

(2000) 01 AP CK 0038
In the Andhra Pradesh High Court
Case No : Writ Petition No. 33733 of 1998

Penguin Textiles, Chennai

APPELLANT

Vs

Andhra Pradesh Industrial Infrastructure Corporation and
others

RESPONDENT

Date of Decision : 28-01-2000

Acts Referred:

Andhra Pradesh Public Premises (Eviction of Un-Authorised Occupants) Act, 1968 —
Section 4(1)
Constitution of India, 1950 — Article 166, 226

Citation : (2000) 2 ALD 351 : (2000) 1 ALT 621

Hon'ble Judges : B. Sudershan Reddy, J

Bench : Single Bench

Advocate : M/s. L. Narasimha Reddy and J.V. Reddy, for the Appellant;
Additional Advocate-General and Government Pleader, for the Respondent

Judgement

1. The Government of Andhra Pradesh vide G.O. Ms. No.212, dated 14-2-1964 having considered the proposals of the Director of Industries and Commerce, allotted an extent of Ac.46.97 cents of land to the petitioner along with other industrialists in Sy.No.1 of Uppal Kancha for industrial purpose. Thereafter an agreement was entered into by the Industries Department and the petitioner herein on 11-8-1964. The agreement, inter alia reads that the Government have agreed to allot Acs.46.63 cents of land situated at Uppal Kancha, Hyderabad as per G.O. Ms. No.212, dated 14-2-1964 subject to the condition of the petitioner paying to the Government market value of the land as determined by the Government. The terms and conditions of allotment upon which the said land shall be held by the petitioner are stipulated in the agreement. One of the conditions relates to the utilisation of the land in question by the petitioner for the purpose of putting up a factory or factories, housing colonies for staff and workers or any other such building as may be required in connection therewith and for the purpose of expanded activities of the company and for no other purpose. It is further provided that the petitioner company will within two years

of being put up in possession of the said land, erect and lay out such buildings factories as aforesaid and will maintain the same at its own expenses; that if the land is no longer required by the company for the aforesaid purposes then the company shall forthwith relinquish and restore the same in favour of the Government and the compensation paid by the company for the land, less 15% solatium shall be refunded to the company. The agreement in clear terms provides that if the company commits breach of any of the covenants herein contained in the agreement, it shall be lawful for the Government to re-enter upon the said land and take possession thereof and also of any buildings standing thereon, and thereupon the transfer made in favour of the company shall become null and of no effect.

2. It is an admitted fact that the petitioner-company was handed over possession of the land admeasuring Ac.46.87 cents by the Director of Industries and Commerce on 28-5-1963, itself. However, it was found that the actual area of the land as 46.63 acres only.

3. It appears that the petitioner failed to utilise the entire land allotted to it for the industrial purpose. There was a proposal as early as in the year 1967 to resume initially more than eleven acres out of Ac.46.87 allotted to the petitioner. However, pursuant to the representation dated 25-7-1967 made by the petitioner-company the Government appears to have decided to revise the extent of land to Ac.35.00 from Ac.46.63. There is no dispute that the land cost was fixed at Rs. 1,200.00 (Rs. One thousand and two hundred only) per acre and development charges at Rs.2,500.00 (Rs.Two thousand and five hundred only) per acre. However, the petitioner has paid amount towards land cost with much delay and after repeated requests made by the Government. The petitioner, in all, paid a sum of Rs.27,978.00 on 31-1-1970 and Rs.27,978.00 on 19-12-1970 to the Government.

4. The Government of Andhra Pradesh as a policy measure directed vide G.O. Ms. No. 11 62, Industries and Commerce daied 14-12-1973 to transfer all the industrial estates and the industrial development areas mentioned in the annexure appended to that order to the Andhra Pradesh Industrial Infrastructure Corporation Limited (for short "APIIC"), Hyderabad, the first respondent herein, with effect from 1-1-1974. Uppal Industrial area is one of the said areas transferred to APIIC. Thus, the APIIC has stepped into the shoes of the Andhra Pradesh State Government and thus entitled to deal with and enforce the terms and conditions of the agreements, cancellation and resumption of land allotted to various companies. In fact, it is interesting to notice that the petitioner company a sum of Rs.1,16,575.00 to the respondent-Corporation on 14-7-1986 towards a part of the tend cost. The said amount was received by the respondent-Corporation from the petitioner vide letter dated 10-9-1986 without prejudice to various outstanding issues to be settled between the respondent-Corporation and the petitioner. However, according to the respondent-Corporation, the petitioner is still in dues of land cost. May be so.

5. It is the case of the respondent-Corporation that the petitioner failed to utilise the entire land except an extent of two acres and kept the balance of 44.87 acres land idle for over thirty years period without utilising the same for industrial purpose.

