

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Present :-

The Hon'ble Justice PARTHA SARATHI SEN

WPA 16432 of 2023

Vishwakarma Paswan and Ors.

Vs.

The State of West Bengal and Ors.

For the Petitioners:

Mr. Devajyoti Barman, Adv.,
Ms. Sanjukta Basu Mallick, Adv.

For the State/respondents:

Mr. Chandi Charan De, Id. AGP,
Mr. Sadhan Haldar, Adv.

For the respondent nos. 2 to 4/
WBHIDCO

Mr. Abhratosh Majumdar, Sr. Adv,
Mr. Chayan Gupta, Adv.,
Mr. Saaquib Siddiqui, Adv.

Hearing concluded on:

10.06.2025.

Judgment on:

16.06.2025.

PARTHA SARATHI SEN, J. :-

1. By filing the instant writ petition the writ petitioners have prayed for issuance of appropriate writ/writs against the respondents/authorities more specifically against the respondent no.4/authority for withdrawing and/or cancelling and/or rescinding the memo dated 18.01.2023 along with other ancillary reliefs. It is pertinent to mention herein that by issuing the said memo dated 18.01.2023 the respondent no.4/authority found that the writ petitioners are not eligible to get allotment of land under Type I category on account of non-fulfillment of eligibility criteria

which according to the said respondent no.4/authority is /are reserved for *West Bengal Government Employees (including police)* only.

2. For effective adjudication of the instant *lis* some admitted facts leading to filing of the instant writ petitioner are required to be dealt with and those are as follows:-

- i. On 12.02.2021 the respondent no.2 i.e. West Bengal Housing Infrastructure Development Corporation Ltd. (hereinafter referred to as 'HIDCO' in short) published a notification inviting applications for allotment of two categories of land namely; Type I and Type II in favour of Housing Cooperative Societies as would be formed under the West Bengal Cooperative Societies Act, 2006 (hereinafter referred to as the said "Act of 2006" in short).
- ii. The allotment of land would be for 99 years on lease.
- iii. In the said notification Type I is meant for Housing Cooperatives formed exclusively by *Government Employees (including police)* and Type II is meant for Housing Cooperatives formed by persons not belonging to Type I.
- iv. The writ petitioners, most of whom are/were in the pay roll of Food Corporation of India and one being in the pay roll of Directorate General Civil Aviation (Eastern Region) and another in the pay roll of Labour Welfare Organization, Government of India formed a Housing Cooperative Society under the said Act of 2006 and thus applied for allotment of a

plot of HIG land in Type I Category with the respondent no.2/authorities.

- v. As per the terms and conditions of the brochure as published by the respondents a lottery was held on 03.08.2021 wherein the applications of the writ petitioners was selected through draw of lots in respect of Plot II -B -487.
- vi. Pursuant to a memo dated 18.08.2021 the writ petitioners submitted relevant documents with the HIDCO. According to the writ petitioners they did not get any reply from the HIDCO regarding further course of action in respect of the aforementioned allotted plot of land and thus on 07.03.2022 a representation was submitted on behalf of the writ petitioners with the respondent no.3/authority.
- vii. On 30.08.2022 the writ petitioners were served with a notice by HIDCO regarding cancellation of application for allotment of the aforementioned plot on account of alleged non-fulfillment of eligibility criteria for Type I Category since according to the HIDCO the members of the housing cooperative society as formed by the writ petitioners are all Central Government Employees. By the said notice the writ petitioners were asked to give a reply within a specified period.
- viii. On 25.10.2022 the writ petitioners submitted their reply with the HIDCO.

ix. The HIDCO by issuing a memo dated 18.01.2023 however cancelled the applications of the writ petitioners regarding the allotment of aforementioned plot which is under challenge in the instant writ petition.

3. In course of hearing Mr. Barman, learned advocate appearing on behalf of the writ petitioners at the very outset draws attention of this Court to page nos. 28 to 49 of the instant writ petition being a copy of the brochure as published by the HIDCO for allotment of land. In course of his submission Mr. Barman submits that on conjoint perusal of page nos.29, 31, 38 and 40 of the instant writ petition it would reveal that it has been clearly indicated that HIDCO proposed to allot land by way of 99 years lease in respect of Type I Category in favour of the Housing Cooperative formed exclusively by the *Government Employees (including police)*. It is submitted by Mr. Barman that from page no.40 of the instant writ petition it would reveal that HIDCO defined *Government Employees (including police)* which includes employees of 'all statutory bodies in West Bengal'.

