

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

LPA No. 30/2023
CM No. 1625/2023

1. State of Jammu and Kashmir (Now Union Territory) through Commissioner/Secretary to Government, Civil Secretariat, Jammu.
2. Director, Directorate of Industries and Commerce, Jawaharlal Nehru Udyog Bhawan, Railhead Complex, Jammu.
3. General Manager, District Industries Centre, Jammu.
4. J&K State Industrial Development Corporation Ltd.(SIDCO), Ram Bagh, (Now Udyog Bhawan, Bemina), Srinagar/Udyog Bhawan, Jammu.
5. General Manager, J&K State Industrial Development Corporation Ltd, (SIDCO), 4th Floor, Jawaharlal Nehru Udyog, Railhead Complex, Jammu.
6. Manager Estate, J&K State Industrial Development Corporation Ltd., SIDCO Industrial Complex, Bari Brahmana.

....Appellant(s)

Through :- Mr. KDS Kotwal, Dy. AG.

V/s

1. M/s Ravenbhel Biotech, EPIP Kartholi, SIDCO Industrial Complex, through its Partner Sh. Inam-ur-Rehman S/o Dr. Mohd Siddique R/O H. No.2, Lane No.01, Mansarover Enclave, Kaluchak, Jammu.
2. Sh. Sahil Mahajan, S/O Sh. Naresh Mahajar R/O 28-A/B Gandhi Nagar, Jammu.
3. Sh. Inam-ur-Rehman, S/O Dr. Mohd. Siddique R/O H. No.2, Lane No.1, Mansarover Enclave, Kaluchak, Jammu.
4. M/s Ravenbhel Health Care Pvt. Ltd. through its Director Sh. Inam-ur-Rehman S/o Dr. Mohd. Siddique R/O H. No. 2, Lane No.1, Mansarover Enclave, Kaluchak, Jammu.

....Respondent(s)

Through :- Mr. R. K. Gupta, Senior Advocate with
Mr. Udhay Bhaskar, Advocate

**Coram: HON'BLE MR. JUSTICE TASHI RABSTAN, JUDGE
HON'BLE MR. JUSTICE RAJESH SEKHRI, JUDGE**

ORDER

18.12.2023

TASHI RABSTAN, J:

1. This intra-court appeal has been filed by the appellants praying for the setting aside of the judgment and order dated 10.11.2022 passed by the learned

Single Judge in WP(C) No. 3011/2019 titled '*M/s Ravenbhel Biotech and others v. State of J&K and others*' whereby the learned Single Judge, while allowing the writ petition of the petitioners, has, *inter alia*, directed the respondents no. 4 to 6 (therein) to consider the case of the petitioner for allotment of the adjacent retrieved plot of land measuring 6 kanals as per clause 17.2 of the Guidelines of the Industrial Policy, 2016 issued vide Government order dated 07.06.2017.

2. Brief facts of the case are that the respondents herein preferred a writ petition, calling in question the allotment of land measuring 4 kanals situated at Export Promotion Industrial Park, SIDCO Industrial Complex, Kartholi, Bari Brahmana in favour of M/s SRA Foods, which was respondent No.7 in the writ petition vide order dated 21.06.2019; with a further prayer for allotment of six kanals of land adjoining to the respondents plot. During the pendency of the writ petition, the allotment made in favour of M/s SRA Foods was withdrawn and the said entrepreneur was adjusted at his original place of allotment. The respondents herein did not press the writ petition against the respondent no.7 i.e. M/s SRA Foods and the said entrepreneur was deleted from the era of the respondents during the pendency of the writ petition. The petitioners therein prayed for a writ of mandamus seeking a command to the appellants herein for allotment of six kanals of retrieved land adjacent to the industry of the respondents for expansion purpose in terms of the Industrial Policy of 2016 and the procedural guidelines framed thereunder. Objections were filed and on 23.05.2022 the rejoinder was filed by the petitioners/respondents herein. The appellants/respondents no. 4 to 6 in the writ petition filed their objections and taken a categoric stand that during the pendency of the writ petition, the Industrial Policy of 2016 stood superseded by the Industrial Policy of 2021 and, therefore, the writ petition has become infructuous.

