(2011) 05 DEL CK 0462

Delhi High Court

Case No: LPA No. 1095 of 2006

Society for Employment and Career Counselling (Regd.)		APPELLANT
	Vs	
The Chairman, Delhi Development Authority and Others		RESPONDENT

Date of Decision: May 27, 2011

Acts Referred:

- Constitution of India, 1950 - Article 226
- Delhi Development Act, 1957 - Section 22
- Delhi Development Authority (Disposal of Developed Nazul Land) Rules, 1981 - Rule 20, 5

Hon'ble Judges: Sudershan Kumar Misra, J; Sanjay Kishan Kaul, J

Bench: Division Bench

Advocate: Geeta Luthra, Sanjeev Sahai and Shivkant Arora, for the Appellant; Rajiv Bansal, Abhir Datt and Razia Ali for R-1 and R-2/DDA, for the Respondent

Final Decision: Dismissed

Judgement

Sanjay Kishan Kaul, J.

A number of educational institutions filed writ petitions under Article 226 of the Constitution of India before this Court aggrieved by the non-allotment of land to them at pre-determined rates under the Delhi Development Authority (Disposal of Developed Nazul Land) Rules, 1981 (hereinafter referred to as the "said Rules"). Such Petitioners included higher and technical institutes, schools and even hospitals. The common case made out was that their applications for allotment of Nazul land at pre-determined rates was at advanced stage after due clearance but on the eve of proposed allotment the policy was changed and the land was now sought to be disposed of only by way of public auction, which would imply much higher rates rather than the pre-determined rates.

2. We may note at this stage that the said Rules have seen various amendments, i.e. the position prevalent prior to 2002, amendments made effective from 5.7.2002, amendments made effective from 9.12.2004 and amendments made effective from 19.4.2006. The said Rules have been framed under the Delhi Development Act, 1957 (hereinafter referred to as the "said Act") and Section 22 of the said Act provides for the developed and un-developed land in Delhi to be placed at the disposal of the DDA by the Central Government, which is known as Nazul land.

3. We may add that the last amendment to the said Rules was carried out post the judgment rendered by the learned single Judge of this Court, which has been impugned in the present LPA since the policy decision taken by the DDA on 15.12.2003 to dispose of Nazul land only by auction was held contrary to Rule 5 of the said Rules and was, thus, declared illegal and void. The lacuna found in the said Rules by the said judgment whereby societies registered under the Societies Registration Act were not to be covered by the policy decision of 15.12.2003 was sought to be got over by the last set of amendments.

4. The challenge laid to the last set of amendments made effective from 19.4.2006 has been repelled by this Court in WP (C) No. 2459-60/2005 titled Bhagwan Mahavir Education Society (Regd.) and Anr. v. DDA and Ors. & other connected matters decided on 25.3.2011. It has been held that under the existing Rules, it is the mode of auction which is available for disposal of the Nazul land for higher and technical education institutes, schools and hospitals other than cases which fall within the domain of Rule 5 read with Rule 20 of the said Rules and the Petitioners therein did not fall in that category.

5. We had recorded in our order dated 5.5.2011 that the challenge laid by the DDA to the impugned judgment in LPA Nos. 1114/2006, 1115/2006, 1117/2006, 1118/2006, 1123/2006, 1125/2006, 1640/2006, 1642/2006, 1646/2006, 1647/2006 was withdrawn by the counsel for the DDA as in his view our judgment in Bhagwan Mahavir Education Society (Regd.) and Anr. v. DDA and Ors. & other connected matters (supra) protected the interest of the DDA. In fact, other LP As filed by private parties also stand withdrawn.

6. The Appellant herein being one of the original Petitioners is, however, aggrieved by some part of the observations and directions in the impugned judgment dated 17.04.2006. It is the case of the Appellant that the allotment in its favour already stood approved by the competent authority in June, 2004 and, thus, contend that the observations made in para 46 of the impugned judgment that the Petitioners would be entitled to be considered for allotment cannot apply to the case of the Appellant as it would amount to relegating the Appellant to an original position of fresh consideration para materia to other cases while the distinguishing feature in the case of the Appellant is that unlike the other cases where no consideration had taken place during the tenure of the old policy prior to 09.12.2004, the formal offer of allotment was made to the Appellant on 07.07.2004.

