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Court : Allahabad

Decided On : Nov-06-2003

Reported in : 2004(1)AWC508

Judge : B.S. Chauhan and ;R.C. Pandey, JJ.

Acts : Constitution of India - Article 14

Appeal No. : C.M.W.P. No. 49540 of 2003

Appellant : Girish Kumar

Respondent : State of U.P. and ors.

Advocate for Def. : S.C.

Advocate for Pet/Ap. : Gulab Chandra, Adv.

Judgement :
ORDER

B.S. Chauhan, J.

1. This writ petition has been filed raising the grievance that petitioner had been allotted a place by the learned S.D.M., Kul Pahar, Mahoba, for running a photostat copy shop in tehsil premises. The term has expired, and though the petitioner had deposited the amount further, instead of allowing him to continue, respondent No.

5 is going to be allotted the said photostat copy shop's premises.

2. The learned standing counsel has raised the serious objection that there is no provision for this kind of allotment either to the petitioner or somebody else, and in absence of any statutory rules, the land etc. should be allotted either by inviting tender or holding public auction.

3. In Sachchidanand Pandey v. State of West Bengal, (1987) 2 SCC 295, the Hon'ble Supreme Court held that while dealing with public property, the executive must make an endeavour to dispose it of by public auction or by inviting tenders, though that is the ordinary rule, may not be an invariable rule. Where there are compelling circumstances necessitating the departure therefrom then the reasons for the departure must be rational and should not be suggestive of discrimination. Appearance of public justice is as important as doing justice. Therefore, in case of dealing with public property, certain percepts and principles have to be observed and public interest is the paramount consideration and when a public property is disposed of, they should try to get the maximum price.

4. In Ram & Shyam Co. v. State of Haryana, AIR 1985 SC 1147, the Hon'ble Supreme Court held as under :

'A welfare State exists for largest good of the larger number, more so when it proclaims to be the socialist State dedicated to eliminate poverty. All its attempts should be to obtain the best available price while disposing of its property because the greater is the revenue, the welfare activities will get a fillip and shot in the arm. Financial constraints may weaken the tempo of activities. Such an approach serves the larger public purpose of extending welfare activities primarily for which the Constitution envisages the setting up of a Welfare State.'

5. In Chenchu Rami Reddy v. Government of Andhra Pradesh and Ors., AIR 1986 SC 1158, the Hon'ble Apex Court indicated that the best method of disposal of public property is by public auction and not by private negotiation and the authorities entrusted with care of public property are required to show exemplary vigilance. Similar view has been reiterated in Rashbihari Panda v. State of Orissa. AIR 1969 SC 1081 ; Kasturi Lal Lakshmi Reddy v. State of J and K, AIR 1980 SC

1992 and State of Haryana v. Jage Ram, AIR 1983 SC 1207.

6. Thus, in view of the above, we dispose of this writ petition finally directing the authorities concerned to put the said premises for auction and allot the same to the highest bidder in accordance with law, but neither the petitioner is entitled for further extension nor it can be allotted to anybody else at the whims of the authorities concerned.

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