6. Admittedly, whatever industrial unit established by the petitioner, it has become sick since ten years. According to the respondent-Corporation, the petitioner is not a bona fide entrepreneur as it failed to utilise the land allotted to it for the industrial purpose. According to the petitioner-company, it has approached the State Government, as well as the first respondent for issuance of necessary orders as to the execution of sale deeds in its favour. The petitioner complains that inspite of complying with all the conditions stipulated in the agreement the sale deeds were not executed by the respondent-Corporation. However, it is on record that the respondent-Corporation on 10-9-1986 informed the petitioner-company that no right was accrued to it by virtue of G.O. Ms. No.212, dated 14-2-1964 for demanding registration of the sale deeds and several issues were outstanding requiring resolution. The petitioner vide letter dated 11-11-1986 informed the respondent-Corporation that no issues were outstanding. The petitioner again through its letter dated 12-3-1987 demanded the respondent-Corporation for execution of the sale deed. The respondent-Corporation failed to comply with the request of the petitioner and no sale deeds were executed. The petitioner-company filed WP No.4825 of 1987 seeking appropriate directions, directing the respondent-Corporation to execute sale deeds in its favour. The petitioner virtually prayed for granting of a decree in the nature of specific performance of agreement of sale. The respondent-Corporation opposed the writ petition inter alia, contending that the petitioner-company failed to utilise the entire land allotted to it and it remained as a sick unit for several years and has not taken steps for reviving the so called unit established by the petitioner-company. M.N. Rao, J., (as his Lordship then was) however, partly allowed the writ petition "directing the respondent-Corporation to execute the sale deed in favour of the petitioner for an extent of Ac.26.48 cents only, within four weeks..... It is open to the petitioner to make a representation to respondents 1 and 2 as regards any extra land it requires. On such representation being made, respondents 1 and 2 shall consider all the circumstances placed before them by the petitioner-unit and take an appropriate decision within four months from the date of such representation."

7. The said writ petition was allowed mainly on the ground that the Director of Industries informed the Managing Director of the respondent-Corporation vide its letter dated 10-4-1980 for allotment of an extent of Ac.26.48 land to the petitioner unit. Suffice it to notice that this Court has not gone into the question as to whether the petitioner utilised the entire extent of land or failed to do so, as contended by the respondent-Corporation. However, this Court thought it fit to issue a writ of mandamus directing the respondents to execute the sale deed for an extent of Ac.26.48 cents only in favour of the petitioner.

8. The respondent-Corporation promptly filed Writ Appeal No. 1729 of 1988 and a Division Bench of this Court by an order dated 23-11-1988 granted interim suspension of the operation of the order dated 2-9-1988 made in Writ Petition No.4825 of 1987. The said order remained in force till the disposal of the Writ Appeal No.1729 of 1988 on 5-12-1996. The petitioner also preferred cross-objections claiming relief for execution of the sale deeds in its favour for the remaining extent of land also.

9. One R. Narayan Chettiar, the Managing Director of the company filed an affidavit in the writ appeal on 4-12-1996, in which, it is, inter alia, stated that "the petitioner-company received a letter dated 17-11-1994 of the Government addressed to the second respondent-Corporation stating that the Corporation has no locus standi in the matter of granting assignment or issuance of patta to the lands and that it is only the Revenue Department that is competent to do so, I am herewith annexing the xerox copy of the said letter in view of the above stand of the Government, the cause of action for the writ petition does not survive and the petitioner was advised to withdraw the writ petition".

10. A Division Bench of this Court by order dated 5-12-1996 dismissed the writ appeal and the cross-objections as infructuous and observed:

"The writ petitioner has filed an affidavit seeking permission of the Court to withdraw the writ petition. Permission is granted, The affidavit as well as the letter dated 17-11-1994 written by the Chief Secretary, Industries and Commerce Department to the petitioner and another respondent which became the basis for filing an affidavit seeking withdrawal are taken on record and ordered to be part of this order. In view of withdrawal of the writ petition, the writ appeal and cross-objections have become infructuous.

Accordingly, the writ appeal and the cross-objections are dismissed as infructuous. No costs."

11. Thus the writ petition filed by the petitioner and the writ appeal filed by the respondent-Corporation together with the cross-objections were all dismissed.

12. Thereafter, the first respondent-Corporation through letter dated 10-8-1998 informed the petitioner-company rejecting its request for execution of sale deeds. That was in response to the letters purported to have been addressed by the petitioner-company on 8-7-1998; 21-7-1998 and 6-8-1998 requesting the Corporation to execute the sale deeds in its favour. The petitioner, however, in his reply dated 5-10-1998 denied of having written any such letters to the Corporation for execution of sale deeds in its favour. In the said letter, the petitioner-company placed heavy reliance upon the letter of the Special Chief Secretary to the Government, addressed to the Managing Director, based upon which the petitioner-company had withdrawn its writ petition. The petitioner contended that, in view of the letter of the Special Chief Secretary, and the orders of this Court dated 5-12-1996 passed in Writ Appeal No. 1729 of 1988, the respondent-Corporation has no further say in the matter.

