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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 01.04.2021

PRONOUNCED ON : 24.09.2021

CORAM

THE HON'BLE MR.JUSTICE B.PUGALENDHI

W.P.NO.8711 OF 2021

AND

W.M.P.NOS.9245 TO 9247 OF 2021

M/s.Enco Engineers Combine
(Plant-II) Pvt., Ltd.,
Rep. by its Authorized Signatory,
Vinod Yadav.

... Petitioner

.Vs.

1. The Managing Director,
State Industries Promotion Corporation
of Tamil Nadu Limited,
SIPCOT, 19-A, Rukmani Lakshmipathy Road,
Post Box No.7223,
Egmore, Chennai - 600 008.

2. The Project Officer/Estate Officer,
SIPCOT Industrial Park,
Pillaipakkam/Irukattukottai,
Kancheepuram - 602 109.

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorari calling for the records of the impugned cancellation order in P-IV/Pkm/EncoEngineers/15/2011 dated 23.03.2021 issued by the first respondent and quash the same.

For Petitioner : Mr.V.Prakash
Senior Counsel
For Mr.Naveen Kumar Murthi

For Respondents : Mr.E.Monaharan
Special Government Pleader



project. By drawing attention to Clauses 6, 14, 17 & 18 of the lease deed, the learned Counsel submitted that when the land has been put into use, the respondents are not justified in passing the impugned order of cancellation.

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4. The learned Counsel further submitted that without verification of these factors, the first respondent has issued a show cause notice on 10.01.2020, asking the petitioner to show cause as to why the permission should not be cancelled. From March, 2020, the entire country was affected due to the pandemic, the Government has imposed lock down for several months and the manufacturing units of the petitioner were also affected during that period. Despite the same, the first respondent has passed the impugned order as a coercive step, when the petitioner has taken all necessary steps for establishing the unit in the allotted area. This act of the respondent when the industries are attempting to limp back to normalcy post the drastic impact suffered due to the pandemic and lock down is nothing but adding fuel to fire and going against the very basic purpose for which the Industrial promotion corporation was established in the State.

5. According to the learned Counsel, the impugned order of cancellation is smacked by mala fide and has been issued without any basic application of mind and also in derogation with the settled norms of cancellation of an allotment. The act of the first respondent in cancelling an allotment that was made ten years back on the pretext that certain activities was not completed within the stipulated time limit, that too seven years back, by the petitioner and having remained silent all along and having not issued any notice pointing out any lacuna or default on the part of the petitioner, the respondents cannot be now permitted to raise untenable and fallacious allegations against the petitioner.

6. He further submitted that vide the impugned order of cancellation, only fifteen days time has been provided to the petitioner to hand over the possession of the building, failing which, the respondents have stated that the action will be taken in accordance with Tamil Nadu Public Premises (Eviction of Unauthorized Occupants) Act, 1975. The respondent has not taken such similar stand as against other allottee for more than a decade, which would also establish the mala fide and perversity in the impugned order.

7. This writ petition has been taken up for hearing along with several other batch of cases, where a stand has been taken by the respondents that once the allotment is made in favour of the petitioner/industrial corporations and no objection certificates are issued, the role of SIPCOT is reduced and it is



the petitioner, who has to take steps for getting clearances from various Departments and avail financial assistance and the delay that had occurred in such things cannot be attributed to the SIPCOT and that too when such delay is an exorbitant one, viz., a decade or more. The pandemic situation is also a recent natural calamity and therefore, that cannot also be claimed as an excuse for the huge delay for about a decade or two.

8. In this case, the learned Special Government Pleader fairly submitted that unlike others, the petitioner has made certain developments in the land allotted to him. However, he has not commenced the operations and therefore, the show cause notice was issued. Since the petitioner did not offer any explanations, the impugned order came to be passed. In the similar batch matters referred supra, the respondents have come down with a scheme for granting some relaxation to the other corporations.

9. This Court paid it's anxious consideration to the rival submissions and also to the materials placed on record.

10. The State Industries Promotion Corporation of Tamil Nadu (SIPCOT) has been established for the purpose of promoting industrial development in the State of Tamil Nadu. SIPTCOT had acquired lands from various land owners by following due process of law and after making payment of compensation for the sole purpose of promoting industrial development in the State. The lands were, in turn, allotted by SIPCOT to individual applicants to develop industrial establishments in the area. It appears that though the allotments have been made some 20, 25 years back, most of the allottee have not made any developments in the allotted area. The officials of the SIPCOT appears to have kept quite for years together and now, they have woken up and issued show cause notices and initiated action, when the entire country was under lock down due to the pandemic.

11. Admittedly, this petitioner has made certain developments in the allotted area, despite the initial hiccups faced by him. He has submitted several representations to the respondents in this regard, which does not appears to have been considered properly. Be that as it may, now the petitioner has established a unit in the allotted area, as per the terms and conditions of the allotment order. He also claims to be filing GST returns, raising invoices and produced the electricity bill receipts. When the SIPCOT has come down with a scheme by granting time to other units, which does not commence operations for more than 20/25 years, taking coercive action as against this petitioner alone, who has taken bona fide steps and shown some progress, that too in a pandemic situation, is not proper.



12. In such view of the matter and in view of the initiative taken by the SIPCOT in the other batch matters, this writ petition is allowed and the impugned order of cancellation dated 23.03.2021 is set aside. The petitioner shall complete the entire construction activities, start the full functioning of the unit and start producing materials within a period of one year from the date of receipt of a copy of this order. Needless to say that if the petitioner is in due of any amount, it is open to the respondents to demand the same in accordance with law, which shall be paid in ten equal monthly instalments. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

mrm/gk

To

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of Tamil Nadu Limited,
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+2ccs to Mr.Naveen Kumar Murthi, Advocate, S.R.No.49961

W.P.NO.8711 OF 2021

AK-II(CO)
PBS/15/11/2021