HC-KAR

NC: 2026:KHC:59899
WP No. 43457 of 2015

CNR: KAHC010359302015

®

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO. 43457 OF 2015 (GM-RES)

BETWEEN

MANDYA URBAN DEVELOPMENT AUTHORITY,
BANNUR ROAD,
MANDYA-571401,
REPRESENTED BY ITS COMMISSIONER

... PETITIONER

(BY SRI. T.P. VIVEKANANDA., ADVOCATE)

AND

1. SRI. P. CHANDRASHEKAR
   AGED ABOUT 58 YEARS,
   S/O PUTTAPPA,
   HITTANAHALLI KOPPALU,
   KIRUGAVAL HOBLI,
   MALAVALLI TALUK,
   MANDYA DISTRICT-571 424
2. STATE COMMISSIONER FOR PERSONS
   WITH DISABILITY,
   SLUM CLEARANCE BOARD BUILDING,
   III FLOOR, NO.55, RESILDAR STREET,
   SESHADRIPURAM,
   BANGALORE-560 020

3. STATE OF KARNATAKA,
   DEPARTMENT OF WOMEN AND CHILD DEVELOPMENT,
   VIDHANA SOUDHA,
   BANGALORE-560001.
   REPRESENTED BY ITS SECRETARY.

...RESPONDENTS

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(BY SMT. JAYNA KOTHARI., SENIOR COUNSEL FOR
SRI. ROHAN KOTHARI AND
SRI. NAVEEN CHANDRA.V., ADVOCATES FOR R1;
SMT. SARITHA KULKARNI., AGA FOR R2 & R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF CERTIORARI OR SIMILAR WRIT OR ORDER OR DIRECTION TO QUASH THE ORDER PASSED BY THE SECOND RESPONDENT IN CASE NO.02/2013-14/481 DATED 08.08.2013 AT ANNEXURE-E AND ETC.

THIS WRIT PETITION COMING ON FOR ORDERS AND HAVING BEEN RESERVED FOR ORDERS ON 15.09.2026, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

CAV ORDER

1. The petitioner, Mandya Urban Development Authority (Hereinafter for brevity referred to as "**MUDA**") is before this Court seeking for the following reliefs:

> *"A. Issue a writ of certiorari or similar writ or order or direction to quash the order passed by the second respondent in Case No.02/2013-14/481 dated 08.08.2013 at Annexure-E*
>
> *B. Consequently dismiss the Complaint dated 26.06.2013 at Annexure-B;*
>
> *C. Issue any other appropriate writ or order or direction deemed fit in the circumstances of the case in the interest of justice and equity."*

2. Respondent No.1 had approached the respondent No.2- State Commissioner for Persons with

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Disabilities, with a complaint dated 26.06.2013 for a direction to allot a site on the ground that he is a person with disabilities in the layout formed by the MUDA of about 2,100 sites. Respondent No.2 issued summons on 11.07.2013 under Section 62 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (for short, 'Disabilities Act, 1995'). The MUDA submitted the statement of objections on 18.07.2013.

3. Respondent No.2 allowed the complaint filed by respondent No.1 on 08.08.2013, holding that in terms of Section 43 of the Disabilities Act, 1995, the MUDA, while allotting sites, was required to reserve not less than 3% of the total sites for persons with disabilities. Such reservation not having been made, the MUDA had violated Section 43, consequently infringing the right of persons with disabilities such as respondent No.1 and directed the MUDA authority to allot a site, as also to reserve the required percentage of sites to persons with disabilities. It is challenging the same that the MUDA has approached this Court seeking for the aforesaid reliefs.

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4. Sri. T.P. Vivekananda, learned counsel appearing for MUDA, submitted that,

4.1. The objections filed by MUDA have not been taken into consideration by respondent No.2. MUDA had categorically stated that around 2,100 sites had been formed in Vivekananda Nagar Layout, which had been allotted through lottery to the persons belonging to various categories in the year 2002. Insofar as persons with disabilities are concerned, allotment had been made at 2% reservation. Further, respondent No.1 not having submitted any application for allotment the same could not have been considered.

4.2. His submission is also that the former office bearers of MUDA having violated the applicable provisions, the earlier Commissioner and case workers were in judicial custody from 18.07.2013 and subsequently, the matter had been entrusted to the Central Bureau of Investigation (CBI), for investigation.

4.3. He submits that as per the applicable norms, 2% of the sites had been reserved for persons with disabilities amounting to 42 sites. As

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regards those 42 sites, only 11 persons had applied who had been allotted the sites. Thus, there is no violation of the 2% reservation in allotment of sites for persons with disabilities.

4.4. He relies on Section 43 of the Disabilities Act, 1995 which is reproduced hereunder for easy reference:

> ***43. Schemes for preferential allotment of land for certain purposes.–*** *The appropriate Governments and local authorities shall by notification frame schemes in favour of persons with disabilities, for the preferential allotment of land at concessional rates of–*
>
> *(a) house;*
>
> *(b) setting up business;*
>
> *(c) setting up of special recreational centres;*
>
> *(d) establishment of special schools;*
>
> *(e) establishment of research centres;*
>
> *(f) establishment of factories by entrepreneurs with disabilities.*

4.5. In terms of Section 43, the appropriate Government and Local Authorities are required to, by notification, frame schemes in favour of

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persons with disabilities for preferential allotment of sites at concession rates, amongst other things, including for the purpose of setting up businesses, setting up special recreation centres, establishing special schools, research centres, factories by entrepreneurs with disabilities, etc.