13. While, the matter stood thus, the respondent-Corporation issued show-cause notice dated 19-8-1998 requiring the petitioner to show-cause as to why the allotment of land made in its favour should not be cancelled and possession of the land should not be resumed in exercise of its rights to re-enter, referred to under the agreement, itself, within fifteen days from the date of receipt of the notice. In the show-cause notice, itself, it is, inter alia, stated that the petitioner-company has utilised only ten acres with a built up area of only 2.43 acres by leaving the balance extent as vacant and idle for the last thirty four years, in violation of the terms and conditions of the agreement entered into. Several notices were served upon the petitioner-company for non-fulfilling the terms and conditions of the agreement, more particularly non utilisation of the entire land by the company. In the show-cause notice, the respondent-Corporation also referred to Writ Petition No.4825 of 1987 filed by the petitioner and the Writ Appeal No.1729 of 1988 filed by the respondent-Corporation and about their dismissal by this Court by an order dated 5-12-1996. The respondent-Corporation once again referred to the letters purported to have been written by the petitioner-company on 6-7-1998, 8-7-1998 and 21-7-1998 for execution of the sale deeds for the total extent of Ac.46.63 cents and also the respondent-Corporation's decision vide letter dated 10-8-1998 rejecting the request of the petitioner-company for execution of the sale deeds.

14. The petitioner submitted a representation on 5-10-1998 requesting the Corporation to withdraw the show-cause notice once again contending that the Corporation has no "locus standi" in the matter in view of the said letter of the Special Chief Secretary to Government. The petitioner-company pointed out that the writ petition filed by the petitioner-company was withdrawn in the light of the said letter of the Special Chief Secretary. It is the case of the petitioner-company that the respondent-Corporation, as well as the Government are bound by the said letter dated 17-11-1994 as neither the respondent-Corporation nor the Government raised any objection whatsoever before the Court when an affidavit was filed by the petitioner seeking permission of the Court to withdraw the writ petition (Writ Petition No.4825 of 1987) in the light of the said letter.

15. The second respondent herein issued final show-cause notice dated 16-9-1998 stating that it had not received any reply from the petitioner, even though the time stipulated for furnishing the explanation was lapsed and the petitioner-company was finally requested to furnish valid reasons within seven days from the date of receipt of the said notice. In continuation of the same, the respondent- Corporation through its letter dated 30-9-1998 provided an opportunity of personal hearing to the petitioner in the matter to explain its case, in person, or through an authorised agent and accordingly the petitioner-company was requested to avail the personal hearing and explain its case on 14-10-1998 at 3.00 p.m., in the office of the Zonal Manager of the Corporation.

16. The petitioner-company having acknowledged the letter dated 30-9-1998 submitted its reply on 7-10-1998 requesting the respondent-Corporation, to refer

to its earlier dated 5-10-1998, wherein it has been stated that the respondent-Corporation is not empowered to deal with the matter. The petitioner-company in the said representation reiterated its stand questioning the very authority of the Corporation to deal with the subject matter in whatsoever manner. The petitioner requested the respondent-Corporation not to take any further action on the ground that any such further action would be in violation of the orders passed by this Court. The respondent-Corporation having considered the explanation of the petitioner-company passed order dated 20-10-1998 cancelling the allotment of an extent of Ac.36.87 cents, leaving an extent of Ac. 10.00 with the petitioner-company for industrial use, on the ground that the petitioner-company violated the conditions of the sale agreement. The respondent-Corporation accordingly ordered the petitioner-company to surrender an extent of Ac.36.87 cents to the Corporation.

17. This was followed by a show-cause notice dated 22-10-1998 issued by the Estate Officer of the respondent-Corporation under sub-section (1) of Section 4 of A.P. Public Premises (Eviction of Unauthorised Occupants) Act, 1968, to which the petitioner-company submitted its reply on 24-10-1998 requesting the Estate Officer to withdraw the show-cause notice, for the very same reason, as the one stated in reply to the earlier show-cause notice issued by the respondent-Corporation proposing to resume the land. The Estate Officer having considered the explanation submitted to the show-cause notice, passed final orders on 9-11-1998, directing the petitioner herein to vacate the land admeasuring 36.87 acres from out of Ac.46.87 acres situated at IDA, Uppal within thirty days from the date of publication of the order.

18. The petitioner-company challenges both the orders i.e., order dated 20-10-1998 issued by the second respondent and the order dated 9-11-1998 issued by the third respondent.

