



W.P. No. 10921 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2023

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 10921 of 2021

and

W.M.P. No. 11554 of 2021

HMTD Engineering Private Limited,
Represented by its Director,
Munish Agarwal,
Having its registered office at D-4,
MIDC, Taloja, Distric Raigad,
Maharashtra – 410208.

... Petitioner

-VS-

1. State Industries Promotion Corporation
of Tamilnadu Limited,
Represented by its Chairman and Managing Director,
19-A, Rukmani Lakshmipathy Road,
Egmore, Chennai – 8.

2. Project Officer,
SIPCOT, IT Park, Siruseri,
Chengalpattu TK,
Kancheepuram District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, call for the records pertaining to the impugned order Lr. No. P-II/SITP-S/HMTD/2002 dated 11.03.2021 passed by the First Respondent and quash the same and further direct the First Respondent to grant permission to the Petitioner company to



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start work by establishing a working Unit at site within a period of 2 years from the date of such sanction.

For Petitioner : Mr. Deepak Dhingra
for Mr. Hari Radhakrishnan

For Respondents : Mr. R.Gunalan

ORDER

Heard Mr. Deepak Dhingra, Learned Counsel for the Petitioner and Mr. R.Gunalan, Learned Standing Counsel appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner was allotted Plot No. 4/D4 (Old Nos. D-10 & D-11) measuring an extent of 2.00 acres situated in SIPCOT Information Technology Park, Siruseri by Proceedings No. P&D/DI/ITP/HMTD/2001 dated 10.01.2002 by the Respondent and a lease-deed dated 11.01.2002 registered as Document No. 328 of 2002 in the office of the Sub-Registrar, Thiruporur, was executed for the same between the parties. After receipt of notice dated 12.05.2006 from the Respondent, the Petitioner had on 18.05.2006 taken possession of that industrial plot. However, the said allotment was cancelled by Proceedings No. D-II/SITP/HMTDEPL/06 dated 18.07.2006 for breach of condition no. 3 (vii),



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(viii) and (ix) of the allotment order and clause nos. 18 and 19 of the said lease-deed, which mandates that the allottee has to commence production within 30 months from the date of allotment order, but it was set aside by this Court by order dated 05.07.2019 in W.P. No. 33785 of 2007, which reads as follows:-

“14. On perusal of the records, it is seen that the provisional allotment order was issued on 24.11.2000 by the General Manager of the respondent Corporation intimating the allotment of the lands on the terms and conditions as stipulated therein. Immediately, after the allotment order, the petitioner was directed to pay Rs.13,00,000/- per acre and thus, totally a sum of Rs.26,00,000/- for two acres of land minus, the sum of Rs.2,000/- already remitted by it towards the initial deposit.

15. The Petitioner Company had accepted the said proposal and had remitted the said sum of Rs.25,98,000/- on 15.05.2001 to the respondent. Thereafter, the respondent issued the final order of allotment on 10.01.2002. After the allotment order, the petitioner and respondent had executed a Registered Lease Deed on 11.01.2002 and due to non-providing of basic amenities by the



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respondents such as laying of proper road, water supply, power supply and drainage facilities, the terms and conditions as contained in the Lease Deed could not be carried out.

16. While doing so, the petitioner received a letter dated 12.05.2006 from the third respondent for the first time, informing that as the Company had not taken possession from the Corporation as per the conditions of the allotment order and the clause contained in the lease deed, called upon the petitioner to take possession of the land on 18.05.2006 at 4.00 p.m. Accordingly, the possession was handed over on 18.05.2006 at 3.30 p.m. Though the possession was taken over on 18.05.2006, within two months i.e., on 18.07.2006,, the second respondent issued the impugned letter, wherein, they had chosen to cancel the allotment of land made in favour of the petitioner and also forfeited the initial deposit on the premises that the petitioner company had violated the allotment order clauses 3(vii) and 3(viii) and lease deed clause number 18.