7. The second limb of the Appellant''s case is that there was discriminatory and mala fide conduct of the Lieutenant Governor (i.e., Chairman, DDA), who kept the file of the Appellant in abeyance for an indefinite period without taking any decision on the same at different periods of time - 7 months between September, 2001 to April, 2002; 17 months between May, 2002 to September, 2003; and again 7 months between November, 2003 to June, 2004 while approving allotments to other applicants during the same period of time. The Appellant, thus, claims a vested right to the allotment of plot No. 50 (B & C), Tughlakabad Institutional Area such right having arisen in September, 2001 prior to the new policy of the DDA dated 09.12.2004, when the Vice-Chairman, DDA had taken a decision for allotment of 1,479 sq. mtrs. of plot against the minimum requirement of Appellant of 2,000 sq. mtrs.

8. The Appellant also relies upon a letter dated 07.07.1994 of the DDA, which is stated to be an allotment letter and is in the following terms:

No. F.12(50/96/1L/3098

Dated 7/7/04

To,

The Director,

New Delhi Institute of Management,

60 - 61, Tughlakabad Institutional Area,

New Delhi - 110 062.

Sub: Allotment of land for Management Institute.

Sir,

With regard to your pending request for allotment of 1,479 sq.mt. of land in Tughlakabad Institutional Area, you are requested to get us a confirmation from the AICTE whether they have no objection to the allotment of 1,479 sq.mt. of land for the above purpose as per prescribed norms.

Yours faithfully,

Sd/- (Manish Gard)

Deputy Director (IL) DDA

Copy to:

The Secretary, All India Council for Technical Education, Indira Gandhi Indoor Stadium, New Delhi.

9. Learned senior counsel for the Appellant faced with the judgment in Bhagwan Mahavir Education Society (Regd.) and Anr. v. DDA and Ors''s & connected matters (supra) sought to distinguish the present case on its own facts mentioned aforesaid to contend that despite the said Judgment, the Appellant herein would be entitled to the plot. The factual basis for the same is set out hereinafter. The Appellant claims to be a registered society under the Societies Registration Act, 1860 carrying on educational and social welfare activities from its 2,000 sq. mtrs. of land allotted under a sponsorship in 1996/1999 at Tughlakabad Institutional Area. In 1996, the Appellant society started a Management Institute from the same land in addition to its educational and social welfare activities with the approval of the then Delhi Govt. (now, the Govt. of NCT of Delhi) simultaneously applying for a separate allotment of land for the Management Institute. It is the case of the Appellant that it was entitled to allotment of 4,000 sq. mtrs. of land for the Management Institute. However, the Govt. of NCT of Delhi took a decision in November, 2000 to allot only 2,000 sq. mtrs. of land on the assurance that this land shall be allotted adjoining to the land of the Appellant so that the total land area in one location became 4,000 sq. mtrs. to comply with the All India Council for Technical Education (for short, "AICTE") norms. It is in these circumstances that plot No. 50 (B & C) located nearest to the existing land of the Appellant was recommended by the DDA''s Planning Department and the Institutional Allotment Committee on 28.08.2001, which was approved by the Commissioner (Lands Disposal) and the Vice-Chairman, DDA in September, 2001. However, this land allotment was reduced to 1,479 sq. mtrs. on the assurance that this plot had to be necessarily allotted to the Appellant adjoining to the existing land and it was thereafter that the file was sent for formal approval of the Chairman, DDA being the Lieutenant Governor in September, 2001. The file, however, is stated to have remained pending for one reason or the other up to June, 2004 when the DDA sent a letter dated 07.07.2004 to the Appellant to furnish confirmation and no objection to the allotment of AICTE. The AICTE issued a letter dated 12.07.2004, which was handed over to the DDA on 15.07.2004, but the allotment was not made.

10. An important development, which took place during the pendency of the appeal, was that the plot in question was put to auction on 06.03.2006 during the pendency of the writ petition before the learned Single Judge. It is the case of the Appellant that purchase of the plot in the auction was a necessity as the Appellant had taken a confirmation for allotment of this plot from AICTE at the instance of the DDA in terms of the letter dated 07.07.2004. The Petitioner participated in the auction with leave of the Court and was the successful bidder and obtained possession of the plot on payment of the price under directions of the learned Single Judge. This was, however, without prejudice to the entitlement of the Petitioner (Appellant herein) for refund of the auction money, if the Petitioner succeeded in the writ petition. Thus, though the Appellant is enjoying the additional land, the effective relief which the Appellant now claims is that it is not the auction rates, which would apply to the Appellant, but the pre-determined rates and, thus, the Appellant is entitled to the

refund of the differential of the two amounts.

