

(2001) 09 AP CK 0025

Andhra Pradesh High Court

Case No: Writ Petition No's. 12741, 12945 and 13553 of 1994

Taj Electronics Company

APPELLANT

Vs

Commissioner for Co-operative
Enquiries and Ex-Officio
Secretary to Government, Food
and Agriculture (Co-operative-III)
Department, Hyderabad and
Others

RESPONDENT

Date of Decision: Sept. 25, 2001

Citation: (2002) 1 ALD 171 : (2007) 6 ALT 101

Hon'ble Judges: R. Ramanujam, J

Bench: Single Bench

Advocate: R. Subash Reddy, for the Appellant; C. Panduranga Rao, K. Rajanna and
Government Pleader, for Industries and Co-operation, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

1. In this bunch of six writ petitions, facts are similar and the questions that arise for consideration are the same. Hence, they are disposed of by this common order.
2. The respondents are hereinafter referred to as they are arrayed in Writ Petition No. 12945 of 1994 for convenience sake.
3. All the six writ petitioners are small entrepreneurs and are members of the Co-operative Industrial Estate Limited, Balanagar, Hyderabad, 5th respondent herein, which is a Society, (hereinafter referred to as "the Society"), registered under the provisions of the A.P. Co-operative Societies Act (hereinafter referred to as "the Act"). The Society purchased about Ac. 101-00 cents of land from the Government of Andhra Pradesh in Kukatpally and Qutbullahpur Industrial Area in the year 1974 for the purpose of establishing a Co-operative Industrial Estate for Small Scale

Industrial Units. After developing that land, the Society divided the same into plots and allotted them to its members. Some such plots were allotted to the petitioners herein on 20th January, 1990. The extent of the plots thus allotted to the petitioners range from 220 Sq. yards to 1000 Sq. yards. Possession of those plots was also handed over to the petitioners immediately thereafter and regular sale deeds were executed on 24-1-1990 in the case of the petitioner in Writ Petition No. 12945 of 1994, on 7-6-1991 in the case of the petitioner in Writ Petition No. 12741 of 1994 and 29-1-1990 in the case of the petitioners in Writ Petition Nos. 12336 and 12641 of 1994. Lease-cum-sale deeds were executed on 22-3-1990 and on 23-3-1990 in favour of the petitioners in Writ Petition Nos. 12258 and 13553 of 1994, respectively. The petitioners, thereafter, set up their small-scale industrial units in their respective plots and are running the same.

4. It appears that some time in the year 1993 one Sri CM. Gupta, who is no more, claiming himself as a member of the Society, gave a complaint to the Commissioner for Co-operative Enquiries and Ex-Officio Secretary to Government, 1st respondent herein, alleging that even though he was a senior member of the Society, he was not allotted a plot, but some of his junior members were allotted plots by the Society. Thereupon, the 1st respondent directed the Member Convenor, State Level Committee and Inspecting Officer, 2nd respondent herein, to inspect the affairs of the Society with special reference to the allegations of irregularities in allotment of plots, u/s 52 of the Act and to submit his report. Pursuant to that direction, the 2nd respondent conducted an inspection and submitted his report to the 1st respondent on 23-10-1993 stating that there were irregularities in allotment of plots and the whole allotment is liable to be cancelled and started afresh, by giving opportunity to all the 41 in the list according to seniority. Agreeing with the findings of the Inspecting Officer, the 1st respondent issued directions, u/s 54 of the Act, in his Proceedings Rc. No. 406 /CCE/9-A, dated 25-10-1993, to the Administrative Officer of the Society directing him to rectify the defects pointed out in the inspection report. It would be appropriate to extract the same:

"Direction Proceedings u/s 54 of APCS Act 7 of 1964

Present: Sri R.S. Goel, IAS., Commissioner. Re. N0.406/CCE/93-A

Dated 25-10-1993.