19. Sri L. Narasimha Reddy, learned Counsel for the petitioner submits that in view of the said letter dated 17-11-1994, the first respondent-Corporation has no authority in law to interfere in the matter in whatsoever manner. The show-cause notice and the consequential order dated 20-10-1998 passed by the second respondent herein are not in accordance with law. Learned Counsel further submits that, but for the said letter clarifying the legal position and the authority of the APIIC, the petitioner may not have withdrawn the writ petition even after obtaining relief from this Court to a very large extent. The learned Counsel alternatively submits that the respondent-Corporation is bound to consider the request of the petitioner for retention of the land in the light of its own policy decision dated 22-8-1994, contained in letter No.20/IH/MLI/ OU/APIIC. It is urged that the petitioner is also entitled for the similar benefit as to the one given by the Corporation to other allottees under the said policy of the Corporation.

20. Sri D. Prakash Reddy, learned Additional Advocate-General, appearing for the respondent-Corporation contends that the petitioner is not entitled for any relief

whatsoever from this Court. The writ petition filed by the petitioner-company is totally misconceived. The petitioner-company at all points of time had misled not only the authorities, but also the Court. The so called letter dated 17-11-1994 of the Special Chief Secretary to Government does not confer any right whatsoever upon the petitioner-company. It is highly doubtful as to whether the Special Chief Secretary to the Government of Andhra Pradesh has written any such letter. The records of the Corporation do not contain any such letter. The letter is the result of fraud practised and perpetrated by the petitioner. This Court in exercise of its jurisdiction under Article 226 of the Constitution of India may not grant equitable relief to the petitioner. It is also urged by the learned Additional Advocate-General that the impugned proceedings do not suffer from any legal or factual infirmities. The authority concerned has taken every conceivable aspect of the matter into account and after careful consideration of the explanation submitted by the petitioner, came to the right conclusion to cancel the allotment. Learned Additional Advocate-General submits that the public interest is the paramount consideration in all disputes of this nature.

21. I have given my anxious consideration to the rival submissions made by the learned Counsel appearing on either side.

22. The sheet anchor of the case of the petitioner is the letter dated 17-11-1994 purported to have been written by the Special Chief Secretary to the Government of Andhra Pradesh (for short "the said letter"). The whole edifice of the case is built upon the said letter. It is the Magna Carta for the petitioner, if not VEDA. Since the whole case revolves around the said letter, the same may be noticed.

Dear Sri Bir Singh Parasheera,

Sub :--Penguin Textiles Ltd., Hyderabad -- Issue of Patta Certificate -- Regarding.

Apropos my tele-talk with you, regarding the registration of the land belonging to the above unit, I am to state that legally speaking, neither APIIC nor even the IG of Registration and Stamps has any "locus standi" in the matter. The land was assigned at market value by a Government order in 1963, and subsequently implemented by the Director of Industries in 1964, many years before even the APIIC came into being. The Unit is reported to have been paying both property tax and non-agricultural assessment since then, and has been in valid continual possession and ownership for more than thirty years, and only the Revenue Authorities are authorised to give the company the title or patta. I am told, the APIIC is unauthorised by getting similar units elsewhere registered, and if so, such actions are mala fide. I request you to report to the Government in the matter in detail - case wise.

23. The questions with regard to the validity of the said letter that may arise for consideration are:

1. Whether the Special Chief Secretary to Government-cum-Principal Secretary -

to Government, Industries Department had written any such letter at all and if so whether such a letter would confer any right whatsoever upon the petitioner ?

2. What is the validity of such a letter, if at all, written by the Officer concerned; and

3. Can this Court in exercise of its jurisdiction under Article 226 of the Constitution of India issue any writ to enforce such letters.

24. The letter is dated 17-11-1994. It remained within the exclusive knowledge of the petitioner. The letter had not seen the light of the day until a mention was made about it in the affidavit filed by the petitioner in Writ Appeal No.1729 of 1988 on 4-12-1996. No doubt in the said affidavit, it is stated as if a xerox copy of the same was filed along with the affidavit. Perusal of the records in the writ appeal does not disclose filing of such a xerox copy. The said letter does not contain any file number. The respondent-Corporation in its counter-affidavit, in categorical terms, states that it had not received any such letter whatsoever from the Special Chief Secretary to Government. This Court suo motu impleaded the Principal Secretary to Government and the Commissioner for Industrial Promotion, Industries and Commerce Department, as a party respondent to this writ petition. In the counter-affidavit filed by the Principal Secretary to Government, it is stated in categorical terms that the records in the concerned section were got verified to trace out the letter dated 17-11-1994. No such letter was issued from the official records of the Government in Industries Department. The letter in question does not bear any file number and it was found that no file was opened on the subject. Search was made pursuant to the request made by the Chairman and Managing Director of APIIC through DO letter dated 16-11-1998 requesting the Government to clarify about the letter dated 17-11-1994 issued by Dr. K Chandra Mouli, IAS, the-then Special Chief Secretary to Government of A.P., Industries and Commerce Department in regard to M/s. Penguin Textiles Ltd., Hyderabad. It is further stated that it has to be construed that the said official may have addressed the letter in his "personal capacity and does not confer any directions of the State Government".

