
(2007) 09 AHC CK 0029
In the Allahabad High Court

Public Sector Employees Cooperative Housing Society Ltd.
(Saravjanik Khestra Sahkari Aavaas Samiti Ltd.)

APPELLANT

Vs

State of U.P. Principal Secretary (Industries) and Greater
Noida Industrial Development Authority

RESPONDENT

Date of Decision : 18-09-2007

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 79
Constitution of India, 1950 — Article 12, 131, 285, 309, 311
Criminal Procedure Code, 1973 (CrPC) — Section 197
Evidence Act, 1872 — Section 115
Land Acquisition Act, 1894 — Section 3
Penal Code, 1860 (IPC) — Section 21

Citation : (2008) 2 AWC 1697 : (2008) 1 UPLBEC 122

Hon'ble Judges : B.S. Chauhan, J;Arun Tandon, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

B.S. Chauhan, J.—This writ petition has been filed for quashing the order dated 02.09.2006 (Annex. 1) by which the respondent No. 2 has cancelled the allotment of Plot 6, Sector - Pi, Greater Noida made in favour of the petitioner Society.

2. The facts and circumstances giving rise to this case are that the respondent No. 2, Greater New Okhla Industrial Development Authority, (hereinafter called the "Greater Noida") invited applications for allotment of two group housing residential plots - one plot was reserved for allotment in favour of Cooperative Housing Society consisting of members who are employees of government department and the other plot was kept open for general category. The petitioner-Society applied for allotment of the first plot on 18.02.2003 annexing along with its application form, a bank draft of Rs. 20,74,000/- as registration fee. The respondent No. 2 screened the applications and made allotment in favour of the petitioner-Society on 28.03.2003 and subsequently, an allotment letter was

issued in its favour on 05.08.2003. Petitioner made the first deposit of Rs. 41,48,623/- on 04.07.2003 towards the cost of the plot and the balance amount was to be deposited in eight equal half yearly instalments of Rs. 23,38,078/-. The State Government issued certain directions to maintain status quo in respect of large number of plots including the plot in dispute and in pursuance thereto, the respondent No. 2 informed the petitioner about the said Government Order vide its letter dated 07.10.2003. The petitioner-Society, however, made a demand for execution of the lease deed and actual physical possession of the plot being given and for the purpose also deposited the instalments of Rs. 23,38,078/- in July, 2004. As neither the respondent No. 2 handed over the possession of plot to the petitioner nor the lease deed was executed, the petitioner filed Writ Petition No. 26630 of 2006 for the aforesaid reliefs. The said writ petition was disposed by this Court vide judgment and order dated 15.05.2006 directing the respondent No. 2 to decide the representation of the petitioner-Society by a speaking and reasoned order. In the meanwhile, petitioner-Society received a notice dated 02.05.2006 from respondent No. 2 calling upon it to show cause as to why the allotment made in its favour be not cancelled, as the Society was not eligible for making the application for allotment in respect of plot in question. Petitioner-Society submitted its reply to the said show cause on 29.05.2006. The representation/reply of the petitioner has not found favour with Greater Noida Authority and vide order dated 02.09.2006, the allotment made in favour of the petitioner-Society has been cancelled on the ground that the petitioner Society did not possess the eligibility for making application for allotment. The respondent No. 2 also refunded the entire amount deposited by the petitioner-Society along with interest. Hence, the present writ petition.

3. We have heard Shri Sanjeev Ralli and Shri Sunil Rai, learned Counsel for the petitioner; Shri C.K. Rai, learned Standing Counsel for respondent No. 1 and Shri Pradeep Kumar for respondent No. 2.

4. It has been canvassed on behalf of the petitioner-Society that there was no misrepresentation or fraud on behalf of the petitioner-Society while making the application. The Society, consists of members, who are the employees of a nationalised bank and, therefore, the employees of the petitioner-Society should be treated as government servants and it possesses the eligibility for allotment. Even if there was any irregularity in allotment in favour of the petitioner-Society or the petitioner-Society was not eligible for allotment, as the respondent No. 2 had made allotment and accepted the amount of Rs. 85,00,000/- including the registration fee, therefore, by application of principles of acquiescence, promissory estoppel and legitimate expectation, the order impugned should not have been passed and the same is liable to be quashed.

