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IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.278 OF 2022

1. Gaonkar Chemicals,
Through its proprietor
Mr. Jaisatchitanand Gaonkar
Son of Govind Gaonkar,
Age 72 years,
Having registered address at
H.No 1121/1 Madel
Chorao, Tiswadi – Goa

2. Mr. Jaisatchitanand Gaonkar
Son of Govind Gaonkar,
Age 72 years
Proprietor of M/s Gaonkar Chemicals,
R/o H.No 1121/1 Madel
Chorao, Tiswadi - Goa

... Petitioners

Versus

Goa Industrial Development Corporation
Through its Managing Director,
Having office at EDC Complex,
Patto, Panaji-Goa.

... Respondent

Mr Pranay Kamat, Advocate for the Petitioners.

Mr A.D. Bhohe, Advocate for the Respondent.

**CORAM: M.S. SONAK &
BHARAT P. DESHPANDE, JJ.**

DATED: 28th November, 2022

Oral Judgment: (Per Bharat P. Deshpande, J.)

1. Rule. Rule returnable forthwith.
2. With the consent of the parties, the matter is taken up for final disposal at the admission stage itself.
3. Heard learned Counsel Shri Pranay A. Kamat for the Petitioners and learned Counsel Shri A.D. Bhobe for the Respondent.
4. Petitioner is basically challenging Resolution No.26/21 dated 24 September 2021 which was confirmed in the meeting of the Respondent dated 13 December 2021 thereby resolving to re-advertise for auction plot No. B-12 admeasuring 787 square metres at Kundaim Industrial Estate.
5. Petitioner No.2 is the proprietor of Petitioner No.1 firm and engaged in manufacturing of floor cleaners, liquid soap, hand wash, dish wash, glass cleaners, engine coolant, toilet cleaner from last ten years. Respondent Corporation established industrial estates in various parts of Goa, out of which one is at Kundaim and made plots of various sizes which are offered to various entrepreneurs by public advertisements. Petitioner was looking for a plot to set up a small scale manufacturing unit in Kundaim Industrial Estate. He came across advertisement/public notice dated 31 January 2019 advertised in the newspapers by the Respondent inviting applications for allotment of two plots namely plot No. B-12 admeasuring 787 square metres and plot No.17-G admeasuring 840 square metres at Kundaim Industrial Estate, Ponda Taluka. Both these plots were to be allotted as per the Regulations published in the Official Gazette dated 1 August 2014. Such Regulations provide that single plot can be applied by any entity for which independent application has to be made together with necessary fees. Selection amongst the

applicants is made based on allotment of marks during scrutiny of applications.

6. It is further case of the Petitioner that as per the said advertisement dated 31 January 2019, he filed an application dated 18 February 2019 for allotment of plot No. B-12 admeasuring 787 square metres in Kundaim Industrial Estate (Exh. 'A'). However, from March 2020, there was lock-down due to Covid-19 pandemic and all activities were restricted. Subsequently, on 27 January 2021, the Petitioner applied for information about the decision in respect of his application for allotment of plot. On receipt of information from the Respondent, it was revealed that the plot No.B-12 was allotted to M/s Maruti Plastic Industries by order dated 4 March 2020 by illegal means whereas the Petitioner was denied such opportunity. Petitioner then obtained minutes of the Screening Committee dated 10 January 2020 (Annexure "B") by which plot No.B-12 was allotted to M/s Maruti Plastic Industries illegally. From the said information, it was revealed that though Petitioner applied for allotment of plot No.B-12 admeasuring 787 square metres, M/s Maruti Plastic Industries in its application requested for allotment of plot No.17-G admeasuring 840 square metres. However, said Maruti Plastic Industries mischievously put both the numbers of the plots in column nos.2 and 7 even though their application was only for plot No.17-G. It was also revealed that the security deposit for plot No.B-12 which comes to ₹15,740/- was not paid by M/s Maruti Plastic Industries. As per the Regulations, joint application for allotment of two plots need to be rejected and every applicant must pay security deposit based on the area of a single plot. Thus, said M/s Maruti Plastic Industries who did

not pay the security deposit for plot No.B-12 was not entitled to be allotted such plot when it was applied by the Petitioner.

7. The Petitioner further claimed that Petitioner got 50 marks for plot No.B-12 which was the highest in all applications and accordingly he was entitled/eligible for allotment of such plot. However, the record shows that Maruti Plastic Industries got 65 marks for plot No.17-G admeasuring 840 square metres and thus, allotment of plot No.B-12 to Maruti Plastic Industries was totally illegal.