25. It is further stated in the counter-affidavit that the petitioner herein did not bring to the notice of the Government, at any point of time, about the letter dated 17-11-1994 and, therefore, the Government could not initiate necessary action in the matter. The matter came to the notice of the Government when the Chairman and Managing Director of API 1C requested the Government to clarify whether such a letter was issued by the-then Additional Special Secretary to Government and also to verify whether the company has made any such request to the Government in response to the letter in question. In the counter-affidavit, it is stated that all the records were verified and the records do not reveal that the petitioner has made any representation which warranted issuance of the letter dated 17-11-1994 by the then official. It is not as if, the petitioner has approached the Government requesting for issuance of instructions to the Revenue Authorities for granting mutation/patta in its favour and the same has

necessitated for addressing such a letter to the Corporation.

26. It is thus clear that the letter purported to have been written by the Additional Chief Secretary to Government has not yet seen the light of the day; but, the copies of the said letter are in circulation. Even a xerox copy of the said letter was not made available for the perusal of the Court, when the writ appeal was disposed of. It is difficult to accept that the petitioner having received a copy of the said letter, in the year 1994, kept the same to itself, till 4-12-1996, when a mention is made about the said letter in the affidavit filed in Writ Appeal No.1729 of 1988. It does not even require any discerning eye to conclude that the Special Chief Secretary in all probability may not have written such a letter. Undoubtedly, the said letter is created by the petitioner for its own benefit. It is entirely a different matter altogether that the petitioner is caught in its own web.

27. Now, let us assume that the Additional Chief Secretary has written such a letter to the Managing Director of the respondent-Corporation. The immediate question that would arise for consideration is as to the validity of the said letter. The Government of Andhra Pradesh in its counter-affidavit, in categorical terms, stated that there is no dispute whatsoever that the Government of Andhra Pradesh have transferred all the industrial areas formerly belonging to and vested with the Government in favour of APIIC vide G.O. Ms. No.I 162, Industries Department dated 4-12-1973. For all the purposes the Corporation has been dealing with the industrial areas with effect from 1-1-1974 enforcing the terms and conditions of allotment, collecting the cost of plots/sheds, execution of agreements and sale deeds in favour of the allottees in respect of the industrial areas so transferred to the Corporation by the Government. The Corporation is the successor body of the Government. The orders issued by the State Government as a policy measure remains in force even as on today. In such circumstances, the then Special Chief Secretary to Government cannot act contrary to the declared policy of the Government. In fact, the Government could not have interfered in the matter at all. The said letter, if at all written by the then official, does not reflect any Governmental decision.

28. It may not be necessary to reiterate the distinction between the Government and its individual officers. The conduct of the Governmental business is regulated by the Constitutional provisions and the same is required to be carried on in accordance with the provisions of the Constitution. All executive action of the Government of a State, according to Article 166 of the Constitution of India, shall be expressed to be taken in the name of the Governor. Orders and other instruments made and executed in the name of the Governor shall be authenticated in such manner, as may be specified in Rules to be made by the Governor.

29. The earlier decision of the Government of Andhra Pradesh transferring all the industrial areas and the industrial estates to the APIIC with effect from 1-1-1974 vide G.O. Ms. No.I 162, Industries and Commerce Department, dated 4-12-1973 has been issued "By order and in the name of the Governor of Andhra Pradesh".

An individual officer, howsoever highly placed, cannot tinker and interfere with such Governmental decisions. The said letter, if at all written by the then official is not even worth of a scrap of paper. Such whimsical and fanciful decisions, if taken are of no consequence. Conferment of any credibility and legitimacy upon such letters would be destructive of the Rule of law. The said letter upon which heavy reliance is placed by the petitioner runs counter to the policy decision of the Government transferring industrial areas and industrial estates to the respondent-Corporation and making it the successor of the Government. It is rather shocking and surprising to notice that a highly placed official of the rank of the Additional Special Chief Secretary to Government could have indulged in such an act of fanciful letter writing virtually denuding the Corporation of its legitimate right to deal with the industrial areas and estates. Such programmed or accidental letters may adversely affect the public interest.

30. The action on the part of the then official is not only beyond the authority, but was obviously with an ulterior motive; and in the circumstances, the APIIC is not bound by the said act and deed of the then official. The State and its instrumentalities cannot be held bound by such actions of its officials acting beyond their authority, indeed, acting adverse to the interest of the Organisations intentionally. The said letter seeks to privatise the public properties. The instance should provoke and may act as a catalyst calling for a deep introspection by the Champions and protagonists of mindless privatisation of even resources.

