

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4849 OF 2025

M/s. Renuka Maternity Child
Care and Fertility Clinic, through
its Authorised Representative,
Surekha Vilas Nagargoje

.....*Petitioner*

: *Versus* :

1. Managing Director, City and
Industrial Development Corporation
of Maharashtra Limited
2. General Manager (Social Services)
3. Urban Development Department
4 The State of Maharashtra, through
its Secretary, Urban Development Department

....*Respondents*

Ms. Ritika Agarwal with Ms. Yaminee Verma i/b. M/s. Acelegal, for the
Petitioner.

Mr. G. S. Hegde, Senior Advocate with Mr. Rahul Sinha, Mr. Soham
Bhalerao and Mr. Harshit Tyagi i/b. M/s. DSK Legal, for Respondent
Nos.1 and 2-CIDCO.

Mr. Kedar B. Dighe, Additional Government Pleader with Ms. G.R.
Raghuwanshi, AGP for Respondent Nos.3 and 4-State.

CORAM : ALOK ARADHE, CJ. &

SANDEEP V. MARNE, J.

Judgment Reserved on : 18 August 2025.

Judgment Pronounced on : 22 August 2025.

JUDGMENT : *(Per Sandeep V. Marne, J.)*

1) *Rule.* Rule is made returnable forthwith. With the consent of the learned counsel appearing for the parties, petition is taken up for hearing and final disposal.

2) The Petitioner has filed the present petition challenging cancellation letter dated 4 October 2024 by which the plot allotted in its name has been cancelled by Respondent-CIDCO.

3) Briefly stated, facts of the case are that Petitioner is a Partnership Firm incorporated under the provisions of Indian Partnership Act, 1932. City and Industrial Development Corporation of Maharashtra Ltd. (CIDCO) is a Company incorporated on 17 March 1970 and is a Government Company under Section 617 of the Companies Act, 1956. CIDCO is also a New Town Development Authority in Navi Mumbai area in terms of Section 113(3A) of the Maharashtra Regional Town Planning Act, 1966 (MRTP Act). Under Section 118 of the MRTP Act, CIDCO has the power and authority to dispose of the land acquired

under Section 113A of the MRTP Act. CIDCO has formulated, with the approval of the State Government, New Bombay Disposal of Land Regulations, 1975 and further Navi Mumbai Disposal of Land (Amendment) Regulations, 2008. By Board Resolution No.9696 dated 26 September 2007, CIDCO had approved the policy for allotment of health care facilities plots in various nodes in Navi Mumbai. By Board Resolution No.11375 dated 23 June 2015, once again policy for allotment of health care facility plots was approved by the CIDCO's Board. Under the Board Resolutions dated 26 September 2007 and 23 June 2015, only three entities were allowed to bid for allotment of plots in respect of private super specialty hospitals, private dispensaries and nursing homes. The three categories included industrial group/company, trust and registered doctors. On 31 July 2021, CIDCO adopted Board Resolution No.12458 for revision of the eligibility norms for allotment of plots in respect of the health facilities. Under the said Resolution, CIDCO proposed to expand the eligibility criteria for Private Super Specialty Hospitals from the earlier existing three categories to include five additional categories, which included Partnership Firms. CIDCO forwarded the Board Resolution for approval to the State Government on 18 August 2021.

4) In anticipation of grant of approval to the Board Resolution by the State Government, CIDCO floated tender on 2 April 2022 for lease of 16 Hospital Plots in various nodes of

Navi Mumbai. Under the tender, partnership firms were made eligible to participate in the bidding process. On 22 June 2022, Petitioner in its capacity as partnership firm, submitted its bid in respect of Plot No.25, Sector-12, Dronagiri, Navi Mumbai. Upon opening of the bids, Petitioner emerged as the highest bidder in respect of the subject plot. Since CIDCO was yet to receive approval to its Board Resolution from the State Government, it did not proceed with allotment of plot in favour of the Petitioner. However, in respect of the five bidders who fulfilled the earlier eligibility criteria of company/trust/private doctors, the allotment letters were issued.

