

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.17953 of 2021

Dr. Pravat Kumar Joshi

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Petitioner

Mr. B.N. Tripathy,
Advocate

-versus-

***Commnr. Cum Secy., Housing And
Urban Development Deptt. & Anr.***

Opposite Parties

Mr. S. Mishra,
Addl. Standing Counsel for O.P.1
Mr. D. Mohapatra,
Advocate for O.P.2

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
20.06.2022**

Order No.

04.

1. This case has a long history. In the first round of litigation considering the anxiety of the Petitioner appears to be a retired Doctor interested for a land in the Abhinaba Bidanasi, Cuttack moved a writ petition to this Court, a Single Bench of this Court in disposal of a writ petition vide W.P.(C) No.9282 of 2009 directed the Cuttack Development Authority to consider the need of all such persons and may move the Government for further allotment of the land. It was also further observed that if such proposal is made, the Government shall consider the same taking into account the need for houses for the people at Cuttack and take a decision to allot some more land, if available at any side of the Cuttack city to cater to the

need of the people. It appears, after disposal of the above noted writ petition, the Petitioner went on making representations after representations showing his interest for a piece of land in the Abhinaba Bidanasi, Cuttack.

2. In the meantime finding that there is certain development, it appears, the Petitioner obtained certain material information through the provision under the Right to Information Act, 2005 at Annexure-7 (series). Filing this writ petition on the basis of some foundation therein, the Petitioner alleged that even though there has been allotment of 'E' category plot in favour of the number of persons, but case of the Petitioner has not been considered. Thus this writ petition is filed with the following prayer :-

“It is therefore respectfully prayed that this Hon'ble Court may be graciously pleased to admit the Writ Petition, issue Rule NISI calling upon the opposite parties to show cause as to why their action in not allotting a plot in favour of the petitioner shall not be declared illegal and void being contrary to the order of this Hon'ble Court dtd.29.04.2014 passed in W.P.(C) No.9282 of 2009 and as to why appropriate direction shall not be issued to them to allot a “E” Category plot or any other category of plots in Sector-13 or any other sector of Abhinaba Bidanasi Project on receipt of the cost of the land prevailing in the year 2004 in favour of the petitioner and as to why any other appropriate direction shall not be issued in the contest, if the opposite parties failed to show cause or show insufficient cause, the said Rule may be made absolute and necessary direction as aforesaid may be made for the purpose.

And any other appropriate order as may deem fit and proper in the circumstance may be passed.”

3. Taking this Court to the recordings in the note sheet of the Cuttack Development Authority at various pages Mr. Tripathy, learned counsel for the Petitioner draws the attention of this Court to the fact that in the meantime some land was made available with the Cuttack Development Authority and undisputedly there has also been allotment of 'E' category plot in favour of several other persons, but in clear ignorance of the claim of the Petitioner. Looking to the communication at page 49 of the brief, it appears, there has been correspondence to the Petitioner from the Cuttack Development Authority seeking his consent for allotment of 'E' category plot in C.D.A, Sector 13 area. It is, at this stage of the matter, Mr. Tripathy, learned counsel for the Petitioner taking this Court to the plea taken in paragraph nos.8 & 9 of the writ petition, contended that the Petitioner was all through interested for a land under the Cuttack Development Authority area and under no circumstance, it can be construed that the Petitioner was never interested for 'E' category plot in Sector 13 of the Abhinaba Bidanasi area.

It is, in the above circumstance, prayer is made to allow the writ petition at least issuing a direction to the Cuttack Development Authority for allotment of an 'E' category plot in favour of the Petitioner.

4. In his opposition, Mr. Mohapatra, learned counsel for the Cuttack Development Authority taking this Court to the response of the Opposite Party particularly reading through the averments made in paragraph nos.5, 6 & 7, contended that in an attempt to resolve the dispute involving a number of similarly situated person, following

the direction of this Court in W.P.(C) No.9282 of 2009, the Cuttack Development Authority found availability of a patch of land not allotted in the Sector 13 area and in the process converted the land into 75 numbers of 'E' category plot for being distributed to the persons interested but through lottery process. Notices were accordingly issued seeking option of all such persons including that of the Petitioner. It is argued that such notices even though issued to 629 persons including the Petitioner, but in response 412 persons had shown their willingness by submitting their application. It is further contended that for the Petitioner not showing interest in such allotment, application/request of the other applicants were considered and there is already allotment of 72 numbers of 'E' category plots by adopting selection through lottery. Mr. Mohapatra, learned counsel for the Cuttack Development Authority contended that there is no land available for considering the case of the Petitioner presently and thus requested this Court for dismissal of the writ petition. Balance three plots are already involved in litigation pending in this Court.

5. Considering the rival contentions of the parties, looking to the Petitioner's own document at page 49 of the brief and reading the averments made in paragraph nos.8, 9 & 10 of this brief, this Court nowhere finds a single statement of the Petitioner as to submission of any willingness pursuant to the letter at page 49 of the brief for allotments of 'E' category plot in C.D.A Sector 13 area through lottery system. Though the Petitioner has clear statement that he was always ready and willing to get a 'E' category plot in C.D.A Sector 13 area, this Court finds, the Petitioner though came in

possession of a letter addressed to himself by the Development Authority seeking his willingness for allotment of 'E' category plot vide page 49, but the Petitioner did not make any statement in the writ petition as to whether such correspondence has been served on the Petitioner or not. To the contrary through counter affidavit, the Opposite Party No.2 in paragraph no.7 has made a clear statement that the communication to the Petitioner vide letter No.11582 /CDA/ Dated 25.07.2018 was addressed to the Petitioner by registered post. There is also clear statement through paragraph no.7 that there has been similar offers made to 629 candidates and out of which 412 applications were received and in a lottery process involving this issue 72 plots in 'E' category have been allotted in favour of 72 number of persons and three such plots could not be allotted as there is stay order operating involving three of the writ petition relating to allotment of 'E' category plot, the Cuttack Development Authority is unable to proceed to record three 'E' category plots. This Court observed, for there is already allotment of 72 number of 'E' category plots after inviting consent from the interested parties, as the Petitioner neither challenged such allotment nor provided his consent, his case cannot be considered any further. While declining to entertain the writ petition, this Court keeping in view the direction of this Court in W.P.(C) No.9282 of 2009 for considering his case in the event of allotment of additional land in C.D.A. in future, observes, if the Petitioner shows his interest by way of an application within a period of two weeks, scope for considering the Petitioner's case shall be kept open.

6. This Court in the circumstance finds no scope for entertaining the prayer made in this writ petition, which is, hereby, rejected, but however, with the observation made hereinabove.

(Biswanath Rath)
Judge

Ayaskanta Jena

