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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ LPA 224/2019 & CM APPL.15176/2019 (*stay*)

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Reserved on: 29th October, 2021
Pronounced on: 12th November, 2021

THE DELHI DEVELOPMENT AUTHORITY Appellant
Through: Mr. Ramesh Singh, Senior Advocate
with Ms. Akshita Goyal, Mr. Kartikey Yadav &
Mr. Rahul Kaul, Advocates

versus

HELLO HOME EDUCATION SOCIETY Respondent
Through: Mr. Dilip Singh & Mr. Sachit S.,
Advocates

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MS. JUSTICE JYOTI SINGH

JUDGMENT

: **Per D. N. PATEL, Chief Justice**

1. Present Letters Patent Appeal has been preferred by the Appellant, assailing the judgment dated **15.11.2018** (Annexure A to the memo of this Letters Patent Appeal), passed by the learned Single Judge in **W.P.(C) 4459/2014**. Appellant herein was Respondent No.1 in the writ petition before the learned Single Judge and Respondent herein was the Petitioner. Parties are being referred to hereinafter as per their litigating status in the present Appeal.

FACTUAL MATRIX

2. Delhi Development Authority ('DDA')/Appellant herein invited

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applications in the year 2002 for allotment of Institutional land. Pursuant thereto, Respondent applied on 09.09.2002, for allotment of land for establishment of a Middle School.

3. As per the requisite procedure, Respondent was to prefer an application for allotment, in accordance with the format prescribed by the Appellant. The application format, which has been annexed with the present Appeal, indicates that in Column No.11, the applicant was required to indicate at least three options with regard to the location or the area where the land was required, in order of preference.

4. Respondent gave three options in Column No.11, as per the prescribed format and all the three areas fell under the South District. The options given by the Respondent, in order of preference were as follows:-

- (i) Jasola;
- (ii) Sarita Vihar; and
- (iii) Vasant Kunj.

5. Approximately 1000 applications were received by the Appellant. DDA constituted an **Institutional Allotment Committee** for consideration of allotment of land and the Committee scrutinized the applications and made recommendations. As per the Respondent (not denied by the Appellant), the **Institutional Allotment Committee**, constituted by DDA, recommended 292 applications for allotment of land for Middle Schools.

6. Respondent was required to complete the basic/codal formalities including submission of latest bank certificate, showing the details of the amount/FDRs, Sponsorship letter as well as Essentiality Certificate, from the Directorate of Education, Government of NCT of Delhi.

7. On 10.03.2003, Respondent submitted the Bank Certificate issued by Oriental Bank of Commerce indicating an amount of Rs.84,96,041/- as balance in the account of the Respondent Society. Essentiality Certificate dated 27.12.2000 had been submitted earlier by the Respondent, along with the application dated 09.09.2002.

8. Total of 49 recommendations were submitted by the Institutional Allotment Committee for approval and case of the Respondent was one amongst them. On 24.03.2003, recommendation of the Institutional Allotment Committee, made in favour of the Respondent for Jasola, was approved by the Hon'ble Lieutenant Governor.

9. Demand-Cum-Allotment Letter dated 28.03.2003 was prepared for deposit of the premium of the land, however, the same could not be issued, as in the meantime, a complaint was received in the office of the Appellant. On receipt of the complaint, Appellant kept the issue of Demand-cum-Allotment Letter in abeyance, although Respondent had already furnished all the requisite documents for Jasola, New Delhi, including the Essentiality Certificate under Rule 44 of Delhi School Education Rules, 1973 as well as Sponsorship letter.

10. On 29.01.2004, Respondent received Essentiality Certificate from Directorate of Education for establishing a Middle School at Vasant Kunj. Para 2 of the Essentiality Certificate conveyed the acceptance by the Directorate of Education for establishing a new School in Vasant Kunj.