4.6. His further submission is that the scheme was required to be formulated by the appropriate Government. The MUDA is not the appropriate Government. The appropriate Government being the State Government, it was for the State Government to have formulated the scheme. The scheme as formulated provided for 2% reservation; 42 sites had been reserved and allotted to persons who had applied for the sites. Section 43 does not provide for any particular percentage of reservation or preferential allotment. The same was to be as per the scheme formulated by the appropriate Government. The appropriate Government had formulated a scheme for reservation of 2% of the total number of sites formed/notified.

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4.7. He refers to Section 71 of the Karnataka Urban Development Authorities Act, 1987 [for short 'KUDA Act'] which is reproduced hereunder for easy reference:

> ***71. Power to make rules.-*** *(1) The Government may by notification make rules to carry out the purposes of this Act.*
>
> *(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely:-*
>
> *(a) for the guidance of the Authority and persons connected with the administration of this Act or in cases not expressly provided for herein;*
>
> *(b) the conditions of service of the Chairman and other members of the Authority;*
>
> *(c) the manner of appointment of committees and the period of such appointment;*
>
> *(d) the terms and conditions subject to which the Authority may take up development scheme or work and execute it;*
>
> *(e) the particulars to be specified in the application of the scheme;*
>
> *(f) the restrictions, conditions and limitations subject to which the Authority may lease, sell or transfer movable or immovable property;*
>
> *(g) regulating the allotment or sale by auction of sites by the Authority;*

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(h) the manner of reconstitution of the Authority ;

(i) any other matter which has to be or may be prescribed by rules.

4.8. He submits that it is the Government, which is required to, by notification, make rules for carrying out the purpose of the Act. He also refers to Rules 3 and 4 of the Karnataka Urban Development Authorities (Allotment of Sites) Rules, 1991 [for short 'KUDA Rules'], which are reproduced hereunder for easy reference:

3. Offer to site for allotment.- *(1) Whenever the Authority forms an extension or layout according to any Scheme, the Authority may, subject to the general or special orders of the Government, offer any or all sites in such extension or layout for allotment of site under these rules.*

(2) Due publicity shall be given in respect of the sites for allotment specifying their location, number, the last date for submission of applications and such other particulars, as the Commissioner may consider necessary, by affixing a notice-on-Notice Board of the Office of the Authority and also by publishing in daily newspapers in English and Kannada language having a wide circulation in the city.

4. Reservation of sites.- *(1) The Authority may, with prior approval of the Government, set apart the sites in any area for allotment to any specified class or specified class of persons as it may deem necessary. In each category of sites so formed, the*

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sites to be reserved so shall not exceed 10 percent of the total number of sites in each of such categories.

(2) Where sites are reserved under Sub-rule (1), the procedure to be followed for allotment of such sites shall be determined by the Authority subject to the general or special orders of the Government.

4.9. His submission is that the allotment of sites in terms of Rule 3 and Rule 4 can be made only to an applicant, who has made such an application in terms of Rule 10 thereof. Rule 10 is reproduced hereunder for easy reference:

10. Application.-*(1) A person registered as stated above shall apply in the prescribed Form II for allotment of site along with the initial deposit of 10 percent of the notified cost of the site. The initial deposit shall be 3 percent in the case of persons applying for sites under the categories of Scheduled Castes, Scheduled Tribes, Ex-service men or family members of the deceased service men and the members of the Armed Forces of the Union.*

(2) The applications shall be submitted in person or sent by registered post so as to reach the office of the Authority before the date and time fixed for the receipt of such applications. Applications received after the date and time fixed or which are erroneous and incorrect shall be rejected.

4.10. He refers to Rule 13 which is reproduced hereunder for easy reference;

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13. ನಿವೇಶನಗಳ ಹಂಚಿಕೆಗಾಗಿ ಅರ್ಜಿದಾರರ ಆಯ್ಕೆ ನೀತಿಗಳ-

(2) ನಿವೇಶನವನ್ನು ಈ ಕೆಳಗಿನ ವಿವಿಧ ಪ್ರವರ್ಗಗಳ ಪೈಕಿ ಹಂಚತಕ್ಕದ್ದು-

(ಐ) ಅಂಗವಿಕಲರು 2%

4.11. He submits that sub-rule (2) of Rule 13 provides for 2% reservation for persons with disabilities in allotment of site. His submission is that 2% of the sites have been reserved for persons with disabilities. His submission is that apart from the said 2% there is no other scheme which has been formulated by the appropriate Government, and it is only the 2% reservation as provided therein which would be applicable. He, therefore, submits that insofar as the reservation of 2% sites that has been made by MUDA, it has been allotted to those who had applied, though 42 sites have been reserved only 11 persons having been applied, 11 sites have been allotted to them. Respondent No.1 not having submitted any application as required, no allotment could be made to him. He submits that for the purpose of such allotment, various procedures are required to be followed in terms of the aforesaid Act and Rules. Without an application being submitted, the question of compliance

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with the KUDA Act and KUDA Rules would not arise. Thus, he submits that respondent No.2 has committed a grave error by directing the allotment of a site to respondent No.1, without respondent No.1 having ever applied for such allotment.