4. At this juncture attention of this Court is drawn to paragraph no.7 of the instant writ petition. It is submitted by Mr. Barman that from paragraph no.7 of the instant writ petition it would reveal further that out of 8 applicants, 6 applicants are/were working under Food Corporation of India ('FCI' in short) and other two applicants are/were working for gain in the Civil Aviation Department and in the Labour Welfare Association respectively and further all the applicants at the relevant time were posted

in the State of West Bengal and therefore the applicants come under the category of *Government Employees (including police)* as defined by HIDCO in the said brochure. It is thus submitted by Mr. Barman that while issuing the notice dated 30.08.2022 vis-à-vis the memo under challenge dated 18.01.2023, the HIDCO has failed to visualize that the writ petitioners being the applicants have fulfilled the eligibility criteria and thus by not considering the same in the perspective of the provisions of Article 14 of the Constitution of India the respondent/authorities had made an improper discrimination by way of class legislation which is arbitrary in nature.

5. Drawing further attention of this Court to the memo dated 18.01.2023 which is under challenge in the instant writ petition it is further argued by Mr. Barman that Clause XII of general terms and conditions of the said brochure has been wrongly invoked by the HIDCO inasmuch as the writ petitioners have not committed any factual errors and/or submitted incomplete supporting documents and/or information while submitting their applications for allotment of the said plot of land.

6. It is thus submitted that the respondent no.4/authority while issuing memo dated 18.01.2023 was persuaded by extraneous materials and therefore interference of this Court is very much required in judicial review.

7. Drawing attention of this Court to the report supported by affidavit as submitted by the respondent nos. 2 to 4 and as affirmed on 27.09.2023 it is further submitted by Mr. Barman that the maxim ‘

noscitur a sociis ' has got no manner of application in the instant *lis* in view of the fact that on perusal of the definition of 'Government Employees (including police)' available in the said brochure it would reveal that the writ petitioners who are/were working for gain mostly in undertaking of the Central Government are/were not expressly debarred from making such applications in view of the fact that the writ petitioners are/were all working for gain in the State of West Bengal in statutory bodies. In support of his contention Mr. Barman has placed reliance upon the following three reported decisions namely:-

- i. Pradeep Aggarbatti, Ludhiana etc vs. State of Punjab and Ors. reported in (1997) 8 SCC 511;**
- ii. Union of India vs. Manraj Enterprises reported in (2022) 2 SCC 331;**
- iii. D.S Nakara and Ors. vs. Union of India reported in (1983) 1 SCC 305.**

8. It is thus submitted by Mr. Barman that the action of the HIDCO authorities and its functionaries tantamounts to class legislation which is opposed to the constitutional mandate as embodied under Article 14 of the Constitution of India.

9. In his next fold of submission Mr. Barman again requests this Court to look to the brochure, a copy of which has been annexed with the instant writ petition at page nos. 28 to 49. It is submitted by Mr. Barman that on careful scrutiny of the said brochure it would reveal that the HIDCO authority had not disclosed any rational object for the said alleged

reasonable classification and thus the action of the HIDCO authority failed to satisfy the twin tests of classification which is founded on an intelligible differentia.

10. It is thus submitted by Mr. Barman that the action of the HIDCO authority and its functionaries most illegally and illogically distinguished the writ petitioners from group of persons who come under the definition of '*Government Employees (including police)*' as mentioned in the said brochure.

11. In support of his contention Mr. Barman further places his reliance upon the following reported decisions namely:-

- i. *State of Tamil Nadu and Anr. Vs. National South Indian River Interlinking Agriculturist Association* reported in (2021) 15 SCC 534.**
- ii. *Mahabir Auto Stones and Ors. vs. Union of India and Ors.* reported in (1990) 3 SCC 752.**

12. Per contra, Mr. Majumdar, learned Senior Advocate duly assisted by Mr. Gupta, learned advocate submits before this Court that from paragraph no.7 of the instant writ petition it would reveal that the applicant no.VII, Amit Kumar and applicant no. VIII, Aradhana Pandey are/were in the pay roll of Civil Aviation and Labour Welfare Association of India and thus by no stretch of imagination they can be said to be employees of statutory bodies in West Bengal. On the contrary the said two applicants are/were in civil service within the meaning of Article 309 of the Constitution of India.

