

(2015) 06 KAR CK 0129

In the Karnataka High Court

Case No : Writ Petition Nos. 18665/2006 and 3518/2008 (GM-KIADB)

Y. Bharath Reddy and Others

APPELLANT

Vs

The Karnataka Industrial Area Development Board and
Others

RESPONDENT

Date of Decision : 02-06-2015

Acts Referred:

Karnataka Industrial Areas Development Act, 1966 — Section 41(2)(b), 5

Citation : (2016) 1 AKR 388 : (2015) 4 KarLJ 330

Hon'ble Judges : B. Manohar, J

Bench : Single Bench

Advocate : V.P. Kulkarni, for the Appellant; P.V. Chandrashekar, Advocates for the Respondent

Final Decision : Allowed

Judgement

B. Manohar, J.

1. Petitioners in these writ petitions are questioning the allotment of industrial Plots bearing Nos. 16 and 17 in Sy. No. 152/4, 157/1 in Sankalapura Industrial Area, Hospet Taluk, Bellary District as per the allotment letter dated 19-07-2006 and also the registered lease agreement dated 27-07-2006 executed by the second respondent in favour of the 4th respondent and also sought for writ of mandamus directing the respondents 1 to 3 to allot a suitable industrial plot to the petitioners.

2. In W.P. No. 18665/2006, the petitioner has contended that he is the Proprietor of M/s. Trinity Industries, which is registered as a Small Scale Industrial Unit. He wanted to establish an industry for the manufacture of conveyor component, elevator buckets, crusher component, conveyors, rubber goods. The petitioner has vast experience in the field and he made an application for allotment of 01 acre of land at Sankalapura Industrial Area, Hospet Taluk.

3. The petitioner in W.P. No. 3518/2008 is a partnership firm. It is also registered

as a Small Scale Industry with an intent to manufacture cement pipes. The petitioner made an application for allotment of 02 acres of land in Sankalapura Industrial Area, established by the KIADB. Likewise, M/s. Rajapura Iron Oxides also made an application for allotment of an industrial plot for establishment of industries and the fourth respondent also made an application for allotment of 01 acre of land for establishment of Diesel sales and service and to open a back how loader service setup.

4. The Karnataka Industrial Area Development Board (hereinafter referred to as "the Board" for short) is established under Section 5 of the Karnataka Industrial Area Development Act, 1966. The preamble of the Act makes it clear that KIADB has been established for the purpose of securing lands for development of industrial areas in the State of Karnataka for orderly development of the industrial areas. For the implementation of the same, regulations have been framed under the Act called as the Karnataka Industrial Area Development Board Regulations 1969 (hereinafter referred to as "the Regulations" for short) in exercise of its power conferred under Section 41(2)(b) of the Act. For the allotment of industrial sites, KIADB notified availability of the sites and invited applications. The allotment of sites has to be made in accordance with the regulations 4 to 11 of the Regulations referred to above.

5. In the instant case, KIADB allotted industrial plot Nos. 16 and 17 to the State Government for establishment of the Government Tool Room and Training Center. However, the Government has not utilized the said plots. In view of that, the KIADB cancelled the allotment made in favour of the State Government. Though the petitioners made applications much prior to the 4th respondent, the KIADB without considering the applications of the petitioners allotted 12,145 sq. meters in industrial plots No. 16 and 17 of Sankalapura Industrial Area in favour of the 4th respondent which is approximately 03 acres of the land, though the 4th respondent applied for allotment of 01 acre of land for the purpose of manufacture of excavator peripherals and welding works. Thereafter, executed lease agreement on 27-07-2006. On verification of the records, the petitioners came to know that the KIADB had already allotted 3 industrial plots in favour of 4th respondent namely plot No. 1/B(P), Plot Nos. 16 and 17 and plot No. 26 of the very same industrial area without considering the applications of the petitioners.

6. The petitioners being aggrieved by non-consideration of their applications and allotment of industrial plot Nos. 16 and 17 in favour of the 4th respondent, overlooking their claim, filed these writ petitions mainly contending that allotment of plots is contrary to the regulations framed under the Act and due weightage ought to have been given to the applications which were filed by the petitioners much prior to the application filed by the 4th respondent. For extraneous reasons, undue favour has been shown to the 4th respondent by allotting industrial plot Nos. 16 and 17 in their favour.

