



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.18387 of 2023

and

W.M.P.No.17595 of 2023

Shree Vinaya Industries
Represented by its Partner
K.Ravi
S/o.K.S.Kanagasabai
Having office at No.C-36
Industrial Estate
Guindy, Chennai 600 032.

... Petitioner

vs.

- 1 The Managing Director
Tamil Nadu Small Industries
Development Corporation Limited
SIDCO Corporate Office
Thiru.Vi.Ka.Industrial Estate
Guindy, Chennai 600 032
- 2 The General Manager
SIDCO Branch Office
Industrial Estate, Kakkalur
Thiruvallur District.
- 3 The Branch Manager
SIDCO Branch Office
Industrial Estate, Kakkalur
Thiruvallur District

... Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records on the file of 2nd & 3rd Respondent made in Rc.No.5136/IE-II-3/2008 dated 08.12.2022 and Proc.No.199/B/2008 dated 05.06.2023 and quash the same and consequently direct the 1st respondent to conduct a fresh enquiry and pass fresh orders based on the direction issued in W.P.No.14412 of 2015 dated 02.09.2022 and to give all assistance to the Petitioner for promoting the Small Scale Industrial Unit.

For Petitioner : Mr.G.Dilipkumar
For Respondents : Mr.M.P.Rajavelayutham
Standing counsel for SIDCO

ORDER

This writ petition has been filed challenging the impugned proceedings of the 3rd respondent dated 08.12.2022 and the subsequent proceedings dated 05.06.2023 and for a consequential direction to the 1st respondent to conduct a fresh enquiry and permit the petitioner to put up the industrial unit and do the business.

2. Heard Mr.G.Dilipkumar, learned counsel for the petitioner and Mr.M.P.Rajavelayutham, learned Standing counsel for SIDCO.



3. The case of the petitioner is that they were allotted a industrial plot through proceedings dated 23.10.2008. The terms and conditions with respect to the utilization of the plot is dealt with in Clause 6 of the terms and conditions and for proper appreciation, the same is extracted hereunder :-

6. (a) The construction of the industrial building on the Developed Plot shall be commenced within six months from the date of taking possession of the plot, after obtaining the NOC from SIDCO and the approval of local bodies and or other authorities concerned and completed within eighteen months from the date of allotment..

(b) The allottee shall first obtain NOC from SIDCO for the building plans before submitting the same to the authority concerned who is empowered to approve the plans.

(c) The allottee should furnish the building plan for the proposed construction in the developed plot allotted within 3 months from the date of taking possession of the Developed Plot



WEB COPY

(d) If the construction is not commenced or completed within the stipulated time, SIDCO reserves the right to cancel the allotment and to resume the plot subject to the provisions hereinafter contained. The allottee shall confirm to the conditions stipulated by SIDCO while constructing, altering or adding to a building on the developed plot.

(e) Any building constructed on the said Developed Plot without obtaining the NOC from SIDCO or the approval of the local authorities concerned or in violation of the terms and conditions of such approval shall be demolished if so directed by SIDCO or other authorities concerned or will be demolished by SIDCO at the cost of the allottee.

(f) The allottee should provide a culvert in front of the entrance of the Developed Plot allotted to them so as to have a free flow of storm water.

4. The petitioner was not able to fulfill the condition and the construction was not commenced within the stipulated time. Hence, a notice came to be issued to the petitioner for cancellation of the allotment and ultimately, the 1st respondent through proceedings dated 10.04.2015 cancelled the allotment.



5. The above proceedings of the 1st respondent became a subject matter of challenge before this Court in WP No.14412 of 2015 and this writ petition was disposed of by an order dated 02.09.2022 and for proper appreciation, the relevant portions in the order is extracted hereunder :-

7. I have considered the submissions of both the parties and also perused the pleadings of parties and typed set of papers. The contention of the petitioner that the respondent failed to provide with necessary infrastructure cannot be considered at this stage because of the reason in his reply to the first show cause notice dated 02.09.2013 and second show cause notice dated 10.02.2015, the petitioner had not raised the question of lack of infrastructure facilities as a reason for the delay in commencement of construction. In his reply to the first notice, which was submitted on 24.09.2013, the petitioner only cited his financial condition for his failure to commence production within time schedule and prayed for 6 to 12 months time. In his explanation to the second show cause notice, which was submitted on 16.03.2015, the petitioner again failed to raise the issue of lack of infrastructure facilities in the Industrial Estate. But he only stated that already he submitted building plan and other document and the General Manager, District



