

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

% **Date of decision: 11th February, 2016**

+ **W.P.(C) No.6372/2012 & CMs No.17005/2012 (for stay),
14347/2013 (for directions) & 470/2015 (for modification of order
dated 8.1.2014)**

AIRPORTS AUTHORITY OF INDIA

..... Petitioner

Through: Mr. K.K. Rai, Sr. Adv. with Mr.
Digvijay Rai, Mr. Syed Hassan Bin
Taher and Mr. Anshul Rai, Advs.

Versus

UNION OF INDIA & ORS

.....Respondents

Through: Mr. Sanjeev Narula and Mr. Ajay
Kalra, Advs. for UOI.
Mr. Puneet Mittal and Mr. Anurag
Mangla, Advs. for R-2.
Mr. Pragyan Sharma and Mr. Ravi
Kant Pal, Advs. for R-4.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

1. The petition, (i) impugns the letter dated 11th September, 2002 of the Ministry of Urban Development (MUD) cancelling the allotment made on 2nd July, 1985 of land *ad measuring* 2.0524 acres at Vasant Vihar, New Delhi to the Department of Civil Aviation for construction of residential complex; (ii) seeks mandamus for restoration of the said allotment to the petitioner Airports Authority of India (AAI) as the successor of the

Department of Civil Aviation; and, (iii) alternatively seeks mandamus to the respondent to allot any other site in immediate vicinity of the earlier site.

2. It is the case of the petitioner AAI:

(a) that the respondent MUD vide letter dated 2nd July, 1985 to the Director General of Civil Aviation (DGCA) allotted land measuring 2.0524 acres at Vasant Vihar, New Delhi for construction of 120 dwelling units in lieu of barracks situated in the residential area of Lodhi Estate which were in possession of DGCA;

(b) that the allotment was subject to terms and conditions as mentioned in the “Memorandum of Agreement and Perpetual Lease” and which *inter alia* included:

“(i) The date of allotment of the site will be the date of the letter. The plot will initially be on licence under an agreement and upon successful fulfilment of the terms of the contract lease will be given.

(ii) The Director General Civil Aviation shall be required to construct the building in conformity with the Architectural surroundings of the area, within 2 (Two) years from the date of handing over or officer or handing over whichever is earlier.

(iii) The allotment is being made to enable the Director General Civil Aviation to construct permanent replacement quarters for the barracks to be vacated by

them in the institutional area of Lodhi Estate near Bal Bharti Air Force School.

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(ix) Sixty one quarters placed at the disposal of the D.G.C.A. by the Directorate of Estates as a temporary measure to enable the D.G.C.A. staff to vacate the barracks occupied by them in the Institutional area near Bal Bharti Air Force School, shall be vacated and reverted to Directorate of Estates latest on the expire of 2 years from the date of communication of this allotment by the L&D.O. to the Director General Civil Aviation.”

- (c) that in or about June, 1986 National Airports Authority of India (NAAI) was constituted and all the assets of DGCA including 2.0524 acres of land aforesaid were transferred to the NAAI;
- (d) that NAAI on 26th February, 1987 paid a consideration of Rs.16,41,920/- for the aforesaid land to the MUD and was on 31st March, 1987 put into possession of the said land;
- (e) that in or about 1995 the petitioner AAI was formed on merger of NAAI and International Airport Authority of India;
- (f) that the petitioner AAI appointed a consultant for construction of staff quarters on the aforesaid land but before the construction could commence, the respondent vide impugned letter dated 11th

September, 2002 cancelled the allotment of the aforesaid land—without assigning any reason;

(g) that the petitioner AAI vide its letter dated 25th April, 2006 sought a meeting with the MUD and vide another letter dated 10th July, 2006 informed the MUD that the revised drawings had been submitted by the consultant aforesaid appointed by the petitioner AAI and which had been finalised and vide letters dated 4th October, 2006 and 15th / 18th December, 2006 called upon the respondent MUD to restore the possession of the land;

(h) that the respondent vide its letter dated 26th March, 2007 informed the petitioner AAI that the request of the petitioner AAI for restoration of the land had not been acceded to;

(i) that the petitioner thereafter continued to make efforts for restoration of the land including by invoking the good offices of DGCA but without any success;

(j) that the Ministry of Civil Aviation vide its letter dated 23rd January, 2009 informed the petitioner AAI that the MUD is not inclined to restore the subject land to the petitioner AAI and that the

petitioner AAI may take up the matter with the Committee on Disputes (COD), Cabinet Secretariat;