5. On the other hand, learned Counsel appearing for the respondents have vehemently opposed the writ petition contending that as the petitioner-Society did not possess the eligibility as per the advertisement itself, such doctrines do

not have any application, whatsoever. The respondent No. 2 had committed a mistake inadvertently, it had a right to rectify the same. Had it been open to apply for nongovernmental department employees, many other Societies could have applied. Thus the allotment made in favour of the petitioner-Society would be in hostile discrimination to such other similarly situate Societies. More so, the petitioner-Society submitted a certificate to the effect that the Bank of which the members of the Society were the employees, was a government bank, therefore, it is not open for the petitioner to say that there was no misrepresentation on its part. The petition is liable to be dismissed.

6. We have considered the rival submissions made by learned Counsel for the parties and perused the record.

7. The advertisement issued by respondent No. 2 clearly reveals that one plot measuring an area of 2.5 acres was reserved for allotment in favour of Residential Cooperative Housing Society, consisting of members, who are employees of the government department. The other plot was reserved for the employees of Government Departments/Semi Government Departments/Public Sector Undertakings and International Associations, like World Bank, United Nations for their staff housing or Homogeneous Cooperative Group Housing Societies. For ready reference, eligibility clause provided in the Brochure reads as follows:

Plot size of 2.5 acres bearing plot No. 6 has been kept reserved for allotment to residential co-operative having Societies of Government department for their staff housing.

The Homogeneous Cooperative Group Housing Society was defined as under:

The Society shall be considered homogeneous if all the members of the society belong to/or employees of either Central Government/State Government/any Bank/Insurance Sector etc., professionals like Chartered Accountants/Advocates/Journalists/Lecturers/Doctors" Group belonging to any such profession.

(Emphasis added).

8. Therefore, the advertisement itself made it clear that plot for which the petitioner-Society applied was exclusively reserved for the Society-whose members were employees of the government department exclusively and the housing Societies like petitioner-Society who had as its members employees of a Bank were eligible to apply for this plot. It was open to Societies like the petitioner to apply for the unreserved plot. The petitioner-Society filed a certificate dated 19.03.2003 issued by the Indian Overseas Bank Branch, Greater Kailash, Part-II, New Delhi, which reads as under:

To Whomsoever it May Concern

This is to certify that Indian Overseas Bank is a Government Bank and works under Reserve Bank of India, Government of India.

This certificate is issued on the request of Shri S.K. Jain, our employee of the Bank.

9. Subsequent to the allotment, the issue arose as to whether the petitioner-Society was eligible to apply, the impugned order was passed after affording opportunity of hearing to the petitioner-Society. The show cause dated 02.05.2006 clearly revealed that the plot was reserved strictly for allotment in favour of Group Housing Society consisting of employees of State Government and the petitioner-Society did not fall within the said category. The Society was required to explain as to why the allotment made in its favour be not cancelled. The Society replied to the said show cause notice and after considering the same, by a speaking and reasoned order, the respondent No. 2 rejected all its submissions including that of application of doctrines of acquiescence, promissory estoppel and legitimate expectation, on the ground that the Society did not qualify for reserved plot, not being the Society of persons belonging to government department. It was a Society of the persons working in public sector undertaking, quite distinguishable from that of a government department. In pursuance to the said order, a refund was made to the petitioner-Society to the tune of Rs. 97,21,875/- which included the total amount deposited by the petitioner along with interest of Rs. 11,56,534. The cheque so sent by the respondent No. 2 had been encashed by the petitioner. It has been pointed out by the learned Counsel for the petitioner-Society during his submissions that the amount had been re-deposited by the Society with the respondent No. 2.

10. In view of the above factual controversy, the issues arise as to whether the petitioner Society was eligible for allotment and if not, whether on the basis of doctrines of acquiescence, promissory estoppel or legitimate expectation, such an allotment requires to be protected.

11. So far as the first issue is concerned, Shri Ralli, learned Counsel for the petitioner-Society tried to impress upon the Court that the nationalised bank of which the employees of the petitioner-Society are members, is a government department. However, it has vehemently been opposed by learned Counsel for the respondents.