3. The appellants have assailed the impugned judgment on the following grounds:

i. That the judgment impugned in this appeal is against the facts and law.

ii. That the judgment impugned is erroneous, as the Hon'ble Single Judge has relied upon an Industrial Policy of 2016, and also the procedural guidelines of 2016, which stood superseded by the New Industrial Policy of 2021.

iii. That a land measuring six kanals initially allotted in favour of M/s Premier Exports through its Proprietor Mr. Harish Kumar Jain and the same was retrieved back by the Corporation (SIDCO) in terms of order dated 12.07.2013 as the land remained unutilized. After the land is being retrieved, the Policy of 2021 specifically provides that wherever the land has been retrieved by the Corporation; the retrieved land shall be put to land bank and shall be allotted by way of open auction to the interested entrepreneur. In terms of Industrial Policy of 2021, the Government vide G.O. No. 269-Ind of 2021 dated 30.12.2021 has constituted a Committee of six officers, authorizing the committee to auction the retrieved land on 'as is where is basis'. After the land has been retrieved, the same is subject to auction but by virtue of the order impugned, the Hon'ble Single Judge has directed the allotment of the same in favour of the respondents herein in terms of Clause 17(2) of the Guidelines of Industrial Policy of 2016 and also the procedural guidelines issued vide order dated 07.06.2017. Even if the Industrial Policy of 2016 is perused it specifically provides that the adjacent Industrial Entrepreneur can always apply for expansion of his existing unit and the case of the existing unit can be considered for allotment of the additional land subject to the fulfillment of conditions as provided under the policy. A detailed and exhaustive procedure has been provided in the Industrial Policy of 2016 wherein the submission of the Project Report, its approval by the Committee and then ultimately the case is required to be placed before a

committee called as Single Window Clearance Committee (the authority competent to consider the case for allotment of land). The Hon'ble Single Judge while allowing the writ petition has directed the appellants herein to give an offer of allotment to the respondents herein within a period of two weeks and thereafter the writ petitioners (respondents herein) would submit a proposal for expansion within a period of one month and thereafter on completion of the formalities, the formal allotment would be made in favour of the writ petitioners (respondents herein) in terms of Clause 17(2) of Industrial Policy and Procedural Guidelines of 2016. The Hon'ble Single Judge has lost sight on this important aspect of the matter that the Corporation, the appellants no. 4 to 6, is not the authority competent to make the allotment of land and it is only the authority constituted under the Policy, i.e. Single Window Clearance Committee, the authority competent to consider the case of the entrepreneurs and then to make allotment. The issuance of such a direction is totally contrary to the law and, therefore, the judgment on this aspect of the matter, it is respectfully submitted, is erroneous and liable to be set aside.

4. Learned Dy. AG appearing for the appellants has vehemently argued the case and submitted that the impugned judgment is bad in the eye of law as the same is not in consonance with law and prayed for setting aside of the same.

5. On the other hand, learned senior counsel appearing for the respondents has supported the judgment passed by the learned Single Judge and submitted that the appellants have filed the appeal only for the sake of filing the appeal. He further submitted that no new grounds have been raised in the appeal as the same is the reiteration of the pleadings urged before the Writ Court. It is further submitted that the learned Single Judge has dealt with in great length by addressing each aspect of the controversy, by passing a detailed judgment. He finally prayed for dismissal of the appeal with costs.

6. Heard learned counsel for the parties, perused the impugned judgment minutely along with paper book.

7. After giving our thoughtful consideration and deep contemplation to the issues agitated in the appeal, we arrive at an inescapable conclusion that the judgment passed by learned Single Judge, being an elaborate and reasoned one, deserves no interference from us, as the same cannot be found fault with, while viewing from any angle. The learned Single Judge, in our view, has rightly put the controversy to quietus.

8. The judgment of the learned Single Judge is, thus, upheld.

9. The appeal is dismissed, along with application(s), being bereft of merits.

Jammu:
18.12.2023
Raj Kumar

(Rajesh Sekhri)
Judge

(Tashi Rabstan)
Judge