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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 26.3.2021

Delivered on: 24.09.2021

CORAM

THE HON'BLE MR.JUSTICE B.PUGALENDHI

W.P.Nos.14877, 15052, 15977, 16596,
19820, 20220 of 2020,
2083, 2162, 3202, 4124, 4131, 5090,
5857, 6803 and 7140 of 2021
and

W.M.P.Nos.18464, 18465, 18759, 19887, 19888,
20589, 20591, 24486, 24999, 25000 of 2020,
2363, 2364, 2444, 2448, 3632, 4707, 4712,
5664, 6447, 7358 and 7658 of 2021

M/S.SARAVANA SASTHA STEEL INDIA

PVT. LTD.,

REP. BY ITS DIRECTOR,

M.NANDAKUMAR,

D.NO.A-19, IV CLASS CROSS,

TVS NAGAR, HOSUR TALUK,

KRISHNAGIRI DISTRICT.

PIN CODE 635 110.

...PETITIONER in WP.NO.14877 OF 2020

1.MILANO INTERNATIONAL INDIA

PVT LTD REP BY ITS MANAGING DIRECTOR

CAPT. PRADEEP LAL

...PETITIONER in WP No.15052 of 2020

1.M/S.QUEST HEALTHERE PRIVATE

LIMITED REP BY ITS DIRECTOR

SOMANNA KUIMANDA KARIAPPA

... PETITIONER in WP No.15977 of 2020

1.M/S.AGRANEE AUTO ANCILLARIES PVT LTD

REP BY ITS MANAGING DIRECTOR

... PETITIONER in WP No.16596 of 2020

1.M/S. S-CCI INDIA PVT.LTD

REP BY MR.SARAT KUMAR MISHRA

... PETITIONER in WP No.19820 of 2020

1.M/S.DIGINITY INNOVATIONS

REP BY ITS PROPRIETOR

... PETITIONER in WP No.20220 of 2020



1.M/S.THAR TECHNOLOGIES PVT LTD
REP BY ITS CHIEF EXECUTIVE OFFICER
MR.M.UTTAM CHAND

... PETITIONER in WP No.2083 of 2021

1.GEEBEE GARMENT INDUSTRIES PRIVATE LIMITED
C/O. GEEBEE TRADING COMPANY

... PETITIONER in WP No.2162 of 2021

1.M/S.6TH SENSE INFRASTRUCTURE PVT LTD
REP BY ITS DIRECTOR ABHISHEK MEHTA

... PETITIONER in WP No.3202 of 2021

1.JNS INSTRUMENTS LTD
REP. BY ITS AUTHORISED SIGNATORY M.BALRAJ

... PETITIONER in WP No.4124 of 2021

1.M/S.JCBL MARREL TIPPERS PVT. LTD.
REP. BY ITS AUTHORISED SIGNATORY
MR.MANI SUNDRAM

... PETITIONER in WP No.4131 of 2021

1.GPR POWER SOLUTIONS PVT LTD
REP BY ITS DIRECTOR S.REGHUNATHAN

... PETITIONER in WP No.5090 of 2021

1.SRI BALAJI ENTERPRISES
REP BY ITS PROPRIETOR MR. V. LENIN

... PETITIONER in WP No.5857 of 2021

1.M/S.CENZA TECHNOLOGIES PRIVATE LIMITED
REP BY ITS DIRECTOR G.RAJALAKSHMI

... PETITIONER in WP No.6803 of 2021

1.M/S.MAYARA ENTERPRISES PVT LTD

... PETITIONER in WP No.7140 of 2021

vs.

1. THE MANAGING DIRECTOR,
SIPCOT LIMITED,
NO.19-A, RUKMANI LAKSHMIPATHY ROAD,
EGMORE, CHENNAI 600 008.

2. THE PROJECT OFFICER,
SIPCOT INDUSTRIAL COMPLEX,
HOSUR, KRISHNAGIRI TALUK,

3. TAMILNADU INDUSTRIAL INVESTMENT
CORPORATION LIMITED,
SIPCOT INDUSTRIAL COMPLEX,
OPP LAL, MOOKANDAPALLI, HOSUR.

.. RESPONDENTS IN WP.NO.14877 OF 2020



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1.STATE INDUSTRIAL PROMOTION CORPORATION
OF TAMIL NADU LTD REP BY ITS
MANAGING DIRECTOR NO.19A RUKMANI
LAKSHMIPATHI ROAD EGMORE CHENNAI-08

... RESPONDENT IN WP NO.15052 OF 2020

1.THE MANAGING DIRECTOR
SIPCOT LIMITED NO.19-A RUKMINI LAKSHMIPATHY
ROAD EGMORE CHENNAI- 600 008.

2.THE PROJECT OFFICER
SIPCOT LIMITED SIPCOT INDUSTRIAL COMPLEX
PHASE- I HOUSR KRISHANGIRI DISTT.
PIN CODE-635 126. ... RESPONDENT IN WP NO.15977 OF 2020

1.THE MANAGING DIRECTOR
STATE INDUSTRIES PROMOTION CORPORATION OF
TAMIL NADU LTD 19- A RUKMANI LAKSHMIPATHI
ROAD EGMORE CHENNAI-8 ... RESPONDENT IN WP NO.16596 OF 2020

1.STATE INDUSTRIES PROMOTION
CORPORATION OF TAMIL NADU LTD REP BY ITS
MANAGING DIRECTOR NO.19A RUKMANI
LAKSHMIPATHY ROAD PO B. NO. 7223 EGMORE
CHENNAI-8

2.STATE INDUSTRIAL PROMOTION
CORPORATION OF TAMIL NADU REP BY ITS GM 19A
RUKMANI LAKSHMIPATHY RD POB NO.7223
EGMORE CHENNAI

3.STATE INDUSTRIAL PROMOTION
CORPORATION OF TAMIL NADU REP BY ITS ESTATE
OFFICER SIPCOT GROWTH CENTER ORGADAM
SRIPERUMBUDUR TK KANCHEEPURAM DT
... RESPONDENT in WP No.19820 of 2020

