

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 1548 OF 2016

Peoples Foundation,
through its authorised person
Shri Ajay Eknath Karve,
Aged about 55 years, Occ.- Service,
R/o 50, Urvela Colony, Wardha Road,
Nagpur.

.... **PETITIONER**

VERSUS

- 1) The Collector, Nagpur.
- 2) Additional Collector & Competent
Authority, Urban Land Ceiling Act,
Nagpur.

.... **RESPONDENTS**

Mr. N.D. Khamborkar, Counsel for the petitioner,
Mr. N.S. Rao, A.G.P. for the respondents.

CORAM : ROHIT B. DEO & Y.G. KHOBRADE, JJ.
DATED : 30th JANUARY, 2023

ORAL JUDGMENT : (PER : R.B. DEO, J.)

Heard. **Rule.** Rule made returnable forthwith by consent of the parties.

2. Petitioner claims to be a Society registered under the provisions of the Societies Registration Act, 1860 and to *inter alia* manage

Pradhyna Prabodini Public School.

3. The petitioner avers that an application was preferred to the appropriate authority for allotment of land from Survey 92/1, Mouza-Hajari Pahad.

4. The application preferred by the petitioner was considered favourably and land admeasuring 1934 square meters forming part and portion of Survey 92/1 of Mouza-Hajari Pahad was allotted to the petitioner as is discernible from communication dated 19-11-1998. The petitioner claims to have paid the consideration determined by the authority. The petitioner further claims that an application was preferred to the planning authority which sanctioned the building plan of the school.

5. The grievance in the petition is that the allotment was cancelled by the State Government abruptly and without affording an opportunity of hearing to the petitioner.

6. The State has filed an affidavit-in-response dated 25-6-2019 which asserts that while land admeasuring 1934 square meters from Survey 92/1 of Mouza-Hajari Pahad was indeed allotted to the

petitioner, Writ Petition 55/2004 was filed by Mr. Sunil Shinde questioning the exercise of power under Section 23 of the Urban Land (Ceiling and Regulation) Act, 1976 (ULC Act).

7. The High Court passed an order dated 22-2-2006 accepting the prayer of the petitioner to appoint an Enquiry Committee to probe into the allotments made by the competent authority. Initially Mr. Arun Bhatia, Retired Indian Administrative Officer was appointed to conduct the enquiry. The said order was modified on 07-6-2006 and Mr. R.K. Batta, Retired Judge of the High Court was appointed to conduct the enquiry pursuant to the order dated 07-6-2006.

8. We are informed, and the record so suggests, that the Enquiry Committee of Justice Mr. R.K. Batta issued a public advertisement calling upon the allottees under Section 23 of the ULC Act to appear and assist in the enquiry. The allotment which is the subject matter of the present petition, was also considered by the Batta Committee and held illegal. Mr. N.D. Khamborkar is not in a position to make a categorical statement whether the petitioner did respond to the public notice. Be that as it may, if the petitioner has not responded to the public notice and has not appeared before the Batta Committee, no fault can be found with the decision of the State Government.

9. More importantly, the report of the Batta Committee which recommends cancellation of most of the allotment, was placed before this Court and accepted, as is evident from the judgment dated 15-3-2017 in Writ Petition 55/2004. This Court noted that even before the Batta Committee the State Government asserted that the allotment of land to the petitioner stood cancelled and that an affidavit shall be filed within one month pointing out that the possession is taken over.

10. Considering that the petitioner was afforded an opportunity of hearing, along with similarly situated land allottees by the Batta Committee, which opportunity does not appear to have been availed, we do not find any substance in the contention of the petitioner that the cancellation of allotment is vulnerable in law. Even *de hors* the said aspect, since we are satisfied that the allotment under Section 23 of the ULC Act was grossly illegal, we shall be loath to enquire further in the contentions raised.

11. The petition is dismissed.

(Y.G. Khobragade, J.)

(Rohit B. Deo, J.)

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