13. In course of his argument Mr. Majumdar draws attention of this Court to page no.32 of the instant writ petition. It is submitted by Mr. Majumdar that from different clauses of the said scheme it would reveal that for HIG category, each member of the Housing Cooperative Society must have income above Rs. 80,000/- however from the pay slips as have been annexed with the instant writ petition it would reveal from page no.56 that one of the applicants namely; Aradhana Pandey's gross salary was Rs.69,354/- at the relevant point of time which is much less than the parameters of income as mentioned in the scheme as embodied in the said brochure. It is thus argued by Mr. Majumdar that through the said applicants formed a Housing Cooperative Society with the requisite number of members as per proviso of Section 16 (3) of the said Act of 2006 but on account of non-fulfillment of the eligibility criteria of one of its members, it may safely be held that the writ petitioners are not otherwise eligible for seeking allotment.

14. In course of his submission Mr. Majumdar also draws attention of this Court to the definition of '*Government Employees (including police)*' as mentioned in the said brochure. It is submitted by Mr. Majumdar that on careful perusal of the said definition it would reveal that the object of HIDCO was to grant allotment of Type I category of land basically for the employees (including the retired employees) of Government of West Bengal and its functionaries and instrumentalities including the employees of local bodies in West Bengal who have domicile in the State of West Bengal basically for the purpose of their employment. It is thus submitted by Mr.

Majumdar that the classification as has been done by the HIDCO may be held to be just and reasonable in relation to the object sought to be achieved by the HIDCO which is a fully owned company of Government of West Bengal.

15. It is further submitted by Mr. Majumdar the principle of ‘*noscitur a sociis*’ squarely applies to the facts and circumstances of the instant case and there cannot be any justification to interfere with the memo dated 18.01.2023 inasmuch as the writ petitioners have failed to make out a case where equals have been treated differently without any reasonable basis.

16. It is thus submitted by Mr. Majumdar that the action of HIDCO does not come under the periphery of class legislation as wrongly alleged on behalf of the writ petitioners.

17. In course of his submission Mr. Majumdar places reliance upon following reported decisions namely:-

- i. ***Ram Shridhar Chimurkar vs. Union of India*** reported in **(2023) 4 SCC 312;**
- ii. ***Parle Agro Pvt. Ltd. vs. Commissioner of Commercial Taxes, Trivandrum With Assistant Commissioner (Assessment) and Anr. vs. Parle Agro Pvt. Ltd. With We Six Traders and Ors. vs. Commercial Tax Officer and Anr.*** reported in **(2017) 7 SCC 540.**

18. It is thus submitted by Mr. Majumdar that in the case in hand HIDCO authority has duly fulfilled the basic conditions of reasonable

classification and therefore there cannot be any justification to interfere with the order impugned.

19. Mr. De, learned Additional Government Pleader appearing for the respondent/State adopted the argument of Mr. Majumdar.

20. Since the learned advocates for the contending parties have placed much reliance upon the provisions of Article 14 of the Constitution of India and since the action of the respondent no.4/authority while issuing the memo dated 18.01.2023 is required to be tested with the touchstone of Article 14 of the Constitution of India this Court at the very outset proposes to look to the said Article. Article 14 of the Constitution of India states that:-

“Article 14 of the Constitution of India states that:

14. Equality before the Law.- The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.”

21. At this juncture this Court proposes to look to the reported decision of **S. Seshachalam and Ors. vs. Chairman Bar Council of Tamil Nadu and Ors.** reported in **(2014) 16 SCC 72** wherein the Hon’ble Apex Court while dealing with the provisions of Article 14 of the Constitution of India held thus:-

“21.....

Article 14 forbids class legislation but it does not forbid reasonable classification. The classification, however, must not be “arbitrary, artificial or evasive” but must be based on some real and substantial bearing, a just and reasonable relation to the object sought to be achieved by the legislation. Article 14 applies where equals are

treated differently without any reasonable basis. But where equals and unequals are treated differently, Article 14 does not apply. Class legislation is that which makes an improper discrimination by conferring particular privileges upon a class of persons arbitrarily selected from a large number of persons all of whom stand in the same relation to the privilege granted and between those on whom the privilege is conferred and the persons not so favoured, no reasonable distinction or substantial difference can be found justifying the inclusion of one and the exclusion of the other from such privilege.