1.THE MANAGING DIRECTOR
STATE INDUSTRIAL PROMOTION CORPORATION LTD
NO 19- A RUKMANI LAKSHMIPATHY ROAD EGMORE
CHENNAI-28

2.THE ESTATE OFFICER
STATE INDUSTRIAL PROMOTION CORPORATION LTD
IRUNGATTUKOTTAI POST IRUNGATTUKOTTAI- 602117
... RESPONDENT in WP No.20220 of 2020



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1. STATE INDUSTRIES PROMOTION
CORPORATION OF TAMILNADU LTD (SIPCO)
REP BY ITS CHAIRMAN CUM MANAGING DIRECTOR
NO.19-A RUKMANI LAKSHMIPATHY ROAD,
EGMORE CHENNAI-8 ... RESPONDENT in WP No.2083 of 2021

1.THE MANAGING DIRECTOR
STATE INDUSTRIAL PROMOTION CORPORATION LTD.
NO. 19-A RUKMANI LAKSHMIPATHY ROAD EGMORE
CHENNAI 600 028

2.THE ESTATE OFFICER
STATE INDUSTRIAL PROMOTION CORPORATION LTD.
IRUNGATTUKOTTAI POST IRUNGATTUKOTTAI 602 117
... RESPONDENT in WP No.2162 of 2021

1.THE MANAGING DIRECTOR
SIPCOT LTD NO. 19 - A RUKMANI
LAKSHMIPATHY ROAD POST BOX NO. 7223
EGMORE CHENNAI - 600 008.

2.THE PROJECT OFFICER
SIPCOT INFORMATION TECHNOLOGY PARK
SIRUSERI.

3.THE ESTATE OFFICER
SIPCOT CHENNAI.
... RESPONDENT in WP No.3202 of 2021

1.THE MANAGING DIRECTOR
STATE INDUSTRIAL PROMOTION CORPORATION LTD.
TAMIL NADU NO.19- A RUKMANI LAKSHMIPATHY
ROAD EGMORE CHENNAI 600008.

2.THE ESTATE OFFICER
STATE INDUSTRIES PROMOTION CORPORATION LTD.
TAMIL NADU SIPCOT INDUSTRIAL GROWTH CENTRE
ORAGADAM.
... RESPONDENT in WP No.4124 of 2021

1.THE MANAGING DIRECTOR
STATE INDUSTRIAL PROMOTION CORPORATION LTD.
TAMIL NADU NO.19- A RUKMANI LAKSHMIPATHY
ROAD EGMORE CHENNAI 600008.

2.THE ESTATE OFFICER
STATE INDUSTRIES PROMOTION CORPORATION LTD.
TAMIL NADU SIPCOT INDUSTRIAL GROWTH CENTRE
ORAGADAM.
... RESPONDENT in WP No.4131 of 2021



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1.STATE INDUSTRIAL PROMOTION
CORPORATION OF TAMILNADU LTD REP BY ITS
MANAGING DIRECTOR NO.19-A RUKMNI
LAKSHMIPATHY ROAD POST BOX NO. 7233 EGMORE
CHENNAI 600 008 ... RESPONDENT in WP No.5090 of 2021

1.THE MANAGING DIRECTOR
STATE INDUSTRIES PROMOTION CORPORATION OF
TAMIL NADU LIMITED 19- A RUKMANI
LAKSHMIPATHY ROAD CHENNAI- 8

2.THE PROJECT OFFICER
SIPCOT INDUSTRIAL COMPLEX
GUMMIDIPOONDI- 601 201 ... RESPONDENT in WP No.5857 of 2021

1.THE CHAIRMAN CUM
MANAGING DIRECTOR STATE INDUSTRIES
PROMOTION CORPORATION OF TAMIL NADU (SIPCOT)
19-A RUKAMNI LAKSHMIPATHY ROAD POST BOX NO.
7223 EGMORE CHENNAI

2.THE MEMBER SECRETARY
MAMALLAPURAM MUNICIPALITY NO.131 GST ROAD
CHENGALPET.

3.THE COMMISSIONER
TIRUPORUR PANCHAYAT UNION OFFICE CHENGALPET
DISTRICT. ... RESPONDENT in WP No.6803 of 2021

1.STATE OF TAMIL NADU
REP BY ITS SECRETARY INDUSTRIES DEPARTMENT
FORT ST.GEORGE CHENNAI TAMILNADU 600009

2.STATE INDUSTRIAL PROMOTION
CORPORATION TAMILNADU LIMITED REP BY ITS
GENERAL MANAGER RUKMANI LAKSHMIPATHY SALAI
EGMORE CHENNAI-600 008

3.THE ESTATE OFFICER
SIPCOT INDUSTRIAL GROWTH CENTRE ORAGADAM
MATHUR POST AND VILLAGE SRI PERUMBUDUR
TALUK KANCHEEPURAM DISTRICT 602105

4.THE PROJECT OFFICER
SIPCOT INDUSTRIAL GROWTH CENTRE ORAGADAM
MATHUR POST AND VILLAGE SRI PERUMBUDUR
TALUK KANCHEEPURAM DISTRICT 602105
... RESPONDENT in WP No.7140 of 2021

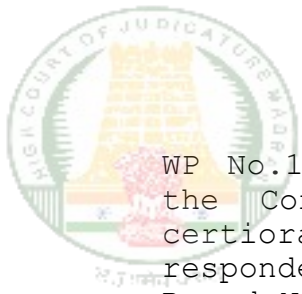


WP No.14877 of 2020: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the records pertaining to the order of 1st respondent dated 5.10.2020 in Letter No.P-II/SICH/Ph-I/Saravana/2013 cancelling the allotment of Plot No.36-B measuring 3.00 acres to the petitioner Industries at Small Industries Promotion Corporation of Tamil Nadu Limited, Industries Complex, Hosur Phase-I and his subsequent order dated 5.10.2020 in letter No.P-II/SICH/P-I/Saravana/2013 withdrawing the No Objection Certificate dated 19.6.2020 and quash the same and to direct the respondents to give extension of 12 months time to complete the project and restore the No Objection Certificate dated 19.6.2020 for financial assistance.