5) On 8 February 2024, the office of the Chief Minister, State of Maharashtra approved Board Resolution No.12458 dated 31 July 2021. CIDCO claims that the decision of the Chief Minister dated 8 February 2024 was communicated to CIDCO vide letter dated 14 October 2024 as received on 16 October 2024. In the meantime, CIDCO adopted Board Resolution dated 3 September 2024 to cancel tender process in respect of Plot No.25 and decided to re-advertise the same on the ground of non-receipt of approval from the State Government. Accordingly, by letter dated 4 October 2024, Petitioner was informed about decision to cancel tender process in respect of Plot No.25 due to administrative reasons. The earnest amount paid by the Petitioner was promised to be refunded. Petitioner made Representation dated 7 October 2024. Petitioner also sought information under the Right to Information Act, 2005. Aggrieved

by the decision dated 4 October 2024, Petitioner has filed the present petition.

6) Ms. Agarwal, the learned counsel appearing for the Petitioner would submit that CIDCO's decision to cancel the tender process in respect of Plot No. 25 is grossly arbitrary, irrational and perverse. She would submit that the very reason for cancellation of tender process is erroneous as the Hon'ble Chief Minister had already approved the Board Resolution on 8 February 2024 and that the tender process implemented by CIDCO by permitting partnership firms to bid could not have been cancelled on 4 October 2024. She would submit that the tender process is cancelled by cryptic and non-speaking order. That CIDCO is under legal obligation to record reasons for cancellation of validly implemented tender process. That assigning of incorrect or fallacious reasons is like recording no reasons. In support of her contentions, Ms. Agarwal has relied upon judgments of the Apex Court in M/s. Kranti Associates Pvt. Ltd. & Anr. Versus. Sh. Masood Ahmed Khan & Others¹, Ravi Yashwant Bhoir Versus. District Collector, Raigad & Ors.² and S. N. Mukherjee Versus. Union of India³. She would rely upon judgment of the Himachal Pradesh High Court in Neena Singh Thakur Versus. Pr. Commissioner of Income Tax & Anr.⁴

1 SLP (Civil) No.20428/2007 dated 8 September 2010

2 Civil Appeal No. 2085/2012 dated 2 March 2012

3 AIR 1990 SC 1984

4 CWP No. 3681/2024 decided on 14 May 2025

7) Ms. Agarwal would further submit that CIDCO had taken a call to invite tenders under anticipation of grant of approval to the Board Resolution permitting Partnership Firms to participate in the tender process. That it was CIDCO's responsibility to secure approval of the Chief Minister. That it was unbelievable that the approval granted by Chief Minister's office on 8 February 2024 would not reach CIDCO for eight long months. Ms. Agarwal would further submit that in the fresh tender process, CIDCO has fixed reserve price of Rs.35,039/- per sq.mtr. As against this, Petitioner has already quoted rate of Rs.40,211/- per sq.mtr. That therefore no financial loss is caused to CIDCO on account of finalisation of the impugned tender process. She would accordingly pray for setting aside the impugned decision of cancellation of tender.

8) The petition is opposed by Mr. Hegde, the learned Senior Advocate appearing for Respondent Nos.1 and 2-CIDCO. He would submit that CIDCO was left with no option but to cancel the tender process on account of non-receipt of approval from the State Government to the Board's proposal. That though the approval to the Board Resolution was granted by the office of the Chief Minister on 8 February 2024, the approval was received by CIDCO on 4 October 2024. Before receipt of the approval from the State Government, CIDCO passed Board Resolution on 3 September 2024 cancelling the tender process in respect of the plots for which bids were allotted from additional categories. That in absence of provision to permit additional five categories