4.12. On these grounds he submits that the order passed by respondent No.2 is required to be set aside.

5. Smt. Jayna Kothari, the Senior Counsel appearing respondent No.1, would submit that,

5.1. Respondent No.1 is a person with disability having 80% locomotor disability and therefore, comes within the definition in Section 2(t) of the Disabilities Act, 1995. Section 2(t) is reproduced hereunder for easy reference:

> ***2(t) "Person with disability"*** *means a person suffering from not less than forty per cent. of any disability as certified by a medical authority;*

5.2. The basic minimum qualification being 40% disability, respondent No.1 having 80% locomotor disability, would satisfy the threshold of Section 2(t) is her submission. In this

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regard, she also refers to Section 2(r) of the Rights of Persons with Disabilities Act, 2016, which is reproduced hereunder for easy reference:

> ***2(r) "person with benchmark disability"*** *means a person with not less than forty per cent. of a specified disability where specified disability has not been defined in measurable terms and includes a person with disability where specified disability has been defined in measurable terms, as certified by the certifying authority.*

5.3. By referring to Section 2(r) her submission is that a person with benchmark disability is a person with not less than 40% of specified disability, where specified disability has not been defined in measurable terms, would include a person with such disability as certified by the Certifying Authority. Respondent No.1, she submits, has obtained a disability certificate certifying that he is a person with disability having 80% locomotor disability; further, she submits that Respondent No.1 is a social activist working for rights of persons with disabilities and has received District and State Awards; she therefore submits that respondent No.1 qualifies as a person with disability under

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the Disabilities Act, 1995 and under the Rights of Persons with Disabilities Act, 2016 [for short 'RPwD Act, 2016'].

5.4. She submits that exercising powers under Section 73(1) of the Disabilities Act, 1995, a notification had been issued on 09.11.2006 (w.e.f. 14.12.2006) amending the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) (Karnataka) Rules, 2003 by the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) [Karnataka Amendment] Rules, 2006 inserting Chapter IVA, under which Rule 28A (iii) provided for not less than 3% reservation for persons with disabilities in allotment. Rule 28A is reproduced hereunder for easy reference:

> ***Rule - 28A. Benefit of persons with disabilities.-***
>
> *All the State Government Departments, Boards, Corporations, Zilla Panchayats, Taluk Panchayats, Town Panchayats, Gram Panchayats, Municipal Corporations, Municipal Councils, Local Bodies, Urban Development Authorities and other Establishments of the State Government and other aided institutions shall.*

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(i) provide for 3% reservation in Groups 'A' and 'B' posts and 5% reservation in Groups 'C and 'D' posts or in such ratio as specified by the State Government from time to time in any Order, Circular or Notification;

(ii) ensure that in all State Sector/District Sector Schemes implemented by them not less than 3% of the fund allocation in all poverty alleviation schemes/development programmes, welfare schemes, education, health and research programmes including central and externally aided schemes and projects, is spent on providing relief to persons with disabilities;

(iii) ensure that when allotment of land is made for the following purposes.

(a) House/site;

(b) Setting up of business;

(c) Setting up of special recreation centres;

(d) Establishment of special schools;

(e) Establishment of research centres;

(f) Establishment of factories by entrepreneurs with disabilities:

(i) not less than 3% of the allottees are persons with disabilities;

(ii) the rate charged to such persons is made concessional.

Notwithstanding anything contained in any other law for the time being in force a report in compliance of clauses (i) to (iii) shall be furnished at regular intervals to the Commissioner for

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persons with disabilities for review and further necessary direction.

5.5. She submits that though the MUDA claims that 2% reservation has been made, what was required to be provided was 3% reservation, which has not been made; therefore, there is a violation of Rule 28A(iii).

5.6. Her submission is that respondent No.1 had made an application on 22.08.2007 by making payment of Rs.600/- for allotment of a site. Despite such application having been made, there is no allotment made, let alone, at a concession rate and it is in that background that respondent No.1 submitted the complaint with respondent No.2. Summons having been issued to the MUDA, MUDA had appeared and made its submissions.

5.7. Respondent No.2 was of the opinion that the submission made by the MUDA was unsatisfactory and unsubstantiated and in terms of Section 43 of the Disabilities Act, 1995 read with Rule 28A(iii) of the Persons with Disabilities (Equal Opportunities, Protection of

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Rights and Full Participation) [Karnataka Amendment] Rules, 2006, 3% of the sites not having reserved thereby violating the rights of persons with disabilities.

5.8. Respondent No. 2 directed the relevant authorities to make 3% reservation for persons with disabilities in the matter of allotment of land at concessional rates for the specific uses. The said order, she submits, is proper and correct, and no fault can be found therewith.

5.9. She further relies upon Section 37 of the Rights of Persons with Disabilities Act, 2016, which is reproduced hereunder for easy reference:

> ***37.*** *The appropriate Government and the local authorities shall, by notification, make schemes in favour of persons with benchmark disabilities, to provide,—*
>
> *(a) five per cent. reservation in allotment of agricultural land and housing in all relevant schemes and development programmes, with appropriate priority to women with benchmark disabilities;*
>
> *(b) five per cent. reservation in all poverty alleviation and various developmental schemes with priority to women with benchmark disabilities;*
>
> ***(c) five per cent. reservation in allotment of land on concessional rate, where such land is***

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to be used for the purpose of promoting housing, shelter, setting up of occupation, business, enterprise, recreation centres and production centres.