Sub: Co-operative Engineering Department - Irregularities in allotment of Plots in Co-operative Industrial Estate Limited Balanagar - Inspection u/s 52 of APCS Act, 1964 - Orders -Issued.

Read: Inspection Report u/s 52 of APCS Act given by Member Convener, SLCEC., dated 23-10-1993.

Order:

Whereas one Shri CM. Gupta, Proprietor of M/s. Allied Agencies India, has represented that though he was a senior member of Balanagar Industrial Cooperative Estate, he was not allotted a plot but his juniors were allotted a few.

Whereas on statutory inspection u/s 52 of APCS Act 7 of 1964 the Member Convenor, State Level Cooperative Enquiries Committee has reported, after going into the particular episode of allotment of plots to applicants of expansion programme, violation of byelaws and principles of natural justice and taken place in the allotments on 20-1-1990 and whereas I agree with his findings.

Now, therefore, I, R.S. Goel, IAS under the power vested in me u/s 54 of APCS Act now draw your attention to the said inspection report (Copy enclosed) and direct you to rectify the defects by setting aside the allotment made on 20-1-1990 and make allotments afresh by giving opportunity to all the 41 members according to seniority.

Please note that failure to comply with this directions is an offence u/s 79(b) of the APCS and will be accordingly dealt.

Given under my hand and seal this 25th date of October, 1993.

Sd/- xxx xxx
Commissioner"

Pursuant to the aforesaid proceedings, Additional Director of Industries and Ex-officio Registrar of Industrial Co-operative Societies (A.P), Hyderabad, 3rd respondent herein, wrote to the Administrative Officer of the Society, vide; his letter Rc.No. 1860/ Desk 17(2)/93 dated 17-11-1993, requesting him to arrange an extraordinary Board meeting within 10 days from the date of assumption of charge of the New Board of Directors to take action for rectification of defects pointed out by Inspecting Officer and submit a detailed report in the matter immediately. It appears that the 3rd respondent issued a remainder to the Society on 23-11-1993. The 3rd respondent again wrote on 7-2-1994 requesting the Administrative Officer of the Society to arrange an extraordinary meeting of the Committee within 10 days for discussion and rectification of the defects pointed out by the Inspecting Officer and to comply with the directions issued by the 1st respondent on 25-10-1993.

5. Thereupon, the Board of Directors of the Society met on 3-3-1994 at 3 p.m., under the Chairmanship of Sri K. Prabhakar Reddy and resolved, inter alia, thus:

"After discussing about the report and also the directions of the Additional Director of Industries/Registrar it is unanimously resolved to rectify the defects pointed out by the Commissioner for Co-operative Enquiries with regard to irregularities in allotment of plots made on 20-1-1990.

As principles of natural justice that, an opportunity shall be given to the persons who were allotted plots in the said meeting i.e., 20-1-1990, as to why their

allotments should not be cancelled in pursuance of Orders issued by the Commissioner of Co-operative Enquiries, in his proceedings dated 25-10-1993 read above.

The allottees may be requested to file their objections, if any, to the said notice within 15 days from the date of receipt of the notice. The Administrative Officer is directed to issue appropriate notices to the parties concerned and, obtain acknowledgments".

Thereafter, show-cause notices were issued to the petitioners on 19-3-1994, separately, calling upon them to submit their objections, if any. The petitioners then submitted their individual objections. Thereafter, the Society passed orders, cancelling the allotment of plots on 29-6-1994 in the case of the petitioners in Writ Petition Nos. 12336, 12641, 12741 and 12945 of 1994, and on 24-6-1994 in the case of the petitioners in Writ Petition Nos. 12258 and 13553 of 1994. It would be appropriate here to extract, in toto, the cancellation order made in the case of the petitioner in Writ Petition No. 12945 of 1994, which reads thus:

"Office Phone:274292

The Co-operative Industrial Estate Limited Regd. No. INDA/122/63

Lr.No.CIE/164(230)/94/269

Balanagar, Hyderabad-500 037 (A.P.)