WEB COPY

Industrial Centre, Kakkalur Industrial Estate, forwarded the same to Deputy Director of Health Services, Tiruvallur and Divisional Fire Officer, Tiruvallur for scrutiny and clearance and inspite of prescribed time limit of four weeks, the petitioner had not received any response from the concerned authorities even after 1 ½ years. Therefore, in his explanation to the show cause notice issued by the respondent, the petitioner had not raised the issue of lack of infrastructure facilities, but only said that he already submitted necessary papers and there was some delay in getting clearance from the appropriate authority, notwithstanding the time limit of four weeks prescribed. Therefore, the contention raised by the petitioner, with regard to the failure of the respondent to provide necessary infrastructure in the Industrial Estate is rejected. However, the reason given by the petitioner in his reply to the show cause notice, was not at all considered by the respondent, while passing the impugned order. The reading of impugned order, makes it clear that the explanation submitted by the petitioner was not considered while passing order of cancellation. It is not the case of the respondent that the delay in getting clearance for commencement of construction is due to the acts and omissions on the part of the petitioner. The impugned order has been passed without considering the letter of General Manager, District Industries Centre, Kakkalur



WEB COPY

Industrial Estate, dated 25.09.2013, which was enclosed along with the explanation submitted by the petitioner. Therefore, the impugned order is set aside, the first respondent is directed to pass fresh orders, after considering the explanation submitted by the petitioner in his letter dated 16.03.2015 within a period of six weeks from the date of receipt of a copy of this order. Till such time, the respondent shall not take any coercive steps for evicting the petitioner.

6. Pursuant to the above order, the petitioner was called for a personal hearing and the petitioner also gave his explanation. Through the impugned proceedings dated 08.12.2022, the respondents proceeded to cancel the allotment order on the ground that the petitioner did not even start the construction and he has not utilized the plot for the purpose for which it was allotted for nearly 15 years. Accordingly, the petitioner was directed to hand over the plot within 30 days.

7. Even subsequently, the petitioner was called for yet another enquiry through letter dated 27.04.2023. Even after this notice was issued, the petitioner attended the enquiry on 12.05.2023 and he informed the respondents regarding the steps taken by him



for getting the permission for construction. Considering the same, the 1st respondent through proceedings dated 05.06.2023 confirmed the earlier decision and decided to evict the petitioner from the subject plot. Aggrieved by the same, the present writ petition has been filed before this Court.

8. The main ground that was urged by the learned counsel for the petitioner is that the petitioner had paid the full cost of the plot and the petitioner was also taking effective steps to get the sanction for putting up the construction in the plot. When the earlier show cause notice was issued, the petitioner had explained about the steps taken by them to put up the construction and to commence the business and the same was not taken into consideration and the allotment order came to be canceled. The same was challenged and this Court allowed the writ petition by directing the respondents to consider the stand taken by the petitioner and to take a decision. According to the learned counsel for the petitioner, the respondents have mechanically passed the impugned order and the respondents did not appreciate the steps



taken by the petitioner for putting up the construction in the plot and for commencing the business.

9. The petitioner is bound by the terms and conditions of the allotment of the plot. It is quite evident that the petitioner has not even put up a construction for the last 15 years in the Plot. It is not enough for the petitioner to keep explaining as to the efforts taken by him for getting the sanction and to put up the construction. It is the duty of the petitioner to get the sanction and by now the petitioner should have atleast put up the construction. The plot continues to be in the same status as it was when the allotment took place in the year 2008. In such a case, the very object of allotting the plot gets defeated and the respondents cannot be expected to wait endlessly for the petitioner to put up the construction and to commence the business.

10. The allotment of Plot is made only to ensure that industries are encouraged and if the allottee does not even put up a construction for nearly 15 years, there is no purpose in sustaining the



allotment endlessly. The relevant clause in the agreement shows that allottee must furnish the building plan for the proposed construction within three months from the date of taking possession and must commence and complete the construction within the stipulated time. The respondent has also been given the right to cancel the allotment and to resume the plot where the allottee fails to comply with the conditions. The in-action of the part of the petitioner continues for nearly 15 years and hence, this Court does not find any illegality in the decision arrived at by the respondents. Till date, the petitioner is not able to show a scrap of paper to establish that they have atleast got the sanction for the construction. In such a scenario, no useful purpose will be served in continuing with the allotment made in favour of the petitioner and the respondents have rightly canceled the allotment and directed the petitioner to hand over possession.

11. In the light of the above discussion, this Court does not find any illegality or infirmity in the impugned proceedings issued by the respondents and accordingly, the same is hereby



sustained. It is made clear that the petitioner shall be entitled for the refund of the amount paid by him as per the terms and conditions of allotment and the same shall be settled in favour of the petitioner within a period of four weeks from the date of receipt of copy of this order.

12. In the result, this writ petition is dismissed in the above terms. No costs. Consequently, the connected miscellaneous petition is closed.

20.06.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No

rka



WEB COPY



To

- 1 The Managing Director
Tamil Nadu Small Industries
Development Corporation Limited
SIDCO Corporate Office
Thiru.Vi.Ka.Industrial Estate
Guindy, Chennai 600 032
- 2 The General Manager
SIDCO Branch Office
Industrial Estate, Kakkalur
Thiruvallur District.
- 3 The Branch Manager
SIDCO Branch Office
Industrial Estate, Kakkalur
Thiruvallur District



WEB COPY



13

N. ANAND VENKATESH, J.
rka

W.P No.18387 of 2023
and
W.M.P.No.17595 of 2023

20.06.2023