5.10. By relying on Clause (c) of Section 37 of the RPwD Act, 2016, her submission is that Rights of Persons with Disabilities Act, 2016 now requires a reservation of 5% to be made in allotment of land at concessional rates. Thus, the contention of the MUDA that 2% was required to be reserved is contrary to Clause (c) of Section 37 of the Rights of Persons with Disabilities Act, 2016. She submits that the contention of the MUDA that there is no allotment made since 2002 and the application of respondent No.1 having been made in the year 2007 could not be considered since no notification inviting application had been published by the MUDA cannot be countenanced in law or on facts. An application for allotment having been made by respondent No.1, sites being available, it was for the MUDA to have allotted a site to respondent No.1.

5.11. Her submission is that under the amended Rule 13(2) of the Karnataka Urban Development

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Authorities (Allotment of Sites) Rules, 1991 as amended on 12.02.2021, 3% of the sites have to be reserved for persons with disabilities amounting to 81, however, only 42 sites have been reserved, out of which 11 allotments have been made. Even if 42 sites were taken into consideration, there are 31 sites still available to be allotted for persons with disabilities and it is for that reason that the application filed by respondent No.1 ought to have been considered even if the reservation was made at 2%. However, her submission is that the reservation initially was to be made at 3% and subsequently at 5%, after the coming into force of Clause (c) of Section 37 of the Persons with Disabilities Act, 2016.

5.12. As regards the matter pending with the CBI, she submits that that was an aspect relating to allotment of sites in the lottery system and not in relation to sites to be allotted in favour of persons with disabilities and as such that would not come in the way of allotment of site to respondent No.1.

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5.13. She relies on Sections 61 and 62 of the Disabilities Act 1995 which are reproduced hereunder for easy reference:

61. Powers of Commissioner.-

The Commissioner within the State shall--

(a) co-ordinate with the departments of the State Government for the programmes and schemes for the benefit of persons with disabilities;

(b) monitor the utilisation of funds disbursed by the State Government;

(c) take steps to safeguard the rights and facilities made available to persons with disabilities;

(d) submit reports to the State Government on the implementation of the Act at such intervals as that Government may prescribe and forward a copy thereof to the Chief Commissioner.

62. Commissioner to look into complaints with respect to matters relating to deprivation of rights of persons with disabilities.-

Without prejudice to the provisions of section 61 the Commissioner may of his own motion or on the application of any aggrieved person or otherwise look into complaints with respect to matters relating to--

(a) deprivation of rights of persons with disabilities;

(b) non-implementation of laws, rules, bye-laws, regulations, executive orders, guidelines or instructions made or issued by the appropriate Governments and the local authorities for the

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welfare and protection of rights of persons with disabilities,

and take up the matter with the appropriate authorities.

5.14. By relying on Sections 61 and 62, her submission is that the Commissioner has the powers to pass necessary orders in favour of persons with disabilities when the rights of such a person are adversely affected.

5.15. During the pendency of the matter, this Court had called upon the MUDA and the State to make their submission as regards the reservation in allotment of sites in terms of Clause (c) to Section 37 of the Rights of Persons with Disabilities Act, 2016, pursuant to which several reports were submitted and finally a notification had been issued mandating reservation of 5% in allotment of sites for persons with disabilities under the Rights of Persons with Disabilities Act, 2016.

6. Heard Sri. T.P. Vivekananda, learned counsel for the MUDA, Smt. Jayna Kothari, learned Senior Counsel appearing for respondent No.1 and Smt. Saritha

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Kulkarni, learned AGA appearing for respondent Nos.2 and 3 and perused the papers.

7. The points that would arise for consideration are,

(i) Whether 2% reservation under Rule 13(2) of the KUDA Rules, 1991 or 3% reservation under Rule 28A(iii) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) (Karnataka) Rules, 2003 read with Section 43 of the Disabilities Act, 1995, or the 5% reservation under Section 37(c) of the RPwD Act, 2016, applies to the allotment of sites by the MUDA?

(ii) Whether a person with disabilities can claim for allotment of site on the ground that they qualify as person with disabilities without having applied for such allotment under the Karnataka Urban Development Authorities Act, 1987 read with Karnataka Urban Development Authorities (Allotment of Sites) Rules, 1991?

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8. The above points are answered as follows:

9. **<u>Answer to Point No. (i):</u> Whether 2% reservation under Rule 13(2) of the KUDA Rules, 1991 or 3% reservation under Rule 28A(iii) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) (Karnataka) Rules, 2003 read with Section 43 of the Disabilities Act, 1995, or the 5% reservation under Section 37(c) of the RPwD Act, 2016, applies to the allotment of sites by the MUDA?**

9.1. Sri T.P. Vivekananda, learned counsel for the MUDA, submitted that around 2,100 sites were formed in Vivekananda Nagar Layout and allotted by lottery in 2002. Of these, 42 sites (2%) were reserved for persons with disabilities. Only 11 persons applied, and all received sites. He contended that the reservation had therefore been complied with.