(k) that the petitioner AAI vide its letter dated 16th / 20th February, 2009 forwarded the necessary documents to the Ministry of Civil Aviation for forwarding to the High Power Committee, for resolution of the disputes which had arisen between the petitioner AAI on the one hand and the MUD on the other hand;

(l) that the COD vide its communication dated 17th September, 2009 directed the MUD to have a fresh look in the case and to see whether any alternative suitable land can be allotted to the petitioner AAI or any other mutually acceptable solution can be found to meet the requirement of residential accommodation for the staff of the petitioner AAI;

(m) that the petitioner AAI learnt that the Supreme Court vide *Electronics Corporation of India Ltd. Vs. Union of India* (2011) 3 SCC 404 has held that Public Sector Enterprises / Ministries and department of Central Government do not require the permission of COD before approaching the Courts / Tribunals;

(n) accordingly, the process of seeking sanctions for filing this petition was initiated and this petition filed.

3. It is the contention of the counsel for the petitioner AAI (I) that the aforesaid land was allotted to construct residential quarters *in lieu* of barracks under the possession of DGCA at Lodhi Road and which were vacated with a clear understanding that the respondent would allot alternative land to the petitioner AAI; (II) that the predecessor of the petitioner AAI namely NAAI has paid Rs.16,41,920/- to the respondent on 26th February, 1987 for the said land; (III) that the cancellation had been effected without giving any notice; (IV) that the respondent MUD has also not complied with the direction dated 25th August, 2009 of the COD.

4. This petition came up first before this Court on 8th October, 2012 when notice thereof was issued. The counsel for the respondent on 24th October, 2013 informed that out of the aforesaid land, one acre had been allotted to Samajwadi Party on 21st January, 2009 and possession stood delivered vide order of the said date. The respondent was restrained from executing the lease deed in respect of the land allotted to Samajwadi Party and to maintain *status quo* with respect to the remaining land. The respondent MUD thereafter informed that out of the remaining land, land *ad*

measuring 2000 sq. mtrs. had been allotted to Janta Dal (U) and possession also stood handed over and the remaining land was under the process of allotment to Mizo Peace Foundation.

5. The petitioner AAI filed CM No.17004/2013 for impleadment of Samajwadi Party, Janta Dal (U) and Mizo Peace Foundation as party to the petition. Vide order dated 8th January, 2014 this Court upon being told that construction on the land aforesaid had been commenced, directed maintenance of *status quo* qua construction and possession.

6. It is the case of the respondent MUD in its counter affidavit:

(A) that the petition is barred by delay and laches; the cancellation impugned was effected in the year 2002 and the COD has also given its observations in the year 2009 and the petition has been field only in 2012;

(B) that the petitioner AAI / its predecessor failed to adhere to the terms of the allotment of the letter i.e. construction of residential flats within two years of allotment and thus the petitioner AAI has no right;

(C) that only licence of the land was given and the petitioner AAI had no right in the land;

(D) it is denied that the land was allotted *in lieu* of barracks; however it is stated that the land was allotted on account of vacation of barracks in the Lodhi Road Institutional Area and not *in lieu* of barracks as in that case the value of the land would not have been charged;

(E) that the petitioner AAI / its predecessor were required to construct 120 dwelling units, for construction whereof the land was allotted, by 31st March, 1989; however neither any construction was commenced nor any reason for delay had been communicated;

(F) that no intimation of transfer of the land from DGCA to NAAI and thereafter to the petitioner AAI had been sent to the respondent MUD and no extension of time for commencement of construction had been sought;

(G) that the cancellation is thus justified;

(H) that as per the directions of COD, the matter was discussed between the Secretary, Ministry of Civil Aviation and the Secretary, Ministry of Urban Development and the Secretary, Ministry of Civil Aviation was vide letter dated 29th March, 2010, informed that the matter has been examined and no vacant land was available with the

respondent L&DO to be considered for allotment to the petitioner AAI;

(I) that the allotment had been cancelled as per the order dated 15th July, 1998 of the Land & Development Office, Ministry of Urban Development stating that extension for construction would be granted on case to case basis upto five years and thereafter the extension should be granted only with the approval of the Ministry;

(J) however the maximum period for which such construction could be allowed was 10 years in all and in case no construction takes place within the said period, the allotment is to be cancelled and the land put to alternative use;

(K) that the subject land was neither constructed nor any reason for delay in construction was communicated nor any extension been sought for a period of 17 years after allotment and thus the allotment was cancelled.