WP No.15052 of 2020: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus to call for the entire records of the respondent which culminated in the impugned cancellation of allotment order in Letter No. P-III/ AP- IRU/ MILANO/ 2004 dated 21.09.2020 and quash the same as unsustainable and consequently permit the petitioner herein to commence and complete the construction of the industrial building at Plot Nos. K30, K31 and K32 at Apparel Park, SIPCOT Industrial Estate, Irungattukottai for which petitioner herein as already obtained planning permit and building permit from the Government authorities, within a period of 18 months from the date of such permission.

WP No.15977 of 2020: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus Calling for the records pertaining to the order of 1st respondent dated 22.10.2020 in Letter No. P-II/SICH/ Quest /II/ 64/ 2012 cancelling the allotment of plot No.81 A, Measuring 4 acres to the petitioner company at state Industries Promotion corporation of Tamil Nadu Limited Industries Complex, Housr Phase- I and asking to execute the surrender deed within 15 days and quash the same and to direct the respondents to give extension of 18 months time to complete the Project and commencement for the commercial production.

WP No.16596 of 2020: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus Calling for the records relating to the proceedings of the Respondent in LR.NO.SP/AP/IRU/AAAPL/2008 DATED 26.9.2020 in respect of Plot No K-14 and K-15 Sipcot Industrial Park Irungattukottai Sriperumbudur Taluk Kancheepuram District quash the same and direct the respondent to extend the time invoking Clause 32 of the Lease deed.



WP No.19820 of 2020: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus to call for records of the 2nd respondents to the impugned communication vide Lr. No. P and SP/R and N SP-O/ S-CCI/22/ 2009 dated 26.09.2020 and quash the same as illegal, arbitrary and passed without following principles of Natural Justice and further direct the respondents to permit the petitioner to implement the project as per the implementation plan submitted through e-mail dt. 21.09.2020 and vide representation dt. 08.10.2020 as soon the situation become normal from covid-19 pandemic further refrain the 2nd respondent from dispossessing, selling or allotting the subject land in dispute to third parties pursuant to its eviction notice date 4.11.2020.

WP No.20220 of 2020: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus Calling for the records pertaining to the Impugned cancellation order of the 1st respondent in LR. No. P- III/AP/IRU/D1/2005 dated 28.9.2020 and consequential impugned notice of the 2nd Respondent in PO/SIP/IRU/DIGINITY/2020 dated 5.12.2020 and quash the same and further direct the 1st Respondent to consider its own office order in O.O. NO 30/2020 dated 31.7.2020 and grant further extension of one year for implementing the project in Plot No K 11, k12, k13 Sipcot Apparel Park at Irungattukottai Sriperumbudur measuring about 3 Acres.

WP No.2083 of 2021: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus to call for the records in P -II / SITPS / TIPL /179 / 2004 dated 28.12.2020 and quash the same.

WP No.2162 of 2021: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus Calling for the records pertaining to the impugned cancellation order of the 1st Respondent in Lr.No. P-I / AP / IRU / GGIPL / 2007 dated 06.01.2021 and quash the same and further direct the 1st Respondnet to consider its own office order in O.O.No. 30/2020 dated 31.07.2020 and grant further extension of one year for implementing the project in Plot Nos. K54, SIPCOT Appare Park at Irungattukottai Sriperumbudur measuring about 2 acres.

WP No.3202 of 2021: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the records on the file of the 1st respondent in P - II / SITPS / 6TH Sense / 42 / 2004 dated 06.01.2021 and quash the same and consequently quash the notice dated 22.01.2021 in Ref No. PO / SITP / SIRU / 6th



Sense / 2020 issued by the 3rd respondent

WP No.4124 of 2021: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus Calling for the records peertaining to the impugned cancellation order of the 1st respondent in Lr.No.P-III / R and N SPO / JNS / 31 / 2011 dated 28/12/2020 and consequential Form B notice of the 2nd Respondent in Lr.No.PO / SIGC /ORG / JNS /2021 datd 02/02/2021 and quash the same and further direct the 1st respondent to consider its own office order in O.O.No.30/ 2020 dated 31/07/2020 and grant further extension of one year for implementing the project in Plot Nos. RNS 16 and 17, in Sipcot Industrial Growth Centre at Oragadam Expansion Scheme measuring about 5.03 acres.

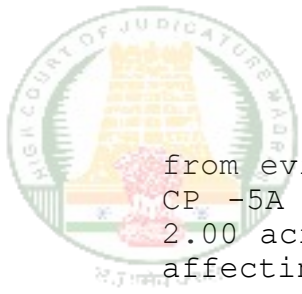
WP No.4131 of 2021: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus Calling for the records pertaining to the impugned show cause notice of the 1st respondent dated 21/01/2021 vide Lr.No.P- III / Org / JCBL Infra / 37 (i) 2006 and quash the same.

WP No.5090 of 2021: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the records relating to the impugned notices of the Respondent dated 25.9..2020 and 28.12.2020 and quash the same.

WP No.5857 of 2021: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus Calling for the records peertainning to the order of Cancellation of Allotment passed by the Respondents bearing reference P- II/SIGC/Balaji EP/2006 dated 1.1.2021 and served by affixture on 7.1.2021 and quash the same.

WP No.6803 of 2021: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus To call for the records of the 1st Respondent pertaining to the impugned order dated 07.01.2021 passed in P-II/ SITP/ CTPL/ 2004 and quash the same and pass.

