THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

Writ Petition No.11834 of 2012

Dated 23rd July, 2015

Between:

M/s.Yelamanchili Infrastructure Ltd.,

…**Petitioner**

And

The Zonal Manager, Andhra Pradesh Industrial Infrastructure Corporation Ltd., Zonal Office, Industrial Park, Visakhapatnam and others

…**Respondents**

Counsel for the petitioner: Sri K.Mallikarjuna Rao

for Sri Chetluru Sreenivas

Counsel for the respondents: Sri P.Roy Reddy

The Court made the following:

ORDER:

This writ petition is filed for a mandamus to declare the action of the respondents in demanding Rs.600/- per square meter instead of Rs.400/- per square meter for allotment of a plot to the petitioner in Growth Center, Bobbili, Vijayanagaram District vide letter bearing No.3066/YINFRALTD/BBL/ZO/VSP/2011, dated 20.03.2012, of respondent no.1, as illegal and arbitrary.

I have heard Sri K.Mallikarjuna Rao, learned counsel, representing Sri Chetluru Sreenivas, learned counsel for the petitioner, and Sri P.Roy Reddy, learned Standing Counsel for APIIC appearing for the respondents.

In pursuance of the public notice issued by the respondents informing availability of plots in Growth Center, Bobbili, Vijayanagaram, the petitioner has made its application through on-line for allotment of a plot. The petitioner paid a sum of Rs.11,69,055/-, comprising Rs.11,57,480 towards EMD and Rs.11,574/- towards process fees, by calculating the price of the plot at Rs.400/- per square meter. Respondent No.1 issued the impugned letter, dated 20.03.2012, making a provisional allotment of plot No.12 admeasuring 28936.97 square meters for establishment of godowns on outright sale basis. In the said letter, the respondents have calculated the cost of the plot at 1½ times of the price at which the land is allotted for industrial purposes. Assailing the action of respondent No.1 in charging 1½ times of price fixed for the industrial plots, the petitioner filed this writ petition.

At the hearing, the learned counsel for the petitioner has relied upon APIIC Allotment Regulations. He has submitted that as per the land rates of industrial areas notified by the APIIC w.e.f., 01.07.2011 upto 31.03.2012, Rs.400/- per square meter is fixed as the rate in Growth Center, Bobbili and that based on the said price, the petitioner applied for allotment of plot paying the EMD and that therefore, the respondents have committed patent illegality in seeking to collect 50% more than what is prescribed for the plots in Growth Center, Bobbili.

Though no counter affidavit is filed by the respondents,
Sri P.Roy Reddy, learned Standing Counsel for APIIC, submitted that as per the Corporation's Regulations, for commercial activity in Industrial Areas and Growth Centres, an extra of 50% of the price fixed for industrial plots is charged. He has placed before the Court APIIC Regulations of 2012 in general and Regulation No.32.6, in particular, which reads as under:

> "In respect of allotment of industrial/CFC area for commercial purposes like Business Centres/Business Hotel cum convention centre/show room/malls or such other related activities, the lay out needs to be revised and secure approval of revised lay out. In such cases, a process fee equivalent to 50% of the prevailing land cost as on the date of such approval may be levied."

From the above re-produced Regulation, it is evident that in respect of allotments made for commercial purposes, process fee equivalent to 50% of the prevailing land cost as on the date of approval shall be levied. The learned counsel for the petitioner has not disputed the fact that purpose for which the plot was allotted was for construction of godowns and not for running an industry. Therefore, charging 1½ times of the price of the plot allotted for commercial purpose is in consonance with the Regulations of APIIC.

The learned counsel for the petitioner submitted that having accepted the EMD calculated by the petitioner at the price applicable for industrial plots, the respondents are estopped from levying higher rate.

I do not find any merit in this submission. It is not the pleaded case of the petitioner that the respondents have calculated the EMD. Merely because the petitioner has calculated the EMD on his own and paid through on-line along with the application, the plea of estoppel cannot be raised against the respondents. At any rate, such a plea contrary to the Regulations governing allotment is not available to the petitioner.

The learned counsel next contended that some of the allotments made by the respondents, copies of which have been filed, show that the respondents have not charged the extra rate for commercial purposes. A perusal of these allotments shows that they were made in the years 2006 and 2010 and the petitioner failed to show the price fixed by the Corporation for commercial purposes at the time when allotments were made in 2006 and 2010. Therefore, this plea of the petitioner remained unsubstantiated. At any rate, even if the respondents have made allotments contrary to the Regulations, the petitioner cannot claim any right against specific Regulation, for, no person can claim any right based on negative equality.

In the light of the above facts and circumstances of the case, I do not find any merit in the writ petition and the same is accordingly dismissed.

As a sequel to dismissal of the writ petition, W.P.M.P.No.14901 of 2012 shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

23rd July, 2015