22. While Article 14 forbids class legislation, it does not forbid reasonable classification of persons, objects and transactions by the legislature for the purpose of achieving specific ends. But classification must not be “arbitrary, artificial or evasive”. It must always rest upon some real and substantial distinction bearing a just and reasonable relation to the object sought to be achieved by the legislation. Classification to be reasonable must fulfil the following two conditions: firstly, the classification must be founded on the intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group. Secondly, the differentia must have a rational relation to the object sought to be achieved by the Act. The differentia which is the basis of the classification and the object of the Act are two distinct things. What is necessary is that there must be nexus between the basis of classification and the object of the Act. It is only when there is no reasonable basis for a classification that legislation making such classification may be declared discriminatory.”

22. Keeping in mind the aforementioned principles of law as enunciated by the Hon’ble Supreme Court as quoted hereinabove if I look to the brochure as published by the HIDCO it reveals that in the said brochure

the HIDCO proposes to allot Type I plots of land on lease for 99 years to the Housing Cooperatives formed exclusively by the ‘Government Employees (including police)’. In the later part of the said brochure the HIDCO defined the term ‘Government Employees (including police)’ in the following manner:-

“The term ‘Government Employees (including Police)’ will be defined as follows:-

- i. All West Bengal Government employees, including police.*
- ii. The teaching and non-teaching employees of Government of West Bengal aided educations institutions.*
- iii. Employees of :*
 - a. Statutory bodies in West Bengal*
 - b. Government of West Bengal Undertakings*
 - c. Panchayats including Panchayat Karmee within the state of West Bengal*
 - d. Municipal Corporations/Municipalities, local bodies etc. within the state of West Bengal*
 - e. West Bengal State Government pensioners/family pensioners.*
 - f. Pensioners/family pensioners of West Bengal State aided non-government educations institutions, statutory bodies/State Government undertakings/Panchayats/ Municipal Corporations /Municipalities/ Local Bodies etc.”*

23. As noted hereinabove in course of his argument Mr. Barman put much emphasis on the words ‘Statutory Bodies in West Bengal’. It has been extensively argued by him that the writ petitioners who are basically the employees of Food Corporation of India fall under the category of

‘Employees of Statutory Bodies in West Bengal’ inasmuch as the applicants who are the writ petitioners in the instant writ petition are all posted in West Bengal and thus by no stretch of imagination the writ petitioners can be debarred on the ground that since they are employees under the Central Government they are not eligible to make application for allotment of land in Type I category by forming a Housing Cooperative. It has also been noted in the foregoing paragraphs that it is the specific case of the writ petitioners that the principles based on the maxim “*noscitur a sociis*” has got no manner of application which is to be tried to be controverted by Mr. Mujumder and by Mr. Dey in course of their respective arguments.

24. This Court has meticulously perused the definition ‘*Government Employees (including police)*’ as available in the said brochure as published by the HIDCO. On careful perusal of the said term including other clauses of the said brochure it appears to this Court that it is the every intention of HIDCO to keep Type I category of land reserved for allotment for housing cooperatives formed by the employees of the ‘*Government of West Bengal (including police)*’, the teaching and non-teaching employees of the Government of West Bengal aided educational institutions, the employees of the Government of West Bengal undertaking, the employees of local bodies including Panchayats in the State of West Bengal and the retired employees i.e. pensioners, including family pensioners of State of West Bengal Government employees or its instrumentalities and/or local bodies and Panchayats. Admittedly the

said definition includes statutory bodies in West Bengal. It is admitted position that it has not been specified that such statutory bodies cover the statutory bodies of the State or Union of India or both but on overall reading of the said definition it appears to this Court that it is the very much intention of HIDCO to include the employees of statutory bodies of the Government of West Bengal in the said definition.

