

IN THE HIGH COURT OF BOMBAY AT GOA**Writ Petition No.823/2016**

M/s. Tulsyan NEC Limited,
A limited Company, registered
under Companies Act, 1956, and
Registered under No.437, having
its registered office at
37, Tank Bund Road,
Vasant Nagar, Bangalore, Karnataka,
India.
Represented by its authorised person
Ms. Divyant Patel,
58 years of age,
resident of F 402, Martins Palm Fringe,
Taliegao, Goa.

Petitioners**Versus**

Goa Industrial Development Corporation.
Corporate office at Plot No.13A-2, EDC Complex,
Patto Plaza, Panaji-Goa,
Through its Managing Director. **Respondents**

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Shri J. Godinho, Advocate for the petitioner.
Shri Hanumant D. Naik, Advocate for the
respondent no.1.

**CORAM : F.M. REIS &
NUTAN D. SARDESSAI, JJ.
DATED : 06/04/2017.**

ORAL JUDGMENT :(Per F.M.REIS, J.)

1. Heard Shri J. Godhino, learned counsel appearing for the petitioner and Shri H.D.Naik, learned counsel appearing for the respondent no.1.

2. Rule. Heard forthwith with the consent of the learned counsel appearing for the parties. The learned counsel appearing for the respondent no.1 waives notice.

3. The above petition inter alia seeks a writ to quash and set aside the notice dated 16.08.2016 and letter dated 27.06.2016.

4. Briefly, it is the contention of the petitioner that the petitioner on 26.03.1997 applied to the respondent for grant on lease a plot of land admeasuring 12700 square metres, for the purpose of setting up an Industrial Unit. Thereafter, on 29.06.1998, the application of the petitioner was considered by the respondent and accordingly a deed of lease was executed on 29.06.1998. It is the contention of the petitioner that after taking over the possession of the plot, a factory building was constructed within a stipulated period and the lease was for a period of 30 years. It is further contended by the petitioner that on account of recession in the market and non-availability of the skilled labour, the petitioner has to shut down the factory for a temporary period. It is further contended by the petitioner that on 14.01.2015 a letter was addressed to the respondent stating that the factory was

started within the time and the factory was temporarily shut down due to the adverse market condition. Subsequently, on 18.01.2015 a letter was addressed to the Canara Bank concerning the issue of NOC issued in respect of the said plot stating that the petitioner's unit is not functioning and not gone into the production within two years and as such the tenancy is terminated. Thereafter, the respondent on 18.02.2015 issued a show cause notice claiming that the Unit is not functioning and amount of Rs.2,54,121/- was due as on 31.01.2014. By the said letter, the petitioner was asked to show cause as to why the allotment should not be cancelled and the plot be reverted to the Corporation. A reply was submitted by the petitioner on 02.03.2015 to the show cause notice denying the contentions raised by the respondent that the Unit was not functional along with the documents from the very first year of taking of plot on lease. Along with such reply, the amount of Rs.2,54,121/- claimed by the respondent was also enclosed. Thereafter, on 27.06.2016, the respondent issued a letter of cancellation of the allotment of plot on the ground that the petitioner has violated the terms and conditions of allotment and an area of 8890 square metres of plot claimed to be reverted to the respondent. A reply was thereafter submitted by the petitioner inter alia disclosing that

the petitioner will commence the production in the factory building and construct additional shed for storage of material produced. Thereafter, on 16.08.2016 the respondent issued a notice to take over the possession of an area of 8890 square metres and aggrieved by such notice, the petitioner approached this Court for the reliefs as stated herein above.

5. We have heard both the learned counsel appearing for the petitioner and the respondent. The main grievance of the petitioner is that the ground on which the alleged reversion of the plot of land as directed by the respondent is totally contrary to the ground on which the show cause notice was issued. During the course of the hearing, the learned counsel appearing for the petitioner has fairly accepted that the ground on which the alleged reversion was ordered was not found in the show cause notice issued to the petitioner. In such circumstances, the impugned order itself stands vitiated as the petitioner did not get adequate and fair opportunity to meet such allegations of the respondent. The impugned order as such came to be passed in breach of the principles of the natural justice and without giving adequate opportunity to the petitioner on that count and as such the order be quashed and set aside.

6. In view of the above, the impugned order dated 16.08.2016 is quashed and set aside. The respondent shall proceed to take action, if so advised after permitting the petitioner to produce additional documents, if any, and in accordance with law. The petitioner is directed to appear before the Managing Director on 19.06.2017 at 3.00 p.m. Rule is made absolute in the above terms. All contentions of both the parties on merits are left open. The petition stands disposed of accordingly.

NUTAN D. SARDESSAI, J.

F.M.REIS, J.

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