11. Appellant, however, took no further steps to issue the Demand-cum-Allotment Letter and kept delaying the matter. On 19.04.2006, Appellant formulated and notified a new Policy for allotment of Institutional area for establishment of School, by amendment to the Delhi Development Authority

(Disposal of Development Nazul Land) Rules, 1981 (hereinafter referred to 'Nazul Rules'). Finally, the Appellant cancelled the allotment on 19.06.2008, though approved by the Hon'ble L.G. on 24.03.2003, on the ground that DDA had reviewed the Allotment Policy with regard to Private Schools and vide Resolution dated 19.01.2006, the mode of allotment to private schools had been changed from allotment to auction. Respondent was informed that the Resolution had been gazetted on 19.04.2006 and its application was rejected. Nevertheless, the Respondent was given the option to participate in the Public Auction.

12. Respondent thereafter pursued the matter with the concerned Authorities, pointing out that the Notification dated 19.04.2006 would apply from a prospective date and had no application to the case of the Respondent and also sought a similar treatment as extended by the Appellant to a Society namely Jyotika Education Welfare Society, whose sponsorship was withdrawn prior to allotment and yet Appellant had allotted a land for a Senior Secondary School. Several correspondences were exchanged between the DDA and the concerned Ministry of Urban Development with respect to the case of the Respondent thereafter and finally vide communication dated 18.05.2012, Respondent was informed of rejection of his case by the Competent Authority.

13. Aggrieved by the rejection letters and the refusal of the Appellant to issue an allotment letter, Respondent filed a writ petition being W.P.(C) 4459/2014, seeking quashing of the rejection letters and a direction to the Appellant to implement the recommendation of allotment of the Institutional plot, which had the approval of the Hon'ble L.G., as well as to restore the letter of Sponsorship issued by the Directorate of Education. Learned Single

Judge, vide the impugned judgment, quashed the rejection letters and directed the Appellant to issue allotment letter to the Respondent forthwith, upon payment of requisite charges, etc. Aggrieved by the said judgment, the Appellant has preferred the present Appeal.

ARGUMENTS CANVASSED BY LEARNED SENIOR COUNSEL FOR THE APPELLANT

14. Learned Senior Counsel appearing for the Appellant submitted that the actual allotment of land for establishing a middle school was never issued to the Respondent and therefore it has no vested or enforceable right to claim allotment. No right can be predicated on mere file-notings and in the present case, no decision of the Competent Authority was communicated to the Respondent to give him an enforceable right. Moreover, Respondent had applied for allotment of Institutional land at Jasola whereas subsequently, it was pressing its claim for allotment of land at Vasant Kunj, premised on Essentiality Certificate for the said area and thus the rejection of its case for allotment, was legally valid.

15. It was also contended that while it is true that the Respondent had given three options with respect to allotment of land i.e. Jasola, Sarita Vihar and Vasant Kunj, but Appellant cannot be compelled to allot the land at Vasant Kunj since Jasola and Vasant Kunj fall in different Zones and one cannot be given as an alternate to the other.

16. It was further argued that Essentiality Certificate as well as Sponsorship letter were originally issued for the land at Jasola. There is no Sponsorship letter in favour of the Respondent with respect to Vasant Kunj and thus, rightly, the approval for allotment of land, granted on 24.03.2003, by the Hon'ble L.G., with respect to Jasola was not given effect to and case

of the Respondent was rejected on 19th June, 2008. The matter was re-examined and the decision was reiterated on 18.05.2012. In respect of Vasant Kunj, there was no approval by the Competent Authority and the Respondent cannot claim any right on an approval given by Hon'ble L.G. on 24.03.2003 as the same was for Jasola. In fact, with respect to Vasant Kunj, the Competent Authority had rejected the case of the Respondent repeatedly in view of the amendment to Nazul Rules, which was notified on 19.04.2006, whereby mode of allotment of Institutional land for establishment of private schools changed from allotment to auction. The learned Single Judge has completely overlooked these facts as well as the amendment to the Nazul Rules and thus the impugned judgment deserves to be set aside.