WP No.7140 of 2021: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the records relating to the order made in Lr.No. Projects / Org / Mayara Enterprises / 96/ 2013 dated 29.1.2021 passed by Respondent No.2 and the consequential impugned notice vide Lr.No.PO / SIGC/ ORG / Mayara / 2021 dated 15.2.2021 and also the impugned notice made in Lr.No. PO/ SIGC/ ORG / Mayara / 2021 dated 1.3.2021 issued by Respondent No.3 and quash the same and forbear the Respondents



from evicting or resuming or allotting the land bearing Plot NO. CP -5A at SIPCOT Industrial Growth centre, Oragadam, measuring 2.00 acres of land and the building to any third parties thereby affecting the rights of the petitioner.

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Mrs.Rita Chandrasekar for

Ms.R.Meenakshi : For Petitioner in W.P.Nos.14877, 15977/2020

Mr.V.P.Sengottuvel : For Petitioner in W.P.No.15052/2020

Mr.M.Devaraj : For Petitioner in W.P.No.16596/2020

Mr.T.R.Sundaram : For Petitioner in W.P.No.19820/2020

Mr.Krishna Ravindran : For Petitioner in W.P.Nos.20220/2020, 2162/2021, 4124/2021, 4131/2021

Ms.R.T.Shyamala : For Petitioner in W.P.No.2083/2021

Mr.K.V.Sajeev Kumar : For Petitioner in W.P.No.3202/2021

Mr.A.R.Nixon : For Petitioner in W.P.No.5090/2021

M/s.Ganesh : For Petitioner in W.P.No.5857/2021

Mr.M.K.Kabir, Senior Counsel
for Mr.Anand Sashidharan : For Petitioner in W.P.No.6803/2021

Mr.AR.L.Sundaresan,
Senior Counsel for
Mr.P.Shiva : For Petitioner in W.P.No.7140/2021

For SIPCOT : Mr.Vijay Narayan, Advocate General
assisted by

Mr.M.Karthikeyan,
Special Government Pleader: in W.P.Nos.14877, 15052, 16596,
20220/2020, 2083, 4131, 5090,
5857/2021

Mr.E.Manoharan,
Special Government Pleader: in W.P.Nos.15977, 19820/2020,
2162, 3202, 4124, 6803 & 7140/2021

Mr.I.Sathish : TIIC WP.14877



COMMON ORDER

All the above writ petitions have been filed by the respective petitioners-Industrial Corporations challenging the cancellation of allotment of land standing in their favour and withdrawal of No Objection Certificate by the first respondent, SIPCOT Limited.

2. On going through the materials available on record, this court finds the following factual matrix involved in the writ petitions.

3. The State Industries Promotion Corporation of Tamil Nadu Limited (in short, SIPCOT), was established by the Government of Tamil Nadu in the year 1971 under the Companies Act, 1956 with an object of promoting industrial development in the State and thereby facilitating the establishment of balanced growth and dispersal of industries in the State. Therefore, the SIPCOT 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. In such a process, the writ petitioners got allotment of lands on lease for a period of 99 years in their favour for setting up industries of their own. The petitioners appear to have paid the lease amount fixed by the SIPCOT, which is two fold viz., (i) plot deposit and (ii) development charges. Such allotments were made long ago viz., nearly a decade or two ago. Lease Deeds were executed between the respective petitioners and the SIPCOT and No Objection Certificates were granted to them enabling them to implement the project by obtaining all clearances and infrastructure from various Departments and loans/financial assistance from the Banks. A nominal annual lease rent was also fixed by the SIPCOT. One of the conditions stipulated by the SIPCOT in its allotment order is that the implementation of the project/commercial production has to be completed within 30 months from the date of the order and failure to comply with the same will entail cancellation of allotment and forfeiture of initial deposit and development charges paid towards the land allotted. Whiles, the impugned orders came to be passed cancelling the allotments in favour of the petitioners and withdrawing the No Objection Certificate granted to them in compliance of the default clause elucidated in condition No.3 (viii) of the allotment order. Such orders are impugned in the present Writ Petitions.

4. Heard the respective learned counsel appearing for the petitioners, the learned Advocate General Mr.Vijay Narayan, assisted by Mr.M.Karthikeyan, learned Special Government Pleader for the SIPCOT and Mr.I.Sathish, learned counsel appearing for Tamilnadu Industrial Investment Corporation Limited (TIIC) and



perused the materials available on record.

5. Almost in all the cases, a common stand taken by the learned counsel for the respective petitioners is that they could not implement the project to its full extent within the stipulated time limit because of the cumbersome process and formalities to be competed to establish the industry and the delay in getting clearances from various Departments like Tamil Nadu Pollution Control Board, Fire Service, Public Health Department, Inspector of Factories and Local Bodies and also the delay/obstacles in processing/considering the loans by the Banks/financial institutions. The Covid 19 pandemic situation is also attributed by the petitioners to get excuse from the clutches of SIPCOT in initiating the steps to cancel the allotment.

6. In reply to the above submissions, the learned Advocate General, Mr.Vijay Narayan would submit that firstly, the writ petitions are not at all maintainable as once the State or its Agents have entered into a contract with the petitioners by way of lease deeds, and they are not governed by the Constitutional provisions, but, by a legally valid contract. In this regard, he relies upon the following decisions:-

i) Radhakrishna Agarwal and ors. vs. State of Bihar and ors. ((1977) 3 SCC 457)

ii) Kerala State Electricity Board and ors. vs. Kurien E.Kalathil and Ors. ((2000) 6 SCC 293)

iii) Karnataka State Industrial Investment and Development Corporation Ltd. v. Cavalet India Ltd. and ors ((2005) 4 SCC 456)

iv) Ramakrishna Engineering Company v. The State Industries Promotion Corporation of Tamil Nadu and Ors. (W.P.No.2022 of 2009)

v) Tech Mahindra Limited v. The State Industries Promotion Corporation of Tamil Nadu Ltd. (W.P.No.6872 of 2009)

vi) Punjab Financial Corporation v. Surya Auto Industries ((2009) 1 SCC 297)

vii) M.D., H.S.I.D.C. and Ors. vs. Hari Om Enterprises and Ors. ((2009) 16 SCC 208)

viii) The Rajasthan State Industrial Development and Investment Corporation and Ors. v. Diamond and Gem Development Corporation Ltd. and Ors. ((2013) 5 SCC 470)

ix) Dalip Singh and Ors. v. State of Haryana and Ors. ((2019) 11 SCC 422).