9.2. He submitted that Section 43 of the Disabilities Act, 1995 requires the appropriate Government to frame schemes for preferential allotment of land but prescribes no percentage. In his submission, the State Government is the

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appropriate Government and its scheme provides for 2% reservation.

9.3. Relying on Section 71 of the KUDA Act and Rule 13(2) of the KUDA Rules, he submitted that the applicable reservation was 2% and that no other scheme had been framed by the appropriate Government.

9.4. He also relied on Rule 4 of the KUDA Rules, which permits the Authority to set apart sites for a specified class of persons.

9.5. Smt Jayna Kothari, learned Senior Counsel for Respondent No. 1, submitted that a notification dated 09.11.2006, issued under Section 73(1) of the Disabilities Act, 1995, inserted Chapter IVA into the Karnataka Rules of 2003. Rule 28A(iii), she argued, requires at least 3% reservation for persons with disabilities.

9.6. She contended that the MUDA's 2% reservation fell short of the 3% required by Rule 28A(iii), and that Respondent No. 2 was justified in rejecting the MUDA's explanation.

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9.7. She also relied on Section 37(c) of the RPwD Act, 2016, which provides for 5% reservation when land is allotted at concessional rates.

9.8. During the pendency of this petition, the Court sought the views of the MUDA and the State Government on Section 37(c). After reports were filed, a notification was issued on 18.04.2026 amending Rule 13(2) of the Karnataka Urban Development (allotment of sites) Rules 1991 increasing the reservation percentage from 3% to 5% reservation in the allotment of sites for persons with disabilities.

9.9. The issue is whether site allotments by MUDA were subject to 2% reservation under Rule 13(2) of the KUDA Rules 1991, 3% under Rule 28A(iii) of the Karnataka Rules of 2003 read with Section 43 of the Disabilities Act, 1995, or 5% under Section 37(c) of the RPwD Act, 2016 read with Rule 13(2) of the KUDA Rules, 1991 as amended on 18.04.2026.

9.10. The first provision relied on is Rule 13(2) of the KUDA Rules, 1991. The relevant text, reads:

"13. Policies for selection of applicants for allotment of sites—

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(2) Sites shall be allotted among the following categories:

(i) Persons with disabilities — 2%."

9.11. It is on that basis that MUDA contends that 2% reservation is to be provided. Respondent No. 1's case is that the Rule was later amended to provide 3%. The amendment relied on is dated 12.02.2021.

9.12. Respondent No. 1 paid Rs. 600 on 22.08.2007, complained on 26.06.2013, and Respondent No. 2 passed the impugned order on 08.08.2013. The 2021 amendment cannot, without a legal basis for retrospective operation, determine the obligations arising in 2007 or 2013.

9.13. The MUDA also relies on Section 71 of the KUDA Act, which empowers the Government to make rules to carry out the purposes of the Act. Section 71(2)(g) specifically permits rules regulating the allotment or sale by auction of sites by the Authority.

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9.14. The next provision is Section 43 of the Disabilities Act, 1995, which states:

> *"**43. Schemes for preferential allotment of land for certain purposes.—**The appropriate Governments and local authorities shall, by notification, frame schemes in favour of persons with disabilities for the preferential allotment of land at concessional rates for housing, setting up businesses, special recreational centres, special schools, research centres and factories established by entrepreneurs with disabilities."*

9.15. Section 43 requires the appropriate Governments and local authorities to frame, by notification, schemes for preferential allotment of land at concessional rates for the listed purposes.

9.16. Section 37(c) of the RPwD Act, 2016 provides for 5% reservation in the allotment of land at concessional rates for housing, shelter, occupation, business, enterprise, recreation centres and production centres. Section 37 also addresses reservation in agricultural land, housing and development schemes.

9.17. Section 37 requires the appropriate Government and local authorities to notify

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schemes for persons with benchmark disabilities.

9.18. The RPwD Act was enacted in 2016, after the impugned order of 08.08.2013. Section 37(c) therefore cannot determine whether that order was lawful when made. Respondent No. 1 accepts that the 5% requirement arose later.

9.19. This Court answers Point No. (i) by holding that

9.19.1. The reservation in allotment of sites required to be made by MUDA was 2% until 14.12.2006

9.19.2. From 14.12.2006 the reservation was to be made at 3% on the notification issued under Section 73(1) of the Disabilities Act, 1995, inserting Chapter IVA into the Karnataka Rules of 2003. Rule 28A(iii) requiring 3% reservation.

9.19.3. Though Section 37(c) of the RPwD Act, 2016 provides for 5% reservation, it requires the appropriate Government and the local authorities to issue notifications, making schemes in favour of persons with benchmark disabilities.

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The said notification was issued on 18.04.2026, hence it is from 18.04.2026 that the reservation is 5%.

10. **Answer to Point No.(ii): Whether a person with disabilities can claim for allotment of site on the ground that they qualify as person with disabilities without applying for such allotment under the Karnataka Urban Development Authorities Act, 1987 read with Karnataka Urban Development Authorities (Allotment of Sites) Rules, 1991**?

10.1. Sri. T.P. Vivekananda, learned counsel for the MUDA, submitted that Respondent No.2 had failed to consider the MUDA's objections. The MUDA stated that approximately 2,100 sites had been formed and allotted by lottery in 2002, with 2% reserved for persons with disabilities. Respondent No.1 had not submitted an application and, therefore, his claim could not have been considered.