ARGUMENTS CANVASSED BY THE LEARNED COUNSEL FOR THE RESPONDENT

17. Learned counsel appearing for the Respondent submitted that no error has been committed by the learned Single Judge while passing the impugned judgment dated 15.11.2018.

18. It was submitted that in the year 2002, Appellant had invited applications for allotment of Institutional land for establishment of Middle Schools. There were over 1000 applicants, including the Respondent. Application was submitted by the Respondent in the prescribed format and all requisite documents including the Essentiality Certificate and Sponsorship letter were submitted, giving options for three localities/areas, in the order of preference, in Column 11 of the application, which included Jasola, Sarita Vihar and Vasant Kunj. After completion of the formalities,

the Institutional Allotment Committee considered and recommended allotment of land in Jasola, in favour of the Respondent and the recommendation was duly approved by the Hon'ble L.G. on 24.03.2003. Consequent thereto, Demand-cum-Allotment Letter was prepared on 28.03.2003, but was not issued on account of a frivolous and false complaint by one Sh. Sukhbir Singh.

19. It was further argued that both Vasant Kunj and Jasola fall under the same District, namely, South District. It was a policy and practice of the Appellant that out of the three options furnished by the Applicants, Appellant could decide for allotment in a given area depending on the availability of land which was ascertained on the basis of the Essentiality Certificate. If the land was not available in one of the areas opted for by the Applicant, it could be allotted in the other areas for which option had been given. In the present case, for the purpose of scrutiny, an Institutional Allotment Committee was constituted and out of approximately 1000 applications, cases of 292 applicants were recommended and finally, the Hon'ble L.G. approved only 49 applications, including that of the Respondent.

20. Without prejudice to the aforesaid argument, it was submitted that there are instances in the DDA where allotment is made in one area while the Essentiality Certificate/Sponsorship letter is for a different area. In fact, in some cases, the two areas were not even in the same District/Zone, yet the allotments were made by the DDA. As an illustration, learned counsel drew the attention of the Court to the case of High Brow Education Society, where land was allotted to the Society at Karkardooma, though area of Essentiality Certificate/Sponsorship letter was Mayur Vihar-III, which is in

the same zone but different District. It was also pointed out that in case of Vikram Shilla Education Society, the allotment of land was in a District and Zone different from the District and Zone for which Essentiality Certificate/Sponsorship letter was issued. For ready reference, the examples set out by the Respondent in the form of a tabular representation are as under :-

Name of Society	Area of EC & Sponsorship	Area of allotment land	Remarks
High Brow Ed. Society	Mayur Vihar-III	Karkardooma in 2009	Same District but different area/Zone
Vikram Shilla Ed. Society	Rajouri Garden (West District)	Karkardooma (East District) in 2012	Different District/Different Zone

21. The argument was that there was no sanctity of a District or a Zone and *de hors* the Essentiality Certificate/Sponsorship letter, land was being allotted, subject, however, to fulfilling the other requisite conditions. It was never the policy of the Appellant that land cannot be allotted in different zones, as is sought to be now contended by the Appellant before this Court. It was also strenuously contended that once the case of the Respondent was recommended by Institutional Allotment Committee and approved by the Hon'ble L.G. on 24.03.2003, Appellant had no option but to issue the Allotment Letter, which was merely a formality.

22. It was contended that amendment to the Nazul Rules was notified on 19.04.2006 and can only have prospective application. In the present case, approval for allotment of plot at Jasola, in favour of the Respondent, was

given on 24.03.2003 i.e. prior to amendment of the Nazul Rules. Even the decision to allot the land at Vasant Kunj and Essentiality Certificate with respect to the said area was prior to the aforesaid amendment and could not be undone under the garb of the amendment. Merely because there was an unexplained and inordinate delay in issuing a formal Letter of Allotment, Respondent cannot be deprived of its right to allotment, which had clearly accrued under the unamended Nazul Rules. It is a settled law that an Amendment can only have a prospective application unless the Notification of amendment itself gives the amended Rule or Instruction a retrospective effect. A bare perusal of Notification dated 19.04.2006 indicates that it has not been given a retrospective effect to the amendment and therefore is inapplicable to the case of the Respondent.