7. The learned Advocate General would further submit that when once the allotment is made in favour of the petitioners/industrial corporations and No Objection Certificates are issued, the role/burden of the SIPCOT is reduced and almost it is exhausted and it is the petitioner, who has to take steps for getting clearances from various



Departments and avail the financial assistance and the delay that had occurred in such things cannot be attributed to the SIPCOT and that too when such delay is such an exorbitant one viz., a decade or more. He would further submit that 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. He would further submit that 18 allottees had already surrendered the lands and 15 allottees had opted to surrender the lands.

8. However, the learned Advocate General would submit that on considering the representations from the industrial corporations, the SIPCOT has come down with a scheme for giving a quietus to the issue and to revoke the cancellation of the allotment and revoke the No Objection Certificates, subject to payment of differential cost viz., the difference between the current cost of the land and the cost arrived at the time of allotment in proportion in consonance with the non-implementation of the project. He would further submit that the SIPCOT has fixed the reasonable differential cost of the lands allotted only based on the current rate of the plots as per the Board Circular No.110/2020 dated 31.12.2020 and so far as the allotments made from the year 2017, the SIPCOT had already given an opportunity to complete the project, waiving the differential cost. He brought to the notice of the court that as on date 19 companies have paid the differential cost demanded and 15 companies have agreed to pay the differential cost.

9. The learned Advocate General would further submit that the inaction on the part of the petitioners resulted in the lands lying vacant and therefore, directly affecting industrial growth in the State and job opportunities of the people in the State and therefore, the SIPCOT is constrained to initiate steps to recover the lands allotted or to secure the current rate and fix an outer limit for the petitioners to complete the projects so as to achieve industrial development in the State which is the main object of the SIPCOT.

10. On perusal of the materials available on record and on hearing the learned counsel for the parties, this court finds that the petitioners have got their allotment on various dates for different sizes of plots and a meagre development alone had taken place in some of the petitioners' cases. Though the default clause in the allotment order is in favour of the SIPCOT for cancelling the allotment and withdrawing the No Objection Certificates in the event of non implementation of the project within the stipulated period of 30 months, the SIPCOT has come forward with a scheme for entertaining the same petitioners/industrial corporations to retain the land and implement the project rather than cancelling the allotment and



forfeiting the amount paid by the petitioners, however, subject to payment of a penalty in proportion to the present value of the land and in consonance with the extent of non-implementation of the project.

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11. Based on such offer made by the SIPCOT, the details of the petitioners/industrial corporations are tabulated as under for ready reference:-

W.P.No.	Plot/ Extent	Cost (in lakhs)	Date of allotment	Status	Diff. cost (in lakhs)	Penalty propose d (in lakhs)
14877/ 2020	36-B 3.00 acres	618.87	17.11.2012	Vacant. Constructed upto plinth level	63.38	63.38 (100%)
15052/ 2020	K- 30,31 & 32 - 3.00 acres	275.00	27.9.2004	Vacant. Except compound wall	306.55	306.55 (100%)
15977/ 2020	81-A - 4.00 acres	850.00	6.7.2005	Constructed building (60851 sqft) Utilisation about 40%	242.00	48.40 (20%)
16596/ 2020	K-14 & 15 - 2 5 acres	1065.2	14.2.2008	Vacant	177.00	177.00 (100%)
19820/ 2020	RNS-27 - 1.43 acres Amende d RNS- 7 - 1.50 acres	365.00	29.12.2009 / 7.4.2010	Vacant	139.50	139.50 (100%)
20220/ 2020	K-11, 12 & 13 - 3.00 acres	300.00	31.5.2005	Vacant	431.12	431.12 (100%)



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W.P.No.	Plot/ Extent	Cost (in lakhs)	Date of allotment	Status	Diff. cost (in lakhs)	Penalty propose d (in lakhs)
2083/ 2021	D-16 - 3.96 acres	794.00	6.7.2004	Constructed structure for 2 floors each 13900 sqft. Utilisation about 10%	2114.64	1057.32 (50%)
2162/ 2021	K-54 - 2 acres	445.00	5.10.2005	Vacant. Except compound wall	284.50	284.50 (100%)
3202/ 2021	H-3 - 11.12 acres	725.00	16.2.2004	Completed the structure for five floors 23000 sqft each. Utilisation about 5%	5963.81 (includ ing other dues of 25.73)	2969.04 (50%)
4124/ 2021	RNS 16 & 17 - 5.09 acres	2470.0 0	2.3.2011	Vacant except EB room with AC sheet roof (92.97 sqft) is existing	474.44 (includ ing other dues of 1.07	473.37 (100%)
4131/ 2021	B-7/2 6.30 acres	1734.1 4	20.3.2020	Vacant	838.00	838.00 (100%)
5090/ 2021	C-15 & C-16 - 9.440 acres	135.00	30.1.2009	Vacant	42.48	42.48 (100%)
5857/ 2021	C2/1N 2.25 acres	298.00	23.8.2006	Constructed shed measuring 0.16 acres and balance 1.88 acres not yet started constitution	220.50	220.50 (100%)



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W.P.No.	Plot/ Extent	Cost (in lakhs)	Date of allotment	Status	Diff. cost (in lakhs)	Penalty propose d (in lakhs)
6803/ 2021	17/A- 28 - 1 acre	193.00	2.4.2004	Vacant. Except compound wall	534.00	534.00 (100%)
7140/ 2021	CP-5A - 2.00 acres	1500.0 0	3.10.2013	Constructed upto lintel and basement level. Utilisation about 25%	433.20	86.64 (20%)

12. Despite the above offer made by SIPCOT, the learned counsel for the petitioners have raised some specific contentions in support of their case and they have been clarified by the learned Advocate General.

