

IN THE HIGH COURT OF KARNATAKA

GULBARGA BENCH

DATED THIS THE 30TH DAY OF JUNE, 2014

BEFORE

THE HON'BLE MR.JUSTICE B.S.PATIL

WP.No.202410/2014 (GM-KIADB)

BETWEEN:

Smt.Ushadevi Shrishail Dhari,
Aged about 33 years,
C/o.Mallikarjun Driving School,
Pulakeshinagar, Bus Stop
Manguli Road, Bijapur – 103.

... **PETITIONER**

(By Sri Sanjeev Kumar C.Patil, Adv.)

AND:

1. The Karnataka Industrial Area
Development Board, Head Office
By its Chairman,
No.14/3, 2nd Floor,
Rashtrothana Parishath Building,
Bangalore – 560 001.
2. The Chief Executive Officer &
Executive Members,
Karnataka Industrial Area Development Board,
14/3, 2nd Floor, R.P.Building,
Bangalore – 560 001.
3. Development Officer,
K.I.A.D.B.,
Plot No.7/B-3, B.K.Kangrali Industrial Area,
P.B.Road, Belgaum – 10.
4. The State of Karnataka,
Dept. of Industrial and Commercial,
Rep. by its Secretary,

M.S.Building,
Bangalore – 560 001.

... RESPONDENTS

**(By Sri K.A.Kalburgi, Adv. for R1 to R3 and
Sri Shivakumar Tengli, AGA. for R4)**

This Petition is filed under Articles 226 & 227 of the Constitution of India praying for a direction or order in the nature of certiorari by quashing Annexure-E – letter bearing No.KIADB/BGM/515/2012-13 dated 07.06.2012 issued by respondent No.3.

This petition coming on for Preliminary Hearing this day, the Court made the following:

ORDER

1. Learned Additional Government Advocate takes notice for respondent No.4.
2. Annexure-E – Communication dated 07.06.2012 addressed to the petitioner by the 3rd respondent – Development Officer, KIADB, Belgaum, informing her that Demand Draft for a sum of ₹25,000/- received by the respondent – KIADB on 16.03.2012 could not be accepted towards the cost of allotment of industrial plot bearing No.59, of Mahalabahagat Industrial Area, Bijapur and therefore, the allotment made to her stood cancelled for non-payment of balance amount within the stipulated time, has been called in question in this writ petition.
3. It is the case of the petitioner that she was allotted an industrial plot on 15.09.2011. She had paid initial deposit of

₹25,500/- and was required to pay the balance cost of ₹1,42,000/- within 180 days i.e., to say on or before 14.03.2012.

4. One of the conditions of allotment, as can be seen from condition No.5 of the Allotment Letter – Annexure-A is that in case allottee failed to pay the amount before the expiry of time stipulated, the offer of allotment would be automatically cancelled and the Earnest Money Deposit along with 10% of the amount paid would also be automatically forfeited.

5. Admittedly, petitioner did not pay the balance amount of ₹1,42,000/- within the time stipulated. In fact, petitioner has paid a sum of ₹50,000/- through DD dated 13.01.2012 and a sum of ₹25,000/- through DD dated 13.03.2012 along with a letter requesting time to pay the remaining amount of ₹67,000/- Later on the said Demand Draft was returned by the respondent – KIADB as per Annexure-E – Communication informing her of the cancellation of allotment for non-payment of balance amount. Thereafter, petitioner sent one more DD for a sum of ₹67,000/- on 14.06.2012. Learned counsel for the petitioner submits that the said DD has been returned to the petitioner.

6. Though the Demand Draft was not accepted during the year 2012 and although Annexure-E communication was addressed on 07.06.2012, petitioner kept quiet for a period of two years and has now filed this writ petition challenging the said communication. Admittedly, petitioner has failed to adhere to the terms of the allotment made. She has failed to pay the amount within the time stipulated as per the conditions of allotment and therefore, the allotment has automatically stood cancelled. In such circumstances, this Court cannot direct the respondent to receive the amount and re-allot the industrial plot.

7. There is no illegality in the communication addressed vide Annexure-E. At any rate, there is absolutely no explanation for the conduct of the petitioner in not approaching this Court for two years from June, 2012. As the petitioner has not shown to the Court that any of her statutory or fundamental right has been affected or that respondents 1 to 3 have acted in an arbitrary and illegal manner in refusing to accept the DD submitted by her belatedly, this Court cannot issue any direction to the 1st respondent, nor find fault with Annexure-E communication to set aside the same. If the petitioner is entitled for refund of any portion of the amount already deposited, she can approach the authorities and make

necessary representation in this regard. If such a representation is made within four weeks from today, the 1st respondent shall consider the same in accordance with law. This Writ Petition is accordingly disposed of.

Learned Additional Government Advocate is permitted to file memo of appearance for respondent No.4 within three weeks from today.

**Sd/-
JUDGE**

PKS