10.2. It was further submitted that former office bearers of the MUDA had violated the

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applicable provisions. The former Commissioner and the case workers had been in judicial custody since 18.07.2013, and the matter had subsequently been handed over to the CBI for investigation.

10.3. Of the 42 sites reserved for persons with disabilities, only 11 persons had applied, and all 11 had been allotted sites. Learned counsel submitted that, under Rules 3 and 4 of the KUDA Rules, allotment could be made only to a person who had applied in accordance with Rule 10. In the absence of an application, the prescribed procedure for allotment under the KUDA Act and Rules could not be followed. Respondent No.2 had, therefore, erred in directing the allotment of a site to Respondent No.1, who had not applied under the prescribed procedure. On these grounds, the order of Respondent No.2 ought to be set aside.

10.4. Smt. Jayna Kothari, learned Senior Counsel for Respondent No.1, submitted that Respondent No.1 is a person with 80% locomotor disability and therefore fell within the definition of "person with disability" under Section 2(t) of

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the Disabilities Act, 1995, which prescribed a minimum disability of 40%. She further submitted that, having obtained a disability certificate, Respondent No.1 also qualified as a person with benchmark disability under Section 2(r) of the RPwD Act, 2016. She added that he was a social activist working for the rights of persons with disabilities and had received District and State awards.

10.5. Learned Senior Counsel submitted that Respondent No.1 had applied for a site on 22.08.2007 by paying Rs.600/-. However, no site had been allotted to him, even at a concessional rate. He had, therefore, approached Respondent No.2 by filing a complaint. Respondent No.2 had found the MUDA's explanation unsatisfactory and unsupported by evidence. Accordingly, the order was justified.

10.6. Learned Senior Counsel further submitted that the MUDA's contention that no sites had been allotted after 2002 and that Respondent No.1's application could not be considered because no notification inviting applications had been

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issued was untenable. According to her, once Respondent No.1 had applied and sites were available, the MUDA ought to have allotted a site to him.

10.7. She also submitted that the CBI investigation concerned allotments made by lottery and did not concern sites reserved for persons with disabilities. Therefore, the investigation did not prevent the MUDA from allotting a site to Respondent No.1.

10.8. Finally, learned Senior Counsel relied on Sections 61 and 62 of the Disabilities Act, 1995, and submitted that these provisions empowered the Commissioner to pass appropriate orders where the rights of persons with disabilities had been adversely affected.

10.9. This Point for consideration has two parts. 1) Can a person claim a site simply because he qualifies as a person with disabilities? 2) does he first have to apply for it under the KUDA Act read with the KUDA Rules? The second part answers the first, so the two are taken together.

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10.10. The facts that matter are:

10.10.1. Respondent No.1 is a person with 80% locomotor disability.

10.10.2. The MUDA offered sites in the Vivekananda Nagar Layout by a notification issued in 2002, and sites came to be allotted by lottery. Of the 42 sites reserved for persons with disabilities, 11 went to the 11 persons with disabilities who applied.

10.10.3. On 22.08.2007 Respondent No.1 paid Rs.600/- to the MUDA. The MUDA says no application was made. Respondent No.1 contends that the payment was an application.

10.10.4. MUDA contends that an application for allotment of site has to be made on a notification inviting applications. Respondent No.1 contends that payment of 2007 was itself an application, and that the absence of a notification should not count against him.

10.10.5. No site was allotted to Respondent No.1.

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10.11. Smt. Jayna Kothari began with the status of Respondent No.1. The two definitions she relied on reads:

> ***Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995-***
>
> *2(t) "**Person with disability**" means a person **suffering from not less than forty per cent. of any disability as certified by a medical authority;***
>
> ***Rights of Persons with Disabilities Act, 2016-***
>
> *2(r) "**person with benchmark disability**" means a person with **not less than forty per cent. of a specified disability** where specified disability has not been defined in measurable terms and includes a person with disability where specified disability has been defined in measurable terms, **as certified by the certifying authority.***

10.12. A person with at least 40% disability, certified by the proper authority, is a person with disability under the 1995 Act and a person with benchmark disability under the RPwD Act, 2016. Respondent No.1 has 80% locomotor disability backed by a certificate, which that MUDA does not contest. Therefore, he qualifies under both definitions.

10.13. Rule 3 of the KUDA Rules deals with the offer of sites:

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> ***3. Offer to site for allotment.-*** *(1) Whenever the Authority forms an extension or layout according to any Scheme, the Authority may, subject to the general or special orders of the Government,* ***offer any or all sites in such extension or layout for allotment of site under these rules.***
>
> *(2)* ***Due publicity shall be given*** *in respect of the sites for allotment* ***specifying their location, number, the last date for submission of applications*** *and such other particulars, as the Commissioner may consider necessary, by* ***affixing a notice-on-Notice Board*** *of the Office of the Authority and also by* ***publishing in daily newspapers in English and Kannada language having a wide circulation in the city****.*

10.14. When the MUDA offers any or all sites in such extension or layout for allotment of site under the rules, due publicity shall be given, specifying their location, number, the last date for submission of applications, by affixing a notice, on the Notice Board and also by publishing in daily newspapers in English and Kannada language having a wide circulation in the city. The offer and the publicity come first, and applications come in answer to them.