Date 29-6-1994

To

M/s. Taj Electronic, Company
Plot No. 131, Phase-II,
Gandhinagar,
Co-operative Industrial Estate,
Balanagar, Hyderabad-37.

Sir,

Sub:-Cancellation of Plot No.131, admeasuring 1000 Sq. Yards situated at Phase-II, Gandhinagar, Co-op. Indl. Estate, made to you vide registered document No. 11576/90.

As per the orders of Commissioner proceedings No.Rc.No.406/CCE/93-A, dated 25-10-1993 and Additional Director of Industries and Ex-Officio Registrar for Industrial Co-operative Societies letter No.1860/Desk. 17 (2)/93 dated 7-2-1994 the above plot is cancelled as per law.

I am herewith enclosing a Banker's Ch. No.BC/M-0045107 dated 29-6-1994, for Rs.6,800/- issued by, SBH., Balanagar, Hyderabad - 37, the consideration paid by you at the time of allotment/Registration.

Please acknowledge the receipt of the same.

Yours faithfully,

Sd/- xxx xxx xxx

Administrative Office I/c."

The orders issued to the petitioners in other cases are similar.

6. The petitioners then filed these writ petitions challenging the validity of the directions issued by the 1st respondent in his proceedings Re. No.406/CCE/93-A, dated 25-10-1993 directing the Administrative Officer of the Society to set aside the allotments made on 20-1-1990 and to make allotments afresh, and the consequential cancellation orders issued by the Society.

7. In Writ Petition Nos.12945, 12741 and 13553 of 1994 the then Commissioner for Co-operative Enquiries and Ex. Officio Secretary to Government, Sri R.S. Gael, IAS., was made a party respondent in his personal capacity also as the 7th respondent since mala fides were alleged against him.

8. In the aforesaid three writ petitions, Sri CM, Gupta, who gave a complaint to the 1st respondent was also joined as the 6th respondent. During the course of arguments, Counsel for the 6th respondent Sri G.S. Krishna Prabhu filed a memo dated 18-9-2001 intimating the fact of the death of the 6th respondent on 18-7-2001. Since no relief is claimed against the 6th respondent in the aforesaid three writ petitions, this Court decided to proceed further with the case without taking steps for joining his LRs.

9. The case of the petitioners in the aforesaid three writ petitions, as is evident from their affidavits, is that late Sri CM Gupta was not a member of the Society, but was a personal friend of the 7th respondent. With a mala fide intention, the 7th respondent, though not having jurisdiction, ordered inspection u/s 52 of the Act and issued directions u/s 54 of the Act to cancel the allotments made to the petitioners, without giving any opportunity to them.

10. Initially a common counter was filed on behalf of the respondents 1 to 4 and 7, where there was only a bald denial of mala fides. However, subsequently, during the course of arguments, another counter affidavit was filed on behalf of the 7th respondent specifically denying the allegations of mala fides.

11. Sri R. Subhash Reddy, the learned Counsel, who led the arguments on behalf of the petitioners, submits that:

(1) the post of Commissioner for Cooperative Enquiries was created under G.O.Rt No.2062, Food and Agriculture (Co-op - III) Department, dated 27-10-1987, to head the State Level Committee constituted for the purpose of enquiring into the alleged benami loans sanctioned by the Primary Agricultural Co-operative Societies and for that purpose limited powers under Sections 51, 52, 54, 55, 55-A, 120, 128 and 131 of the Act were delegated to him under G.O.Ms.No.238, Food and Agriculture (Co-op III) Department, dated 23-3-1991, and as such, the Commissioner for Co-operative Enquiries is not a Registrar for Industrial Co-operative Societies. Insofar as the Industrial Co-operative Societies are concerned, powers under Sections 51, 52 and 54 of the Act were delegated only to Additional Director of Industries, 3rd respondent herein. Therefore, the 1st respondent has no jurisdiction either to order inspection u/s 52 of the Act or to give directions u/s 54 of the Act;

(2) even if it is assumed that the 1st respondent has been invested with the powers under Sections 51, 52, and 54 of the Act, he cannot exercise those powers to give directions to the Society to cancel the allotments already made, on the complaint given by a member of the Society, inasmuch as that is a dispute within the meaning of that term u/s 61 of the Act, which can only be resolved by arbitration; and

(3) in any event, the impugned direction given by the 1st respondent directing cancellation of allotment of plots already made is illegal and void since it was issued without giving notice or opportunity to the petitioners and without conducting a regular enquiry.