to bid on account of absence of approval to the proposal from the State Government, CIDCO could not have processed the auction and had no option but to cancel the same. That CIDCO had power and authority of cancelling the tender process at any stage and no vested right is created in favour of the Petitioner only on account of its bid being the highest bidder. He would further submit that there is substantial price difference during the last three years and CIDCO is entitled to re-auction the plot by fixing fresh reserve price. That reserve price of Rs.35,039/- per sq.mtrs is the minimum price fixed for auction and CIDCO is likely to receive much higher offers in pursuance of the fresh tender process. That in respect of Plot No.118 in Sector-59, Dronagiri Node auction was conducted in the year 2024 with base price of Rs.30,154/- per sq.mtr and CIDCO received offer of Rs.45,000/- per sq.mtr. That the development activities undertaken by CIDCO requires funds and therefore there is nothing wrong on the part of CIDCO to explore the opportunity of securing higher price in respect of the plot in question. That cancellation of tender due to passage of time is held to be a valid ground by this Court in M/s. Hare Krishna Enterprises Versus. The City Industrial and Development Corporation of Maharashtra Limited⁵. That Petitioner can participate in the fresh tender process and no prejudice would be caused to it on account of cancellation of the impugned tender process. He would pray for dismissal of the petition.

5 Writ Petition No.18966/2024 decided on 28 March 2025

9) Rival contentions of the parties now fall for our consideration.

10) Petitioner has challenged cancellation of the tender process initiated for allotment of Hospital Plot No.25 under the auction process initiated by CIDCO for lease of plots for hospitals at various nodes of Navi Mumbai. It appears that 16 plots in various nodes of CIDCO were advertised by inviting bids. In respect of Plot No.25, Sector-12, Dronagiri Node, the reserve price was fixed at Rs.24,123/- working out cost of the plot at Rs.1,31,85,632/-.

11) Under the tender floated by CIDCO, following eight categories of persons and entities were eligible to apply to acquire the plot :-

5. Who is eligible to apply to acquire plot :

Applications of only those applicants who satisfy the conditions of eligibility will be considered for evaluation.

A. Eligibility Criteria

Eligible parties shall be anyone of the following :

1. An individual.
2. A Hindu undivided family.
3. A Company formed under the Companies Act, 1956
4. Any trust registered under Bombay Public Trust Act, 1950.
5. Any Society registered under Societies Registration Act, 1860
6. Partnership Firm registered under Indian Partnership Act, 1932.
7. Limited Liability Partnership (LLP)
8. Any person competent to contract under the Indian Partnership Act, 1872.

12) The above eligibility criteria was included in the tender document in view of the Board Resolution No.12458 adopted by CIDCO's Board of Directors in meeting held on 31 July 2021. By that Resolution, CIDCO's Board decided to expand the eligibility criteria for allotment of plots in respect of the hospitals, private dispensaries, nursing homes. Otherwise under the earlier Board Resolutions No.9696 dated 26 September 2007 and 11375 dated 23 June 2015 only following three entities were allowed to bid for allotment of plots :-

- Any Industrial Group/Company.
- Trust Registered under BPT Act 1956/SRA 1860.
- Registered Doctors.

13) CIDCO had forwarded the Board Resolution No.12458 dated 31 July 2021 to the State Government for approval vide letter dated 18 August 2021. By another letter dated 2 December 2022, CIDCO had requested the Urban Development Department to grant necessary approval on the amended eligibility criteria for inclusion of five additional entities in the auction process. In expectation of grant of approval by the State Government to the Board Resolution No.12458 dated 31 July 2021, CIDCO decided to include the five additional entities in the eligibility criteria for impugned tender process. The Affidavit-in-Reply filed by CIDCO pleads that *'the same was done to enhance the healthy competition in the bids via inclusion of additional 5 entities till the time the State Government grants its incumbent approval on the same'*.

14) Petitioner is a partnership firm and falls within the five additional criteria approved vide Board Resolution No.12458 dated 31 July 2021. It submitted the bid for Plot No.25 by quoting the price of Rs.40,211/- per sq.mtr. Petitioner is found to be the highest bidder *qua* Plot No. 25. However, CIDCO apparently did not finalise the tender process *qua* Plot No.25 and waited for grant of approval by the State Government. In respect of five other plots in different Nodes, bids were submitted by entities covered by the earlier Board Resolution Nos.9696 dated 26 September 2007 and 11375 dated 23 June 2015, the allotments were finalized. The allotments *qua* three plots including Plot No.25 was kept on hold awaiting approval of the State Government to the Board Resolution. The Board Resolution No.12458 dated 31 July 2021 was approved by the Hon'ble Chief Minister who was in-charge of the Urban Development Department on 8 February 2024. CIDCO, however contends that the decision of the Chief Minister granting approval on 8 February 2024 was not communicated to it and that CIDCO was oblivious about grant of such approval. CIDCO therefore decided to cancel the tender process in respect of the three plots including Plot No.25 on 3 September 2025.