17. Immediately, after handing over possession, the first



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respondent issued a Show Cause Notice on 13.06.2006 for non-setting up of an Industry and the petitioner submitted his explanation on 26.06.2006. Thereafter, they issued second Show Cause Notice on 18.07.2006 and had chosen to cancel the allotment of land and they cancelled the allotment of land on 20.07.2007 which is untenable and liable to be interfered with.

18. Though the allotment order was passed in the year 2002, admittedly, possession was handed over to the petitioner only on 18.05.2006 and the impugned order came to be passed on 18.07.2006 on the ground that the petitioner had violated clauses 3(vii) and 3(viii) of the allotment order, and clause 18 of the lease deed, which was executed in the year 2002, is legally unsustainable and one cannot set up an Industry within a period of two months and hence the cancellation order dated 20.07.2007 is liable to be set aside and accordingly it is set aside.

19. In view of the above, the order dated 20.07.2007 passed by the first respondent is set aside, and the matter is remitted back to the first respondent for fresh consideration and pass appropriate



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orders....”

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The Respondent then issued show cause notice dated 04.11.2020 to the Petitioner, who had sent its explanation dated 06.01.2021, but the Respondent by Proceedings in Lr. No: P-II/SITP-S/HMTD/2002 dated 11.03.2021 once again cancelled the allotment and called upon the Petitioner to execute surrender-deed with 15 days from the date of its receipt, failing which it is warned that action would be taken under the Tamil Nadu Public Premises (Eviction of Unauthorized Occupants) Act, 1975. The said order is assailed in this Writ Petition.

3. The Hon'ble Supreme Court of India in the decision in ***Indu Kakkar -vs- Haryana State Industrial Development Corporation Ltd.*** [(1999) 2 SCC 37] has highlighted that the allotment making authority would be justified in resuming the plot from the allottee who cannot claim any right to remain in occupation without performing his obligation to utilize that property for industrial purpose for which avowed object it has been established. However, when the possession of the plot had been handed over to the Petitioner only on 18.05.2006, it was not possible for the Petitioner to commence construction within 6 months, complete construction within 24 months and commence commercial production within 30 months from the date of allotment order.



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Again, it was not possible for the Petitioner to commence construction during the period from 18.07.2006 to 05.07.2019 when the order of cancellation of allotment was in force. When the Respondent cancelled the allotment of the industrial plot of the Petitioner on 11.03.2021, which is impugned in this Writ Petition, it would certainly not be possible for the Petitioner to commence construction after that period till it is set aside.

4. In other words, the Petitioner could be faulted for non-compliance of the conditions only during the period from 05.07.2019 to 11.03.2021. It is case of the Petitioner that a request to start construction activity was made by letter dated 18.10.2019 sent by the Petitioner to the Respondent, which has been referred in the reply dated 06.01.2021 to the show cause notice dated 04.11.2020 received from the Respondent, but without adverting to it, the impugned order of cancellation has been passed. The said contention made on behalf of the Petitioner, which is well-founded, deserves acceptance.

5. In that view of the matter, the flawed decision-making process of the Respondent cannot be sustained and the Proceedings in Lr. No: P-II/SITP-S/HMTD/2002 dated 11.03.2021 passed by the Respondent is set aside with a clarification that it would not preclude it from determining fresh dates for



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reckoning the time-lines of condition no. 3 (vii), (viii) and (ix) of the allotment order and clause nos. 18 and 19 of the said lease-deed, which mandates that the allottee has to commence production within 30 months, on such terms as it may deem fit and proper and to take consequential action in the event of default in its compliance in accordance with law.

In the result, the Writ Petition is disposed on the aforesaid terms.

No costs.

30.10.2023

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 22.05.2024.

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To

1. The Chairman and Managing Director,
State Industries Promotion Corporation
of Tamilnadu Limited,
19-A, Rukmani Lakshmipathy Road,
Egmore, Chennai – 8.
2. The Project Officer,
SIPCOT, IT Park, Siruseri,
Chengalpattu TK,
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P.D. AUDIKESAVALU, J.

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