

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.29483 of 2011

***Neelachal Engineers &
Consultants***

....

Petitioners

Mr.H.M.Dhal, Advocate

-versus-

***Orissa Industrial Infrastructure
Development Corporation &
Others***

....

Opp.Parties

Mr. Sagarika Sahoo, Advocate

**CORAM:
THE CHIEF JUSTICE
JUSTICE R.K.PATTANAIK**

**ORDER
11.04.2022**

Order No.

03.

1. The challenge in the present petition is to an order passed by the Orissa Industrial Infrastructure Development Corporation (IDCO) cancelling the allotment of Plot Nos. 57 & 58 of the Industrial Estate at Mancheswar at Bhubaneswar and requiring the Petitioner to hand over the possession of the said plots to IDCO within 15 days. While directing notice to issue in the present petition on 14th November, 2011, this Court stayed the operation of the said impugned order at interim orders continued since.

2. The background facts are that the Petitioner is a proprietary concern engaged in the manufacture of Boilers, Boiler Parts, Heat Exchangers and so on. It is stated have been established in the year 1983 and undertook its

activities at Plot No. S-3/86. According to the Petitioner its workload increased and in order to expand its activities it required an additional plot of land. M/s. Lords Steelex which had been allotted Plot Nos. 57 & 58 in Zone-D, Sector-A of Mancheswar Industrial Estate became sick and agree to transfer the plot allotted to it in favour of the Petitioner. Accordingly, the Petitioner approached IDCO. On 18th January, 2006 IDCO wrote to Lords Steelex and agreed in principle to the transfer of leasehold rights in respect of above Plots in favour of the Petitioner. On 4th February, 2006 IDCO wrote to the Petitioner asking it to execute the necessary Tripartite Lease Deed. One of the conditions on which the above plots were transferred in the above manner in favour of the Petitioner was that the Petitioner had to commence industrial activities within the said premises within six months from 18th January, 2006. With the Petitioner not commencing such activity even for a period of four years thereafter, IDCO issued a notice on 4th November, 2010 to the Petitioner asking it to show cause why the allotment should not be cancelled.

3. The Petitioner claims it replied to the said show cause notice on 17th November, 2010 which is denied by IDCO in its counter affidavit. In fact, IDCO passed the impugned order dated 24th October, 2011 on two grounds. One was that the Petitioner had not replied to the show cause notice and the second was that it had failed to utilize the allotted plot for the purpose for which it was transferred; the land was lying vacant and being 'partially used for vehicle

parking'. While the Petitioner assails the impugned order on the ground that had in fact replied to the show cause notice, as regards the main ground of cancellation the Petitioner states that it had 'undertaken maintenance and job work at site on hydraulic and pneumatic cylinders and pistons etc.'. However, the counter affidavit IDCO maintains to the plot in question has not been put to use by the Petitioner in terms of the conditional allotment made to it.

4. Learned counsel for the Petitioner submitted that since the Petitioner had in fact filed the reply to the show cause notice, one of the grounds for cancellation was not valid. However, counsel for the Petitioner was unable to inform the Court whether even today the plots have been used for industrial activity for which purpose it was allotted to the Petitioner. In the absence of any rejoinder affidavit to the counter affidavit filed by IDCO, it appears that Petitioner was unable to use the land allotted to within the time period stipulated. In other words, Plot Nos. 57 & 58 continued to remain unutilized as has been stated in the counter affidavit of IDCO. In the circumstances, sending the matter back to IDCO only to consider the reply of the Petitioner would serve no purpose. The main reason for cancellation therefore, appears valid and calls for no interference.

5. For the aforementioned reasons, this Court finds no grounds made out for interference with the impugned order

dated 24th October, 2011 passed by IDCO. The interim order stands vacated.

6. The writ petition is dismissed.

7. An urgent certified copy of this order be issued as per rules.

(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge



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