8. Accordingly, the Petitioner filed Writ Petition No.1138/2021 (Filing) challenging illegal allotment of plot to M/s Maruti Plastic Industries on above grounds. Said petition was disposed of by this Court on 2 August 2021 by observing thus:-

1. The Petitioner has grievance over allotment of industrial plot and according to Regulation 11 has approached the Redressal Authority.

2. The learned counsel for the Respondents on instructions state that they have no particular resistance to that, the Redressal Authority proceeds with the representation of the Petitioner.

3. Having regard to the aforesaid, it would be expedient that the Grievance Redressal Authority proceeds ahead with the representation annexed to the writ petition at page 56 dated 01.03.2021 and decide the same as early as possible preferably within a period of two months from the date of the receipt of writ of this order, after hearing the concerned.

4. The writ petition is accordingly disposed of.

9. In view of the above order dated 2 August 2021 passed by this Court, Petitioner was called upon to file written submissions which he filed on 5 October 2021 (Annexure “E”). However, Respondent did not

decide such representation but subsequently by order dated 22 October 2021, the grievance redressal authority decided the representation (Annexure “F”). The said grievance redressal authority of Respondent came to the conclusion that Scrutiny Committee of Respondent No.1 committed mistake while allotting plot No.B-12 admeasuring 787 square metres to M/s Maruti Plastic Industries though it was applied by the Petitioner and therefore, recommended that the Board of the Respondent should re-examine the application of the applicant and process it for allotment of plot No.B-12 admeasuring 787 square metres and also the application of Maruti Plastic Industries for allotment of plot No.17-G admeasuring 840 square metres at Kundaim Industrial Estate at Ponda, Goa.

10. Petitioner therefore approached the Respondent vide his letter dated 2 November 2021 asking them to implement the recommendation of the grievance redressal authority and to allot plot No.B-12 to the Petitioner.

11. It is further case of the Petitioner that he made representation dated 4 May 2022 to the Chairman of Respondent and then applied for the copies of the minutes of meeting of the Board of Directors. On receipt of such minutes (Annexure “H”) dated 31 December 2021 and Resolution No.26/21, it revealed from Item No.3 that the Board of Directors resolved to cancel the allotment of plot No.B-12 admeasuring 787 square metres allotted to M/s Maruti Plastic Industries and revert it back to the Screening Committee for reconsideration of plot No.17-G admeasuring 840 square metres to Maruti Plastic Industries. However, in

the same resolution, the Board of Directors instead of recommending the Screening Committee to reconsider/allot plot No.B-12 admeasuring 787 square metres to the Petitioner, directed it to re-advertise, without any valid and effective reason. The Petitioner is therefore challenging the above resolution of re-advertising plot No.B-12 and praying that such resolution be declared null and void and direct Respondent to allot plot No.B-12 to the Petitioner.

12. Affidavit in reply is filed on behalf of Respondent and on perusal of it, one thing is clear that the grievance redressal authority of Respondent clearly observed that there was mistake committed by the Screening Committee while allotting plot No. B-12 in favour of Maruti Plastic Industries as their application was with regard to plot No.G-17 and the security deposit was also with regard to such plot. However, the petition is opposed on the ground that the Petitioner has failed to point out any error in the decision of the Respondent to re-advertise plot No.B-12.

13. The order passed by this Court dated 2 August 2021 in Writ Petition No.1138/2021 and quoted earlier clearly shows that the Respondent had no particular resistance with regard to contentions raised by the Petitioner in that petition. Therefore, the coordinate Bench of this Court thought it expedient to direct the grievance redressal authority to consider representation dated 1 March 2021 of the Petitioner and to decide the same as early as possible preferably within two months. Accordingly, the petition was disposed of wherein Petitioner did challenge allotment of plot No. B-12 to Maruti Plastic Industries on the grounds as mentioned in the representation.

14. The order of grievance redressal authority in Case No.1/2021/GOA/IDC/2958 dated 22 October 2021 is produced along with the present petition from page 58 onwards. Perusal of this order clearly goes to show that by the said order, the authority disposed of grievance/representation dated 1 March 2021 filed by the present Petitioner and as directed by this Court vide its order dated 2 August 2021 in Writ Petition No.1138/2021. The final conclusion of the authority which is at page 66 reads thus:-

“Therefore on perusal of pleadings and records placed and on consideration of arguments advances before me it is recommended that the Board of the Corporation may re-examine the applications and process of allotment of plots made in this case as regards to plot No B-12 and plot No G-17 at Kundaim industrial Estate. The findings of this authority are placed before the Board of the Corporation for taking appropriate steps in accordance with the Law.”

