

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION No.1346 OF 2014

(Epsillion Cables Pvt. Ltd., M.I.D.C., Nagpur .vs. Mah. Industrial Dev. Corporation and
anr.)

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

Court's or Judge's orders

Mr.S.A.Marathe, Adv. for the petitioner.
Mr.R.D.Bhuibhar, Adv. for respondent nos. 1 and 2.

CORAM : B.P.DHARMADHIKARI &
A.P.BHANGALE, JJ.

DATE : 24th FEBRUARY, 2015.

Heard Mr.S.A.Marathe, learned Counsel for the petitioner and Mr.R.D.Bhuibhar, learned Counsel for respondent nos. 1 and 2 for sometime.

We find that the petitioner, who had applied for allotment of land admeasuring 10,000 sq.mts. to the respondent/M.I.D.C. in the year 2007, did not bother to approach this Court for almost seven years. In the meanwhile, on 5.9.2013, the respondent/M.I.D.C. took a policy decision and revised the rates of premium. The new rate of Rs.1150/- per sq.mt. has been applied to the petitioner and the petitioner has been given 8,000 sq.mts. of land in Butibori M.I.D.C. area. This application of new rate of premium is questioned by the petitioner.

Though necessary pleadings are not there, the effort of the petitioner is to demonstrate that certain other units have been given plots at the old rates. It is also

submitted that the petitioner could get copy of resolution passed by M.I.D.C. on 24.5.2013, by which the revision was postponed till 13.12.2013. The policy decision accordingly has been issued on 14.6.2013. The learned Counsel, in fact, seeks adjournment to place the same on record on an affidavit. The allotment made as pointed out in the Writ Petition at old rates are also pressed into service.

Mr.R.D.Bhuibhar, learned Counsel appearing on behalf of respondent/M.I.D.C. is relying upon the reply-affidavit. He points out that, if claim of the petitioner for allotment of land is superseded at any point of time, such challenge was not raised within the reasonable time and there is no such grievance in the present petition. According to the learned Counsel, a waiting list is required to be maintained depending upon need of the land and when the plot of a particular area becomes available, it is allotted to the units as per their standing in that waiting list. Hence, allotment of smaller plots to other units before the petitioner does not mean that the petitioner's claim has been superseded. He also points out that those allotments are before September, 2013 and therefore, at old rates.

Mr.R.D.Bhuibhar, learned Counsel also submits that the petitioner has not pointed out any allotment effected after 5.9.2013 at old rates or at a rate lesser than Rs.1150/- per sq.mt.

Mr.S.A.Marathe, learned Counsel for the petitioner invites our attention to the document placed on record along with an affidavit to show that how rate of Rs.1150/- per sq. mt. has been worked out. He submits that, the rate at which the land owners are to be paid for the

acquired lands in additional Butibori M.I.D.C. area, has got no relevance insofar as the lands already acquired are concerned. The learned Counsel, therefore, submits that new rate cannot be made applicable to the petitioner who has been allotted such land in Butibori M.I.D.C. area.

We have considered the material on record. We find that the petitioner has not raised all contentions properly and therefore, the respondents also could not get necessary opportunity. During the arguments, Mr.Marathe, learned Counsel also invited our attention to the advertisement published on behalf of one of the units for sale of its industrial plot in Butibori M.I.D.C. area. Mr.Marathe, learned Counsel submits that such sells also cannot be permitted when there is a waiting list with respondents. He has also urged that the respondent is not a profit making entity established by the State Government.

We find that several disputed questions arise in the matter. The petitioner appears to be in queue since 2007. Neither the petitioner nor the respondent state that turn of the petitioner for allotment of land had matured at any time prior to 2013. It appears that entitlement of petitioner has been looked into after plot of larger size became available. May be, therefore, the revised rate became applicable. However, the resolution which the petitioner wishes to press into service may show otherwise.

As the disputed questions arise and the petition does not contain necessary challenges, we grant the petitioner leave to make appropriate representation in this respect to the respondent within a period of four weeks from today. If such representation is made, the respondent shall

consider it in accordance with law within the next four weeks by giving necessary opportunity of hearing to the petitioner.

With these directions and keeping all rival contentions open, we dispose of the Writ Petition. No costs.

JUDGE

JUDGE

jaiswal