12. The Government loosely means the body of persons authorized to administer the affairs of, or to govern a State. Its commands and its decision become binding upon the persons concerned. Government includes, both the Central Government as well as the State Government, if considered under the provisions of the General Clauses Act, 1897. Therefore, the government is an impersonal agency concept including all its administrative and Secretarial officers. Government is a part of the body politic having three independent functionaries as its branches. It performs regal and sovereign functions, which are not alienable to any other person, e.g. defence, security currency etc. Government means a group of people responsible for governing the country. It consists of the activities, methods and principles involved in governing a country or other political unit.

Thus, Government Department means something purely fundamental, i.e. relating to a particular government or to the practice of governing a country. It has different Wings. However, the expression "Government" may be required to be interpreted in the context used in a particular Statute as in R.S. Nayak Vs. A.R. Antulay, while interpreting the provisions of Section 21 of the Indian Penal Code, the Hon"ble Supreme Court held that the expression denotes the Executive and not the Legislature. Similar view has been reiterated in State of Rajasthan and Another Vs. Sripal Jain,

13. In V.S. Mallimath Vs. Union of India and Another, the Hon"ble Supreme Court, while interpreting the provisions of Rule 3(b) of the National Human Rights Commission Chairperson and Members (Salary, Allowances and Other Conditions of Service) Rules, 1993 observed that the expression "Government" used in the proviso to the said Rule requires to be construed in a wider sense and the services rendered by the Judges must be held to be a service in connection with the affairs of the Union.

14. The words "Government" and "Department" as generally understood, are quoted below:

Government - official authority that exercises control; authority which rules and issues directions.

Department - a branch or division of a business, government, science, etc.; a department separates one nature of function from the other; performs allotted duties; a self contained unit; to divide and organize separate units.

15. In our country, a government is a political structure created under the Constitution for the governance of a modern nation - State. It is a Constitutional organization authorized to govern the nation. The government is a body that governs and exercises control by issuing directions and is not governed by any other agency. It is a body-politic that formulates policies and the laws by which a civil society is controlled. It is a political concept formulated to rule the nation. In India, it is the Constitution, which combines this complex structure of legislature, executive and judiciary involved in the governance of the nation. It is impersonal in character and represents the will of the nation. The government performs essential regal functions, as defined under the Constitution and the laws made by Parliament, through the executive. It exercises legitimate authority of general administration and does not have the role of an individualistic performance. It is not a profit and loss establishment.

16. A government department is an unit of the same establishment. They are parts of the same impersonal and abstract entity, which is described as a government. It is a branch or a division performing specific allotted functions and duties of governance. A government is ordinarily represented through such separate units, which are self-contained and organized to deal with a specific branch of governance.

17. To perform the functions, the Government has its various departments and to facilitate its working, the Government itself may be divided into various Sections. To carry out the commercial activities by the State, the Corporations have been established by enactment of Statutes and the "power to charter Corporations is incidental to or in aid of Governmental functions." Such Corporations would ex-hypothesis be agency of the Government. Vide Sukhdev Singh, Oil and Natural Gas Commission, Life Insurance Corporation, Industrial Finance Corporation Employees Associations Vs. Bhagat Ram, Association of Clause II. Officers, Shyam Lal, Industrial Finance Corporation, and Ramana Dayaram Shetty Vs. International Airport Authority of India and Others,

18. Banks are institutions carrying out a limited business - like function that concern financial transactions. They are independent to do business subject to the regulatory laws made by the legislature. They are not under the direct executive control of the government. They are independent and individual establishments having a distinct legal entity. Their activities are defined by themselves and the banking organization is manned by their own personnel - who are not government servants. Banks are not government departments as they are not the essential unit or part of the political structure that is entrusted with the task of governance. They are profit and loss earning organizations coupled with all connected financial and economic activities. They are a body corporate with a limited role to play and do not "govern" people as understood by governance.

19. In Federal Bank Ltd. Vs. Sagar Thomas and Others, , the Federal Bank was held not to be an instrumentality or agency of the State and was held that it was not amenable to writ jurisdiction of the High Court on the ground that the share capital of the Bank was not held at all by the Government nor any financial assistance was provided by the State. It did not enjoy any monopoly status nor was having State protection. The Statute having been framed regulating the financial and commercial activities, would not confer status of State agency, as it merely provided for maintaining fiscal equilibrium as a regulatory measures. The Bank was having purely commercial activity.