13. In the case of M/.Saravana Sastha Steel Pvt. Ltd., petitioner in W.P.No.14877 of 2020, the learned counsel for the petitioner brought to the notice of the court that there was incorrect calculation with regard to the differential cost and 1.68 crores had been demanded, but, the counter reflects only 63 lakhs. This issue has been addressed by the learned Government Advocate, who would submit that the SIPCOT is willing to revoke the order of cancellation of allotment subject to payment of differential cost amounting to Rs.63.83 lakhs together with maintenance charges arrears of Rs.5,71,023/- totalling a sum of Rs.69,08,523/-.

14. Another contention has been raised by the learned counsel for the same petitioner that the SIPCOT had issued a letter dated 2.2.2021 directing the petitioner to withdraw the pending writ petition for the purpose of issuance of NOC for availing credit facility from TIIC and this has been explained by the learned Advocate General that the said condition was included in the letter of SIPCOT only to prevent the petitioner from procrastinating the development of the land. Therefore, the learned Advocate General submitted that the penalty proposed as against the petitioner is 100% differential cost.

15. Sofar as the M/s.Milano International P. Ltd., petitioner in W.P.No.15052 of 2020, the learned counsel for the petitioner submitted that they had not been issued NOC for taking further course of action that there is differential treatment of parties by SIPCOT and they are willing to pay only



40 lakhs instead of 306.55 as prescribed above.

16. In this regard, the learned Advocate General would submit that the petitioner's allotment dated 27.9.2004 was cancelled on 16.12.2010 and thereafter, restored on 29.9.2011, but, despite the same, they had not initiated to develop the land and in the year 2014, the SIPCOT also permitted the petitioner, originally an apparel unit, for additional line of activity i.e., metal profiling in order to promote development and still, the petitioner had not taken any step to bring about any development and therefore, NOC was not issued.

17. The learned Advocate General would also submit that the Circulars and Office Orders issued by SIPCOT from July 2020 to September 2020 are based on the decision of the Board and while framing new allotment policy for implementation of the project, the penalty and bank guarantee are imposed by the Board of SIPCOT for all the existing allottees on 21.7.2020 and subsequently, the existing allottees were categorized into 3, based on the years of allotment and therefore, there is no differential treatment by SIPCOT as alleged by the petitioner. He would also submit that reduction in penalty to 40 lakhs cannot be accepted as it has been imposed as per the prevailing policy. Therefore, the learned Advocate General submitted that the penalty proposed as against the petitioner is 100% differential cost.

18. With regard to M/s.Quest Healthcare P. Ltd., Hosur, the petitioner in W.P.No.15977 of 2020, the learned counsel for the petitioner submitted that the petitioner could not proceed with the development due to pending environmental clearance, which has been clarified by the learned Advocate General that no exemption is provided in the agreement for calculation of time taken for obtaining approvals such as EC and the petitioner had knowingly and willingly entered into the agreement to develop and run the industry within the stipulated time under the allotment agreement entered by them with SIPCOT. He would also submit that although the petitioner had utilized only 1 acre out of the 4 acres allotted to them, considering the development activity, they have been directed to pay only 20% of the differential cost. Therefore, the learned Advocate General submitted that the penalty proposed as against the petitioner is 20% differential cost.

19. A claim has been put forth to treat the year of allotment as 2018 whereas the date of allotment is 14.2.2008 in the case of M/s.Agranee Auto Ancillaries Private Limited, petitioner in W.P.No.16596 of 2020 as they could obtain DTCP approval only in the year 2018.



20. In this regard, the learned Advocate General would submit that the land was originally allotted to the petitioner on 14.2.2008, when it was known as M/s.Horizon Warehousing and Apparels and since the allottee had not implemented the project, they were permitted for setting up general category industry as per the decision of the Board dated 26.6.2013 and Government Order No.G.O.(Ms)No.6, Industries (MIG.1) Department dated 10.1.2014 and as requested by the allottee, approval for additional line of activity was accorded on 7.7.2014 with a condition to implement the project within two years and subsequently, based on the request of the allottee, the name change was also accorded on 12.10.2015 once again reiterating to implement the project within two years from 7.7.2014, however, the petitioner did not show any development and therefore, despite the sufficient opportunities provided, the petitioner had not shown any development, they cannot escape their liability by pointing out the delay in getting DTCP approval and of course, even after the year 2018 i.e., after getting DTCP approval, till date no construction has been made which clearly shows that the petitioner lags very much in their activities. He would further submit that the petitioner alone cannot be treated specially by accepting their request and if it is accepted, it would be an unfair practice towards other allottees. Therefore, the learned Advocate General submitted that the penalty proposed as against the petitioner is 100% differential cost.

21. In the case of M/s.S-CCI India Pvt. Ltd., petitioner in W.P.No.19820 of 2020, a query was raised as to whether the allottee can give away some extent of land not used by them and retain the used or required land by them and it has been clarified by the learned Advocate General that the entire land allotted to this petitioner has been kept as vacant, however, in case, the allottee is willing to surrender the plot, as per SIPCOT prevailing policy, the plot cost remitted by the allottee for the extent surrendered will be refunded after deducting 1% of the amount remitted for that extent and so far as the extent of land required/retained by the allottee for implementation of the project, they will have to pay 100% differential cost for the extent of the land retained by them and they will have to implement the project within 12 months. Therefore, the learned Advocate General submitted that the penalty proposed as against the petitioner is 100% differential cost for the extent of the land retained by them as of now and in the event of surrender of unused land, the quantum of differential cost payable by the petitioner could be reduced.

22. Three grounds have been raised by the learned counsel for the petitioner (M/s.Dignity Innovations P. Ltd) in W.P.No.20220 of 2020, that no amenities were provided till 2013



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25. In this regard, the learned Advocate General would submit that on surrender of the 2 acres as proposed by the petitioner, a sum of Rs.1,83,92,000/- alone will have to be paid towards differential cost after deducting the amount already collected towards that 2 acres less 1% of that value, as the development made by the petitioner will be fully attributable to 1.96 acres retained by them and therefore, the petitioner would be liable to pay only 20% of the differential cost instead of 50% as the petitioner would be shifted to that category. Therefore, the learned Advocate General submitted that the



penalty proposed as against the petitioner is currently 50% differential cost and it would be reduced to 20% in the event of surrender of 2 acres of land as opted by the petitioner.