12. Sri D.V.Bhadram, Counsel for the petitioners in Writ Petition Nos.12336,12258 and 12641 of 1994, supported the said contentions.

13. Sri K. Rajanna, Government Pleader for Industries and Commerce, seriously disputed the aforesaid contentions.

14. The first contention advanced on behalf of the petitioners is that the 1st respondent-Commissioner is not a Registrar within the meaning of that term under the Act and, therefore, he cannot exercise the powers under Sections 52 and 54 of the Act.

15. Sub-section (n) of Section 2 of the Act defines "Registrar" as under:

" 2(n). "Registrar" means the Registrar of Co-operative Societies appointed u/s 3(1) and includes any other person on whom all or any of the powers of the Registrar under this Act are conferred".

Section 3 of the Act deals with appointment of Registrar and other persons for the purpose of this Act, which is as under:

"3(1) There shall be appointed a Registrar of Co-operative Societies for the State and as many other persons as the Government thinks fit for the purposes of this Act.

(2) Every other person appointed under Sub-section (1) shall exercise under the general superintendence of the Registrar, such powers of the Registrar, under this Act as the Government may, from time to time, confer on him."

16. A combined reading of the aforesaid provisions makes it abundantly clear that the powers under the Act can be exercised either by the Registrar of Cooperative Societies appointed by the Government u/s 3(1) of the Act or by other officer on whom some or all other powers of the Registrar are conferred by the State Government.

17. In this case, it is no doubt true that the 1st respondent is only a Commissioner for Co-operative Enquiries, and not a Registrar of Co-operative Societies appointed as such by the State Government. It is also true that the post of Commissioner for Cooperative Enquiries was created under G.O.Rt.No.2062, dated 27-10-1987 to head the State Level Committee constituted for the purpose of enquiring into the allegations of misappropriation of large amounts of public funds by the Primary Agricultural Co-operative Societies; but it is incorrect to contend that limited powers of the Registrar were conferred upon him under G.O.Ms.No.238, dated 23-3-1991 only for the purpose of such enquiries regarding sanction of benami loans by the Primary Agricultural Co-operative Societies. In the aforementioned G.O., certain powers were conferred upon the Commissioner of Cooperative Enquiries, over all the Co-operative Institutions in the state. This would be clear from a perusal of the notification in the said G.O., which is as under;

"Notification

In exercise of the powers conferred by Section 3 of the Andhra Pradesh Co-operative Societies Act, 1964 (Act 7 of 1964) the Governor of Andhra Pradesh hereby appoints the authority mentioned in column No. (2) of the schedule held hereto, and confer on him in respect of the societies mentioned in Column No.(3) thereof the powers of the Registrar under the said Act and the Andhra Pradesh Co-operative Societies Rules, 1964 specified in the corresponding entries column No.(4) of the said Schedule.

SCHEDULE

Sl. No.	Authority	Types of co-operative societies	Extent of powers conferred
1	2	3	4

1.	CommissionerAll	Sections
	for co-operative	51,
	Co-operative institutions	52,
	Enquiries in	54,
	the	55,
	State	55-A,
	registered	120,
	under	128
	the	and
	A.P.	131
	Co-op.	of
	Societies	A.P.
	Act.	Co-operative
		Societies
		Act,
		1964
		.
		(Act
		7
		of
		1964)
		and
		the
		rules
		framed
		<u>thereunder.</u>

18. A bare perusal of the aforesaid order makes it very abundantly clear that the Government, in exercise of its powers u/s 3 of the Act conferred upon the Commissioner of Co-operative Enquiries the powers of the Registrar under Sections 51, 52, 54, 55, 55-A, 120, 128 and 131 of the Act with reference to all the Co-operative Institutions in the State registered under the Act. Therefore, the 1st respondent-Commissioner is invested with the powers of Registrar under Sections 52 and 54 of the Act in relation to the fifth respondent-Society also.

