

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.8603 OF 2016

M/s. Suprim Engineering. .. Petitioner
Vs
The State of Maharashtra and Others. .. Respondents

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Shri Sachin Gite for the Petitioner.
Ms. Aparna Vhatkar, AGP for the Respondent No.1.
Miss Deepa Chavan along with Miss Chaitali Kandare i/b M/s. Navdeep
Vora & Associates for the Respondent Nos.2 and 3.
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CORAM : A.S. OKA & A.K. MENON, JJ

DATED : 17TH APRIL 2017

PC.

1. Heard learned counsel appearing for the Petitioner and the learned counsel appearing for the second and third Respondents. The second and third Respondents are the Officers of the Maharashtra Industrial Development Corporation (MIDC). The case made out in this Petition under Article 226 of the Constitution of India is that the Petitioner is a Gala holder in the Ambad Industrial Area set up by the MIDC. The Petitioner applied for allotment of a plot admeasuring about 1,500 sq. meters to the MIDC. The said plot is Plot No.A-15/1 (for short “said Plot”) in the Ambad Industrial Area, Nashik. In the Application made by the Petitioner, it was contended that the gala held by the Petitioner on Plot No.A-9/3/3 in the same Industrial Area is

insufficient and therefore, the Petitioner needs the said plot for expansion of his activities. In this Petition, the Petitioner has prayed for a declaration that the action on the part of the MIDC of not allotting the said plot is illegal. Another declaration is claimed that the Petitioner is entitled to have a preferential right of allotment of the said plot.

2. The Petitioner is essentially relying upon the submissions made in Paragraph 7 of the Petition in which it is contended that in case of two allottees of the galas in the same Industrial Area, the plots have been allotted to them by MIDC for expansion.

3. The learned counsel appearing for the Petitioner has relied upon the allotment of galas to the two parties mentioned in Paragraph 7 of the Petition. He submitted that in the reply filed by the second and third Respondents, the averments made in Paragraph 7 have been admitted. He also invited our attention to various documents obtained by him under the Right to Information Act, 2005. On the last date, he made a submission on the basis of the said documents which are permitted to be annexed by way of amendment that the noting dated 15th July 2016 shows that the Application made by the Petitioner for allotment of the said plot is pending and in fact, the said Application was to be placed before the General Manager (Land). In view of the submission made on the last date, we had called upon the learned

counsel appearing for the second and third Respondents to produce the file. Lastly, the learned counsel appearing for the Petitioner submitted that the stand taken in the reply that the said plot has been reserved by MIDC for construction of a building under the Suvarna Laghu Udyod Yojana is of no significance, as so far nothing has been done by the MIDC on the said plot. He also relied upon the representation made by Ambad Industries and Manufacturers' Association.

4. The learned counsel appearing for the second and third Respondents submitted that there is no policy decision taken by the MIDC to allot plots to the gala holders for expansion and there is no such preferential right in existence as claimed by the Petitioner. Relying upon a decision of the Division Bench of this Court in the case of *M/s. Emtex Industries (India) Ltd. & Anr. v. Maharashtra Industrial Development Corporation Ltd. & Anr.*,¹ she submitted that the notings made by the Officers of the MIDC will not create any right in favour of the Petitioner.

5. We have given careful consideration to the submissions. The Circular dated 27th April 2012 (Exhibit-B to the Petition) has been annexed by the Petitioner which provides that while making an allotment of a plot for expansion of an industry, the first priority will be given to the adjacent plot holder. However, it is clarified that no right

¹ 2004(4) ALL MR 185

will be created in favour of the adjacent plot holder. There is a communication dated 6th April 2016 addressed by the MIDC to the President of Ambad Industries & Manufacturers' Association. The said communication is annexed to the reply filed by the second and third Respondents in which it is stated that on par with the policy incorporated in the Circular dated 27th April 2012, there is no policy which covers the cases of the allottees of galas.

6. We have perused the file tendered across the bar. It is true that a note is prepared on 15th July 2016 by one of the Officers of the MIDC. In the said note, it is stated that in case of Wezmaan Tools Private Limited, Ambad, Nashik, which is a gala holder, allotment of a plot for expansion has been made. It is pointed out in the note that there is no policy decision taken by the MIDC as regards such a prayer made by gala holders and, therefore, the file should be placed before the General Manager (Land). There is a further noting dated 7th September 2016 prepared by an Officer of the MIDC. In the said noting, there is a decision recorded that as of that date, there is no policy in existence for giving any preferential right to a gala holder while considering the application for allotment of an adjacent plot.

7. The entire Petition proceeds on the footing that the Petitioner is entitled to get priority while making an allotment of the

adjacent plot. However, the documents annexed to the reply as well as the decision recorded in the file is crystal clear. There is no such policy in existence which provides that an allottee of a gala will be given preference while allotting the adjacent plot.

8. Therefore, the Petitioner cannot claim any preferential right of allotment in respect of the said plot.

9. If the case of the Petitioner for allotment of the said plot can be otherwise considered, we are sure that the MIDC will consider the said case of the Petitioner.

10. Merely on the basis of the notings made by the Officer of the MIDC, no right is created in favour of the Petitioner. That is precisely the view taken by the Division Bench in the case of *Emtex Industries (India) Ltd. & Another v. Maharashtra Industrial Development Corporation Ltd. And Another*.

11. In the affidavit in reply filed by one Sandhya Ramdas Ghodke, Area Manager, on behalf of the MIDC-third Respondent, it is contended that the said plot is reserved for construction of a building under Suvarna Laghu Udhog Yojana. If in future, the MIDC decides to withdraw the said reservation and if it is otherwise permissible in law,

the MIDC will consider the Application made by the Petitioner for allotment of the plot in accordance with law.

12. Subject to what is observed above, the Petition is rejected.

(A.K. MENON, J)

(A.S. OKA, J)