

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: August 29, 2012

Pronounced on: September 07, 2012

+ (i) **W.P.(C) No. 15302/2006**

CITIZEN SOCIAL WELFARE SOCIETY Petitioner

Through: Ms. Leena Tuteja & Mr. Archit
Vasudeva, Advocate

versus

UOI & ANR. Respondents

Through: Mr. Rajiv Bansal, Advocate for
R-2/DDA

+ (ii) **W.P.(C) No.9078/2006**

THE VIKAS PURI CLUB REGD. Petitioner

Through: Ms. Nandani Sahni, Ms. Sumi
Anand & Mr. Sumit Bansal,
Advocates

versus

DDA Respondent

Through: Mr. Ajay Verma, Advocate

+ (iii) **W.P.(C) No.1213/2006**

NORTHEX CAMPUS SOCIETY Petitioner

Through: Ms. Sumi Anand, Advocate

versus

DDA & ANR. Respondents

Through: Mr. Rajiv Bansal & Mr. Aditya
Sharma, Advocates

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

JUDGEMENT

1. The plea of petitioner- *The Vikas Puri Club Regd.* is that absolute right had accrued in favour of petitioner for allotment of land at concessional rates for Community Centre in Vikaspuri, Delhi in pursuance to recommendations of 13th February and 17th February of 2003 (*Annexure P-8*) by respondent's Institutional Allotment Committee and the subsequent amendment carried out in the *DDA (Disposal of Developed Nazul Land) Rules, 1981 (hereinafter referred to as the 'Nazul Rules')* cannot be given retrospective effect to deny allotment of an institutional plot at pre-determined rate.

2. Petitioner- *Citizen Social Welfare Society* also asserts its right to allotment of institutional land situated between Block B-5 & B-6, Vasant Vihar, Delhi, as per *Nazul Rules* prevalent in the year 2002 and to quash Notification of 19th April, 2006 whereby the DDA's *Nazul Rules* of 1981 were amended to provide that allotment of institutional lands for Community Halls etc. would be made by way of auction and to set aside letter of 5th July, 2006 of respondent-DDA issued to petitioner to deny allotment of land for Community Hall by relying upon aforesaid Notification of the year 2006.

3. Petitioner- *Northex Campus Society* seeks annulment of policy decision of 29th September, 2003 (*Annexure P-12*) regarding allotment

of institutional lands by DDA and allotment of a plot for Socio-Cultural Centre/ Club in pursuance to the recommendation (*Annexure P-6*) of respondent- DDA's Institutional Allotment Committee to allot plot of land to petitioner for Club i.e. Plot No.1 at Community Centre situated on Road No. 44 in Pitampura, Delhi.

4. In view of the common stand taken by respondent-DDA in these petitions and the submissions made on behalf of petitioners to assail it being similar, the above captioned three petitions were heard together and are being disposed of by this common judgment.

5. Institutional lands are allotted under the DDA's *Nazul Rules* of the year 1981 by following the guidelines provided in Rule 20 thereof. Since proposed allotment of institutional lands by respondent- DDA's *Institutional Allotment Committee* in the year 2003 became subject matter of controversy, respondent- DDA brought about change in its policy for allotment of institutional lands whereby mode of allotment of institutional lands was changed from allotment of such lands at pre-determined rates to allotment of such like lands to private societies by way of public auction and the said change in the mode of allotment is contained in respondent- DDA's policy decision (*Annexure P-12*) of the year 2003.

6. In pursuance to the aforesaid DDA's policy decision (*Annexure P-12*) of the 2003, an amendment was brought about in the DDA's *Nazul Rules* by way of a Gazette Notification of 19th April, 2006

adopting public auction as a mode of allotment of institutional lands to private societies like petitioners. The validity of the DDA's *Nazul Rules* of the year 1981, as amended on 19th April, 2006, have been upheld in a recent decision of a Division Bench of this Court in W.P.(C) No.2459-60/2005, titled as '*Bhagwan Mahavir Education Society (Regd.) & Anr. Vs.DDA & Ors.*'. rendered on 25th March, 2011 while concluding as under:-

"29. We are, thus, of the considered view that the interpretation of Rules placed before us by the DDA is the correct view and the petitioners have no case in this behalf in view of no allotment having matured in their favour prior to the amendments of the said Rules.

30. xxx

31. xxx

32. We are, thus, of the unequivocal view that under the existing Rules, it is the mode of auction which is available for disposal of the Nazul land for higher and technical education institutes, schools and hospitals other than cases which fall within the domain of Rule 5 r/w Rule 20 of the said Rules. The petitioners do not fall in this category."

7. The common stand taken by learned counsel for petitioners in these petitions is that there can be no retrospective operation of the amended DDA's *Nazul Rules* of the year 1981, as right of petitioners to the allotment of institutional plot of lands had crystallized by virtue of recommendations made prior to amendment of the aforesaid *Nazul Rules*. In support of this stand, reliance was placed upon decisions in '*Anil Chandra & Ors. Vs. Radha Krishna Gaur & Ors*' (2009) 9 SCC

454; '*Nani Sha & Ors. Vs. State of Arunachal Pradesh & Ors.*' (2007) 15 SCC 406; '*Kusum Hotels Private Limited Vs. Kerala State Electricity Board & Ors.*' (2008) 13 SCC 213; '*Sonia Vs. Oriental Insurance Col. Ltd. Ors.*' (2007) 10 SCC 627.

8. The counter-stand of respondent-DDA is that since no enforceable right had accrued in favour of petitioners prior to the amendment of DDA's *Nazul Rules* in the year 2006, so petitioners cannot be allotted institutional lands at predetermined rates, as recommendation of DDA's *Institutional Allotment Committee* was conditional and because petitioners could not comply with the conditions of obtaining sponsorship certificate etc. from the concerned authorities prior to 19th April, 2006, when DDA's *Nazul Rules* of the year 1981 were amended, therefore the allotment of institutional lands w.e.f. 19th April, 2006 has to be by auction mode and not at pre-determined rates.

9. Having considered the submissions advanced, the decisions cited and the material on record, this Court is of the considered view that the question of retrospective applicability of the amended DDA's *Nazul Rules* of the year 1981 does not arise at all, as no enforceable right had accrued in favour of petitioners prior to the amendment of the DDA's *Nazul Rules* of the year 1981, and so, petitioners cannot seek allotment of institutional lands at pre-determined rates during the period post amendment of *Nazul Rules*, as the same has to be by way of public auction to the private societies like petitioners. Counsel for petitioners

cannot be heard to say that the delay was on the part of respondent-DDA in keeping petitioner's application for allotment of institutional lands pending for long time because nobody had stopped petitioners to seek their remedies available in the law against purported inaction of respondent-DDA in acting upon the recommendations of DDA's Institutional Allotment Committee.

10. In fact, there was a valid justification for not acting upon the aforesaid recommendations as they were subject matter of an enquiry by the CBI who had reported that there was serious bungling in the recommendations of the DDA's *Institutional Allotment Committee*. In any case, no fault can be found in the DDA's policy decision of the year 2003 (*Annexure P-12*) assailed by petitioner –*Northex Campus Society*, as the aforesaid policy decision was adopted by the DDA to amend the DDA's *Nazul Rules* of the year 1981 in April, 2006, whose validity has been upheld in *Bhagwan Mahavir (Supra)*.

11. Consequently, the relief sought in these petitions to allot institutional plots of land at pre-determined rates cannot be granted and so, these three petitions are dismissed, while leaving the parties to bear their own costs.

(SUNIL GAUR)
JUDGE

September 07, 2012

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