19. The second contention advanced on behalf of the petitioners, as already noted above, is that the complaint stated to have been given by late Sri C.M. Gupta, alleging irregularities in allotment of plots by the Society, can never be the subject-matter of inspection u/s 52 of the Act and, consequently, no directions to cancel the allotments made by the Society can be given u/s 54 of the Act by the Registrar or by the Functional Registrar. In the submission of the Counsel for the petitioners, the inspection that is envisaged u/s 52 of the Act can be made or

directed to be made by the Registrar either on the complaint of a creditor of the Society or suo motu only for the purpose of verifying that the Society is properly managing its financial affairs and discharging its debts in time, but not for the purpose of enquiring into the allegations of irregularities in allotment of plots.

20. For a proper appreciation of this submission, it is necessary to refer to Sections 52 and 55-A of the Act and Rule 59(1) of the A.P. Co-operative Societies Rules, 1964 (for short "the Rules"), which are as under:

"Section 52 Inspection :--(1) The Registrar may, of his own motion or on the application of a creditor of a society, inspect or direct any person authorised by him by a general or special order in this behalf to inspect the books of the society:

Provided that no such inspection shall be made or directed on the application of the creditor unless the creditor:-

(a) satisfies the Registrar that the debt is a sum then due and that he has demanded payment thereof and has not received satisfaction within a reasonable time; and

(b) deposits with the Registrar such sum as security, for the costs of the proposed inspection as the Registrar may require.

(2) The Registrar or any person authorised by him under Sub-section (I) shall prepare a report of inspection which shall be placed before the general meeting of the Society together with the findings of the Registrar of a Co-operative Societies thereon.

Section 55-A. Maintenance of Accounts and Books etc. :--(1) The Chief Executive Officer of every society by whatsoever designation he is called, or the President of the society, if there is no such Chief-Executive for that Society, shall be bound to keep, maintain or cause to maintain such accounts and books relating to that society in such manner as may be prescribed. He shall be responsible for the correct and up to date maintenance of such accounts and books, for producing or causing production of the same when called for in connection with audit, inquiry or inspection.

(2) If such accounts and books are not maintained the Registrar may direct the person who is responsible to bring the accounts and books upto date to make them up-to-date, and he shall be bound to comply with such direction within the period specified therein

(3) If the person fails to comply with the direction under Sub-section (1) the Registrar may suspend such person for such period as he may consider necessary and authorise any person to take action for bringing such accounts and books up-to-date at the expenses of the society and such expenses shall be recoverable from the society as if it were an arrear of land revenue.

(4) Where the Registrar takes action under Sub-section (3) the Registrar may call upon the person concerned whom he considers to be responsible for not complying with the direction made under Sub-section (2) and after giving such person an opportunity of being heard, may require him to pay the society the expenses paid or payable by it to the Government as a result of his failure to take action.

Rule 59. Accounts and other books to be maintained by societies :--(1) A society shall keep and maintain such accounts, books and registers in connection with the business of the society, as the Registrar, may from time to time directs.

(2).....".

21. A conjoint reading of Sections 55-A and Rule 59 makes it clear that the Chief Executive Officer of every Society has to keep and maintain such accounts, books and registers in connection with the business of the Society as the Registrar may from time to time directs and produce those books for audit or enquiry or inspection as and when called for by the Registrar or a person authorised by him.

