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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11067 OF 2014

Gavdevi Koli Nrutya Mandal, Karave ...Petitioner
vs.
Manager (Resettlement),
City and Industrial Development
Corporation & Ors. ...Respondents

Mr.Manoj A. Patil i/b Ms Suman Lengare for the
Petitioner
Mr.A.A.Alaspurkar, AGP for the respondent No.3
Mr.B.B.Sharma for respondent Nos.1 and 2.

CORAM : A.S.OKA, &
A.K.MENON, JJ.
DATE : MAY 4, 2017

P.C.:

1 The City and Industrial Development Corporation of Maharashtra Limited (for short "CIDCO") invited applications for grant of lease of plot of land in Sector No.27, Nerul at Navi Mumbai for setting up a cultural complex. The terms and conditions of eligibility were set out by the CIDCO in the brochure published by it. The terms and conditions which are material for this petition are in clause 6 of the brochure. Relevant part of clause 6 reads thus:

"6 Who is eligible to apply to acquire plot
A Public Charitable Trust registered under
Bombay Public Trust Act 1950 and/or under the
Societies Registration Act, 1860, with the

main object to run a Cultural Complex at Nerul, provided:-

(a) All Trustees and Members of the Trust/Society shall be Project Affected Persons of Navi Mumbai.

(b) The Trust/Society must have completed atleast 2 years period from the date of its registration.

(c) The Trust/Society should be financially sound to pay the lease premium of the plot and thereafter to construct the Cultural Centre, within the stipulated period.

(d) A Trust/Society to, which a plot of land is already allotted by CIDCO for Cultural Complex in Navi Mumbai is not eligible to submit application under this scheme.

(e) Those Trustees must be artists who performs local arts including Folk Dances, Songs etc will be given preference.

Note: The Project Affected Person shall mean a person whose land is acquired by the Government of Maharashtra and vested to CIDCO for Navi Mumbai Project, including his/her legal heirs, spouse, son, unmarried daughter, dependent brother and sister, grandson and unmarried grand daughter (documentary proof to be attached)."

2 By a communication dated 23rd October 2013, the Manager Rehabilitation of CIDCO informed the petitioner that the application made by the

petitioner was not considered on the ground that on the relevant date, the credit balance of only Rs.9.52 was shown in the bank account of the petitioner. It was observed that the petitioner-institution was not in existence for 4 years prior to the date of the application. The respondent Nos.1 and 2 are the Officers of the CIDCO.

3 The first submission of the learned counsel of the petitioner is that on the date of filing of the application, the petitioner had completed three years, four months and 28 days of its existence from the date of its registration. He submitted that in the brochure, the condition of four years was not mentioned. He submitted that the concerned department of CIDCO had recommenced the application made by the petitioner by mentioning that the bank balance of the petitioner was Rs.9,52,785/-. He urged that as the brochure mentioned the condition of the applicant being in existence for a period of two years, the applicant fulfills the said criteria.

4 On a query made by the Court, the learned counsel for the petitioner fairly accepted that it is not the case of the petitioner that an application made by any trust which has been in existence for less than four years has been favourably considered by the CIDCO.

5 We have considered the submissions. It is true that in the brochure, condition No.(b) was that the trust/society must have completed at least two

years from the date of its registration. In the impugned communication, the CIDCO has mentioned that as per the policy of the State Government, the trust/society ought to have been in existence for a period of four years. Admittedly, the CIDCO has not considered applications of any trust/society which has not completed four years of its existence before the date of filing the application. Hence, there is nothing arbitrary about the action of CIDCO. Therefore, it is not possible to find fault with its action when CIDCO declined to consider the application made by the petitioner on the ground that that the trust/society was not in existence for a period of four years.

6 The learned counsel for the petitioner submitted that financial condition of the petitioner was always very sound. The petitioner is relying upon its audited accounts for the financial year ending 31st March 2010. Perusal of the said audited accounts shows that the closing balance in the account of the petitioner in Canara Bank was Rs.1,24,687/- and cash in hand as on 31st March 2010 was Rs.3151/-. It is very clear from the said audited accounts that the petitioner had taken a loan of Rs.84,000/- from its trustees. The petitioner has not annexed complete copies of the audited accounts for the financial year ending with 31st March 2007, 31st March 2008, 31st March 2009. The petitioner has not annexed balance sheet, income and expenditure account and receipt and payments account for the said years. According to

the case of the petitioner, in the application made by it on 6th August 2010, a specific averment was made in paragraph 4 that the amount of Rs.3,03,120/- was deposited as earnest money. Careful perusal of the income and expenditure account and receipt and payment account of the petitioner for the financial year ending with 31st March 2010 shows that the payment of Rs.3,03,120/- is not reflected therein. As stated earlier, closing balance shows that the petitioner had a sum of Rs.1,24,687/- in its bank account and cash of Rs.3151/- in hand. Impugned order records that in the brochure, the value of the plot is shown as 30,31,304/- and in 'Form B' it is shown as 7,40,000/-. Therefore, no fault can be found with the decision taken by the CIDCO when it came to the conclusion that the petitioner was not in a financially sound position to pay lease premium in respect of the plot and thereafter, to construct a cultural complex on the plot. Therefore, we find no error in the impugned order.

7 Accordingly, we pass the following order:

. Writ Petition is rejected.

(A.K.MENON,J.)

(A.S.OKA,J.)