26. Sofar as M/s.Geebee Garments P. Ltd., petitioner in W.P.No.2162 of 2021 is concerned, the ground raised by them is that they had not been given proper opportunity or time before issuing the impugned order. It has been replied by the learned Advocate General that the original allotment of land in favour of the petitioner on 5.10.2005 was cancelled on 24.1.2011 after more than 5 years as there was no development, but, it was later revoked on 3.5.2017 as per the Board's decision dated 26.6.2013 and Government Order No.6, Industries (MIG.1) Department dated 10.1.2014 and the allottee was required to commence the project before the end of July and to commence the commercial production before the end of December 2017, but, the petitioner has not complied with the same till, except construction of a compound wall date and therefore, the petitioner is not entitled to take such a stand that they had not been provided with opportunity or time before issuing the impugned order. Therefore, the learned Advocate General submitted that the penalty proposed as against the petitioner is 100% differential cost.

27. M/s.6th Sense Infrastructure Limited, petitioner in W.P.No.3202 of 2021 has already been categorized by SIPCOT as 5% utilized industry, entitled to 50% reduction in differential cost. During the course of arguments, a suggestion was put forth to the learned counsel appearing for the petitioner as to the possibility of surrendering of land to the extent that would bring the petitioner within the category of 40% usage of land thus reducing the differential cost to 20% of the original demand.

28. In this regard, the learned Advocate General would clarify that the petitioner will have to surrender 5 acres out of the total allotted land and pay a differential cost of 6.73 crores and undertake to commence production within 12 months and as per the prevailing policy of SIPCOT, the plot cost remitted by the allottee for the extent surrendered will be refunded after deducting 1% of the amount remitted for that extent. Therefore, the learned Advocate General submitted that the penalty proposed as against the petitioner is currently 50% differential cost and it could be reduced to 20% on surrender of land as opted by the petitioner.

29. Sofar as M/s.JNS Instruments Limited, petitioner in W.P.No.4124 of 2021, the main ground taken by the learned counsel for the petitioner is that the show cause notice was issued by SIPCOT without properly assessing the facts with regard to the development that had taken place. In this regard,



the learned Advocate General would submit that the petitioner is not a Micro, Small and Medium Enterprise (MSME) and the land allotted to the petitioner was made on 'as is where is' condition and it is agreed upon by the parties, especially the allottee to develop the said land after making necessary improvements and therefore, the petitioner cannot attribute the delay to SIPCOT and there is no development except EB room with AC sheet roof for an extent of 92.97 sqft, though the allotment was made in the year 2011 itself. Therefore, the learned Advocate General submitted that the penalty proposed as against the petitioner is 100% differential cost.

30. So far as M/s.JCBL Marrel Tippers Pvt. Ltd. petitioner in W.P.No.4131 of 2021 is concerned, though the date of allotment of the land appears to be 20.3.2020, it is said to be a case of transfer/re-allotment. The learned Advocate General would clarify that originally, Plot Nos.B-7 and B-8 measuring 23.14 acres was allotted to the petitioner's parent company and after a few transactions of bifurcation/transfer/reallotment, SIPCOT had accorded approval for transfer of leasehold right of Plot No.B-7/2 measuring an extent of 6.30 acres of land in favour of the petitioner on 20.3.2020 without demanding any differential land cost, but, granting extension of time for implementing the project by the end of December 2020, however, since there is not development, the petitioner is categorized as 100% penalty payable industry. Therefore, the learned Advocate General submitted that the penalty proposed as against the petitioner is 100% differential cost.

31. In the case of M/s.GPR Power Solutions P. Ltd., petitioner in W.P.No.5090 of 2021, the learned counsel for the petitioner submitted that the petitioner had submitted a letter dated 9.2.2013 seeking 'change of use' for which, there is no response from SIPCOT and such a cause is attributed for not implementing the project.

32. The learned Advocate General had replied for the same contending that a perusal of the file reveals that no such letter had been received by SIPCOT and moreover, the petitioner cannot take shelter of the ground that they had submitted a letter on 9.2.2013, after four years of allotment and having waited for such abnormal period of about eight years. Therefore, the learned Advocate General submitted that the penalty proposed as against the petitioner is 100% differential cost.

33. So far as M/s.Sri.Balaji Enterprises, petitioner in W.P.No.5857 of 2021 is concerned, the learned Advocate General would submit that on an inspection carried out by the Project Officer, it was found that the Plot No.C2/1N measuring 2.25 acres allotted to the petitioner was sub divided into three



parts as under:-

i) Area I measuring 794 sq.m (0.196 acres), the allottee had constructed building measuring 669 sq.m (0.16 acre) and sub leased the building to the neighbourhood M/s.SGR (777) Foods without getting permission of SIPCOT and therefore, without any production activity on the part of the petitioner, the building is used only for godown purpose.

ii) Area II viz., 941.5 sq.m (0.23 acre) is under encroachment of another neighbourhood Company M/s.Srivari Enterprises by putting up a construction with compound wall.

iii) Area III measuring 7292.21 sq.m (1.8 acres) is left vacant without any construction activity.

34. Thus, the petitioner had not implemented the project till date and violated the terms and conditions of the allotment order/agreement by subleasing the plot to a third party without getting any permission from SIPCOT and therefore, they cancelled the allotment in favour of the petitioner. Therefore, the learned Advocate General submitted that the penalty proposed as against the petitioner is 100% differential cost and of course, the petitioner has to restore the land by clearing the sub lease and take steps to remove the encroachment and to implement the project.