7. The petitioner AAI has filed a rejoinder but since no reference thereto was made by either of the counsels, reference thereto does not arise.

8. On 12th October, 2015 after hearing the counsels at length, the following order was passed:

“1. The petition impugns the cancellation dated 11th September, 2002 of the allotment of land made on 2nd July, 1985 by the Government of India, Ministry of Works and Housing, Land & Development Office in favour of the Deputy Director, Director General, Civil Aviation (DGCA), New Delhi of land measuring 2.0524 acres to enable the DGCA to construct about 120 dwelling units in the residential complex being constructed by Central Public Works Department near Vasant Vihar area.

2. The petitioner Airports Authority of India (AAI) claims to be the successor under Section 13 of the Airports Authority of India Act, 1994 of the DGCA. It is explained that DGCA was succeeded by the National Airport Authority and of which petitioner AAI is the successor.

3. The land aforesaid was allotted, according to the petitioner, in lieu of the barracks occupied by the staff of DGCA in the institutional area near Air Force Bal Bharti School, Lodhi Colony, New Delhi.

4. Though the letter of cancellation of allotment does not give any reason for cancellation and admittedly no notice to show cause or hearing was given prior to effecting the cancellation, but it is the stand of the respondent Union of India (UOI) in the counter affidavit that the cancellation was on account of failure of the petitioner / its predecessor to construct thereon within two years from the date of handing over of possession of the land and which admittedly, in pursuance to the allotment aforesaid, was on 31st March, 1987.

5. This petition impugning the cancellation of 11th September, 2002 was filed in the year 2012. The senior counsel for the petitioner on enquiry as to the said delay states that the petitioner had approached the Committee of Dispute (COD) constituted earlier under directions of the Supreme Court and

which has since been scrapped and filed this petition only when no resolution could be found before the COD.

6. *However a perusal of the Annexure P-19 of the petition at page 73 of the paper book shows that the COD had disposed of the matter by directing Secretary, Ministry of Urban Development to have a fresh look in the case and to see whether any alternative suitable land can be allowed to the petitioner AAI or any other mutually acceptable solution can be found to meet the requirement of residential accommodation for the staff of petitioner AAI.*

7. *It has in the circumstances been enquired from the senior counsel for the petitioner, that the petitioner having opted for the route of COD and the said COD having not directed revocation of cancellation but having only directed consideration of the possibility of alternative suitable land to the petitioner, how can this petition impugning the cancellation and effect whereof would be to restore the allotment of the land in favour of the petitioner can be entertained. In this regard, it may be noticed that the respondent UOI has since then allotted the land to the respondents No.2&3 viz. Janta Dal (United) and Samajwadi Party and has proposed to allot the remaining land to respondent No.4 State Government of Mizoram; the respondent No.2 Smajwadi Party is also stated to have commenced work of construction on the said land and further works on the said land have been stopped by an interim order of this Court in this petition.*

8. *It has further been enquired from the senior counsel for the petitioner AAI as to what was the right if any of the petitioner in the land. The petitioner only had allotment in its favour and which would tantamount to grant of a licence to the petitioner. The petitioner admittedly did not raise any construction on the said land for it to be said that the licence,*

by making construction of permanent nature, had become irrevocable.

9. *The senior counsel for the petitioner states that since the allotment was in lieu of the barracks in possession of the DGCA in the institutional area near Air Force Bal Bharti School, Lodhi Road and in which the DGCA had ownership rights, the petitioner AAI would have ownership rights in the subject land also.*

10. *However it is not pleaded as to what was the nature of the rights of DGCA in the barracks aforesaid. Under Section 13 of the Act under which the petitioner AAI claims to be the successor, the petitioner AAI got such rights as DGCA had in its assets. If DGCA was merely a licensee with respect to the said barracks, the rights of DGCA and of the petitioner AAI as successor of DGCA in the said land also would be as of licensee only and would not become ownership rights. In this regard, it may also be noticed that there is no registered document in favour of the petitioner with respect to the land.*

11. *The senior counsel for the petitioner seeks time to consider.*

12. *Though it is also the contention of the petitioner that the respondent No.2 Samajwadi Party was not eligible for allotment of one acre of land but to be able to make this argument should also address on the locus of the petitioner AAI to make such a challenge before this Bench; if the petitioner AAI is not found to have any right, it would have no locus standi to challenge the allotment in favour of others in an inter-parties petition and which is not a public interest litigation.*

13. *The counsel for respondent No.1 UOI to also obtain instructions whether any alternative land can be given to the petitioner AAI preferably in the same area or in the vicinity where the land was earlier allotted.*

14. List on 29th October, 2015.”

9. On 29th October, 2015 the petitioner AAI in response thereto filed an additional affidavit pleading that the proceedings before the COD were only conciliatory proceedings and not an adjudicatory proceedings.

