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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

VASANT  
ANANDRAO  
IDHOL

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VASANT  
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WRIT PETITION NO.2080 OF 2023

Varsha P. Thakur & Ors.

...Petitioners

V/s.

State of Maharashtra & Ors.

...Respondents

Dr.Milind Sathe, Senior Advocate with Mr.Bhushan Deshmukh, Mr.Abinash Pradhan, Ms.Garima Agrawal and Ms.Gayatri Deshmukh i/b Wadia Ghandy & Co. for the Petitioners.

Dr.Birendra B. Saraf, Advocate General with Mr.P.P. Kakade, Government Pleader and Mrs.M.S. Bane, AGP for the State – Respondent Nos.1 and 5.

Mr.G.S. Hegde, Senior Advocate with Ms.P.M. Bhansali for CIDCO - Respondent Nos.2, 3, 4 and 6.

**CORAM : R.D. DHANUKA &  
M.M. SATHAYE , JJ.**

**DATE : 22ND FEBRUARY, 2023.**

**P.C. :-**

1. Rule. Dr.Saraf, learned Advocate General waives service for the Respondent Nos.1 and 5. Mr.Hegde, learned Senior Advocate waives service for the Respondent Nos.2, 3, 4 and 6. Rule is made returnable forthwith. By consent of the parties the Petition is heard finally.

2. By this Petition filed under Article 226 of the Constitution of India, the Petitioners have prayed for a writ of certiorari for quashing

and setting aside the impugned letter dated 25<sup>th</sup> March, 2022 by the Respondent No.1 to the Respondent No.2 and also the impugned letter dated 29<sup>th</sup> March, 2022 by the Respondent No.4 to the Petitioners.

3. It is common ground that as per the Letter of Intent executed by Collector and Principal Land and Additional Collector and Chief Land and Survey Officer, the writ property was allotted to the Petitioners vide Letter of Intent dated 23<sup>rd</sup> January, 2020. Various steps were thereafter taken in furtherance of the said Letter of Intent. On 26<sup>th</sup> June, 2020, the consent award was passed by the Deputy Collector (Acquisition) under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 in favour of the Petitioner Nos.1 and 2, wherein the Petitioner Nos.1 and 2's lands was acquired for CIDCO for the purpose of the said project.

4. On 25<sup>th</sup> July, 2020, CIDCO entered into a Lease Agreement in respect of the writ property with the Petitioner Nos.1 and 2 on the terms set out in the said document as per the consent award. The Petitioner Nos.1 and 2 thereafter made an application to the Chief Lands and Survey Officer, CIDCO seeking permission to transfer 50% rights in the allotted plot in favour of the Petitioner No.3. On 25<sup>th</sup> September, 2020, CIDCO granted permission to transfer 50% undivided leasehold rights in allotted plot in favour of the Petitioner No.3. On 12<sup>th</sup> October, 2020, a tripartite agreement came to be executed between CIDCO as lessor and the Petitioner Nos.1 and 2 as the original licensee and the Petitioner No.3 for transfer of 50% undivided leasehold rights in the allotted plot in favour of the

Petitioner No.3.

5. On 25<sup>th</sup> March, 2022, the Desk Officer of the Government of Maharashtra addressed a letter to the Managing Director of CIDCO, directing him to cancel the allotment of plot on various grounds. On 29<sup>th</sup> March, 2022, Additional Collector and Principal Land and City Survey Officer (Land Acquisition) addressed a letter to the Petitioners stating that he has been directed by the State Government to cancel the allotment of the allotted land and the tripartite agreement. The Petitioners responded to the said letter on 18<sup>th</sup> April, 2022 and called upon to revoke the purported cancellation. Since the said order of cancellation was not withdrawn, the Petitioners filed this Petition.

6. It is common ground that the writ property was already allotted to the Petitioners followed by execution of two agreements already referred to aforesaid. However, after the directions issued by the State Government vide letter dated 25<sup>th</sup> March, 2022 to the Managing Director of CIDCO to cancel the allotment of the allotted plot in favour of the Petitioners, neither any notice of hearing was issued nor any personal hearing was rendered to the Petitioners. Similarly, CIDCO acted upon the said directions issued by the State Government and cancelled the allotment of allotted plot vide letter dated 29<sup>th</sup> March, 2022.

7. In our view, both the orders passed by the State Government as well as CIDCO are in gross violation of the principles of natural justice and thus deserve to be quashed and set aside.

8. We accordingly pass the following order :-
- a). Rule is made absolute in terms of prayer clauses (a) to (d).
- b). It is made clear that the Managing Director of CIDCO or any other officer who would be delegated powers by the Managing Director of CIDCO in accordance with law would grant personal hearing to the Petitioners before proposing to take any action of cancellation of the allotment of allotted plot as well as the agreements entered into with the Petitioners and pass an order in accordance with law, without being influenced by the decision taken by the State Government on 25<sup>th</sup> March, 2022 and implemented by CIDCO by an order dated 29<sup>th</sup> March, 2020.
- c). The Petitioners are directed to remain present before the Respondent No.3 on 13<sup>th</sup> March, 2023 at 11:00 a.m. If the Managing Director or other officer propose to hear the matter and if powers are delegated in favour of any such officer in accordance with law, the Petitioners shall be informed about such delegation of powers well in advance. The impugned order shall be treated as show cause notice. The Petitioners would be at liberty to file a reply to such show cause notice dated 29<sup>th</sup> March, 2022 issued by CIDCO. The Petitioners would be at liberty to file an additional reply to the show cause notice within two weeks from today. The Petitioners would be also permitted to rely upon the reply dated 18<sup>th</sup> April, 2022 already filed to the said order dated 29<sup>th</sup> March, 2022.
- d). The order shall be passed by the Authority within four weeks from the date of granting personal hearing to the Petitioners

and shall be communicated within one week from the date of passing such order.

e). If the order, that would be passed by the Authority is adverse to the Petitioners, no coercive steps shall be taken by the Respondents against the Petitioners in respect of the allotment of the allotted plot or in respect of the agreements referred to aforesaid for a period of three weeks from the date of communication of such order.

9. Writ Petition is allowed in aforesaid terms. Rule is made absolute accordingly. There shall be no order as to costs. All parties to act on the authenticated copy of this order.

**(M.M. SATHAYE , J.)**

**(R.D. DHANUKA, J.)**