the RIICO as is the undisputed case set up in the reply filed on behalf of

RIICO. Furthermore, under the amnesty scheme in vogue and even as per the petitioner's own case, the plot was offered on first come first get

basis. As the petitioner's application was received well after the application of the respondent No.4, manifestly the plot was rightly and lawfully

allotted to the respondent No.4 as per the policy of first come first serve. The impugned allotment order does not suffer from any illegality, irregularity

or perversity warranting interference therein while exercising the extraordinary writ jurisdiction of this Court.

Hence, the writ petition as well as stay application are dismissed as being devoid of merit.