10. The respondent MUD on 29th October, 2015 informed that they had not been able to identify any land for allotment in the same area or in the vicinity where the land was earlier allotted for allotment to the petitioner AAI. The respondent MUD on 15th December, 2015 informed that the UOI had in turn enquired from Delhi Development Authority (DDA) whether any land could be made available to the petitioner AAI but instructions had not been received.

11. Being of the view that the petitioner AAI could not be permitted to sail in two boats i.e. either await the allocation of alternative land or pursue the petition on merits, the counsel for the petitioner AAI was directed to argue and the senior counsel for the petitioner AAI has been yet further heard for over one hour today.

12. The senior counsel for the petitioner AAI has contended, (i) that the rights of the petitioner AAI in the aforesaid land at Vasant Vihar were as of a

perpetual lessee and not of a licensee; (ii) that there was no condition (termed by the senior counsel a 'negative covenant') that for non-construction, the said lease will be cancelled; (iii) that no notice of cancellation was given; (iv) that the proceedings before the COD earlier constituted under the directions of the Supreme Court in **ONGC Vs. Collector of Central Excise** 1995 Supp. (4) SCC 541 were held to be conciliatory only; (v) that there was thus no determination of rights before the COD; (vi) that since the proceedings before the COD are conciliatory, they will not bar the present petition; (vii) that the petitioner AAI could not have come to the Court immediately; (viii) reliance is placed on **Municipal Commissioner of Dum Dum Municipality Vs. Indian Tourism Development Corporation** (1995) 5 SCC 251 to contend that the petitioner AAI as lessee of the land was the owner thereof; (ix) that the allotment in favour of Samajwadi Party was made on 21st January, 2009 when the proceedings before the COD were already pending and the allotment in favour of Janta Dal (U) on 26th / 27th April, 2010; (x) that this Court had at an earlier stage of these proceedings asked the respondent MUD to disclose the policy of the respondent MUD / L&DO for grant of extension of time for raising construction on the allotted plot and the respondent MUD in response

thereto has produced a policy; (xi) however the petitioner AAI is aware of the respondent MUD having granted time beyond that prescribed in the policy; (xii) that the same shows that the policy is not mandatory; (xiii) reliance is placed on *Sharda Nath Vs. Delhi Administration* 2008 (102) DRJ 249 where a Division Bench of this Court, on a perusal of the Guidelines of the respondent in this regard, observed that the respondent MUD / L&DO does not regard delay in construction as an absolute and non-condonable breach that would result in automatic and mandatory determination of lease but a remedial breach; (xiv) that no due process of law has been followed in effecting the cancellation; (xv) reliance in this regard is placed on *Samir Sobhan Sanyal Vs. Tracks Trade Private Ltd.* (1996) 4 SCC 144; (xvi) reference is made to *Express Newspapers Pvt. Ltd. Vs. Union of India* (1986) 1 SCC 133 also on the requirement of following the due process of law; (xvii) reference is made to *Ramesh Chander Jain Vs. Deputy Commissioner, Gurgaon* I.L.R. (1990) 1 P&H 429 on “what is hearing”.

13. I have considered the aforesaid contentions.

14. The petitioner AAI inspite of a specific order dated 12th October, 2015 passed after hearing the counsels and as reproduced hereinabove has failed to

disclose the nature of rights of DGCA as predecessor of the petitioner AAI in the barracks at Lodhi Road Institutional Area in its possession. Without the petitioner AAI having any rights in law in the said barracks, it is not open to the petitioner AAI to contend that the allotment of the land at Vasant Vihar being *in lieu* thereof, the petitioner AAI had the same rights in the land at Vasant Vihar and which rights could not have been taken away.