11. Learned Counsel for the Appellant in the written synopsis has sought to build a case on parity with the allotment made to Lal Bahadur Shastri Institute of Management, whose allotment was stated to have been rejected on 11.07.2003, but re-activated on a new request made on 23.12.2003, though the policy decision providing the relevant cut-off date is 15.12.2003. The allotment was made on 29.11.2004 on the plea that additional land had to be allotted for completing the minimum land requirements at one place as per the AICTE norms. This is stated to be an identical position to that of the Appellant as the Appellant was allotted 1,479 sq. mtrs. of land in addition to the earlier allotment to complete the minimum land norms as per the AICTE requirements and the noting files are also stated to substantiate the parity of the two cases.

12. The second limb of the submission of learned Counsel for the Appellant is predicated on the aforesaid unexplained delay on the part of the Chairman, DDA when questions were raised from time to time. The Petitioner claims by relying on the judgment of S.B. International Ltd. and Others Vs. Asstt. Director General of Foreign Trade and Others, that the delay should not prejudice the Appellant, who should be entitled to the allotment as per the then prevalent norms. These recommendations are stated to have been made by three different Vice-Chairmen, DDA in favour of the Appellant. The allegations in the petition have been made qua the Chairman, DDA of discrimination and mala fide and communications were also addressed to the Prime Minister by Justice Sarkaria vide his letter dated 24.07.2004. It is submitted that these pleadings are sufficient to establish at least "legal malice" as enunciated in H.M.T. Ltd. rep. by its Deputy General Manager (HRM) and Another Vs. Mudappa and Others, where "legal malice" has been defined as "an act done wrongly and willfully without reasonable or probable cause and not necessarily an act done from ill-will and spite". It is the deliberate act in disregard of the rights of others. Similarly in Smt. S.R. Venkataraman Vs. Union of India (UOI) and Another, "malice" in its legal sense was held to mean "doing of a wrongful act intentionally without just cause of excuse or for want of a reasonable or probably cause". In Pilling v. Abergele Urban District Council, (1950) 1 KB 636, it was observed that if a discretionary power has been exercised for an unauthorized purpose, it is generally immaterial whether its repository was acting in good faith or in bad faith. A further limb of this line of submission is that a legitimate expectation was created in favour of the Appellant when the DDA took a decision to reduce the Appellant''s entitlement from 4,000 to 2,000 sq. mtrs. of land in November, 2000 and when an assurance was made that the land would be allotted adjacent to the land of the Appellant. The consent of the Appellant was also taken for reduction of allotment from 2,000 sq. mtrs. to 1,479.44 sq. mtrs. of land and on 07.07.2004, the Appellant was asked to obtain confirmation/no objection from AICTE. The Appellant claims to have acted in pursuance to the said communication by not only obtaining the clearance from AICTE, but constructed 521 sq. mtrs. additional space in the form of

porta cabins on their existing land to meet the deficient allotment to satisfy the minimum 2,000 sq. mtrs. norm of AICTE. Learned Counsel has referred to the observations in Eros City Developers Private Limited v. State of Haryana and Ors., CL- 2008 2 PLR 492 in support of the plea of legal malice and legitimate expectation where in para 31, it was observed as under:

31. We are further of the view that impugned notifications in the present case also suffer from legal malice. The Petitioner- company having been given permission for change of land use and laying of approach road by the Respondents has not been treated fairly by the Respondents. In pursuance to the permission granted to the Petitioner-company, it has deposited huge amount. Orders have also been passed by Hon''ble the Supreme Court in favour of the Petitioner-company. The Petitioner-company has also leveled the land by removing hillocks and filling pits. The exercise of power of acquisition in such circumstances must be held to suffer from malice in law. In the case of State of Punjab and Another Vs. Gurdial Singh and Others, acquisition of land for construction of grain market was challenged on the ground of legal malice. Hon''ble the Supreme Court has sustained the challenge and proceeded to explain the legal mala fide, which reads thus:

Pithily put, bad faith which invalidates the exercise of power - sometimes called colourable exercise or fraud on power and oftentimes overlaps motives, passions and satisfactions - is the attainment of ends beyond the sanctioned purposes of power by simulation or pretension of gaining a legitimate goal. If the use of the power is for the fulfillment of a legitimate object the actuation or catalysation by malice is not legicidal. The action is bad where the true object is to reach an end different from the one for which the power is entrusted, goaded by extraneous considerations, good or bad, but irrelevant to the entrustment. When the custodian of power is influenced in its exercise by considerations outside those for promotion of which the power is vested the court calls it a colourable exercise and is undeceived by illusion. In a broad, blurred sense, Benjamin Disraeli was not off the mark even in law when he stated: "I repeat...that all power is a trust - that we are accountable for its exercise - that, from the people, and for the people, all springs, and all must exist.