31. The policy decisions of the executive of the State and its orders cannot be interfered with by individual officials howsoever highly they may be placed. Firmans of these Neo Moghuls have no place in a Sovereign Socialist Democratic Republic. The rule of law is not a toy in the hands of those who are temporarily entrusted with the duty of discharging public law functions.

32. Can this Court act upon such a letter and make it a basis for issuing a writ of mandamus, as prayed for by the petitioner ? Certainly not. It is well settled that a writ of mandamus is not a writ of course or a writ of right; but is, as a rule, discretionary. This Court will only enforce the performance of statutory duties by public bodies on an application of a person who can show that he is, himself, has a legal right to insist on such performance. There must be a judicially enforceable right for the enforcement of which a mandamus will lie. Therefore, the said letter which has no basis whatsoever in law and the origin of which, itself is doubtful cannot form basis for issuance of a writ of mandamus, as prayed for by the petitioner.

33. However, the learned Counsel for the petitioner would urge that it is not open to the respondent-Corporation to raise any objection whatsoever about the validity of the said letter dated 17-11-1994 and it is estopped from doing so in these proceedings, as no objection whatsoever, about the said letter has been raised by it when the petitioner proposed to withdraw the writ petition (WP No.4825 of 1988) by filing an affidavit in the writ appeal (WA No.1729 of 1988)

preferred by the respondent-Corporation. According to the petitioner, the Corporation neither can question the genuineness nor the validity of the said letter. The Court had already noticed that the petitioner had not made available even a copy of the letter to this Court along with the affidavit seeking permission to withdraw Writ Petition No.4825 of 1988. A copy of the letter was not made available for perusal by this Court, muchless was it served upon the learned advocates appearing on behalf of the Corporation and the Government. The said letter was not put in issue. There Was no occasion whatsoever for the Corporation either to dispute or accept the genuineness and validity of the said letter. The facts speak for themselves. Neither the Corporation nor the Government is bound by such letters. They are entitled to question, at all times and at any point of time, as and when any reliance is sought to be placed upon the said letter by any person or authority. The Corporation is entitled to ignore such letter without questioning it. The principle of estoppel has no application in such a situation. At any rate, this Court merely permitted the petitioner to withdraw its writ petition and accordingly dismissed the same. The observations of this Court making the said letter as part of the record, as well as the order, may have to be appreciated in this background. It cannot be said that this Court upheld and expressed any opinion whatsoever with regard to the said letter. Added to that, it may be relevant to notice that even after dismissal of the writ appeal on 5-12-1996 the petitioner addressed letters to the respondent-Corporation on various occasions, as is evident from the record, requesting the Corporation to execute sale deeds in its favour. The plea now taken by the petitioner that one Bhagawanlu addressed such letters without the consent and permission of the petitioner-company cannot be accepted. The letters were written on the letter-head of the petitioner-company. It is not as if said Bhagawanlu set up any adverse claim against the petitioner-company, as he was pleading on behalf of the company. The said Bhagawanlu has even addressed the District Collector, Ranga Reddy District on 22-10-1998 in his capacity, as a Director of the company, requesting the District Collector to make necessary mutation of entries in the revenue records.

34. It is urged that even in the impugned order passed by the respondent-Corporation, the genuineness of the letter dated 17-11-1994 is not doubted. It is required to notice that the said letter was not before the authorities concerned as on the date of passing of the impugned order. The respondent-Corporation might have the knowledge of the order passed by this Court dismissing the writ appeal, as well as the writ petition as infructuous based on the affidavit filed by the petitioner-company, but the Corporation cannot be credited with any knowledge of the details and contents of the said letter. It is required to notice that even the petitioner has not made available a copy of the said letter for the perusal of the Corporation, along with its explanations fded on 5-10-1998 and 7-10-1998. Under those circumstances, the Corporation cannot be estopped from challenging the genuineness and validity of the said letter.

35. During the course of hearing of the writ petition, it is brought to the notice of

the Court that the author of the said letter is no more in public service, and but for that fact, the Court, perhaps would have called for a detailed inquiry into the matter. The circumstances do not warrant any further probe into the matter.