15. The petitioner AAI along with the petition has filed a copy of the letter dated 2nd July, 1985 of the respondent L&DO to the DGCA of allotment of the land at Vasant Vihar for construction of 120 dwelling units for the essential duty staff of DGCA. The said letter nowhere states that the said allotment is *in lieu* of any other land to which DGCA may have been having any rights. All that the said letter states is that the allotment was being made to enable DGCA to construct permanent replacement quarters for the barracks to be vacated by DGCA in the Institutional Area in Lodhi Estate and that 61 quarters placed at the disposal of the DGCA by the Directorate of Estates as a temporary measure to enable the DGCA staff to vacate the barracks occupied by them in the Institutional Area which shall be vacated and reverted to Directorate of Estates latest on the expiry of two years from

the date of communication of the allotment by the respondent L&DO to the DGCA.

16. It has thus but to be assumed that the predecessor of the petitioner AAI did not have any rights whatsoever in the barracks at Lodhi Road Institutional Area, though may have been in possession of the same as a licensee or otherwise and that the allotment of the land aforesaid at Vasant Vihar was not *in lieu* of any pre-existing right of the petitioner AAI.

17. The letter dated 2nd July, 1985 of allotment of the land is unequivocal and categorical and as per the said letter, the said land was to be initially in possession of the petitioner AAI as a licensee and only upon successful fulfilment by the petitioner AAI of the terms mentioned therein was the petitioner AAI to become entitled to a perpetual lease with respect thereto.

18. One of the terms, as aforesaid, was of construction on the land within two years “from the date of handing over or offer of handing over whichever is earlier.” The petitioner AAI was admittedly in breach thereof. The petitioner AAI merely upon fulfilment of another condition therein, of payment of Rs.16,41,920/- claims entitlement to lease. However, fulfilment of one of the several conditions as per the said letter was not to entitle the petitioner AAI to the perpetual lease. Not only so, yet another condition of

the said letter was, vacation of the 61 quarters placed at the disposal of the predecessor of the petitioner AAI as a temporary measure and which were to be vacated “latest on the expiry of two years from the date of communication of this allotment by the L&DO to the Director General of Civil Aviation”. The petitioner AAI has not stated having complied with the said condition also.

19. We have to view the cancellation of allotment effected by the respondent in the aforesaid light.

20. In my view, the allotment as aforesaid is a government grant within the meaning of the Government Grants Act, 1895 and as per the law laid down in (i) ***Raja Rajinder Chand Vs. Sukhi*** AIR 1957 SC 286; (ii) ***Hajee S.V.M. Mohamed Jamaludeen Bros. & Co. Vs. Govt. of T.N.*** (1997) 3 SCC 466; (iii) ***State of Uttar Pradesh Vs. United Bank of India*** MANU/SC/1353/2015; (iv) ***Delhi Development Authority Vs. Nehru Place Hotels Ltd.*** AIR 1984 Delhi 61 (DB); and, (v) ***Union of India Vs. Mahalaxmi Saw Mills P. Ltd.*** 226 (2016) DLT 323 (DB) has to be construed strictly in terms thereof and the provisions of the Transfer of Property Act, 1881 are not applicable thereto. The petitioner AAI under the letter dated 2nd July, 1985 of allotment had no rights in the land except as a licensee. A

licensee has no rights in the land, save a right to enter upon the land and to use the same for the specific purpose. The predecessor in interest of the petitioner AAI in the present case had been granted a licence by the respondent MUD to enter upon the said land and to raise construction of 120 dwelling units thereon. It was only upon fulfilment of the said condition within the specified time that a right could be said to have accrued to the petitioner AAI to a perpetual lease with respect to the said land. Even according to the petitioner AAI, no steps even were initiated within two years of 31st March, 1987 i.e. the date when the petitioner AAI was put into possession of the land for raising construction thereon. The petitioner AAI claims to have appointed the consultant also much thereafter. Though the senior counsel for the petitioner AAI has argued that the delay was on account of constitution of the NAAI in the year 1986 and of the petitioner AAI in the year 1996 but the fact of the matter remains that within two years as aforesaid, construction had not been completed. Not only so, NAAI was formed, though after the date of allotment but before the date of taking over of the possession. The petitioner AAI was formed only nine years thereafter. The same cannot be a ground for non-raising of construction within two years of the date of being put into possession of the land as was required of

the allottee as per the terms of allotment. The petitioner AAI even today is not able to give any explanation whatsoever for not raising the construction from 31st March, 1987 to 31st March, 1989.