10.15. Rule 10 deals with the application itself:

> ***10. Application****.-(1)* ***A person registered as stated above shall apply in the prescribed Form II for allotment of site along with the initial deposit of 10 percent of the notified cost of the site.*** *The initial deposit shall be 3 percent in the case of persons applying for sites*

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> *under the categories of Scheduled Castes, Scheduled Tribes, Ex-service men or family members of the deceased service men and the members of the Armed Forces of the Union.*
>
> *(2) The applications shall be submitted in person or sent by registered post* ***so as to reach the office of the Authority before the date and time fixed for the receipt of such applications.*** *Applications received after the date and time fixed or which are erroneous and incorrect shall be rejected.*

10.16. What this means is that a registered person must then apply, in the prescribed form and with the initial deposit, and the application must reach the Authority before the date and time fixed. Late or faulty applications are rejected. Four things follow from the text.

10.17. First, registration and application are two separate steps. The words "A person registered as stated above shall apply" show that registration comes first and application after it. Rule 10(1) itself makes it clear that being registered is not the same as having applied. If registration were already an application, the words "shall apply" would have nothing left to do.

10.18. Second, an application has a set form, Form II, and an initial deposit worked out as a

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percentage of the notified cost of the site. The cost of a site is notified when sites are offered under Rule 3.

10.19. Third, sub-rule (2) requires that the applications to reach the Authority "before the date and time fixed for the receipt of such applications". A date and time can be fixed only by a notice calling for applications, which is the notice Rule 3(2) requires, with "the last date for submission of applications". The two Rules fit together. No notice means no last date, and with no last date there can be no application in terms of sub-rule (2).

10.20. Fourth, the cost of non-compliance with the conditions of the notification would result in the application being labelled as an incorrect application which "shall be rejected". A Rule this strict about the form and timing of an application cannot be read to treat an earlier payment on registration as an application.

10.21. Applying these Rules, this Court holds that the payment of Rs.600/- on 22.08.2007 was merely registration with the MUDA and not an application for allotment. It was not made in

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answer to any notice, because there was none. It is not shown to have been on Form II, and it was not the initial deposit that Rule 10(1) requires. Respondent No.1's contention that registration with the MUDA was itself an application is therefore not accepted.

10.22. The MUDA also relied on Rule 4(2), set out in paragraph 4.8. Where sites are reserved for a class, the Authority decides the procedure for allotting them, subject to Government orders. A reservation, in other words, does not do away with procedure, and reserved sites are filled through a process like any other. The category share in Rule 13(2) works the same way. It fixes how many sites go to persons with disabilities, and the Rules then expect persons with disabilities to apply for them. Neither Rules gives a registered person the right to be handed a reserved site without applying.

10.23. The most pressing argument for Respondent No.1 is that 31 reserved sites lie unallotted, so one could have been given to him. The same cannot be accepted for the following three reasons.

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10.23.1. Vacant reserved sites shows that those sites are available. They do not show that Respondent No.1 is the person entitled to one. Under Rule 10 it is the application that is required to be considered for determining the rights to the claimant.

10.23.2. Several persons with disabilities may have wanted a site. Rule 3(2) requires public notice precisely so that every eligible person gets the same chance to apply. Competing applicants from the disability category are to be ranked as per Rule 4(2) which leaves the procedure to the MUDA, subject to Government orders. To hand a site, without notice, to one person who registered would shut out other persons with disabilities who never had the chance to apply. The Commissioner ought not have done that and a Court should not do that on the complaint of one person.

10.23.3. On the MUDA's account, only 11 persons applied for 42 sites, and all 11 were

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allotted sites. The rest of the sites remained vacant because no more persons applied in 2002, and not because anyone was turned away. Respondent No.1 was not turned away either, since nothing had been offered for him to apply for.

10.24. Smt. Jayna Kothari's strongest contention is that the MUDA cannot rely on its own failure to issue a notification after 2002. There is real force in the concern behind it, and this Court has weighed it with care. The record indicates that there being violation of applicable provisions, an investigation by CBI was taken up and the MUDA is interdicted form issuing any notification, many of the officers of MUDA being in Judicial Custody.

10.25. Respondent No.1 contends that CBI investigation concerned allotments by lottery and not sites for persons with disabilities. This Court accepts that the investigation was about allotments by lottery. But the investigation has brought an embargo on the MUDA, the MUDA cannot issue any notification or make any

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allotment of sites to anyone while the investigation is pending. The bar falls on the MUDA's power to notify and allot. It does not depend on who the allottee would be or which category of site. So even today no fresh notification can be issued, and a direction to allot a site to Respondent No.1 would ask the MUDA to do what it cannot lawfully do now and would again be a violation of the Rules.

10.26. This Court does not examine the investigation itself. It makes no finding against any person, including the former office bearers and the earlier Commissioner mentioned by Sri. T.P. Vivekananda. All such aspects are left open to be considered by the investigating agency and the competent court.

10.27. The investigation is mentioned only as the background to the embargo, and it is no reason either to grant or to refuse relief to Respondent No.1.