15. This observation of the authority is based upon the detailed order and the reasons wherein contentions raised by the Petitioner regarding allotment of plot No.B-12 in favour of Maruti Plastic Industries were found proper. Thus, the grievance redressal authority recommended for re-examination of both the applications i.e. the one filed by the Petitioner for allotment of plot No.B-12 and another filed by M/s Maruti Plastic Industries for plot No.G-17, afresh and take appropriate decision.

16. Board of Directors of Respondent in its meeting held on 13 December 2021 discussed above aspect under Item No.3 and resolved as under:-

“Item No. 3 -

Re-examining the application of M/s. Gaonkar Chemicals and M/s. Maruti Plastic Industries for allotment of plot in Kundaime Industrial Estate.

The Board deliberated on this Agenda note. M/s Maruti Plastic Industries has been allotted plot No. B-12 admeasuring 787m² as per recommendation of Screening Committee. The Grievance Redressal Authority has observed errors in the recommendation of Screening Committee as per Clause No.5 (2) (c) of Goa-IDC Regulation and in considering single application of M/s. Maruti Plastic Industries towards plot No. B-12 and not for Plot No.17-G, when the Security Deposit paid towards plot No.17-G, Board concurred with the observations of grievance Redressal Authority and thereafter following resolution was passed.

Resolution No. 26/2021:-

Resolved unanimously to cancel allotment of Plot No. B-12 admeasuring 787m² at Kundaime Industrial Estate to M/s. Maruti Plastic Industries and refer back the application of M/s. Maruti Plastic Industries to Screening Committee for reconsideration of his application against Plot No. 17-G admeasuring 840m². The plot B-12 admeasuring 787m² to be re-advertised.

Resolved further that the Managing Director be and is hereby authorised to take all further necessary action in the matter.”

17. The main grievance of the learned Counsel for the Petitioner is the decision of the Board of Directors to re-advertise plot No. B-12 only.
18. The learned Counsel Shri Bhobe appearing for the Respondent failed to justify such decision of re-advertising only plot No. B-12 specifically when resolution was taken to reconsider application in connection with plot No.17-G in favour of M/s Maruti Plastic Industries. We fail to understand as to why same decision of reconsidering application of the applicant for allotment of plot No. B-12 admeasuring

787 square metres was not recommended to the Screening Committee. It clearly shows that the Board of Directors applied one procedure to M/s Maruti Plastic Industries and another for the application of the Petitioner, which is clearly arbitrary and shows colourful exercise of the powers.

19. It has been pointed out while arguing the matter that the application of M/s Maruti Plastic Industries for allotment of plot No. G-17 was favourably considered.

20. It is not the case of Respondent that the Petitioner is not entitled for allotment of such plot No.B-12. The reply affidavit nowhere suggests as to why same recourse for reconsidering both applications by the Screening Committee was not recommended by the Board of Directors.

21. We therefore are of the considered opinion that the action on the part of Respondent and more particularly by the Board of Directors in the impugned resolution is clearly arbitrary and amounts to discrimination as well as the colourful exercise of powers, which cannot be allowed.

22. The Petitioner who applied for only plot No.B-12 and found to be eligible for allotment of the said plot, was denied only because the Screening Committee committed mistake. Though grievance redressal committee in its order dated 22 October 2021 recommended that the Board may re-examine both applications and process for allotment of plots made in this regard, the Board of Directors of the Respondent adopted the approach by only favouring M/s Maruti Plastic Industries thereby reconsidering their application for allotment of plot No.G-17 and directed for re-advertisement of plot No.B-12 without any cogent,

convincing or other reason. In fact, the minutes of the meeting of the 377th Board meeting held on 13 December 2021, nowhere gives any reason as to why plot No.B-12 was required to be re-advertised when the said plot was wrongly allotted to M/s Maruti Plastic Industries even though their application was only for allotment of plot No.17-G.

23. The petition therefore must succeed as per prayer clauses (a) and (b).

24. We make it clear that allotment of plot No.B-12 admeasuring 787 square metres at Kundaim Industrial Estate be allotted to the Petitioner only after all other formalities are completed and rules and regulations are followed with.

25. The Rule is made absolute in the above terms. Parties shall bear their own cost.

BHARAT P. DESHPANDE, J.

M.S. SONAK, J.