20. In State of Punjab and Others Vs. Raja Ram and Others, the question arose that in case the land is acquired for the Food Corporation of India, whether the provisions of Part VII of the Land Acquisition Act, 1894 would be attracted. In other words, as to whether it was a Government department or a Company owned by the Government. The Apex Court considered the provisions of the Food Corporation Act, 1964 and held that it was not a Government department but was a Company. The Court observed as under:

A Government department has to be an organization which is not only completely controlled and financed by the Government but has also no identity of its own. The money earned by such a department goes to the exchequer of the Government and losses incurred by the department are losses of the Government. The Corporation, on the other hand, is an autonomous body

capable of acquiring, holding and disposing of property and having the power to contract. It may also sue or be sued by its own name and "the Government does not figure in any litigation to which it is a party.

21. After examining the provisions of the Act 1964, the Court came to the conclusion that in spite of the fact that its original share capital was provided by the Central Government but that would not make it a Government Department. The Court further held as under:

Even the conclusion, however, that the Corporation is an agency or instrumentality of the Central Government does not lead to the further inference that the Corporation is a Government department. The reason is that the F.C. Act has given the Corporation an individuality apart from that of the Government. In any case the Corporation cannot be divested of its character as a "Company" within the meaning of the definition in Clause (e) of Section 3 of the L.A. Act, for it completely fulfils the requirements of that clause, as held by us earlier.

22. In State Vs. Kulwant Singh, , the Hon"ble Apex Court considered the issue as to whether the Narcotics Control Bureau was the department of the Government under the provisions of the Narcotic Drugs and Psychotropic Substances Act, 1985. The Court held that it was not a statutory authority created by the Act but an authority created or constituted by the Central Government, in exercise of powers under the Act. It was a Wing of the Department of Revenue, Government of India and, therefore, it was a Government department. While reaching that conclusion, the Court examined the provisions of the Act, 1985 and observed as under:

The word "department" by its very nature, is not capable of a precise definition. Given its ordinary meaning in the context of governmental functions, it connotes branch or division of Government administration. For the sake of convenience the Government work is divided subject-wise or function-wise, and each such division may be called a department. The word "department" is capable of a wider meaning as also a narrower meaning. The meaning of the word may differ having regard to the context in which it is used. Rule 2 of the Government of India (Allocation of Business) Rules provides. The business of the Government of India shall be transacted in the Ministries, Departments, Secretariats and Offices specified in the First Schedule to these rules (all which are hereinafter referred to as "departments").

In the absence of any precise definition of the word "department" it must be given its natural and ordinary meaning, unless the legal context in which the word is used requires a different meaning.

23. After considering the provisions of the Act 1985 and placing reliance upon the judgment in Raja Ram (supra), the Hon"ble Supreme Court came to the conclusion that it was a Government department.

24. In Mohd. Hadi Raja Vs. State of Bihar and Another, the Hon"ble Supreme

Court rejected the contention that officers posted in Government Companies and Public Undertakings which are State within the meaning of Article 12 of the Constitution, on account of deep pervasive control of the Government, are entitled for protection of the provisions of Section 197 Cr.P.C. on the ground that such Company cannot be held to be Government Department and the officers of such Company cannot be held to be Government Officers. While deciding the said case, reliance had been placed by the Supreme Court on its earlier judgments, particularly, in *State of Bihar Vs. Union of India and Another*, wherein, it had been held that Hindustan Steel Limited was not a State for the purpose of Article 131 of the Constitution.

25. A similar view has been reiterated by the Apex Court in *S.S. Dhanoa Vs. Municipal Corporation, Delhi and Others*, ; *K. Jayamohan Vs. State of Kerala and another*, ; and *Hindustan Steel Works Construction Ltd. Vs. State of Kerala and others*,

26. In *Food Corporation of India Vs. Municipal Committee, Jalalabad and Another*, , the Apex Court considered the case of imposition of house tax under the provisions of the Punjab Municipalities Act, 1911 and held that Food Corporation of India was a Company - a distinct entity from Central Government, and thus, not being a Government Department, was entitled for exemption from taxation under Article 285 of the Constitution; while deciding the said case, reliance had been placed by the Court on its earlier judgments in *M/S. Electronics Corporation of India Ltd. Etc. Etc. Vs. Secretary, Revenue Department Govt. of Andhra Pradesh and Others Etc. Etc.*, .