The aforementioned observations have been approved by Hon''ble the Supreme Court in the case of Raja Ram Jaiswal (supra).

13. Learned Counsel for the Appellant contended that the communication of the DDA dated 07.07.2004 was really in the nature of an offer of allotment and, thus, gave rise to a legitimate expectation that the allotment would be made in its favour even though it was to obtain a NOC from AICTE. Thus, the DDA cannot be permitted to do a volte face and as an after-thought deny the Appellant its legitimate rights.

14. Learned Counsel read through the file notings made in the case of the Appellant to substantiate the aforesaid plea of undue delay and legal malice.

15. On the other hand, learned Counsel for DDA submits that the judgment of this Court in Bhagwan Mahavir Education Society (Regd.) and Anr. v. DDA and Ors.''s & connected matters (supra) would govern the case of the Appellant also.

16. Learned Counsel sought to distinguish the case of Lal Bahadur Shastri Institute of Management of which details were submitted in another connected LPA No. 1781/2006 titled "Mother Teresa Institute of Management (Regd.) v. DDA? in which judgment has been rendered by us today. The demand-cum-allotment letter is stated to have been issued on 22.11.2002 in the said case and only physical possession was handed over on 29.12.2003 qua 3,000 sq. mtrs. of land. The Institute vide letter dated 06.01.2003 had, in the meantime, requested for allotment of 1 acre (4046 sq. mtrs. of land) and the Lieutenant Governor vide letter dated 14.01.2003 had agreed to allotment of 1 acre. Thus, the matter was processed for allotment of additional land of 1,000 sq. mtrs., which was allotted from the adjoining plot and the proposal was approved by the Lieutenant Governor on 29.11.2004. In the case of the Appellant, it is stated that there was already a functioning Institute and fresh allotment of land was claimed for the Management Institute. It is only to meet the AICTE requirements, in the absence of availability of the requisite land, that the allotment of land next to the existing land was sought to be examined. Thus, it was a case of fresh allotment, though adjacent to the existing land of the Appellant and not in that sense, a case of additional allotment of land. Learned Counsel has strongly rebutted the arguments of any deliberate delay by keeping the file of the Appellant in abeyance. The notings and movement of the file show that various queries were raised and due precaution was liable to be taken where there is distribution of State largesse through allotment of land at pre-determined rates. A chart has been given setting out the movement of the file to substantiate the plea that there was continuous movement in the file, which is as under:

Date	Details of the Event
12.09.1996	Appellant applied for the Allotment of land for New Delhi Institute of Management under the Nazul Rules
Oct/Nov 2000	Respondent DDA confirmed availability of land/plots in Tughlakabad through Department of Technical Education, Govt. of Delhi
Dec, 2000	Director, Department of Technical Education, Govt. of Delhi offered 2000 sq.m land adjacent to the existing land of the Society instead of 4000 sq.m.
22.12.2000	Appellant gave an undertaking to the Director, Department of Technical Education, Govt. of Delhi about willingness to accept 2000 sq,m of land which was communicated to the Respondent DDA

28.08.2001	Institutional Allotment Committee (IAC) of DDA decided to recommend 1479 sq. m of land
Dec 2001	After a gap of 3 months, Appellant consented to the offer of allotment of 1479 sq.m of land. Commissioner (Lands) of DDA on behalf of the LG collected required information
28.09.2001	Proposal for allotment of land was put up before the
21.03.2002	LG
15.04.2002	LG sought report on the SC/ST activities of the Society which was a necessary process of inquiry keeping in mind the purpose of allotment of land for the upliftment of the backward sections of the society
24.04.2002	VC sent his report stating that the Appellant Society has been declared as a National Level NGO by the Government for contributing in the filed of SC/ST welfare
17.03.2003	The file was handed over to the VC and the LG requested the VC to examine and advise in the present matter
13.05.2003	The matter was again put up before the LG. It was observed by the LG that after 1999, for the last three years, Appellant has not applied for grant in aid from Government of India. Also that the Appellant made an Affidavit stating that they would be running only GGS Indraprastha courses
April to August 2003	Several information was sought by DDA on ii. from the Department of Social Welfare Government of NCT, Delhi regarding grants in aid received by the Appellant for the last three years
04.09.2003	LG asked the Vice Chairman to take a view on gathered information
19.09.2003	Clarification sought from the Appellant regarding the signing of Affidavit by Appellant for running only GGS Indraprastha courses and not receiving grants from Department of Social Welfare Government of NCT, Delhi for last three years
Oct, 2003	Appellant furnished information along with the details of such information, File was submitted by Director (Lands) to LG
15.12.2003	DDA policy decision taken whereby allotment of land would be made by way of auction

