
(1991) 04 OHC CK 0025
In the Orissa High Court
Case No : O.J.C. No. 1522 of 1985

Smt. Kanakalata Biswal

APPELLANT

Vs

Orissa State Housing Board and Others

RESPONDENT

Date of Decision : 04-04-1991

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (1991) 2 OLR 42

Hon'ble Judges : S.C. Mohapatra, J;J.M. Mahapatra, J

Bench : Division Bench

Advocate : Deepak Misra, R. Mohapatra and R.N. Naik, for the Appellant; R.K. Patra and G.B. Das, for the Respondent

Judgement

S.C. Mohapatra, J.—Non-allotment of a house at Rourkela by opp. parties under the housing scheme declared is the grievance of petitioner in this application under Article 226 of the Constitution of India.

2. Houses under middle income group were to be constructed in Bisanti Housing Board Colony at Rourkela to provide accommodation to persons under the housing scheme prepared by the opp. party No. 1. Petitioner made an application for the same. Lastly she was tailed upon to give her final consent if she is willing to purchase the house on payment of full consideration. She gave her consent, In spite of it, when the house was not allotted to her she filed this writ application.

3. Case of opposite parties is that number of applications for out -right purchase and consent of such applications was much more than number of houses available to be allotted. Accordingly, there was a lottery and the petitioner could not be selected by such process.

4. By order dated 14-9-1985, this Court passed interim order to reserve one M.I.G house at Bisanti Housing Board Colony located i" Area No. 17, North Uditnagar for accommodating petitioner in case of her success in the writ application unless the allotment in the colony has been completed in the

meantime. We are told that by the time of receipt of order, all houses were allotted. This is not disputed by learned counsel for petitioner.

5. On a perusal of the records before us, we find that petitioner was never given to understand that houses would be allotted by lottery if the number of applications and consents would be more than the houses available. When opposite parties, called for consent, a house should have been earmarked for her to be allotted to another only on her refusal or failure to pay the amount, Merely because, houses were allotted by lottery does not mean that the same would be applied to cases where applicants were never given to understand about the said procedure. Opp. parties have not acted properly and their action can legitimately give rise to suspicion of arbitrariness. Public authorities should act in a manner which is above board and should not introduce new methods not made known to the intending public.

6. Fact, however remains that no house is now available to be allotted to petitioner. We are told that various housing schemes are being introduced by the opposite parties at Rourkela. If there is any other scheme under which house would be available, petitioner shall make an application in accordance with that scheme and priority shall be given to the petitioner in allotment taking into consideration the fact that she had expressed her willingness for outright purchase of a house in Basanti Housing Board Colony which has not been fairly dealt with. Applicants under the said scheme shall be made known that petitioner would get priority so that they would have no grievance in future.

7. In the result, the writ application is disposed of with the afore- said observation and direction. No costs.