15) Perusal of the proposal approved by the Vice-Chairman and Managing Director of CIDCO on 3 September 2024 would indicate that two reasons are indicated for cancellation of the tender process viz. (i) non-receipt of approval

from the State Government, and (ii) change in valuation on account of passage of time of three years. The relevant portion of the decision dated 3 September 2024 is extracted below for facility of reference :-

The Hospital Scheme No.SS/HOSP/06/2021-22 was launched in the year 2021-2022 considering the base rate of the respective nodes for the same year which was worked out by the Economic Deptt. The proposal for revision in Policy on entity of applicant were submitted to UDD, GoM in August-2021 on which couple meetings were held in UDD, Mantralaya and also submitted additional information to the UDD as requested by them from time to time. Till date we have not received approval on revision in policy for Hospital Plot to the extent of Entity of Applicant from the UDD, GoM.

In view of the above, after the launching of the scheme in the year 2021-22 now we are in mid of 2024 after a period of almost three years, the Scheme is still live for Hospital under Scheme No.SS/HOSP.06/2021-22. In such situation, it is not advisable to continue the above Hospital Scheme with the old rate worked out in 2021-22 as the base rate is revised for the financial year 2022-23 and 2023-24. Therefore, the following proposal is hereby submitted.

Proposal :-

- a. Cancellation of remaining plots at Sr. No.10,11 & 12 for hospital use from Scheme No.SS/HOSP/06/2021-22.
- b. Refund of EMD paid by the applicant bidders for Plot at Sr.No.10, 11 & 12.
- c. Re-advertisement of plots at Sr.No.10, 11 & 12 as per the revised based rate.

16) So far as the first reason for cancellation of tender process is concerned, non-receipt of approval to the Board Resolution from the State Government, the same does not appeal to us. There is no dispute to the position that the Hon'ble

Chief Minister had approved the Board Resolution for inclusion of five additional entities in eligibility criteria on 8 February 2024. Thus, as on 3 September 2024, when the decision was taken to cancel the tender process, the proposal was already approved and the reason of non-approval of proposal indicated in decision dated 3 September 2024 becomes perverse. To get over this hurdle, CIDCO has taken a stand that though the approval was granted by the Hon'ble Chief Minister on 8 February 2024, the decision was received by UDD on 4 October 2024 which was in turn communicated by the UDD vide letter dated 14 October 2024 which was received by CIDCO on 16 October 2024. In our view, CIDCO's inaction in not securing information with regard to the status of grant of approval by the State Government for eight long months cannot be a reason for arbitrary cancelling the auction process. CIDCO's Head Office at Nirmal Bhavan is located at stone throw distance from Mantralaya, where the office of the Hon'ble Chief Minister is located. CIDCO's auction process in respect of various plots was withheld and it was the duty of CIDCO to keep track of approval granted by the State Government in respect of the Board Resolution. CIDCO had already committed the mistake of allowing five additional entities to bid even before the Board Resolution was approved by the State Government. Having taken the step of inclusion of five additional categories in eligibility criteria for the tender document, it was the duty of CIDCO to seek information from the State Government about the

status of grant of approval. There is nothing on record to indicate that CIDCO made any enquiries with the State Government during gap period from 8 February 2024 to 4 October 2024. CIDCO is clearly at mistake firstly in including the five additional entities in the eligibility criteria in absence of approval to the Board Resolution and secondly, in not securing information from the office of the Chief Minister about status of approval for eight long months. For these mistakes committed by CIDCO, Petitioner cannot be made to suffer. Therefore, the first reason of non-receipt of the decision of the State Government cited by CIDCO for cancellation of the tender process is unsustainable.

17) The second reason cited by CIDCO in decision dated 3 September 2024, and which is strenuously argued before us by Mr. Hegde, is increase in the valuation of the Plot on account of passage of three long years. The tender was issued on 2 April 2022 and period of about two and half years had elapsed from the date of advertisement and if the date of submission of Petitioner's bid of 22 June 2022 is taken into consideration, period of only about two years had elapsed by the time the decision was taken by CIDCO to cancel the tender process.