25. It further appears to this Court that in the event the principles of maxim '*noscitur a sociis*' is applied in the facts and circumstances of the instant case this Court has no hesitation in mind that by using words 'Statutory Bodies in West Bengal' HIDCO authority never meant to say that the statutory bodies under the Central Government or Union of India are included in the said definition. This Court further considers that in the event the said aforementioned words 'Statutory Bodies in West Bengal' are looked from the angle of Article 14 of the Constitution of India it appears to this Court that if the 'employees of the statutory bodies in West Bengal' is construed as 'employees of statutory bodies of the Central Government and/or Union of India posted in West Bengal' that will lead to an improper discrimination by conferring particular privileges upon a class of persons keeping aside a large number of persons (who are Central Government employees posted in West Bengal) all of whom stand in the same relation. It thus appears to this Court that in the event the argument on behalf of the writ petitioners is accepted by holding that the 'employees of the statutory bodies in West Bengal' includes 'the employees of statutory bodies of the Union of India and/or Central Government

posted in West Bengal' it can safely be held that such classification is not reasonable and on the contrary it tantamounts to a class legislation which makes improper discrimination.

26. It thus appears to this Court that the classification as made by HIDCO while defining '*Government Employees (including police)*' is squarely founded on an intelligible differentia.

27. In order to understand whether the action of HIDCO in defining the '*Government Employees (including police)*' has got any rational nexus to the object sought to be achieved by it, it appears to this Court that the HIDCO in discharging its executive functions has kept a portion of the new township for allotting the same on 99 years lease for the employees and/or retired employees who have served either the Government of West Bengal and/or its instrumentalities and/or its aided schools and/or the local bodies and Panchayats situated in the West Bengal. This Court has also noticed from the said brochure as has been annexed with the instant writ petition that HIDCO has kept Type II plots of land for the other persons who do not come under the aforementioned definition.

28. As rightly pointed out by Mr. Majumdar that HIDCO, a fully Government of West Bengal owned company, has been entrusted with the development of infrastructure of the acquired land for the purpose of setting up of a new township and the said fully owned Government of West Bengal company in discharge of its administrative action has kept certain portion of land for the employees who come under the aforementioned definition on account of their long domicile in the State of

West Bengal for the purpose of their employment by allotting the said land by executing deed of lease for 99 years at the premium as per prevailing market rate and not at a subsidized rate.

29. It thus appears to this Court that the object of allotment of Type I category of land to a particular class of person can no way be called unreasonable, irrational and/or without any substantial basis. It further appears to this Court that while making such classification the HIDCO authority is successful in showing substantial basis in making such classification which by no stretch of imagination can be said to be impermissible and arbitrary. It is well settled that the action of the State or of the instrumentalities of the State in exercise of its executive power, must be informed by reason. In appropriate cases, actions uninformed by reasons may be questioned as arbitrary in a proceeding under Article 226 of the Constitution.

30. However, it appears to this Court, at the outset, that in the facts and circumstances of the instant case the HIDCO has followed the basic principle of rule of law by applying the rule of reason, the rule against the arbitrariness and discrimination and rules of fair play and natural justice by treating equals indifferently. It further appears to this Court that if the writ petitioners who are the employees of the statutory bodies of the Union of India and/or Central Government are permitted to be considered to come under the definition of '*Government Employees (including police)*' that would tantamount to improper discrimination by conferring special privileges upon a class of person arbitrarily from a large number of

persons all of whom stand in the same relation to the persons not so favoured. It thus appears to this Court that the object of HIDCO in classifying the equals without any discrimination is based on sufficient reason without having any flavour of favouritism to any particular class of persons in exclusion of others.

31. This Court thus holds such action of HIDCO qualifies the second criteria regarding reasonable classification in accordance with the provisions of Article 14 of the Constitution of India.

32. In further considered view of this Court the reported decisions of ***Pradeep Aggarbatti, Ludhiana (supra)*** and ***Manraj Enterprises (surpa)*** have been passed in different perspectives and thus the said two reported decisions have got no manner of application in the facts and circumstances of the instant case. It further appears to this Court that the reported decisions of ***State of Tamil Nadu and Anr. (supra)*** and ***D.S Nakara (supra)*** practically supports the case of HIDCO authorities.

33. This Court thus finds no merit in the instant writ petition.

34. Accordingly the instant writ petition is dismissed.

35. There shall be however no order as to costs.

36. Urgent photostat certified copy of this judgement, if applied for, be given to the parties on completion of usual formalities.

(PARTHA SARATHI SEN, J.)