courtkutchehry.com

Company: Sol Infotech Pvt. Ltd.
Website: www.courtkutchehry.com
Printed For:
Date: 19/11/2025

(2002) 12 DEL CK 0097

Delhi High Court

Case No: CW No. 3694 of 2000

Dr. R.N. Gupta		APPELLANT
	Vs	
Delhi Development Authority		RESPONDENT

Date of Decision: Dec. 18, 2002

Acts Referred:

- Delhi Development Authority (Disposal of Developed Nazul Land) Rules, 1981 - Rule 20

Citation: (2003) 66 DRJ 539

Hon'ble Judges: Sanjay Kishan Kaul, J

Bench: Single Bench

Advocate: Aseem Mehrotra, for the Appellant; Rajesh Mahajan, for the Respondent

Judgement

Sanjay Kishan Kaul, J.

The petitioner association is a registered society which applied to respondent DDA in October 1998 for allotment of land for Aditya College of Pharmacy and Science. The North Western Regional Committee of All India Council for Technical Education (AICTE) addressed a letter dated 18.11.1998 to the DDA with a copy marked to the petitioner granting permission to the society to start a new institute. A confirmation was sought that the land for the construction of the institute had been allotted to the society which should be of minimum area of 1 acre. This letter is stated to have been issued in response to a letter of society dated 9.9.1998 stating that the land for construction of the institute shall be made available in case the institute gets a sponsorship certificate from AICTE. The college was proposed to be started from 1999 session and since no allotment of land had taken place, a representation was made on 5.3.1999 to the Minister of Urban Development in this behalf. It appears that in view of the said representation a query was made to the respondent in response whereto the Director (Land) of the respondent informed the Ministry that the request of the society was under consideration and that a plot measuring 850

square meters at Vasant Kunj had been proposed for allotment which was to be placed before the Expert Committee in its next meeting. The matter was placed before the Institutional recommended the said allotment of land to the petitioner society subject to the consent of the society and the legal position of the plot.

2. The petitioner did not still hear from the respondent about the allotment and send a reminder dated 9.3.2000 and thereafter filed the present writ petition seeking a writ of mandamus to allot the institutional plot No.2, Pocket II, Sector B, Vasant Kunj, New Delhi measuring 850 square meters as recommended by the Institutional Allotment Committee.

3. In the counter affidavit filed by the respondent it is stated that the petitioner had failed to complete the basic formalities as required for allotment of land inasmuch as the requisite sponsorship letter from the Department of Delhi Administration or Ministry of Central Government had not been submitted. This was stated so on the basis of rule 20(e) of Delhi Development Authority (Disposal of Developed Nazul Land) Rules 1981, which is as under:

20. Allotment to certain public institutions. -(1) No allotment of Nazul land to public institution referred to in rule 5 shall be made unless

(e) allotment to such institution is sponsored or recommended by a Department of the Delhi Administration or a Ministry of the Central Government."

4. It has been stated in the counter affidavit that the letter issued by the AICTE will not suffice inasmuch as the same relates to technical feasibility to be examined by the AICTE and that the formalities required for allotment of nazul land have to be completed by the petitioner in accordance with the said Nazul Rules. A clear averment has been made that the case of the petitioner for allotment of land was put up before the competent authority but the same was rejected due to want of proper sponsorship under the Nazul Rules. It is further stated that the petitioner was informed vide letter dated 20.9.1999 and subsequent letters dated 16.5.2000 and 29.8.2000 were also sent in this behalf. The letter dated 20.9.1999 is as under:

" Sub : Regarding allotment of land.

Sir,

This has reference to your application allotment of land for setting up Pharmacy & Science College. In this connection, I am directed to request you to please get your case sponsored from the AICTE or Directorate of Training & Technical, Government of NCTD, so that your case could be processed further."

5. The rights of allotment to the petitioner are not being denied and the absence of the aforesaid recommendation is stated to be the only hurdle in the allotment of the land to the petitioner. A reference has also been made to the fact that the AICTE had itself put the petitioner in a no admission category since the application of the

petitioner for obtaining sponsorship was yet to be decided by the Department.

Learned counsel for the petitioner contended that the certificate issue by the AICTE was sufficient which had accorded permission to the petitioner to start the institute vide letter dated 18.11.1998, it was contended that the Institutional Allotment Committee had considered the case of the petitioner which consisted of the competent authorities and there was no requirement of obtaining any further certificate under the Nazul Rules. Strong reliance is also placed on the letter dated 20.9.1999 of the DDA to contend that the letter itself mentions that the petitioner should obtain a sponsorship from AICTE or the Directorate of Training and Technical, Government of NCT of Delhi. Thus since the certificate of AICTE was available, there was no further requirement of any further certificate.