23. It was argued that upon recommendation by the Institutional Allotment Committee and its approval by the Hon'ble L.G., in favour of the Respondent, the doctrine of substantive legitimate expectation squarely applies as the allotment of land had received a seal of imprimatur. The Appellant cannot now resile therefrom to the detriment of the Respondent and Appellant is also estopped from cancelling the allotment under the Doctrine of Promissory Estoppel. This apart, there are no allegations of fraud, coercion or misrepresentation on the part of the Respondent, either while applying or at the time of recommendation/approval of the allotment. The present is a clear case where Respondent has become a victim of circumstances on account of sheer delay on the part of the Appellant in issuing a formal letter of allotment and the Appellant is now seeking to take advantage of its own wrong by applying the amendment to the Nazul Rules, retrospectively. Learned counsel relied on the judgment of the Hon'ble

Supreme Court in **Navjyoti Cooperative Group Housing Society vs. Union of India & Ors, (1992) 4 SCC 477** to substantiate his arguments on legitimate expectation.

24. Learned counsel for the Respondent had placed reliance on the judgment of a Division Bench of this Court in **Government of NCT of Delhi and Anr. vs. The Shreeyans Educational Society and Anr. in LPA 1670-71/2006, decided on 15.01.2014**, wherein the Division Bench has held that Sponsorship letters/Essentiality Certificates are issued zone-wise and therefore, imposing restrictive conditions indicating that the same would apply only in respect of certain areas/localities of particular zones would travel beyond the mandate of law. Reliance was also placed on the judgment of the Hon'ble Supreme Court in **State of Jharkhand vs. Brahmputra Metalics Ltd., Ranchi and Anr. in Civil Appeal No.3860-3862/2020** on the doctrine of Promissory Estoppel.

25. It was further contended that the case of the Respondent is on a better footing than the case of Jyotika Education Society, where Sponsorship was revoked, yet the land was allotted, while in the case of the Appellant, the Essentiality Certificate was issued on both occasions, earlier for Jasola and subsequently for Vasant Kunj, as well. All these facts had been rightly appreciated by the learned Single Judge and the impugned judgment dated 15.11.2018 deserves to be upheld.

ANALYSIS AND FINDINGS

26. We have heard learned Senior Counsel for the Appellant and learned counsel for the Respondent.

27. The undisputed facts that emerge from the pleadings and the

arguments of the respective parties are that Respondent had applied for allotment of Institutional plot in 2002 clearly giving three options of localities/areas, in the order of preference. The first option indicated was for Jasola and the application was in the prescribed format and all requisite documents including Essentiality Certificate and Sponsorship letter were also submitted. The Institutional Allotment Committee recommended the case of the Respondent for allotment and the recommendation received the approval of the Hon'ble L.G. on 24.03.2003. However, before the Demand-cum-Allotment Letter could be issued, a complaint was received, and the issuance of the letter was put in abeyance. It is also undisputed that subsequently Essentiality Certificate was issued in favour of the Respondent for Vasant Kunj area as well, however, for unexplained reasons, there was complete inaction in issuing the Demand-cum-Allotment Letter for Vasant Kunj. On 19.04.2006, amendment to the Nazul Rules was notified and the mode of allotment was changed to auction. Based on the amendment to the Nazul Rules, the case of the Respondent was rejected and the rejection was challenged before the learned Single Judge.

28. The format of the application for allotment of land included Column 11, wherein the applicant was required to indicate the localities or areas where the allotment was sought, in order of preference. For ready reference, Column 11 is as follows :-

“Locality or area where the land is required, in order of preference (give atleast three locations).