27. The status enjoined by the government servant is quite distinguishable as from that of an employee of the government company or of a public corporation. The rights and obligations of the government servants are not determined by the contract of two parties but by statutory rules framed under the proviso to Article 309 of the Constitution of India and such Rules can be unilaterally altered by the rulemaking authority, i.e. the government. The employees of the government company are not government servants nor they can claim protection of the constitutional provision, e.g. Article 311 of the Constitution. Thus, the government company cannot be identified with the government or a government department nor it can be held as an agency of the government department. Vide *Heavy Engineering Mazdoor Union Vs. State of Bihar and Others*, ; *Pyare Lal Sharma Vs. Managing Director and Others*, ; *A.K. Bindal and Another Vs. Union of India (UOI) and Others*, ; *Union Public Service Commission Vs. Girish Jayanti Lal Vaghela and Others*, ; and *Hindustan Aeronautics Ltd. Vs. Dan Bahadur Singh and Others*,

28. Shri Ralli, learned Counsel for the petitioner has placed a very heavy reliance upon the judgment of the Hon"ble Apex Court in *Union of India and another Vs. Ashok Kumar Mitra*, , wherein it has been held that an employee of a Nationalised Bank is a public servant within the meaning of Section 21 of the Indian Penal Code, and an argument had been advanced that in view of the

above, the Bank, of which the members of the petitioner's Society are employees is to be treated as a Government Department. The argument so advanced is not worth acceptance, for the reason that while deciding the said case Hon'ble Supreme Court placed reliance upon its earlier judgment in Ashoka Marketing Ltd. and another Vs. Punjab National Bank and others, wherein it had been held that the Nationalised Bank was a Corporate or a Body Corporate established by a Central Act and is owned and controlled by the Central Government. The ratio is to be understood in the context the issue has been decided.

29. Thus, it cannot be said that the said corporate body is a Government Department.

30. The matter can be examined from another angle. In view of the provisions of Section 79 of the Code of Civil Procedure, the State or the Union of India, as the case may be, is a necessary party before the Court in case a suit is filed against a government department otherwise the suit would suffer from non-joinder of necessary party and would be liable to be dismissed in view of the provisions contained in the proviso to Rule 1 of Order IX, C.P.C. Vide State of Punjab Vs. Okara Grain Buyers Syndicate Ltd. and Others, ; The State of Kerala v. The General Manager, Southern Railway, Madras AIR 1976 SC 253 ; Shri Ranjeet Mal Vs. General Manager, Northern Railway, Baroda House, New Delhi and Another, Chief Conservator of Forests, Govt. of A.P. Vs. The Collector and Others, ; and Authorised Officer and Deputy Conservator of Forests and Another Vs. Asgarli Khan,

31. It is not the case of the petitioner-Society that its members cannot sue the Bank directly without impleading the State or Union of India.

32. Shri Ralli, learned Counsel for the petitioner has not made any attempt, even half-heartedly, to satisfy the Court, as under what circumstances Indian Overseas Bank can be a government department nor he produced any statutory rules, regulations, bye-laws to show as to what extent, the government has control over it and how its employees could be held to be a government servants.

33. Thus, in view of the above, we reach the inescapable conclusion that the petitioner-Society, being a Society of the employees of a nationalised bank, cannot be termed to be a Society of the employees of the government department, and was not eligible to apply for allotment. At the most, it could apply for the other unreserved plot and there was crystal clear distinction of eligibility quo both the plots. In the Brochure issued by the respondent No. 2 it has been mentioned in crystal clear words that Group Housing Society of the employees of the bank, could apply for allotment of plot No. 2. In spite of specific clause, the petitioner-Society filed a certificate to show that the Bank was a government bank and was working under the government. We have no hesitation to express our anguish that it was an attempt to mislead the respondent No. 2 even if it may not be a case of fraud. Therefore, the petitioner cannot seek in

such a fact-situation any equitable relief from the Court. No explanation could be furnished by learned Counsel for the petitioner as under what circumstances, such a certificate could be submitted by the petitioner-Society and what was the purpose of using such a language therein.

