

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO.7760 OF 2009

Prafulla Chandra Mohanty

....

Petitioner

Mr.S.Mohanty, Adv.

-versus-

Cuttack Development Authority & ors.

....

Opposite Party(s)

Mr.D.Mohapatra, Adv.

CORAM:

JUSTICE BISWANATH RATH

ORDER

9.12.2022

Order No.

04.

1. Heard learned counsel for the Parties.

2. This Writ Petition involves a challenge to the impugned order dated 19.12.2008 passed by the Development Authority refunding the initial deposit made by the Petitioner for allotment of a “D” Category land in Sector-13 of Bidanasi Project Area.

3. Even though there have been several grounds agitated but in course of argument, Mr.S.Mohanty, learned counsel for the Petitioner confines the Writ Petition in his challenge to the action of the O.P. only relying on the condition in the Broacher and submits, in the event of any allotment in the particular category, the Development Authority should have been abided by condition no.4 dealing with reservation, particularly involving Green Card Holders

by reserving at least 2% out of the total plots in this category meant for Green Card Holder. Learned counsel for the Petitioner thus submits, the Petitioner deserves to be considered in terms of Clause-4 of the Condition in the Brochure.

4. Mr.D.Mohapatra, learned counsel for the Cuttack Development Authority makes a clear statement that even at the time of interim order passed by this Court, there was no plot of 'D' Category surviving in Sector-13. Mr.Mohapatra in the contingency and as all plots involving the impugned allotment came to be allotted contends, there is no availability of considering the case of the Petitioner any further.

5. Entertaining the Writ Petition, this Court finds, by order dated 26.8.2009 a Division Bench of this Court passed the following

:-

“List this case along with W.P.(C0 No.645 of 2009 and other connected matters in the week commencing 12th of October, 2009.

In the meantime, no further plots in Sector-13 under Bidanasi Project Area shall be allotted to anyone without considering the allotment in favour of the Petitioner.”

6. Keeping in view the grounds of challenge and looking to the reason of rejection, vide Annexure-7, this Court finds, Annexure-7 discloses as follows :-

“With reference to the above subject I am directed to intimate you that you have applied for allotment of a plot in Sector-13 of Bidanasi Project Area

and made an initial deposit as per Brochure conditions of the year, 2004. As the number of applications received was more than the number of plots available and due to non-availability of further land, CDA is constrained to allot a plot of land in your favour in Sector-13.

In view of this, the Authority has decided to refund your initial deposit.

Accordingly, an account payee cheque bearing No.93383 dated 18.12.2008 on the OSCS Ltd. For Rs.50,000/- (Rupees fifty thousand) only is enclosed herewith towards refund of your initial deposit which may please be acknowledged.

The inconvenience caused to you is deeply regretted. The original money receipt no.285529/31.3.2004 issued in your favour is hereby treated as cancelled.”

7. Reading the above, this Court finds, the rejection order came to be passed for non-availability of further land in the particular category in Sector-13. For the opinion of this Court, though the matter has gone infructuous for efflux of time, for no timely effort of the Petitioner but if the condition is referred to herein is allowed to continue, the Development Authority shall be abided by all such conditions in future allotment and it may also be open to the Petitioner to apply in such category in future provided he is still a landless person in the Cuttack Township.

8. The Writ Petition thus stands dismissed. Interim order dated 26.8.2009 passed in Misc. Case No.5944/2009 gone infructuous.

(Biswanath Rath)
Judge

M.K.Rout