- | | |
|-------------|-----------------|
| (i) _____ | 1. Jasola |
| (ii) _____ | 2. Sarita Vihar |
| (iii) _____ | 3. Vasant Kunj” |

29. Undisputedly, Respondent had indicated the following three options, in order of preference: -

- (i) Jasola
- (ii) Sarita Vihar,
- (iii) Vasant Kunj

30. Learned Single Judge, vide the impugned judgment, has directed the Appellant to issue allotment letter to the Respondent and has quashed the rejection orders/letters. Learned Single Judge has rendered a finding that Vasant Kunj and Jasola are in one zone and has taken strength from the observations of the Division Bench in the case of **Shreeyans (supra)** that Sponsorship certificates/ Essentiality Certificate are issued zone-wise. Learned Single Judge has held that there was no impediment in issuance of allotment letter to the Respondent for establishing a Middle School in Vasant Kunj and it was only on account of a frivolous complaint that the allotment which ought to have fructified in March, 2003 got unduly delayed and this was merely due to lackadaisical attitude of the Appellant and the Respondent cannot be made to suffer for the same. It was also held that the change in Policy in 2006 cannot operate retrospectively so as to reject the allotment in question, once the right to allotment had accrued in favour of the Respondent, way-back in March, 2003.

31. At the outset, it needs a mention that extensive arguments have been addressed before this Court by learned Senior Counsel for the Appellant that Vasant Kunj and Jasola fall in different zones and therefore approval of the Hon'ble L.G. with respect to Jasola area cannot grant a right to the Respondent for allotment in the Vasant Kunj area. Having carefully perused the counter affidavit filed in response to the writ petition as well as the

pleadings in the present appeal, we do not find any such ground by the Appellant to assail the allotment of land in Vasant Kunj. Even otherwise, the said contention cannot be raised as a ground to justify the rejection order, for the simple reason that the case of the Respondent was rejected on the ground that there was change in the policy of allotment by virtue of amendment to the Nazul Rules on 19.06.2008, as is clearly discernible from the impugned order dated 19.06.2008. It is impermissible for the Appellant, at this stage, in the appellate proceedings, to alter or improve upon the ground for rejection, by bringing forth an argument of different zones.

32. We may also note that even otherwise, there is a finding of fact rendered by the learned Single Judge that Vasant Kunj and Jasola are in one zone, to which there is no rebuttal in the Appeal and thus the contention of the Appellant that the Respondent having applied for Jasola could not claim allotment in Vasant Kunj, cannot be entertained. The Division Bench in **Shreeyans (supra)** has held that Sponsorship letters/Essentiality Certificates are issued zone-wise and, therefore, it is not open to the DDA to impose restrictive conditions or take a plea that the Essentiality Certificate would apply only in respect of certain areas/localities of a particular zone and not for allotment of other areas/localities in the same zone. Rule 44 of the Delhi School Education Rules, 1973 framed under the Delhi School Education Act, 1973 empowers the Administrator to grant permission/sponsorship to the Institutions, desirous of establishing a new School or to refuse opening of the proposed School, in public interest, having regard to the relevant material before it. It cannot be overlooked that in the present case, Essentiality Certificate was in fact issued by the Directorate of Education for Vasant Kunj as well and thus, there was no impediment in issuance of the

Demand-cum-Allotment Letter.