18) So far as change in the valuation is concerned, the Affidavit-in-Reply filed by CIDCO indicates that a fresh advertisement has been published by CIDCO in July 2025, in which the base price of Plot No.25 is indicated at Rs.35,039/- per

sq.mtr. The base price is determined by CIDCO after conducting inquiries about current valuation of the land through its valuers. Petitioner had submitted its bid for Plot No.25 by quoting price of Rs.40,211/- per sq.mtr. Even if revised valuation of Rs. 35,039/- is taken into consideration, Petitioner's bid is still higher than the base price indicated in fresh tender process dated 12 July 2025. Therefore, no loss would be caused to CIDCO if the plot is allotted to the Petitioner at the rate quoted by it.

19) Reliance by CIDCO on judgment of Division Bench of this Court in *Hare Krishna Enterprises* (supra), to which one of us (*the Chief Justice*) was a party, is inapposite. In that case, CIDCO had launched a scheme for plots for commercial use and CIDCO proceeded to cancel the auction after noticing that the highest offer received was less than the then current market rate. A fresh advertisement was issued by CIDCO in which the Petitioner therein participated and quoted higher rate than the one quoted by the earlier highest bidder. The earlier highest bidder petitioned this Court and the petition was disposed of by this Court directing CIDCO to decide its representation. The representation was rejected, which led to filing of second petition by the earlier highest bidder. CIDCO was directed to give hearing to the earlier highest bidder who showed willingness to match the bid of the Petitioner. CIDCO once again rejected the representation of the earlier highest bidder. During pendency of this litigation process, interim order was

passed by this Court restraining CIDCO from issuing allotment letter to the Petitioner. On account of passage of time due to litigations initiated by the earlier highest bidder, CIDCO decided to cancel the bid of the Petitioner and to re-auction the plot. In the light of above facts, this Court held that CIDCO was justified in expecting higher price for plot on account of passage of time. This Court also noted the fact that in the same Node, CIDCO had received much higher rates of Rs.1,54,545/- per sq. mtr. and Rs.1,67,000/- per sq.mtr. as against the bid of the Petitioner therein of Rs.92,995/- per sq. mtr. Even the earlier highest bidder had shown willingness to offer rate of Rs.1,09,503/- per sq. mtr. and a third party quoted the rate of Rs.1,20,000/-. Considering this factual position, this Court did not interfere in CIDCO's decision of cancellation of bid of the Petitioner therein.

20) In our view, the judgment in *Hare Krishna Enterprises* is clearly distinguishable on facts. In the present case, the main reason for cancellation of tender process is non-receipt of approval by the State Government to the Board Resolution of CIDCO for inclusion of five additional entities in the auction process. If the approval dated 8 February 2024 was noticed by CIDCO immediately thereafter, it would not have cancelled the tender process and would have made an allotment in the name of the Petitioner. Furthermore, the bid of the Petitioner is also found to be higher than the fresh reserve price fixed by CIDCO

in the new auction process. Thus, the facts of the present case are clearly distinguishable and therefore the judgment in *Hare Krishna Enterprises* would have no application for deciding the issue at hand.

21) No doubt, CIDCO being a New Town Development Authority is in need of funds for carrying out development activities in the City of Navi Mumbai. Its expectation of receiving higher price in respect of the Plots is ordinarily just and reasonable. If CIDCO is prevented from finalizing the allotment on account of reasons not attributable to it, the Courts would be justified in not interfering in CIDCO's decision to cancel the earlier auction process and going for a fresh auction. However, in a case where CIDCO is found responsible for non-finalisation of the earlier auction process and when the reasons for cancellation are found to be perverse, a writ Court need not in every case get swayed by usual argument of expectation of receiving higher price in the new auction process. CIDCO, being an instrumentality of State, is expected to act fairly. In the present case, CIDCO has not only acted arbitrarily in cancelling the auction process even after receipt of approval by the State Government to its Board Resolution, it has also passed a cryptic order on 4 October 2024 not disclosing any reasons for cancellation of the auction. Reliance by Ms. Agarwal on judgments of the Apex Court in *M/s. Kranti Associates Pvt. Ltd.* (supra), *Ravi Yashwant Bhoir* (supra) and *S. N. Mukherjee* (supra) in

