

Jvs.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 1877 OF 2024

Dr. Keshav Dada Kale Versus City and Industrial Development Corporation of Maharashtra Ltd. & Ors.	} } } }	Petitioner Respondents
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Mr. Rajaram V. Bansode for petitioner.

Mr. Ashutosh Kulkarni with Mr. Akshay R.
Kulkarni for respondents 1 to 3 (CIDCO).

**CORAM: ALOK ARADHE, CJ. &
BHARATI DANGRE, J.**

DATE: FEBRUARY 7, 2025

ORDER: (Per Chief Justice)

1. In this writ petition, the petitioner has assailed the validity of the action of the respondents in not allotting Plot No. 3, situated in Sector 21, Taloja, Phase-II, Navi Mumbai to the petitioner (hereinafter referred to as "the plot in question").

2. Facts giving rise to filing of this writ petition, briefly stated, are that the petitioner is doctor by profession and is a cardiologist. The City and Industrial Development Corporation of Maharashtra (CIDCO) floated an e-tender in the local newspapers as well as on its website for allotment of hospital plot on lease at various nodes of Navi Mumbai. The petitioner, on 12th May 2022, submitted bid in respect of the Plot in question having area of 554.07 square meter at the rate of

Rs.54,333/- per square meter. The petitioner also deposited the Earnest Money Deposit (EMD) of Rs.16,84,373/- on the same day. In an auction held on 14th October 2022, the petitioner was declared to be the highest bidder. However, by the impugned order dated 15th March 2023, the petitioner was informed that on account of administrative reasons, the CIDCO has decided to cancel the allotment of plot in favour of the petitioner. Hence this petition.

3. Learned counsel for the petitioner submitted that the petitioner is the highest bidder in the auction and therefore had a legitimate expectation that his bid would be accepted and the plot in question shall be allotted to him for construction of hospital. However, the petitioner has been deprived of his legitimate expectation.

4. On the other hand, learned counsel for the respondents (CIDCO) has invited the attention of this Court to paragraphs 8 and 9 of the reply affidavit and has pointed out that adjoining plot nos. 4 and 5 were reserved for school and school playground, however, the Planning Department of CIDCO inadvertently carved out Plot No.3 for hospital use. However, immediately after learning about the aforesaid fact, CIDCO decided to cancel the bid of the petitioner.

5. We have considered the submissions made by learned counsel for the parties and have perused the record.

6. It is well settled principle that this Court, while exercising power of judicial review, does not sit as an appellate court over the decision taken by the Government and merely reviews the manner in which the decision is taken. In **Tata Cellular vs.**

Union of India¹, it has been held that there are inherent limitations in exercise of power of judicial review. It has been further held that right to refuse the lowest or any other tender is always available to the Government or an instrumentality of Government, but the action of the Government in doing so should be tested on the touchstone of Article 14 of the Constitution of India. Similar view has been taken in the case of **State of Jharkhand & Ors. vs. CWI-Soma Consortium**².

7. In the instant case, the petitioner has no legally enforceable right to insist that the plot should be allotted to him. However, action of the respondents in refusing to allot the plot in question to the petitioner has to be tested on the touchstone of the criteria laid down in Article 14 of the Constitution of India. In paragraphs 8 and 9 of the affidavit in reply, the respondents have taken the following stand:

*"8. I say that the Planning Department of CIDCO vide its office note dated 16.02.2023 informed to Social Services Department that Plot No. 4 & 5 were carved out for School and School Playground and same was allotted to M/s. Walva Taluka Education Society under scheme no. CSSO/03/SCH/JR.C/TYPE-III/2014-15. I say that inadvertently, from Planning department of CIDCO said layout was revised and Plot no.3 was carved out for the Hospital use. On realizing the said mistake, with the approval of Competent Authority, Plot no.3 Section 21, Taloja i.e. said plot was cancelled from the scheme no.SS/HOSP/06/2021-22 as the said land was allotted by the Corporation as Plot no.4 & 5 for the purpose of School & School Playground respectively to M/s. Walva Taluka Education Society in the year 2016. The note of the Planning department dtd. 16.02.2023 regarding the above issue is annexed and marked as **Exhibit-R1**."*

¹ (1994) 6 SCC 651

² (2016) 14 SCC 172

9. Accordingly, CIDCO issued letter dated 15.03.2023 informing Petitioner about the cancellation of the said plot from the said scheme. The Earnest Money Deposit amount is also refunded to the Petitioner immediately on 21.04.2023. Here to annexed and marked as **Exhibit-`R2`** is the copy of letter dated 15.03.2023.""

8. In view of the aforesaid, it is evident that the respondents, on justifiable ground, have refused to allot the plot in question to the petitioner. No fault can be found with the action of the respondents in refusing to allot the plot in question to the petitioner. The petitioner has also not filed any rejoinder affidavit. The action of refusal to allot the plot in question can neither be termed as arbitrary nor irrational warranting interference of this Court in exercise of power under Article 226 of the Constitution of India. However, needless to state that the petitioner shall be at liberty to file an application for allotment of another plot in accordance with the extant regulations of CIDCO.

9. Accordingly, the writ petition is disposed of with the aforesaid liberty.

(BHARATI DANGRE, J.)

(CHIEF JUSTICE)

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signed by
JAYANT
VISHWANATH
SALUNKE
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