21. The facts thus speak for themselves and as far as the ground urged of non-giving of a show cause notice is concerned, the principle of, “even if the same would have been given, would have been futile”, would be applicable. Need to elaborate further on the said principle is not felt as I have recently in *Advanced Medical Science and Education Society Vs. Medical Council of India* MANU/DE/2711/2015 and *Jhansi Orai Tollway Pvt. Ltd. Vs. Union of India* 223 (2015) DLT 664 dealt with the same in detail.

22. As far as the reliance by the senior counsel for the petitioner AAI on the policy for grant of extension of time by the respondent MUD is concerned and the contention that time beyond the policy had been given, all that can be said is that, without examining the facts of each and every case, no comparison can be made. Moreover, once according to the senior counsel for the petitioner AAI also the policy is of extension for maximum of 10 years, the extension beyond that, even if given to anyone else, would not entitle the petitioner AAI to contend that the petitioner AAI is also entitled to similar extension. Any extension contrary to the policy given by the

respondent to any other person cannot invite a mandamus to the respondent to act in violation of its policy. Article 14 does not permit negative equality. Reference in this regard can be made to the dictum of the Supreme Court in *State of U.P. Vs. Rajkumar Sharma* (2006) 3 SCC 330 and *Union of India Vs. M.K. Sarkar* (2010) 2 SCC 59.

23. I am also of the view that there is merit in the contention of the respondent MUD of the petition being barred by delay and laches. Though the cancellation of allotment was effected on 11th September, 2002 but as per the petition also the first letter protesting thereagainst was sent only on 25th April, 2006 i.e. after nearly three and a half years therefrom. Thereafter also, inspite of the petitioner AAI not meeting with any success, the petitioner AAI waited till 31st January, 2009 to approach the COD and after the direction dated 17th September, 2009 of the COD waited for another three years to bring this petition before this Court.

24. The whole purpose of constitution of the COD vide *Oil & Natural Gas Commission Vs. Collector of Central Excise* supra was to unburden the Courts from litigations between Government Departments or between Government Departments and Public Sector Undertakings and which disputes could be resolved at the governmental level itself. The petitioner

AAI opted to avail of the same but is not abiding thereby. The petitioner AAI having opted to avail of the route of COD cannot belatedly approach the Court and raise contentions on the assumption that the land, in the interregnum, would not be allotted to another entity.

25. It is rather sad to find the petitioner AAI, which is but an arm of the Government, fighting with the Government. I am sure that if the petitioner AAI has any real need of land, the same would somehow or the other be met by the Government. In fact, in a response to a query of this Court, whether not the non-construction by the petitioner AAI over the said land from March 1985 till the cancellation of allotment in the year 2002 i.e. for a period of 17 years and the delay on the part of the petitioner AAI thereafter for another 10 years before approaching this Court is indicative of the petitioner AAI having no real need for the said land for housing of its staff, the counsel for the petitioner AAI stated that the said lands are valuable assets of the petitioner AAI and the petitioner AAI earns therefrom. In my humble opinion, the petitioner AAI has not been constituted for the said purposes.

26. The reliance on the judgments cited is also totally misconceived being *de hors* the facts of the present case and which practice has been recently

deprecatd by the Supreme Court in *Sundeep Kumar Bafna Vs. State of Maharashtra* (2014) 16 SCC 623.

27. As far as reference to *Express Newspapers Pvt. Ltd.* supra is concerned, not only was the Supreme Court in that case concerned with a perpetual lease but otherwise also, as noticed by me in *Ocean Plastics & Fibres (P) Limited Vs. Delhi Development Authority* 187 (2012) DLT 359 (LPA No.415/2012 whereagainst was withdrawn on 28th May, 2012), the Division Bench of this Court in judgment dated 21st February, 2006 in LPA No.976/2004 titled *D.D.A. Vs. Ambitious Gold Nib Mfg. Co. Pvt. Ltd.*, after considering the subsequent Constitution Bench judgment of the Supreme Court in *Ashoka Marketing Ltd. Vs. Punjab National Bank* (1990) 4 SCC 406 held the observations in *Express Newspapers Pvt. Ltd.* to be no longer good law.

28. I am therefore unable to find the petitioner AAI to be entitled to any relief.

Dismissed. I refrain from imposing costs.

RAJIV SAHAI ENDLAW, J.

FEBRUARY 11, 2016/bs..
(corrected & released on 26th February, 2016)