7. The 4th respondent filed statement of objections denying the entire averments

made in the writ petitions and contended that though the application was filed for allotment of 01 acre of land, subsequently on 28-06-2006 he requested the KIADB for grant of additional 4 acres of land for installation and expansion of industrial unit. The 4th respondent is the only authorized dealer in Telcon, cummins and Tetra for Northern Karnataka region. With a view to provide service to all those customers, they want larger extent of the land. There is no industry to repair excavators. Though two industrial plots are allotted in the said area, it is not sufficient for the establishment of industries. The KIADB after considering the request made by the 4th respondent for establishment of industry in the said area, allotted industrial plots No. 16 and 17 which were earlier allotted to the State Government for establishment of Government Tools Room. There is no infirmity or irregularity in the procedure adopted by the KIADB. It is further contended that the petitioner in W.P. No. 3518/2008 was allotted 2 sites earlier and he sold the said sites and enriched himself. He cannot make one more application for allotment of sites. Further, the petitioner in W.P. No. 18665/2006 is none other than the son of the petitioner in W.P. No. 3518/2008. Further contended that the allotment of sites is discretionary of the Board and the Board has right to reject any application without assigning any reason in case where there is more than one applicant seeking for allotment of sites. The petitioners cannot claim allotment of sites as a matter of right and sought for dismissal of the writ petitions.

8. The respondents 1 to 3 also filed statement of objections contending that the petitioners cannot question the allotment of industrial plots in favour of the 4th respondent. Under regulation 11 of the Regulations governing disposal of land by KIADB, the Board has got right to reject any application without assigning any reasons where there is more than one applicant. Under the regulations governing disposal of the lands, seniority is not the criteria for allotment of sites. The merit of petitioners' project is to be compared with that of the 4th respondent. The allotment of sites has been made in accordance with law and no fault can be found in such procedure and sought for dismissal of the writ petitions.

9. I have carefully considered the arguments addressed by the learned counsel for the parties and perused the relevant records.

10. The State Government with a view to orderly establishment and development of industries in suitable areas of the State and to make special provision for securing the establishment of industrial area in the State of Karnataka enacted an Act called Industrial Area Development Act. The Regulations are also framed under the said Act. The KIADB has to procure the land to establish the industrial area and then allot the same for establishment of industries. Regulations 4 to 16 speak about form of application, the manner of disposal of lands, reservation of the plots, inviting the applications, registration, allotment of sites and also revocation and disposal of industrial plots. The allotment has to be made in accordance with the regulations framed by the Board. In the instant case, industrial plots No. 16 and 17 which were available for allotment were allotted to

the 4th respondent over-looking the claim of other three applicants. Before allotment, availability of sites has to be notified by inviting applications for establishment of industries through newspapers. Without following the said procedure, though the 4th respondent made an application for allotment of 1 acre of land, the 2nd respondent allotted 12,145 sq. meters i.e. about 3 acres of land in favour of the 4th respondent. The petitioners are the registered Small Scale Industrial Units. They made applications for allotment of 1 acre of land in the month of October 2005 and December 2005 respectively. However, without considering their claim, the industrial plots measuring about 3 acres were allotted to the 4th respondent who made the application for allotment of only 01 acre of land on 19-12-2005, which is subsequent to the petitioners' applications. The applications filed by the petitioners were not considered by the 2nd respondent. The availability of industrial plot Nos. 16 and 17 is not made known to the general public as per Regulation 7 of the Regulations referred to above. Apart from that, 3 industrial plots were already allotted to the 4th respondent in the said industrial area. There cannot be monopoly in the allotment of industrial plots where the other applicants are waiting in the queue.

11. Regulation 7 of the Regulations reads as under:

"The Board shall notify the availability of the lands, the manner of disposal, the last date for submission of the application and such other particulars as the Board may consider necessary in each case by giving wide publicity through newspapers having circulation in and outside the State of Karnataka, and invite applications from industrialists or persons intending to start industries."

12. In the instant case, without following the procedure prescribed under the law, by private negotiation, 3 acres of land has been allotted to the 4th respondent though he made an application for allotment of 1 acre of land. Hence, the said allotment of industrial plots cannot be sustainable. This Court while entertaining the writ petitions granted an interim order on 19-01-2007 directing the 4th respondent to maintain status-quo insofar as the industrial sites in question. Subsequently, on 8-2-2008 permitted the 4th respondent to carry on civil construction work of its proposed project of servicing earth moving vehicles in an area of 1 acre. Further, it was made clear that respondent No. 4 shall not carry on any construction nor shall put to use any of the remaining area. In view of the said interim order, the 4th respondent has not put up any construction and entire 03 acres of land in plot Nos. 16 and 17 is lying vacant. Hence it is appropriate to direct the second respondent to reconsider the matter afresh and to consider the applications of the petitioners as well as the 4th respondent and take appropriate decision in accordance with the regulations framed under the Act.

13. Accordingly, I pass the following:

ORDER

Writ petitions are allowed. The allotment letter dated 19-07-2006 and also

subsequent registered lease agreement dated 27-07-2006 entered into between the 2nd respondent as well as the 4th respondent are quashed and the 2nd respondent is directed to reconsider the matter afresh insofar as allotment of sites is concerned and also to consider the applications filed by the petitioners, in accordance with the Regulations framed under the Act.