10.28. Respondent No.2 acted under Sections 61 and 62 of the Disabilities Act, 1995, and Smt. Jayna Kothari relies on them. Section 61 reads as under:

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> ***61. Powers of Commissioner.-*** *The Commissioner within the State shall--*
>
> *(a) co-ordinate with the departments of the State Government for the programmes and schemes for the benefit of persons with disabilities;*
>
> *(b) monitor the utilisation of funds disbursed by the State Government;*
>
> *(c)* ***take steps to safeguard the rights and facilities made available to persons with disabilities;***
>
> *(d) submit reports to the State Government on the implementation of the Act at such intervals as that Government may prescribe and forward a copy thereof to the Chief Commissioner.*

10.29. Section 62 reads as under:

> ***62. Commissioner to look into complaints with respect to matters relating to deprivation of rights of persons with disabilities.-*** *Without prejudice to the provisions of section 61* ***the Commissioner may of his own motion or on the application of any aggrieved person or otherwise look into complaints*** *with respect to matters relating to--*
>
> *(a) deprivation of rights of persons with disabilities;*
>
> *(b) non-implementation of laws, rules, bye-laws, regulations, executive orders, guidelines or instructions made or issued by the appropriate Governments and the local authorities for the welfare and protection of rights of persons with disabilities,*
>
> *and* ***take up the matter with the appropriate authorities.***

10.30. Section 61 mandates the Commissioner to coordinate, monitor, safeguard rights and report. Section 62 allows the Commissioner

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look into complaints about the deprivation of rights, or about laws and rules for persons with disabilities not being carried out, and then take the matter up with the appropriate authorities. Three points follow.

10.30.1. The words of Section 62 gives the Commissioner the job of looking into complaints and taking the matter up with the authorities concerned. They do not say that the Commissioner may himself allot property, or order a statutory authority to give a particular site to a particular person.

10.30.2. The duty of the Commissioner is to safeguard the rights the law provides for persons with disabilities. A person's right to be considered for allotment of site under the KUDA Rules comes into being only when he applies in response to a notification, and until then there is no right in respect of a site for the Commissioner to safeguard. An order to allot a site outside of the Rules would

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not protect a right. It would create one the law does not provide for.

10.30.3. Smt. Jayna Kothari submits that the Commissioner may pass necessary orders in favour of persons with disabilities whose rights are adversely affected. That is accepted only in the sense that he may look into a complaint and take the matter up with the authorities. It is not accepted as a power to override the KUDA Act and Rules.

10.31. The KUDA Act and Rules bind the MUDA. Section 71(2)(g), extracted above allows rules "regulating the allotment or sale by auction of sites by the Authority". Rules 3, 4 and 10 are the rules on the allotment of sites by the Authority. A direction that the MUDA allot a site to a person who has not followed such procedure runs against the Act and the Rules, and neither Section 61 nor Section 62 can be used to give it.

10.32. Two remaining points, one from each side, can be taken together. The MUDA says its objections were not considered, while

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Respondent No.1 says Respondent No.2 found the MUDA's stand unsatisfactory and unsubstantiated. This Court need not decide who is right.

10.33. The objections raised a point of law: no application had been made, and the Rules require one. That point had to be met, and on the Rules it could not be answered in favour of Respondent No.1. Whether the objections were looked at closely or not, the order cannot stand.

10.34. For these reasons the direction of Respondent No.2 to allot a site to Respondent No.1 could not have been made. Respondent No.1 qualifies as a person with disabilities, but he did not apply as the Rules require, there was no notification he could have answered by applying to, and the MUDA cannot now lawfully issue a notification or allot any site. Sections 61 and 62 cannot be used to circumvent the procedure laid down by the Rules.

10.35. This finding decides the relief. The complaint sought for a direction to allot a site. That relief cannot be granted without an application, so

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the complaint must be dismissed. It would still be harsh to treat the payment and registration of 22.08.2007 as if they had never happened. Respondent No.1 has a substantial disability, and the registration shows he came forward in 2007. He is free to apply when the MUDA issues a notification for allotment, and the MUDA must then take into account his seniority in terms of his registration. This Court does not direct the MUDA to issue a notification, since the embargo noted above stands in the way in any case. Nor does it direct the allotment of any site.

10.36. This court answers Point No. (ii) by holding that a person with disabilities cannot claim the allotment of a site from the MUDA only because he qualifies as a person with disabilities. Under the KUDA Act read with the KUDA Rules he must apply for it, in the prescribed form and in answer to a notification calling for applications. Registration on payment of Rs.600/- is not an application.

11. **Answer to Point No.(iii): What Order?**

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11.1. For the reasons given above, this Court passes the following:

ORDER

(i) The Writ Petition is **allowed**.

(ii) The order passed by Respondent No.2 in Case No.02/2013-14/481 dated 08.08.2013 at Annexure-E is quashed. This includes the direction to allot a site to Respondent No.1 and the direction to reserve the required percentage.

(iii) Consequently, the Complaint dated 26.06.2013 at Annexure-B is dismissed.

(iv) Liberty is reserved to Respondent No.1 to apply for allotment as and when a notification is issued for such allotment by the MUDA.

(v) While considering the application of Respondent No.1, the MUDA shall take into account the seniority of Respondent No.1 in terms of the registration made by him on 22.08.2007.

This Court has been assisted by Mr. Sourav, Law Clerk, in the formulation of the Judgement.

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(SURAJ GOVINDARAJ)
JUDGE

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