22. A plain reading of Section 52 of the Act clearly indicates that the Registrar of Co-operative Societies can inspect or direct inspection of the books of the Society either on the application of a creditor of the Society or suo motu. But, the question that arises for consideration is: what is the scope of such enquiry? Is it wide enough as an enquiry u/s 51 of the Act to encompass all matters relating to the constitution, working and financial condition of the society, or is it limited to the financial affairs of the Society? The answer to this question, in my view, is provided in proviso (a) to Section 52(1) of the Act, which mandates that no such inspection on the creditor's application shall be made unless the creditor satisfies the Registrar that the debt in question is a sum then due from the Society and the Society has failed to pay the same within a reasonable time from the date of the demand made by him. This clearly indicates that the purpose of inspection of the books of the Society is to verify whether the Society is properly managing its financial affairs and discharging its debts in time or not. Thus, the scope of inspection u/s 52 of the Act is limited to the financial affairs unlike the enquiry u/s 51 of the Act, which is wide enough to encompass all the matters relating to the Society.

23. In the instant case, the complaint that was stated to have been given by late Sri CM. Gupta does not relate to the financial affairs of the society. That complaint, undisputedly, relates to the alleged irregular allotment of plots by the society. That being so, it is a dispute within the scope of Section 61 of the Act, which mandates that notwithstanding anything in any law for the time being in force, all the disputes touching the constitution, management or the business of a society, other than a dispute regarding disciplinary action taken by the society or its committee against a paid employee of the society, shall be referred to the Registrar for decision. It is, therefore, clear that the inspection ordered by the 1st respondent on the complaint stated to have been given by late Sri CM Gupta, u/s 52 of the Act, is not authorised

by Section 52 of the Act and is, therefore, far in excess of his jurisdiction.

24. Even if it is assumed that the inspection u/s 52 of the Act comprehends allegations of irregular allotment of plots by the society also or even if it is assumed that power of the 1st respondent in directing inspection can be traced to Section 51 of the Act, no direction could straight away be issued u/s 54 of the Act for cancellation of such allotments for the simple reason that such an allegation, as already held hereinabove, is a dispute comprehended by Section 61 of the Act, which has overriding effect over all other laws, including Section 54 of the Act. Therefore, the only course that was open to the 1st respondent, on receipt of the report from the 3rd respondent, was to direct the complainant to raise a dispute and refer the same for arbitration in accordance with Section 61 of the Act. But, he did not do so. He has not only issued directions u/s 54 of the Act, but also demanded compliance from the Administrative Officer of the society on the pain of penal action u/s 79(b) of the Act. This action of the 1st respondent, in my considered view, is far in excess of his jurisdiction.

25. What remains now is the third submission of the Counsel for the petitioners that the direction issued by the 1st respondent directing the society to cancel the allotments made to them is liable to be declared as void, in any event, inasmuch as no opportunity was given to them by the 1st respondent before issuing the said direction. Since I have already held that the 1st respondent has exceeded his jurisdiction in issuing the impugned direction to the society u/s 54 of the Act, I am not proposing to examine this contention.

26. There is yet another reason as to why the impugned action of the society in cancelling the allotment of plots cannot be sustained.

27. As already noted, Plots were allotted to the petitioners on 20-1-1990. Possession of the same was handed over to them and regular sale deeds were executed in the case of the petitioners in Writ Petition Nos. 12336, 12641, 12741 and 12945 of 1994, and lease-cum-sale deeds were executed in the case of the petitioners in Writ Petition Nos. 12258 and 13553 of 1994, in the year 1990 itself. Thereafter, the petitioners had set up their industrial units in their respective plots and are running their industries. Whether the society has power or jurisdiction to cancel those allotments and the sale deeds registered by it, is itself a moot question. Even assuming that the society can cancel the allotments, that cannot be done without giving proper opportunity to the petitioners to explain their case and without proper consideration of their objections/explanations. In other words, the society cannot merely follow the dictates of the 1st respondent and cancel the allotments made long back.