33. Much was argued by learned Senior Counsel for the Appellant that the application was originally preferred by the Respondent for Jasola and therefore allotting land in Vasant Kunj was legally impermissible. This contention cannot be accepted by this Court primarily for the reason that the application form prescribed by the DDA itself envisaged three options of localities/areas in the order of preference and therefore, once the Respondent had indicated Jasola and Vasant Kunj, either of the two could be allotted, subject, however, to the grant of Essentiality Certificate for the concerned area. Calling of three options from the applicants clearly implies that the DDA had the power and the prerogative to allot land at any of the three areas opted by the Applicants. Appellant has not disputed that in the present case, out of approximately 1000 applications, the Institutional Allotment Committee had recommended allotment in favour of 292 applicants, which included the Respondent and finally approval was granted on 24.03.2003 to 49 Institutions by the Hon'ble L.G., which included the case of the Respondent. It bears repetition to state that in the present case the two localities/areas viz. Jasola and Vasant Kunj fall in the same zone/District as found by the learned Single Judge and there is no pleading in the Appeal, rebutting the said finding. Thus, the claim of the Respondent for allotment of land at Vasant Kunj is permissible and valid.

34. Even assuming for the sake of arguments, in favour of the Appellant, that Vasant Kunj and Jasola fall in different zones, learned counsel for the Appellant has not placed any material on record to rebut the categorical stand of the Respondent that allotments have been made by the DDA in Districts and Zones different from areas for which Essentiality

Certificate/Sponsorship letters were issued. As an illustration, Respondent had cited the case of Vikram Shilla Education Society and High Brow Educational Society. Learned counsel for the Respondent had pointed out that High Brow Educational Society was given an Essentiality Certificate and Sponsorship letter for Mayur Vihar-III area, while the actual allotment was at Karkardooma, being in the same District but different zone. In the case of Vikram Shilla Educational Society, the Essentiality Certificate and Sponsorship letter was issued for Rajouri Garden, which falls under West District, whereas actual allotment of land was in Karkardooma, which falls in the East District. In view of these precedents and practice, it cannot be argued by the Appellant that the allotment of land at Vasant Kunj, which was one of the three options indicated by the Respondent and was in the same District as Jasola, was legally impermissible.

35. We may also take note of the fact that the Respondent had been repeatedly asserting that another Society namely Jyotika Education Society had been allotted land, despite withdrawal of its sponsorship and its case was on a better footing. In fact, a communication was addressed by the Respondent to the Hon'ble L.G., which has been placed on record and internal page 2 of the said communication is to the following effect :-

“That another similar Society namely Jyotika Education Society had already been considered and allotment had been given to him. The Directorate of Education vide their letter dated 29/05/2009 questioned the allotment made to Jyotika Education Society and further recommended that since the fact of the Hello Home Society are identical to Jyotika Educational Society. Hence the society may also be given allotment of land but in vain.

That as already stated in the foregoing paras the DDA being a statutory body cannot discriminate the

society and should be treated on the same footing. In addition to above now the circumstances have also been changed and are in favour of society that the LPA No. 1670-71/2006 of Govt. of NCT of Delhi and others appellant v/s. THE SHREEYANS EDUCATION SOCIETY AND OTHERS (copy enclosed). The Hon'ble court has directed the appellant to comply within 8 weeks from today i.e. January 15, 2014. The appeals are accordingly dismissed without any order as to cost."

36. Respondent had clearly alleged discrimination between Jyotika Education Society and the Respondent and sought similar treatment. We do find that the case of the Respondent is on a better footing as contended by learned counsel for the Respondent. While in the case of Jyotika Education Society, allotment was made despite withdrawal of sponsorship, in the present case while considering the case for Vasant Kunj, Directorate of Education had, after considering all relevant factors, issued an Essentiality Certificate on 29.01.2004.

37. There is yet another reason why this Court cannot uphold the orders of cancellation of allotment in favour of the Respondent. While extensive arguments were addressed by learned Senior Counsel for the Appellant with respect to the different Zones/Districts, but the real reason for rejection is to be found in the impugned order dated 19.06.2008, which is as under :-

"This is with reference to your pending case which has been examined by the IAC-2003 for Construction of School. The Delhi Development Authority has reviewed allotment policy with regard to schools and accordingly vide Authority Resolution dated 19th January, 2006, the mode of allotment to Private Schools has been changed from allotment to auction. This was notified in the gazetted notification dated 19.4.2006. Hence, accordingly your case stands rejected and if you

are interested you may participate in the public auction of school sites.”