07.07.2004	Letter by Respondent DDA to enquire whether AICTE would have any objection to the allotment of 1479 sq.m of land instead of the prescribed 2000 sq.m land required for higher/technical institutes set up by registered societies
12.07.2004	AICTE conveyed no objection to the offered land of 1479 sq.m subject to the Appellant fulfilling the requirement of 2000 sq.m of land by constructing 521 sq.m of additional space
13.10.2004	Appellant filed Writ Petition No. 16691-92/2004

17. Learned Counsel has drawn the attention of this Court to the fact that there are no specific averments against the then Lieutenant Governor other than the general allegations of mala fide, while malice in law must be specifically pleaded and proved. There cannot be a general allegation that the Lieutenant Governor harboured malice towards the Appellant. Learned Counsel has referred to the Law Lexicon by P. Ramanthan Iyer where "malice in law" is defined as, "a depraved inclination on the part of a person to disregard the rights of others, which intent is manifested by his injurious acts".

18. Insofar as the letter dated 07.07.2004 is concerned, it is stated that to be merely a requirement of obtaining the consent of AICTE in the form of a no objection to allotment of 1,479 sq. mtrs. of land instead of prescribed 2,000 sq. mtrs. of land, but not an allotment itself.

19. We have given our thoughtful consideration to the matter in issue, especially keeping in mind the judgment already rendered by us in Bhagwan Mahavir Education Society (Regd.) and Anr. v. DDA and Ors''s & connected matters (supra).

20. The case of the Appellant is predicated firstly on a plea of allotment, which is stated to be discernable from the letter dated 07.07.2004. We have already reproduced the contents of the said letter so that it can be appreciated. There is no doubt that the language of the said letter makes it clear that it is only a communication to the Appellant to obtain a no objection from AICTE for allotment of 1,479 sq. mtrs. of land instead of prescribed 2,000 sq. mtrs. of land. It is not an allotment by itself, but at best, can be treated as a prelude to a possible allotment. This letter does not, thus, help the Appellant so as to take the case out of the purview of our judgment in Bhagwan Mahavir Education Society (Regd.) and Anr. v. DDA and Ors''s & connected matters (supra).

21. Now, turning to the plea of the Appellant of an undue delay and, thus, entitlement to the Appellant of the land as per the then prevalent policy, especially taking into consideration the observations of the Supreme Court in S.B.

International Ltd. and Ors''s case (supra). We have already observed aforesaid that the letter dated 07.07.2004 does not constitute an allotment. There is nothing else on the original record, which we have perused carefully, to show any decision of allotment by the Lieutenant Governor. Insofar as the case for allotment in question of the Appellant is concerned, the Appellant was allotted 2,000 sq. mtrs. of land earlier for a different objective. It is the proposed setting up of the Management School which gave rise to the Appellant making a request for allotment of 4,000 sq. mtrs. of land, which was processed for allotment of 2,000 sq. mtrs. of land possibly in view of scarcity of land. The Institutional Allotment Committee, however, recommended allotment of only 1,479 sq. mtrs. of land vide its decision dated 28.08.2001, which was acceptable to the Appellant vide a communication made after three months. We may hasten to add that the decision of the Institutional Allotment Committee is only recommendatory in nature as the Committee is to aid and assist the Lieutenant Governor in making allotment of land. The Lieutenant Governor wanted to verify the antecedents of the Appellant insofar as its earlier activities were concerned as it was already running an Institute. This is apparent from the notings of 15.04.2002. Thereafter, requisite information was sought and the Lieutenant Governor asked the Vice-Chairman, DDA to look into the matter and opine on the same. It is after such opinion that the matter was again put up before the Lieutenant Governor on 13.05.2003 and it was found that after 1999, the Appellant had not applied for Grants-in-Aid from the Government of India and they had given an affidavit stating that they would be running only Guru Gobind Singh Indraprastha University Courses. The information was, thus, sought from the DDA about the agreement between the Appellant and the GGS Indraprastha University as also the affidavit affirmed by the Appellant and from the Department of Social Welfare, Govt. of NCT of Delhi regarding Grants-in-Aid received by the Appellant for the last 3 years. This process took place between April, 2003 to August, 2003 and the Lieutenant Governor on 04.09.2003 asked the Vice-Chairman, DDA to take a view on the gathered information. A clarification was also sought from the Appellant, which was furnished in October, 2003 and on 15.12.2003, the crucial policy decision was taken to make allotment only through the auction mode. The aforesaid sequence of facts show that there had been various queries raised by the Lieutenant Governor, which cannot be said to be irrelevant and not germane to the important aspect like the allotment of land at concessional (pre-determined) rates. No doubt, there has been extra time taken at stages, but there is no such inordinate delay in processing such a case as to give vested right to the Appellant to get allotment of land.