35. It is claimed by the learned counsel for M/s.Cenza Technologies Pvt. Ltd., petitioner in W.P.No.6803 of 2021 that though the date of allotment is said to have been on 2.4.2004, they got the allotment on transfer on 28.3.2005 and it was subsequently cancelled way back in the year 2008 as against which, the petitioner had obtained interim stay from this court in W.P.No.14640 of 2008 and that writ petition came to be disposed of by this court on 30.9.2019 setting aside the cancellation and remitting the matter to SIPCOT with a direction to conduct an enquiry by giving an opportunity to the petitioner and pass an appropriate order on merits and in accordance with law and accordingly, the petitioner was called for a meeting on 10.3.2020 and the petitioner had also filed a written statement on 19.3.2020, however, their case was categorized as 100% penalty payable industry without considering the aspect that the lis pending between the petitioner and SIPCOT in the earlier writ petition came to an end only on 30.9.2019 and therefore, they are entitled to waiver of penalty sought to be imposed.

36. The learned Advocate General would submit that as the petitioner's case is a unique one having approached the Court at the earliest instance, it is under active consideration of SIPCOT and the claim of the petitioner can be considered, provided the petitioner adheres to a strict schedule and



commences the production.

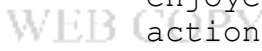
37. Though the petitioner M/s.Mayara Enterprises Pvt. Ltd. (W.P.No.7140 of 2021), claims that they have fully used the land and therefore, the differential cost sought to be imposed may be reduced, the learned Advocate General would submit that considering the construction activity of the petitioner was only upto the lintel and basement level, their utilisation was determined as about 25% and as on date, since the petitioner have not commenced the production activity, they have already proposed to impose only 20% of the differential cost. Therefore, the learned Advocate General submitted that the penalty proposed as against the petitioner is 20% differential cost.

38. Now, the question that has to be decided is whether the scheme proposed by SIPCOT in these cases are proper and acceptable or it requires any interference.

39. Admittedly, an allotment of land by the Government or its Agency on lease would be on affordable cost, when it is compared with any private land taken on lease and it will be the same in case of outright purchase also. Such being the case, the petitioners cannot expect the SIPCOT, a Government Agency to leave the lands in the hands of some persons and wait endlessly for the petitioners to implement the projects.

40. The allotment of lands by SIPCOT is not a sale, but, only a lease for ninety nine years. It comes with a default clause of cancellation of lease which indirectly intends for industrial development in the State within a reasonable period and the resultant revenue therefrom. One cannot dispute that the inaction or delay in implementation of the project will certainly have impact to a greater extent on the industrial development in the State.

41. The relevant question is to be decided is, on whose fault, it has been delayed for all these years. As rightly pointed out by the learned Advocate General, the SIPCOT cannot be found fault for not providing any infrastructure which has not been committed by them. The delay in taking action against the petitioners for recovery of land or demanding additional cost of the land alone can be attributed to SIPCOT. When once the petitioners have got allotment, they are duty bound to make arrangements for getting the required clearances from various Departments and to implement the project, which they opted. Nothing will happen automatically. The petitioners cannot simply shift the blame on SIPCOT or some other Departments to escape their liability, having delayed the project for a decade or more than that for implementing the projects. The SIPCOT which has



42. The petitioners-industrial corporations, having already enjoyed such holiday period due to the inaction or flexible action taken by the officials of SIPCOT, cannot expect that they can escape from the monetary liability.

44. In view of the above discussion, this court is of the view that the specific contentions raised by the learned counsel for the respective petitioners have been properly addressed by the learned Advocate General and the scheme suggested by SIPCOT is fully acceptable. Therefore, this court feels appropriate that the writ petitions can be disposed of with the following observation:-

ii) if the petitioners are willing to retain the lands allotted to them despite such a long delay in implementing the project, they shall make payment of the penalty proposed by SIPCOT as indicated in the above mentioned table in 12 equal monthly instalments commencing from the 1st of the English Calendar month from the date of this order and also undertake to implement the project immediately and commence the commercial production within such period of 12 months;

iv) in the event of surrendering of a part of unused land, the petitioners will have to pay the penalty, if any, after adjusting the amount payable to the petitioners as per the prevailing policy of SIPCOT



and they are also bound by the above mentioned conditions for payment of penalty, implementation of the project and the default clause.

In the result, the writ petitions are disposed of with the above observation. No costs. The connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

ssk

To

1. The Managing Director,
SIPCOT Limited,
No.19-A, Rukmani Lakshmipathy Road,
Egmore, Chennai 600 008.
2. The Project Officer,
Sipcot Industrial Complex,
Hosur, Krishnagiri Taluk,
3. Tamilnadu Industrial Investment
Corporation Limited,
SIPCOT Industrial Complex,
Opp LAL, Mookandapalli, Hosur.
4. State Industrial Promotion
Corporation of Tamil Nadu Ltd,
Rep by its Managing Director,
No.19A, Rukmani Lakshmipathy Road,
Egmore, Chennai-8.
5. The Member Secretary,
Mamallapuram Municipality,
No.131, GST Road, Chengalpet.
6. The Commissioner,
Tiruporur Panchayat Union Office,
Chengalpet District.
- 7.The Secretary,
Rep.by its State of Tamil Nadu,
Industries Department,
Fort St.George, Chennai-600 007.



+2cc to M/s.R.Meenakshi, Advocate, S.R.No.49706, 49705
+1cc to Mr.K.V.Sanjeev Kumar, Advocate, S.R.No.49700
+1cc to M/s.R.T.Shyamala, Advocate, S.R.No.49725
+1cc to M/s.M.Devaraj, Advocate, S.R.No.49631
+1cc to M/s.Ganesh & Ganesh, Advocate, S.R.No.50010
+1cc to Mr.A.R.Nixon, Advocate, S.R.No.50037
+1cc to Mr.M.Elumalai, Advocate, S.R.No.49838

P.D. ORDER IN
W.P.Nos.14877, 15052, 15977,
16596, 19820, 20220 of 2020,
2083, 2162, 3202, 4124, 4131,
5090, 5857, 6803 and
7140 of 2021

SR-II (CO)
SB (03/12/2021)