6. Learned counsel for the respondent on the other hand contended that the certificate issued by the letter dated 18.11.1998 was addressed to the DDA in response to the representation of the petitioner made vide letter dated 9.9.1998 to the AICTE intimating that the land for construction of the institute shall be made available in case the institute gets the sponsorship certificate from AICTE. The said permission was not in derogation of requirement of compliance of Nazul Rules and the mere fact that the Institutional Allotment Committee had recommended the case of the petitioner would not imply that the Nazul Rules had to be a given a go-bye.

7. A reference has also been made to the letter dated 17.2.1999 addressed by the AICTE to the petitioner to the effect that the proposal submitted by the petitioner was found viable prima facie and specifying documents required from the petitioner. It was thus contended that the final approval was not yet granted and the letter itself on its heading stated that the said letter was a Letter of Viability. Illustration was shown in the Court of certain order sponsorship letters obtained from the Directorate of Education and the Ministry of Human Resource Development by different institutes of higher education as per their prescribed norms under the Nazul Rules.

8. On 10.12.2002 the matter was finally heard and and in view of what emerged from the pleadings and the submissions of the learned counsel for the parties, learned counsel for the petitioner sought time to obtain instructions as to whether the petitioner was willing to comply with the requirements of Rule 20(e) of the Nazul Rules or would like to withdraw the writ petition with liberty to challenge the said rules. However, when the matter was listed on 16.12.2002, learned counsel for the petitioner expressed his unwillingness to adopt either of the two courses and submitted that he would like to press the writ petition as it is. Thus further arguments were heard in the writ petition on the said date.

9. The pleadings or record and the submission of learned counsel for the parties clearly show that the only impediment in the allotment of the land to the petitioner

is the non-availability of the sponsorship or recommendation by the Government of NCT of Delhi or the Central Government for allotment under the Nazul Rules. The respondent has categorically stated that there is no other impediment to the allotment and though the case of the petitioner has been examined and recommended by the Institutional Allotment Committee, the same was rejected by the competent authority in view of the absence of this certificate/recommendation which the petitioner was called upon to submit but the petitioner failed to submit.

10. The letter of recommendation of AICTE shows that the same was in response to the representation of the petitioner for an appropriate certificate for examination of the case of the petitioner for grant of land. Further the letter dated 17.2.1999 itself shows that it was only a letter of viability which had been granted to the petitioner. This would be naturally so as it is only on subsequent establishment of the institute that a proper verification would have to be done by the AICTE as to whether all the norms are adhered to. The only question which requires consideration is whether the Nazul Rules had to be given a go-bye in view of the certificate by the AICTE. In my considered view, the answer to the said question would be in the negative.

11. The AICTE has to examine the technical feasibility of the institute and the Institutional Allotment Committee makes the recommendation for allotment of land. There is no doubt that the Institutional Allotment Committee did make the recommendation in favor of the petitioner for allotment of land but the same was not accepted by the competent authority. The role of the committee is to make the recommendation and the same cannot be final till it is accepted by the competent authority. There is thus force in the contention of learned counsel for the respondent that the said committee is only an Advisory Body.

12. The Nazul Rules provide for disposal of nazul land and it is provided therein in terms in Rule 20(e) that recommendation/sponsorship has to be obtained from the State Government or the Central Government which condition was not fulfilled in the present case. Not only this an opportunity was given to the petitioner in the present proceedings to confirm whether such a certificate could be obtained by the petitioner but the petitioner declined the offer. The petitioner has admittedly not challenged the rules nor was the petitioner willing to challenge the rules by filing another petition. Thus the rules have to be read as they are and thus have to be complied with. In the absence of said sponsorship or recommendation from the Government of NCT of Delhi or the Central Government, the petitioner would not be entitled to the land in question and would thus not be entitled to the writ as claimed in the present writ petition.

13. In view of the aforesaid, I find no merit in the writ petition and the same is dismissed leaving the parties to bear their own costs.

14. Needless to say that in case the petitioner obtains the requisite recommendation/sponsorship and submits the same to the respondent the case of

the petitioner can be re-considered in accordance with the norms of the respondent.