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Court : Madhya Pradesh

Decided On : Feb-21-1991

Reported in : 1993(0)MPLJ343

Judge : V.D. Gyani and ;V.S. Kokje, JJ.

Acts : [Constitution of India](#) - Articles 14, 19 and 226

Appeal No. : M.P. No. 283 of 1990

Appellant : Ramesh 'Chanchal'

Respondent : Town Improvement Trust, Ratlam and Anr.

Advocate for Def. : Gangarade, Adv.

Advocate for Pet/Ap. : Kochatta, Adv.

Disposition : Petition dismissed

Judgement :

V.D. Gyani, J.

1. By this petition under Article 226 of the [Constitution of India](#), the petitioner, who claims to be a Journalist, prays for a direction to respondent No. 1 to refund the amount of interest collected by it from the petitioner, by quashing the Resolution, Annexure-P/8.

2. A few fact may now be seen : Town Improvement Trust Ratlam, a statutory body incorporated under the provisions of Madhya Pradesh Town Improvement Trust Act, 1960, developed Scheme No. 20 -- popularly known as 'Shastrinagar Colony', wherein the petitioner was also allotted a plot, after much correspondence and State intervention, as averred by him, subject to certain conditions stated therein. The letter of allotment has been filed as Annexure-P/1, to the petition.

3. It has been contended by the petitioner that respondent No. 1 could not charge interest from the petitioner when the matter about its fixation was pending before the respondents 1 and 2 and as the aforesaid correspondence between the respondents Nos. 1 and 2 indicates the price of the plot was to be settled as per decision of the Government. The petitioner contended that in no case the respondent No. 1, could either demand or recover any interest on the price of the plot on mere allotment to the petitioner. Petitioner has also filed a copy of the Resolution, Annexure-P/11, regarding plot No. 93 in the same Scheme allotted to another city Journalist. It was also contended that respondent 1 had no authority to charge and recover interest. Lastly, it is urged that interest as accumulated, may be waived, as done in the case of other Journalist.

4. This petition itself is an example of gross favouritism and preferential treatment meted out to a class of persons without any reason or rhyme. Intervention, as shown by the petitioner at the highest level in the matter of allotment of plots, speak volumes for itself. There is absolutely no rationale justification for such preferential treatment meted out to a class of persons by a statutory body. A mere reading of the Resolution, Annexure-P/II, passed by respondent No. 1, would go to show how grossly the statutory powers are being abused. The Supreme Court has in a number of cases pointed out duty of the State and statutory bodies in the matter of conferring largess on the individual. In *M/s. Kasturi Lal v. State of J & K*, AIR 1980 SC 1992, while dealing with such a situation, the Supreme Court observed (at page SC 2001):--

'Where the Government is dealing with the Public, whether by way of giving jobs or entering into contracts or granting other forms of largess, the Government cannot act arbitrarily at its sweet will. There are two limitations imposed by law which

structure and control the discretion of the Government in this behalf. The first is in regard to the terms on which largess may be granted and the other, in regard to the persons who may be recipients of such largess. Unlike a private individual, the State cannot act as it pleases in the matter of giving largess and it cannot choose to deal with any person it pleases in its absolute and unfettered discretion.

Every activity of the Government has a public element in it and it must therefore be Informed with Reason and Guided by Public interest. If the Government awards a contract or leases out or otherwise deals with its property or grants any other largess, it would be liable to be tested for its validity on the touchstone of reasonableness and public interest and if it fails to satisfy either test, it would be unconstitutional and invalid.

It must follow as a necessary corollary that the Government cannot act in a manner which would benefit a private party at the cost of the State; such an action would be both, unreasonable and contrary to public interest.

The Government, therefore, cannot, for example, give a contract or sell or lease-out its property for a consideration less than the highest that can be obtained for it, unless of course there are other considerations which render it unreasonable and in public interest to do so. Such considerations may be that some Directive Principle is sought to be advanced or implemented or that the contract or the property is given not with a view to earning revenue but for the purpose of carrying out a welfare scheme for the benefit of a particular group or section of people deserving it or that the person who has offered a higher consideration is not otherwise fit to be given the contract or the property.'

5. In the instant case how so far liberally considered, the petitioner and his likes could not have been given a preferential treatment in the matter of allotment of plots and like any other citizen, they ought to have stood or asked to stand in the queue and waited for their turn. Instead of doing so, both the respondents have chosen to confer largess by meting out a preferential treatment to the petitioner and his like without any justification, whatsoever. Beneficiary of such a preferential, unconscionable and unjustifiable gain does not deserve and cannot be allowed to invoke Article 226 of the [Constitution of India](#).

6. This petition, for the foregoing reasons, fails and is accordingly dismissed, with no order as to costs.

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