

WPA 27510 of 2022

Sadhana Dutta
Vs.
Kolkata Municipal Corporation & ors.

Adv. Kushal Chatterjee,
Adv. Sudharshan Halder,
...for the petitioner.
Adv. N. C. Bihani,
Adv. Manisha Deb Nath,
...for the KMC.
Adv. Satyajit Talukdar,
Adv. Piu Karmakar,
...for the KMDA.

Written instructions as well as the policy decision submitted on behalf of the KMDA are taken on record.

On prayer of the petitioner, the Senior Deputy Secretary-I, Estate (MM) Unit, Kolkata Metropolitan Development Authority (in short KMDA) be impleaded as respondent no.7 in the writ petition.

The cause title of the writ petition be amended accordingly.

It is contended on behalf of the petitioner that as compensation in lieu of acquisition of the land belonging to the petitioner by the KMDA, the authority executed a deed of lease on 15th March, 2021 for her rehabilitation. The petitioner constructed a boundary wall in the plot and the plot was mutated in her name on 4th April, 2013 following which she applied for sanction of building plan in order to raise construction in the said plot in terms of the deed. The Executive Engineer (Building), Kolkata Municipal Corporation (in short KMC) made several communications to the KMDA for grant of no objection in order to enable the

authority to process sanction of building plan in favour of the petitioner. Since such no objection was not provided by the KMDA, the petitioner submitted a representation before the concerned authority in this regard which also not being considered, the petitioner approached this Court by way of a writ petition praying for consideration of the same by the authority. By an order passed on 8th February, 2022 in WPA no. 19546 of 2021, this Court directed the concerned authority to consider and dispose of the representation submitted by the petitioner within a stipulated time frame. Pursuant to the said order the petitioner submitted a comprehensive representation before the concerned authority on 18th February, 2022 which was considered and disposed of by the Deputy Secretary, Estate (MM) Unit, KMDA by an order passed on 13th June, 2022 which records that since the petitioner fell under the rehabilitation category, she could submit a prayer before the KMDA authority seeking relief. Subsequently, notice of hearing was issued to the petitioner by the Senior Deputy Secretary on 15th February, 2023 and since the petitioner did not appear before the authority in terms of the said notice, hearing was conducted by the authority on 20th February, 2023 and an order was passed on the same date. The order demonstrates that the petition has been disposed of ex parte with a direction that the petitioner may avail the facility to get NOC for the period as extended by the KMDA Board in its meeting held on 26th April, 2022 upon fresh application to the authority.

Learned counsel for the KMDA places reliance on the policy decision of the authority taken on 26th April, 2022.

The relevant portion of the decision is set out hereinbelow:

“Decision: The Committee reviewed the policy regarding cancellation of allotment of plots lying vacant or without construction for more than 20 years for LIG, EWS categories land for both areas under East Kolkata Area Development Project (EKADP) and Baishnabghata Patuli Area Development Project (BPADP). After detailed deliberation it was decided by the Committee that considering the COVID-19 pandemic situation and as a result of financial constraint of the allottees, the original/ surviving LIG & EWS category allottees or their legal heirs may be granted an extension of 3(three) years only for completion of construction without imposing any penal charges in case of delayed construction. This benefit may be extended to all LIG & EWS category allottees under EKADP & BPADP areas from the date of decision of Authority Meeting. The matter is placed before Authority Meeting for ratification.”

The said decision was ratified by the KMDA Board by a resolution taken in its 192nd meeting held on 26th April, 2022.

In view of the same, the petitioner seeks a direction upon the concerned authority, being the 7th respondent herein, to issue NOC in favour of the petitioner in terms of the policy decision of the authority taken on 26th April, 2022.

Upon considering the submission of the parties and the material on record, this Court is inclined to hold that in view of the policy decision of the authority dated 26th April, 2022, the 7th respondent be directed to issue NOC in favour

of the petitioner within eight weeks from the date of communication of this order.

The period of three years as recorded in the policy decision shall commence from the date of grant of NOC by the authority.

With the aforesaid directions, WPA 27510 of 2022 is disposed of.

There shall however, be no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be furnished to the parties on usual undertakings.

(Suvra Ghosh, J.)