28. As already noted, in this case, the Board of Directions, in their meeting that was held on 30-3-1994 resolved, even before issuing notices to the petitioners, "to rectify the defects pointed out by the Commissioner of Enquiries with regard to

irregularities in allotment of plots made on 20-1-1990." Once such a decision is taken, issuance of show-cause notices and considering the objections of the petitioners in a mere empty formality. What is required under law is providing an effective opportunity, but not a pretence of opportunity. Be that as it may, as already noted, all the petitioners have submitted their objections to the society explaining their case as to why the allotments made in their favour cannot be cancelled. It appears that those objections/ explanations were placed before the Board of Directors in the meeting that was held at 3 p.m., on 25-6-1994. It would be interesting to refer to the minutes of the said meeting regarding the consideration of the replies to the show-cause notices, which is as under:

"5. Consideration of replies to show-cause notices on the report of the Commissioner for Co-operative enquiries :- The Chairman informed the Board that the replies were received from the 7 persons who were allotted plots in the meeting held on 20-1-1990 except Mr. Maheshkumar and the replies were sent to the Additional Commissioner. The Additional Commissioner had suggested to take action as per legal opinion. Accordingly, legal opinion had been taken. As per the legal opinion, the allotments made to the 8 allottees on 20-1-1990 have been cancelled and also registered the cancellation deeds in respect of the sale deeds executed with the Joint Sub-Registrar.

The action taken by the Estate in pursuance of the Rc. No. 988 /Dsk. 17(2)/ 88 dated 23-11-1988 from the Additional Commissioner and Commissioner order vide Rc. No. 406/CCE/93-A dated 25-10-1993 and Letter No.1860/Dsk. 17(2)/1993 dated 7-2-1994 of the Additional Director of Industries and Ex-Officio Registrar of Industrial Cooperative Societies, in cancelling the allotments made on 20-1-1990, as per the law, is ratified.

Sri S.G. Dhopeshwarkar has pointed out that why action should not be taken with regard to the other 2 allottees i.e., C-22, C-23 for whom the land in common facility area was allotted, and why there should be a discrimination.

The Chairman informed that the enquiry was conducted by the Commissioner on a complaint by a member and passed orders directing this society to rectify the defects by setting aside the allotment made on 20-1-1990. Hence, action had been taken accordingly. However, society -will initiate action to streamline any irregularities which are existing".

These minutes clearly show that the Board of Directors did not at all consider the objections raised by the petitioners. These minutes further show the decision to cancel the allotments made even before the Directors of the Society met on 25-6-1994 to consider the objections of the petitioners. This would be further clear from the fact that in two cases, i.e., in Writ Petition Nos.12258 and 13553 of 1994, cancellation of allotment orders were issued by the society on 24-6-1994 itself i.e., a day before the said Board meeting on 25-6-1994.

29. The fact that the Board of Directors have not considered the objections/ explanations submitted by the petitioners and came to an independent conclusion would be further clear from a perusal of the impugned cancellation orders. The cancellation order in the case of the petitioner in Writ Petition No.12945 of 1994 has already been extracted hereinabove and similar orders were passed in all the other cases. A perusal of the same would clearly show that the Board of Directors of the Society have clearly abdicated their duty to consider the objections/explanations submitted by the petitioners and merely followed the dictates of the 1st respondent-Commissioner.

30. For all the aforementioned reasons, the direction issued by the 1st respondent in Re. No.406/CCE/93-A, dated 25-10-1993 and the impugned cancellation orders issued by the society, pursuant to the aforesaid direction of the 1st respondent, cannot be sustained.

31. All the writ petitions are, therefore, allowed. Let writ of mandamus be issued separately, in each of these writ petitions, declaring the proceedings issued by the 1st respondent in his Rc. No. 406/CCE/93-A, dated 25-10-1993, and the consequential impugned cancellation orders issued by the society to each of the petitioners in these writ petitions, as illegal and void. No costs.