38. A bare perusal of the order shows that the sole reason for rejecting the case of the Respondent was the review of the Allotment Policy and the change of mode of allotment to private schools, from allotment to auction, as notified in the Gazette Notification dated 19.04.2006, whereby an amendment was brought in the Nazul Rules. The Notification has not been given a retrospective effect and it is a settled law that an amendment cannot have a retrospective effect, unless the Notification so specifies. The learned Single Judge has, in our view, rightly held that the Essentiality Certificate was issued with respect to Vasant Kunj and there was no impediment in issuance of the Allotment Letter and merely because there was an undue delay due to lackadaisical attitude of the Appellant, the new Policy in 2006 cannot be made to operate retrospectively. It is evident from the above narrative of facts that the approval for allotment of plot was given on 24.03.2003 *albeit* for Jasola and the necessary Essentiality Certificate was given even for Vasant Kunj on 29.01.2004. At that point in time, undisputedly the unamended Nazul Rules were applicable and only because there was complete inaction on the part of the Appellants the Demand-cum-Allotment Letter was not issued. In these circumstances, the amended Rules notified on 19.04.2006 cannot apply to the case of the Respondent and deprive him of the right of allotment. The issuance of Essentiality Certificate in favour of the Respondent for Vasant Kunj cannot be undermined as the Essentiality Certificate is issued by the Administrator under Rule 44(3) of the Delhi School Education Rules, 1973, only after satisfying himself, from the material on record, that the number of schools existing in the zone,

where the new school is proposed to be opened, is insufficient to meet the needs of the zone and that granting of the permission would not be against public interest. Once the exercise was carried out and in the wisdom of the Administrator, the Essentiality Certificate was issued on 29.01.2004 by the Directorate of Education, there was no justifiable reason for the Appellant to have delayed the issuance of Demand-cum-Allotment Letter and then illegally reject the case of the Respondent under the garb of amendment to the Nazul Rules, notified on 19.04.2006.

39. There is also merit in the contention of the Respondent that the recommendation by the Institutional Allotment Committee and the approval by Hon'ble L.G. was not without significance. The Allotment Committee was constituted for the very purpose of recommending allotment and needless to state that it had the expertise and necessary material before it to make recommendations that it did. At this point, it may be relevant to extract the Note that was placed before the Hon'ble L.G. for approval, on the recommendations of the Allotment Committee and which received his approval, as under :-

“The office proposal at page 3 & 4 may kindly be perused.

Hello Home Education Society (Regd.) had applied for allotment of land for construction of Middle School.

The Directorate of Education, Government of NCT of Delhi has recommended the case of the society vide their letter No.F.16/Land/Nursery/Estate/2001/5757 dated 8.01.2002.

IAC has recommended the case for allotment of land measuring 0.54 hectare in Pocket 6&7, Sector-B, Vasant Kunj.

In view of the above, land measuring 0.54 hectare in Pocket 6&7, Sector-B, Vasant Kunj may be allotted to Hell Home Education Society (Regd.) for construction of Middle School at current allotment rate of Rs.80 lacs per acre + 142% enhanced. (Provisional) along with ground rent @2.5% of the premium per acre per annum and Rs.5000/- +142% enhanced (Provisional) as licence fee for the play field area per acre per annum with the ratio 50:50 (50% for construction of building and 50% for play field area).

Submitted for kind consideration and orders please.

*(C.U. KUMAR)
DY. DIRECTOR (IL)
11.3.2003”*

40. The entire conspectus and gamut of facts as aforementioned only point to the fact that despite the recommendation, approval and the Essentiality Certificate being in favour of the Respondent, the Appellant had delayed the issuance of Demand-cum-Allotment Letter for over two years and thereafter under the garb of amendment to the Nazul Rules in 2006 rejected the case of the Respondent for allotment. For the reasons aforementioned, the action of the Appellant is clearly illegal, and the learned Single Judge has rightly quashed the orders/letters of rejection, impugned in the writ petition. We also note that there are no allegations of fraud, undue influence or coercion against the Respondent. Appellant has been allotting land in different zones and Districts, despite sponsorship letters and Essentiality Certificates for different zones and Districts and a discriminatory treatment has been meted out to the Respondent by the Appellant.