34. We are also not impressed by the submission made on behalf of the petitioner-Society on other issue.

35. Estoppel is a rule of evidence and the general rule is enacted in Section 115 of the Indian Evidence Act, 1872, which lays down that when one person has by his declaration, act or omission caused or permitted another person to believe a thing to be true and to act upon that belief, neither he nor his representative shall be allowed in any suit or proceeding to deny the truth of that thing. In the instant case, the respondent No. 2 made it clear that plot was reserved for the Group Housing Society comprising of employees of government department. The petitioner Society obtained the allotment misleading the respondent No. 2, it cannot be permitted to plead that the respondent No. 2 was estopped from cancelling the allotment. Mere acceptance of part-consideration of the amount would not stop the respondent No. 2 to rectify or correct its mistake made inadvertently because of mislead by the petitioner Society itself. The respondent No. 2 had not handed over the possession of the plot nor the lease deed had been executed in favour of the petitioner-Society. Merely a sum of Rs. 85,00,000/- had been deposited which was refused by respondent No. 2 with interest. Therefore we are not impressed by the submissions advanced on behalf of the petitioner-Society and this view stands fortified by the judgments of the Hon'ble Supreme Court- in A.P. Christians Medical Educational Society Vs. Government of Andhra Pradesh and Another, ; Gurdeep Singh Vs. State of Jammu and Kashmir and others, ; State of Rajasthan and Others Vs. Lata Arun, ; Regional Officer, C.B.S.E. Vs. Ku. Sheena Peethambaran and Others, and B.L. Sreedhar and Others Vs. K.M. Munireddy (Dead) and Others,

36. The contention that the respondent authority has accepted the part payment of the consideration amount, therefore, the authority was estopped from passing any adverse order, has to be rejected in view of the judgment of the Hon'ble Supreme Court in Mukund Swarup Mishra Vs. Union of India (UOI) and Others, wherein it has been observed that in case the petitioners had spent some amount, the doctrine of promissory estoppel or equity will not apply only on that ground if the authority comes to the conclusion that the allotment itself had been made illegally. The Court further observed that in such a fact situation, the Court must consider as what was the period when the allotment was made, what kind of development has been made by the allottee and to what extent the party has altered its position on the promise of the other party.

37. In Ashoka Smokeless Coal Ind. P. Ltd. and Others Vs. Union of India (UOI) and Others, the Hon'ble Supreme Court held that doctrine of legitimate expectation based on unlawful representation was not applicable. The Court further held that the party cannot be permitted to take benefit of its own mistake

and such a doctrine should be made available restricting strictly to balancing in cases where unlawful representation was not adverse to the public interest.

38. Similar view has been reiterated in Southern Petrochemical Industries Co. Ltd. Vs. Electricity Inspector and E.T.I.O. and Others, . While considering the said case, the Court considered large number of its earlier judgments including State of Bihar and Others Vs. Project Uchcha Vidya, Sikshak Sangh and Others, Mahabir Vegetable Oils Pvt. Ltd. and Another Vs. State of Haryana and Others, State of Punjab Vs. Nestle India Ltd. and Another, ; and Motilal Padampat Sugar Mills Co. Ltd. Vs. State of Uttar Pradesh and Others,

39. Shri Ralli, learned Counsel for the petitioner has placed reliance upon the judgments of the Hon''ble Supreme Court in Century Spinning and Manufacturing Company Ltd. and Another Vs. The Ulhasnagar Municipal Council and Another, & Sunil Pannalal Banthia and Others Vs. City and Industrial Development Corpn. of Maharashtra Ltd. and Another, However, the facts therein were completely distinguishable as in the later case the amount had been accepted in full, transfer fee had been taken from the allottee and sanction and commencement certificate were issued. The party had invested a huge amount on the development of allotted plot. While in the instant case, only a part payment of the consideration amount had been paid; possession had not been handed over to the petitioner Society nor the lease deed had been executed in its favour. More so, the Hon''ble Supreme Court in Sunil Pannalal Pathia (supra) has held as under:

On the legal question it is quite obvious that having acted and held out assurances to the appellants which caused the appellants to alter their position to their prejudice, it was not open to CIDCO to take a unilateral decision to cancel the allotment on the ground that it had acted without jurisdiction and/or in excess of jurisdiction and in violation of its rules and regulations.

(Emphasis added).

40. In the instant case, it was not a unilateral decision of Greater Noida. Petitioner-Society was given full opportunity to explain about its eligibility. Petitioner availed the opportunity but could not succeed to show that members of the Society could be termed as employees of the Government Department.

41. In view of the above, we are of the considered opinion that petition is devoid of any merit and accordingly dismissed. No costs.