36. The further question that arises for consideration is as to whether the impugned order dated 20-10-1998 passed by the second respondent suffers from any non-application of mind. The Zonal Manager, the second respondent herein, has taken into consideration every conceivable aspect of the matter, including the contentions raised in the replies submitted by the petitioner-company to the show-cause notice. After all what is the reply submitted by the petitioner ? Nothing but placing reliance upon the very letter dated 17-11-1994 of the Special Chief Secretary to the Government, about which I have said enough. The Zonal Manager came to the right conclusion that the petitioner-company has committed breach of the conditions of the sale agreement dated 18-II-1964 by not utilising the entire area allotted to it for the purpose for which it was allotted to it, within the stipulated period or even till date. The Zonal Manager, based on the record rightly came to the conclusion that ample opportunities were given to the petitioner-company to utilise the entire extent of land allotted to it; but the company failed to utilise the same, except an extent of 2.43 acres of land, with a built up area of 2.43 acres and has failed to utilise the balance extent of Ac.36.87 cents in violation of the terms and conditions of the sale agreement. The findings and conclusions reached by the Zonal Manager of the Corporation are based upon the material available on record. The said conclusions do not suffer from any perversity. The conclusions cannot be said to be vitiated by any error apparent on the face of the record. It is pertinent to notice that even in the affidavit filed in support of the present writ petition, it is not stated that the petitioner has utilised the entire extent of land for the purpose for which it was allotted. However, in the affidavit filed in support of the instant writ petition it is stated that expansion proposals could not be materialised on account of the refusal of the financial institutions to advance loans to the petitioner-company due to lack of sale deeds, as well as patta of the land. Therefore, it cannot be said that the petitioner utilised the entire extent of land in terms of the allotment and the sale agreement.

37. It is well settled that this Court does not exercise any appellate jurisdiction over the Corporations or administrative bodies. This Court is concerned with the decision making process and not with the decision, itself. The decision making process, in the instant case, cannot be said to be vitiated for any reason whatsoever. It is not possible for this Court to substitute its own findings, for the findings arrived at by the respondent-Corporation. Even otherwise there is no material available on record for taking any different view in the matter, other than the one taken by the Corporation.

Principles of Natural Justice:

38. The respondent-Corporation has afforded an opportunity of personal hearing to the petitioner-company, though it is not bound to provide such an opportunity.

The petitioner failed to utilize the said opportunity provided by the respondent-Corporation. The petitioner never appeared either in person or through an authorised Agent to represent its case before the respondent-Corporation, Therefore, the question of violation of principles of natural justice does not arise.

39. For the aforesaid reasons I hold that the second respondent has not committed any illegality whatsoever in passing the impugned order. The impugned order does not suffer from any irrationality or arbitrariness. In fact, the principles of fairness to an administrative action developed in the field of administrative law have no application to the disputes arising in the realm of private law. Here is a case, where the terms and conditions between the parties are regulated by a sale agreement. One of the parties to the sale agreement invoked the conditions of the sale agreement to determine the sale agreement. Such a determination cannot be decided on the touchstone of the principles of Administrative or Constitutional law. However, to avoid further controversy in the matter, I have examined the decision making process and hold that the impugned proceedings do not suffer from any legal infirmity. The proceedings do not suffer from any irrationality or arbitrariness.

40. Learned Counsel for the petitioner, however, submits that the respondent-Corporation vide its letter dated 22-8-1994 addressed to the Secretary, Industrial Estate Manufacturing Association, Industrial Estate, Uppal, communicated certain guidelines subject to which sale-deeds could be executed by the Corporation. Those guidelines are referred to in the affidavit filed in support of the instant writ petition and they are:

(i) Though 1/6th of the built up area is not there, the sale deed will be registered irrespective of the extent of land allotted to the company once the allottee establish their industry;

(ii) Though the unit has become sick after going into production the sale deed will be registered. For this they have to furnish the documentary evidence of having gone into production i.e., permanent SSI/DGTD licence and power release certificate and date of disconnection, if it is disconnected.

(iii) If the industry is financed by any Nationalised Bank/APSFC the sale deed will be registered even without implementation of your industry in the shed/plot.

(iv) However, there should not be any arrears of land cost/maintenance charges/ water charges as on the date of filing application/documents for registration.

41. It is submitted by the learned Counsel for the petitioner, that the petitioner-unit is also entitled for the benefit of these guidelines and it's case squarely falls within the purview of those guidelines. There are two aspects of the matter. The petitioner never requested the respondent-Corporation to examine its case in the light of these guide lines dated 22-8-1994. For the first time such a plea is taken in this affidavit filed in support of the present writ petition. It is not known as to under what circumstances such a letter has been addressed by the office of the

Zonal Manager to the Secretary of the Industrial Estate Manufacturing Association, Industrial Estate, Uppal. The said letter cannot be said to be in the nature of a policy decision as such. Even otherwise, I find it difficult to accept the petitioner's case would fall within the ambit of those guidelines. In the guidelines, it is, inter alia, stated that though 1/6th of the built up area is not there the sale deed will be registered irrespective of the extent of land allotted to the company, once allottee establish their industry. The whole burden of the song of the respondent-Corporation in the instant writ petition is that the petitioner failed to utilise the land allotted to it for the industrial purpose. It is alleged that the petitioner has not established industry covering and utilising the entire extent of land for which it has been allotted.