this regard is apposite where the Apex Court has repeatedly highlighted the requirement of recording reasons by administrative authorities while making a decision. Beyond citing the pretext of '*administrative reasons*', CIDCO had not communicated to the Petitioner the exact reason why the auction process was being cancelled. However, we are not setting aside CIDCO's decision of cancellation of auction process only for the reason of non-recording of reasons. The case involves peculiar circumstance of the revised reserve price in the fresh auction process being less than the price quote of the Petitioner.

22) CIDCO's contention about Plot No.118 in Dronagiri Node attracting the rate of Rs.45,000/- cannot be a reason for permitting fresh auction process in respect of Plot No.25. Petitioner has contended in the Rejoinder that Plot No.118 is situated at a significantly prime and advantageous location than Plot No.25. Petitioner has also pointed out that the locational superiority of Plot No.118 is evidenced from the reserve price of Rs.30,154/- per sq.mtr. against the reserve price for Plot No.25 of Rs.24,123/- per sq.mtr. It is further pointed out Plot No.118 was re-auctioned by fixing reserve price of Rs.42,981/- per sq.mtr. and the highest bid received by CIDCO was Rs. 45,000/- per sq.mtr. Thus, CIDCO received marginally higher rate than reserve price of Rs.42,981/- per sq.mtr. It is also seen that CIDCO itself has fixed reserve price of Rs.35,039/- per sq.mtr. for Plot No.25 which is lower than the reserve price of

Rs.42,981/- per sq.mtr. in respect of Plot No.118, thereby admitting the locational superiority in respect of Plot No. 118. Therefore, no comparison can be made between Plot No.25 and Plot No.118. It is also not that CIDCO has received exponentially higher rate in respect of Plot No. 118 than the rate offered by Petitioner for Plot No. 25.

23) It is also to be borne in mind that the scheme was floated by CIDCO for not carrying out residential or commercial construction, but for providing the amenity of hospital. Setting up new and modern hospitals providing affordable healthcare facilities to the residents is the objective why the plots are earmarked for allotment for use only as hospitals. Navi Mumbai is one of the planned cities in India. CIDCO has maintained the necessary flexibility of changing use of plots and by allotting the plots in a phased manner to regulate the development of the city. The public amenities are added after assessing the growth of a particular node. Plot No. 25 thus appears to be earmarked by CIDCO considering need of amenity of healthcare facility in Dronagiri node. Thus the case does not involve allotment of plot to a developer for commercial exploitation. This is yet another reason we feel that the Petitioner should be allowed to secure allotment of Plot No.25 for the purpose of establishing a Hospital rather than permitting CIDCO to indulge in any further speculation. CIDCO's mistakes, as discussed above in securing higher price for the plot has resulted in delay in provision of

public amenities to the nearby residents. This is yet another reason why we are inclined to direct allotment of Plot No.25 in favour of the Petitioner.

24) The conspectus of the above discussion is that CIDCO has erroneously cancelled the auction process in respect of Plot No. 25 even after approval of its Board resolution by the State Government. After noticing that the Board Resolution was already approved on 8 February 2024, CIDCO ought to have recalled its decision of 3 September 2024. The second reason of possibility of the Plot securing higher price due to passage of time also does not appeal to us considering the fact that the Petitioner has already quoted price higher than the fresh reserve price. Therefore, CIDCO's decision of cancellation of auction in respect of Plot No.25 communicated vide letter dated 4 October 2024 is unsustainable and liable to be set aside.

25) The Petition accordingly succeeds, and we proceed to pass the following order :-

(i) CIDCO's decision vide communication dated 4 October 2024 is set aside.

(ii) CIDCO is directed to issue allotment letter in respect of Plot No.25 in favour of the Petitioner in accordance with its usual procedure.

26) Writ Petition is **allowed** in the above terms. Rule is made absolute. There shall be no order as to costs.

[SANDEEP V. MARNE, J.]

[CHIEF JUSTICE]

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