41. We are also in agreement with the observations of the learned Single Judge that perusal of the record reveals that in-principal allotment of the subject plot was made to the Respondent and thus the doctrine of legitimate expectation has been rightly invoked by the Respondent. The basic principle of 'legitimate expectation' was enunciated by Lord Diplock in **Council of Civil Service Unions vs. Minister for the Civil Service** in 1984 3 ALL ER 935, wherein it was observed that for a legitimate expectation to arise, the decision of the administrative authority must affect such person either (a) by altering rights or obligations of that person which are enforceable by or against him in private law or (b) by depriving him of some benefit or advantage which either: (i) he has in the past been permitted by the decision maker to enjoy and which he can legitimately expect to be permitted to continue to do until some rational ground for withdrawing it has been communicated to him and he has been given an opportunity to comment thereon or (ii) he has received assurance from the decision-maker that they will not be withdrawn without first giving him an opportunity of advancing reasons for contending that they should be withdrawn.

42. In **Navjyoti Cooperative Group Housing Society (supra)**, the principle of substantive legitimate expectation was accepted and the relevant part of the judgment is as follows :-

“15. It also appears to us that in any event the new policy decision as contained in the impugned memorandum of January 20, 1990 should not have been implemented without making such change in the existing criterion for allotment known to the Group Housing Societies if necessary by way of a public notice so that they might make proper representation to the concerned authorities for consideration of their viewpoints. Even assuming that

in the absence of any explanation of the expression “first come first served” in Rule 6(vi) of Nazul Rules there was no statutory requirement to make allotment with reference to date of registration, it has been rightly held, as a matter of fact, by the High Court that prior to the new guideline contained in the memo of January 20, 1990 the principle for allotment had always been on the basis of date of registration and not the date of approval of the list of members. In the brochure issued in 1982 by the DDA even after Gazette notification of Nazul Rules on September 26, 1981 the policy of allotment on the basis of seniority in registration was clearly indicated. In the aforesaid facts, the Group Housing Societies were entitled to ‘legitimate expectation’ of following consistent past practice in the matter of allotment, even though they may not have any legal right in private law to receive such treatment. The existence of ‘legitimate expectation’ may have a number of different consequences and one of such consequences is that the authority ought not to act to defeat the ‘legitimate expectation’ without some overriding reason of public policy to justify its doing so. In a case of ‘legitimate expectation’ if the authority proposes to defeat a person's ‘legitimate expectation’ it should afford him an opportunity to make representations in the matter. In this connection reference may be made to the discussions on ‘legitimate expectation’ at page 151 of Volume 1(1) of Halsbury's Laws of England, 4th edn. (re-issue). We may also refer to a decision of the House of Lords in Council of Civil Service Unions v. Minister for the Civil Service [(1984) 3 All ER 935]. It has been held in the said decision that an aggrieved person was entitled to judicial review if he could show that a decision of the public authority affected him of some benefit or advantage which in the past he had been permitted to enjoy and which he legitimately expected to be permitted to continue to enjoy either until he was given reasons for withdrawal and the opportunity to comment on such reasons.”

43. In view of the above, we find no error or infirmity with the impugned judgment passed by the learned Single Judge and there is no merit in the present Appeal.

44. The Appeal along with pending application is accordingly dismissed and the order staying the operation of the judgment of the learned Single Judge passed by this Court on 02.04.2019 stands vacated.

CHIEF JUSTICE

JYOTI SINGH, J

NOVEMBER 12th, 2021

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