42. It is not as if the petitioner ever made any application requesting the respondent-Corporation to give the benefit of the guidelines dated 22-8-1994. On the other hand, the petitioner went on challenging the authority of the Corporation in the matter. In the counter affidavit filed by the respondent-Corporation, it is explained that the, said Circular dated 22-8-1994 does not apply to the case of the petitioner, since the petitioner was allotted land at a subsidised price. It is pointed out that the Assistant director of Survey and Land Records, Ranga Reddy district in his letter dated 10-10-1998 informed the District Collector, Ranga Reddy District about the demarcation of the very land to an extent of Ac.46.87 cents as per the individual possession of the petitioner and it is found that Acs.38.16 acres of land is lying open out of the land allotted to the petitioner. In such view of the matter, I am of the opinion that the petitioner is not entitled for any benefit even under those so called guidelines. Even otherwise, such letters do not confer any enforceable legal right upon the allottees. At any rate, such a letter has never been addressed to the petitioner, nor the petitioner made any attempt to avail the remedy under the said guidelines. Therefore, no relief could be granted to the petitioner even on that count.

43. It is lastly urged by the learned Counsel for the petitioner that the petitioner is entitled, to retain, at least, 26.46 acres of land in terms of the directions of this Court, in WP No.4825 of 1987 dated 2-9-1988. Like all other contentions, this contention is also untenable and unsustainable. Be that as it may, it may be noticed that there is no finding or decision by this Court in respect of actual area alleged to have been utilised by the petitioner. On the other hand, it is observed, "it is not possible to decide how much land is actually required by the petitioner in the event of the industry being expanded." No doubt a Commissioner was appointed by this Court. But there is no reference whatsoever about the report submitted by the Commissioner. The petitioner having withdrawn the writ petition cannot place any reliance upon the judgment, which is not in operation. Even otherwise, there is no finding or decision by this Court about the actual area which is alleged to have been utilised by the petitioner. This Court directed the respondent-Corporation to execute the necessary sale deeds solely basing upon the letter purported to have been written by the Director of Industries to

the Managing Director of the Corporation dated 10-4-1980 that an extent of Ac.26.48 may be allotted to the petitioner-Unit. Thus there is nothing on record to show that the petitioner, had, in fact, utilised the Ac.26.48 cents of land as alleged.

44. However, there is a categorical finding recorded by the authority that the petitioner in all utilised only an extent of 26.48 acres of land out of Ac.46.87 cents and the same is allowed to be retained by the petitioner. The petitioner cannot expect anything better than that.

45. The notice dated 22-10-1998 purported to have been issued under subsection (I) of Section 4 of A.P. Public Premises (Eviction of Unauthorised Occupants) Act, 1968, culminating in the final order dated 9-11-1998 passed by the third respondent is consequential in nature. The petitioner-company, obviously, would not have any right whatsoever to remain in the land, once this Court comes to the conclusion to uphold the order passed by the third respondent cancelling the allotment and the sale agreement. Therefore, I hold that the consequential order directing the petitioner to vacate the land in question does not suffer from any illegality or error apparent on the face of the record.

46. The facts in the instant case and the desperate attempts made by the petitioner to retain the land in question speak for themselves. The facts are tell tale.

47. The jurisdiction of this Court to issue appropriate writ in exercise of its jurisdiction under Article 226 of the Constitution of India is discretionary. Mere irregularity, if any, committed by an authority need not be corrected by this Court. Not that in this case, the respondents have committed any irregularity. Issuance of writs in exercise of the jurisdiction under Article 226 of the Constitution of India is not a matter of course. The parties invoking the jurisdiction of this Court are required to establish that impugned action has resulted in infringement of a judicially enforceable right.

48. As observed by the Supreme Court, a Court of equity, when exercising its equitable jurisdiction under Article 226 of the Constitution of India must so act as to prevent perpetration of legal fraud and the Courts are obliged to do justice by promotion of good faith, as far as it lies within their power. Equity is always known to defend the law from crafty evasions and new subtleties invented to evade law. (See; Andhra Pradesh State Financial Corporation Vs. M/s. GAR Re-Rolling Mills and another, .

49. Having regard to the facts and circumstances of the case, the conduct of the petitioner-company, I am not inclined to grant any relief to the petitioner-company, nor the impugned orders passed by the respondents suffer from any legal or factual infirmities requiring this Court's interference under Article 226 of the Constitution of India.

50. For all the aforesaid reasons, the writ petition fails and the same shall accordingly stand dismissed with costs quantified at Rs.5,000.00 (Rs.Five thousand only).

51. Learned Counsel for the petitioner-company after pronouncing the order requests that the respondents may be directed not to take coercive steps for evicting the petitioner at least for some time. In the circumstances, the respondents shall not take any coercive steps for a period of four weeks from today.