SUPREME COURT OF INDIA

Government of Haryana

Vs.

Shri Ashutosh Ahluwalia

C.A.No.2151 of 1999

(S. Rajendra Babu and S.N. Variava JJ.)

21.03.2001

JUDGMENT

S. N. Variava, J.

1. This Appeal is against an Order dated 24th December, 1998 passed by the Monopolies & Restrictive Trade Practices Commission (hereinafter referred to as the Commission). Briefly stated the facts are as follows:

2. Sometime in September/October 1994 the 2nd Respondent issued an Advertisement inviting applications from prospective entrepreneurs for allotment of industrial plots of 1, 1/2, 1/4 acre at Rs. 750 per Sq. meters in the Electronic Hardware Technology Part, Sector 34, Gurgaon. The 1st Respondent applied on a prescribed form for allotment of a 1/2 acre plot. Along with his Application he paid a sum of Rs. 1,57,500/-.

3. On 8th November, 1994 the Plot Allotment Committee called the 1st Respondent for personal discussion and evaluation of his project report. The 1st Respondent attended the personal discussion and discussed the viability of his project with the concerned authorities. Thereafter the Appellants asked the 1st Respondent to submit his project report to them. The 1st Respondent did so. By a Letter dated 29th June, 1995 the Appellants informed the 1st Respondent that it was decided that he would be offered an industrial plot measuring 500 Sq. meters at Udyog Vihar Phase - 6, Gurgaon or 1/8 acre industrial plot at Industrial State, Bahadurgarh and that he should give his acceptance to one of the two plots. The 1st Respondent by a letter dated 10th July, 1995 conveyed his acceptance of the plot of 500 Sq. meters at Udyog Vihar, Phase-6, Gurgaon.

4. The 1st Respondent was then informed that he had been allotted Plot No. 74 measuring 500 Sq. meters at Udyog Vihar, Gurgaon. He was also told by the 2nd Respondent that he should give his consent to have his Application and earnest money transferred to the Appellants. The 1st Respondent gave his consent on 19th February, 1996 and the earnest money of Rs. 1,57,500/- was transferred to the Appellants. Thus the offer of 500 Sq. meters plot at Udyog Vihar, Gurgaon was accepted and in pursuance of such concluded contract an

allotment was made. In spite of allotment of a specific plot the Appellants did nothing. The Government of Haryana issued directions on 15th July, 1996. By these it was directed that plots in High Potential Zone, which included Gurgaon, could only be sold by an open auction and where the process of allotment had not been completed the application money should be returned and such plot should be put to auction in terms of the new Policy. As a result of this the 1st Respondent was informed that his allotment stood cancelled. The earnest money deposited by him, which had been kept by the 2nd Respondent and then by the Appellants from 1994 onwards, was returned without any interest. The 1st Respondent refused to encash the bank draft sent to him. He represented that he had already been allotted a plot and the same should be given to him. As his representation was not considered the 1st Respondent filed a Complaint under Section 12(B) read with Section 36A of the Monopolies & Restrictive Trade Practices Act, 1969 before the Commission. In the course of hearing before the Commission it was discovered that Plot no. 74, which had been allotted to the 1st Respondent was 456 sq. mts. and not 500 sq. mts.

5. The Commission after hearing the parties has passed the impugned Order dated 24th December, 1998. The Commission has inter alia directed as follows:

> "It is also directed that the applicant/complaint be given a plot measuring not less than 500 sq. mts. in Udyog Vihar Phase VI for his project @ Rs. 750/- per sq. mts. We also direct that the respondents compensate the complaint by paying interest @ 18% per annum on the amount of earnest money in excess of 10% of the value of the plot 500 sq. mts. The value of the plot shall be calculated @ Rs. 750/- per sq. mts. which was the prevailing rate at the relevant time."

6. Mr. Mahabir Singh submitted that the Appellants were bound to comply with the directions of the Government issued on 15th July, 1996. He submitted that as per these directions the plot could only by sold in a open auction and as the process of allotment had not been completed inasmuch as the Deed had not been executed in favour of the 1st Respondent the Appellants were bound to refund the application money and put up the plot for auction. He relied upon the case of M. P. Ration *Vikreta Sangh Society v. State of M. P.*[1], for the preposition that the frame of a scheme is a matter of Government policy in which Court's interference could not be called for. He also relied upon the case of *Principal, Madhav Institute of Technology & Science v. Rajendra Singh Yadav*[2], for the same preposition. He submitted that therefore the impugned Order could not be sustained and should be set aside. Alternatively, he submitted that if an allotment had to be made to the 1st Respondent, then it should be at the rates now prevailing. He submitted that even if the Court is not willing to direct the 1st Respondent to pay the rates now prevailing, the Court should direct payment of some higher rate. In support of this submission he relied upon the case of *HUDA v. Sunit Rekhi*[3]. In this case there has been a sale of large number of plots by the Development Authority. Subsequently, the allotments were sought to be set aside and the plots were proposed to be sold by fresh auction. Majority of the old allottees purchased the plots in the fresh auction at a higher rate. Some of the old allottees did not accept this and filed a Writ Petition. This Court ultimately held that as the majority had paid a higher rate it would be unfair to allow the minority to get the plots at old rates and directed payment of

50% more than the old rate. Those directions were given on the peculiar facts of that case and not as a matter of principle. Such a direction can have no application to the facts of the present case.

7. In our view, the impugned Order suffers from no infirmity. The Appellants could not have, on the basis of the changed Policy of 15th July, 1996, refused to complete the formalities so far as the 1st Respondent is concerned. In the case of 1st Respondent there had already been an allotment. Thus the process of allotment had been completed. In this view of the matter the Commission was right in issuing the directions that it did. As the allotment was completed the 1st Respondent could not be asked to pay any rate higher than the one on which he had been allotted the plot. We see no reason to interfere.

8. The Appeal stands dismissed. There will be no Order as to costs.

[1]*(1981) 4 SCC 535*
[2]*(2000) 6 SCC 608*
[3]*1989 Supp.2 SCC 169*