22. We cannot lose sight of another aspect of the matter arising from the nature of right claimed, i.e., the right is for allotment of land at concessional rates. It is not a right to carry on any business, which is at the cost of the businessmen and there had been delay in licence as in the case of S.B. International Ltd. and Ors''s case (supra). It is in the nature of a largesse from the Government to an organization like the Appellant and, thus, due care and caution should be taken and parity with the

principles in the case of S.B. International Ltd. and Ors''s case (supra) cannot be allowed.

23. There is also another aspect to the matter. Learned Counsel while referring to the appeal could only show at best general allegation that the action of the Lieutenant Governor was "mala fide". No specific plea of "legal malice" has really been raised. The Lieutenant Governor has not been made a party to rebut any plea of mala fide or malice. It is not a case where per se from facts a legal malice can be deciphered. Legal malice must be properly pleaded and proved and, thus, the judgment cited by the Appellant on the general principles of legal malice cannot come to the aid of the Appellant. It is not as if the principle of legal malice is unknown or undefined, but the question arises whether the Appellant has been able to establish such a legal malice. We are afraid that the Appellant has failed to do so.

24. The linked plea of any legitimate expectation also, thus, cannot be substantiated. We have already observed that the letter dated 07.07.2004 was only for a limited purpose. The Appellant could not have presumed from the said letter that the allotment has been made. Thus, any action taken by the Appellant in that behalf stated to be of construction of some porta cabins can hardly be said to have given any right in favour of the Appellant to get allotment at pre-determined rates.

25. We may add that the DDA, in fact, acted with utmost alacrity while dealing with the file or in queries raised from the Lieutenant Governor and learned Counsel for the DDA hinted that such a process was possible because of the close interest of some senior official of the DDA at the relevant stage of time, who post-retirement is now actively engaged with the Appellant while earlier his father was engaged with the Appellant. It was, thus, suggested that the Lieutenant Governor was, in fact, bound to take an extra care and caution to see that there was no undue haste being shown by the DDA to somehow process the case irrespective of the queries raised by the Lieutenant Governor.

26. No doubt, there are certain notings seeking to draw parity between Lal Bahadur Shastri Institute of Management and the case of the Appellant. However, the facts and circumstances of the said allotment has already been recorded aforesaid and we are inclined to accept the plea of learned Counsel for the DDA that the Appellant cannot claim parity, the same being really a case for fresh allotment, which was sought to be made adjacent to the existing land of the Appellant to meet AICTE requirements. In any case, merely on the plea of such parity, the Appellant cannot get the benefit of land at concessional (pre-determined) rates by direction made under Article 226 of the Constitution of India.

27. We may note in the end that practically, the purpose of the Appellant is served as it has got the land and is utilizing the same albeit in a public auction and without prejudice to the rights and contentions of the Appellant as prayed and permitted by the learned Single Judge. The question, thus, only is whether the Appellant is to be

charged at auction rates or at pre-determined rates and in case it has to be charged at pre-determined rates, the differential should be refunded to the Appellant making available the land at concessional rates to the Appellant. We have already accepted that the amendment to the Rules is valid and the mode of auction is the correct mode for disposal of land in our judgment in Bhagwan Mahavir Education Society (Regd.) and Anr. v. DDA and Ors. & other connected matters (supra). Thus, we are not inclined to grant any relief to the Appellant or being re-compensated by the DDA for the differential of auction and the pre-determined rates.

28. We are, thus, of the considered view that the case of the Appellant is no different and is governed by our judgment in Bhagwan Mahavir Education Society (Regd.) and Anr. v. DDA and Ors. & other connected matters (supra).

29. The appeal is accordingly dismissed in terms aforesaid.