

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**WRIT PETITION NO.10700/2010**

Gramodyogic Shikshan Mandal through its General Secretary
V/s
The City and Industrial Development Corporation of Maharashtra Ltd. &
another.

Office Notes, Office
Memoranda of Coram,
appearances, Court's
orders or directions
and Registrar's orders

Court's or Judge's orders

Shri Ajay S. Deshpande, Advocate for petitioner.
Shri A.S. Bajaj, Advocate for respondent nos.1 & 2.

CORAM: B.R. GAVAI &
M.T. JOSHI, JJ.

Date: 30.11.2011

- 1] Heard learned counsel for the parties.
- 2] Rule. Rule made returnable forthwith and taken up for final disposal with the consent of learned counsel for the parties.
- 3] At the out set, we make it clear that we are entertaining the present petition in the extraordinary circumstances and especially taking into consideration that the petitioner society is a society running educational

activities.

4] The petitioner in pursuance to various advertisements issued by the respondent nos.1 & 2 had applied for a plot in N-2 / Survey No.26 reserved for social utility. The plot was allotted to the petitioner vide order dated 19.4.2007 at the rate of Rs.575/- per sq.mtr. The petitioner has already deposited an amount of Rs.11,49,857/- plus delayed charges, thus totaling to Rs.11,68,000/-. However, it appears that second installment was not paid by the petitioner and accordingly a show cause notice was issued to the petitioner on 28.6.2007. Subsequently, the allotment of the plot has been canceled.

5] Subsequently, the respondent - CIDCO itself passed a resolution that though various plots are reserved for social utility services and in spite of issuance of advertisements on eleven occasions, the same could not be sold, the rate has been decreased to Rs.283/- per sq.mtr. Relying

on this, the petitioner made various representations to the respondents submitting therein that since now the rates are reduced and as per the reduced rates, the petitioner has already deposited the amount, the cancellation should be recalled. It appears that certain communications were addressed by the respondent directing the petitioner to make the payment. However, since the petitioner has not made the payment according to the old rates, the prayer of the petitioner was not considered by the respondents. As such the petitioner is before this Court.

6] Shri A.S. Bajaj, the learned counsel appearing on behalf of the respondents, vehemently opposes the petition. He submits that the petitioner's allotment is as per the earlier rate and merely because the respondents have now reduced the rates, does not give right in favour of the petitioner to claim the allotment on the reduced rates. He submits that on account of non payment,

the petitioner's allotment is already canceled and as such the petition is liable to be dismissed.

7] The plot in question is admeasuring around 4,000 sq.mtrs. As per the reduced rates, the same would come to Rs. 11,38,155/-.

8] From the perusal of the resolution by the respondent - CIDCO, it would reveal that though it has advertised various plots on eleven occasions for social utility at the rate of Rs.575/- sq.mtrs. It did not get the buyers and as such it had reduced the rates, making the same at the rate of Rs.283/- per sq.mtr. The respondent - CIDCO is not a profit making organization. It is an instrumentality of the State established with the object of having a planned development. The petitioner is also not a profit making association. It is an educational institution and has sought an allotment for the purpose of shifting the school, which it is already running in N-3 area. It can thus be seen that

the object of the petitioner is for educational purposes. The petitioner has already paid almost the entire amount as per the reduced rates.

9] In that view of the matter and taking into consideration the special circumstances as appearing in the matter, we find that the petition deserves to be allowed without this order being treated as a precedent.

10] The petition is, therefore, allowed in terms of prayer clause (B). However, since the earlier cancellation is on account of the fault on the part of the petitioner, we find that the petitioner should be saddled with costs. The costs are quantified at Rs.3,00,000/- (rupees three lakhs only) to be paid to the respondent - CIDCO by the petitioner. On the petitioner making the payment of Rs. 3,00,000/- within a period of four weeks from today and upon adjustment of the amount already paid by the petitioner towards the plot at the rate of RS.283/- per sq.mtr., the necessary documents shall be executed by

the respondent - CIDCO in favour of the petitioner.

Rule made absolute accordingly in the aforesaid terms.

(M.T. Joshi, J.)

(B.R. Gavai, J.)

Dt/- 30.11.2011

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