

IN THE HIGH COURT OF ORISSA AT CUTTACK

**W.P.(C) No.29151 of 2020
(Through hybrid mode)**

Nabakishore Naik

....

Petitioner

Ms. D.Mohapatra, Advocate

-versus-

State of Odisha and another

....

Opposite Parties

Mr. D.Mohapatra, Advocate
for CDA

CORAM: JUSTICE ARINDAM SINHA

**ORDER
16.02.2022**

Order No.

- 04.** 1. Ms. Mohapatra, learned advocate appears on behalf of petitioner. She submits, her client had received allotment of a plot from Cuttack Development Authority (CDA) on 20th February, 2009. The authority has failed and neglected to give possession of the plot to enable her client to construct thereupon, residential house.
2. Mr. Mohapatra, learned advocate appears on behalf of CDA and submits, the allotment was made under discretionary quota. He refers to his client's counter, page 11 to submit, the Government in being satisfied that illegal allotments were made under discretionary

quota, appointed a Task Force on terms of reference by order dated 11th August, 2014. The scope of review was to cover period from 1st January, 1995 to 31st July, 2014 in urban areas of Bhubaneswar and Cuttack, regarding all cases of allotment out of discretionary quota.

3. The Task Force submitted report dated 30th October, 2014, in which, inter alia, was said in para 5, as extracted and reproduced below.

“ The reasons or grounds for allotment under discretionary quota have not been specified in a single case placed before the Task Force for examination. The beneficiaries of such allotments appear to be people well connected and non-deserving. Considering the law laid down by the Hon’ble Apex Court, the Task Force recommends that all the discretionary allotments made after 01.01.1995 should be cancelled as such allotments have invariably given undue benefits to undeserving persons. Many well placed/connected individuals have received discretionary allotments more than once, from BDA, CDA and OSHB. Annexures-IV-A to C) indicate the names of the beneficiaries who have received multiple allotments under discretionary quota from one agency or more. Since the lists of DQ allottees have been prepared on the basis of limited information submitted by BDA, CDA and OSHB, further independent investigation/audit is recommended to be undertaken to

find out the actual size of discretionary allotments including those not placed before the Task Force for discovery.”

4. He submits, resolution dated 30th January, 2015 was taken by Government of Odisha, General Administrative Department, pursuant to the report. Inter alia, point no.5 in the resolution required his client to cancel all allotments under discretionary quota. Said point is reproduced below:

“BDA, CDA and OSHB should cancel all allotments of plot/house/flat under Discretionary Quota made under different schemes after 01.01.1995 including their pre and post-possession transfers and the plots/houses and flats should be resumed to the concerned authorizes.”

In the circumstances, his client had no option but cancel the allotment. No question arises on delivery of possession. He submits further, General Administrative Department was not made party by petitioner.

5. Ms. Mohapatra submits in reply, on drawing attention to para 48 in the recommendations of the Task Force saying, inter alia, resumption should be in cases where allottees have failed to construct house within stipulated five years. She submits, possession has not yet been given to her client and therefore, there can be no action taken

beyond the recommendation since CDA is purportedly acting pursuant to the report.

6. Petitioner has prayed for delivery of possession. As a consequence of this writ petition, petitioner is now aware that the Government by said resolution dated 30th January, 2015 has directed, inter alia, CDA, to cancel all allotments. The resolution is not under challenge in this writ petition. Petitioner may be well advised to challenge it to find remedy.

7. With above observation, the writ petition is disposed of.

(Arindam Sinha)
Judge

Prasant

