

Before I. S. Tiwana, J.

BALDHIR KAUR,—Petitioner.

versus

THE STATE OF PUNJAB AND ANOTHER,—Respondents.

Civil Writ Petition No. 611 of 1982.

May 24, 1983.

Constitution of India 1950—Article 14—Utilisation of Land and Allotment of Plots by the Improvement Trust Rules, 1975—Rule 7—Improvement Trust allotting plots to different eligible persons—Approval of the State Government required under the Rules for such allotment—State Government passing a blanket order disapproving all the allotments made by various Trusts in the State—Such order—Whether arbitrary and violative of Article 14.

Held, that no doubt, the allotments in order to be effective, had to have the approval of the State Government but this approval essentially had to be guided and exercised within the framework of the Utilisation of Land and allotment of plots by the Improvement Trust Rules, 1975. It cannot possibly be imagined that after the State Government had framed the rules for the guidance of the Improvement Trusts for the allotment of plots, it in its capacity to supervise the working or carrying out the requirements of the rules by the Trusts would itself not be guided by the said rules. All that the State Government can examine or go into before granting or not granting its approval is to see as to whether the various Trusts have acted within the framework of the rules while making allotments. It just cannot disapprove or decline to grant approval for any reason or no reason. The blanket order disapproving all the allotments made by various Trusts in the State appears to be in the nature of a *Farman-e-Shahi*. It cannot thus be styled as anything else than arbitrary. It is well settled that where the Government is dealing with the public, whether by way of giving jobs or entering into contracts or issuing quotas or licences or making allotments or granting other forms of largess, the Government cannot act arbitrarily at its sweet will and, like a private individual, deal with any person it pleases, but its action must be in conformity with standard or norm which is not arbitrary, irrational or irrelevant. The power or discretion of the Government in the matter of grant of largess including award of jobs, contracts, quotas, licences, allotments etc. must be confined and structured by rational, relevant and non-discriminatory standard or norm and if the Government departs from such standard or norm in any particular case or cases, the action of the Government is liable to be struck down. Any such action on the part of the Government would be violative of the equality enshrined in Article 14 of the Constitution.

(Para 4)

Petition Under Articles 226 and 227 of the Constitution of India praying that :—

- (a) *a Writ of Certiorari be issued quashing the orders Annexures P-4 and P-5;*
- (b) *a Writ of Prohibition be issued restraining the Respondents from taking any step or action which may affect the right of the petitioners in respect of plot No. B/166 at Ajnala Road Scheme, Amritsar;*
- (c) *any other Writ, order or direction which this Hon'ble Court deems fit in the circumstances of the case be issued;*
- (d) *certified copies of Annexures P-1 to P-6 be exempted as they are not readily available.*

Further praying the Writ Petition be allowed with costs.

Further praying that operation of the orders Annexures P-4 and P-5 be stayed and the Respondents be restricted from taking any action in respect of re-allotment of the plot in dispute during the pendency of this Writ Petition.

H. S. Toor Advocate, for the petitioner.

A. S. Sandhu Addl. A.G., for No. 1.

K. P. Bhandari Sr. Advocate with Ravi Kapoor Advocate as intervenor in CWP 1500 of 1983, H. S. Mattewal Advocate with J. S. Pannu Advocate N. S. Panwar, Advocate, for No. 2.

JUDGMENT

I. S. Tiwana, J. (Oral)—

(1) The learned counsel for the parties are agreed that on account of the identity of facts and the contentions raised, these 18 Civil Writ Petitions Nos. 611, 4266, 5218, 4767, 4900 4544 to 4550 and 5033 to 5038 of 1982 can conveniently be disposed of through a common order. I proceed to do that.

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(2) These petitions are on behalf of the persons in whose favour the Amritsar Improvement Trust had made allotments of respective residential plots in the area covered by the Ajnala Road Development Scheme. These allotments admittedly, in view of the letters of allotment and the rules governing these allotments, known as the 'Utilisation of Land and Allotment of Plots by the Improvement Trust Rules, 1975' were subject to the final approval of the State Government. It is not a matter of dispute; rather it is conceded by the respondents, that is, the State Government as well as the Trust that the petitioners were eligible in all respects for the allotment of these plots and it was on consideration of their eligibility for these allotments that the Trust, respondent No. 2, had resolved to allot these plots to them. These allotments have been rejected or not approved by the State Government by passing a blanket order in September, 1980 (now impugned in all these petitions) which reads as follows :—

To

The Administrators,
All Improvement Trusts in the State.

No. 5037-3CII-80/7036

Dated Chandigarh, the September, 1980.

Subject: Allotment of plots out of Government quota.
Reference subject noted above.

2. "All recommendations made by the former Chairman of Improvement Trusts for allotment of plots to various persons out of Government quota have been considered and rejected by the Government." This will be applicable to all categories of plots of all Improvement Trusts which are yet to be allotted out of Government quota.
3. You are also advised that fresh applications may be called within two months and thereafter proper scrutiny, recommendations may be made by you as per rules in vogue. You are also requested to allot Sr. No. to each application according to the order in which it is received in your office.

Sd/-

Under Secretary Local Government (Rules)

No. 5037-3C-II-80/Dated September 1980.

It was in pursuance of this order that the respondent Trust issued individual letters to the petitioners conveying the cancellation of the allotment in their favour. The petitioners, as already indicated, besides impugning the above noted order of the State Government, also impugn the respective orders passed by the Trust *qua* them.

(3) The short but precise submission of the learned counsel for the petitioners is that the action of the State Government in passing the impugned blanket order, is wholly arbitrary and discloses a clear non-applicability of mind to the facts of each case. As against this what has been repeated on behalf of the respondents *ad nauseam* in the written statements as well as before me now is that all these allotments in favour of the petitioners were subject to the approval of the State Government and the State Government was well within its rights not to approve the same even by passing a one single consolidated order. It deserves to be highlighted here that neither in the impugned order nor in the returns filed on behalf of the respondent particularly the State Government has any reason whatsoever been stated, which led to the passing of the blanket order concerning all the Trusts in the State. Not only that, as is clear from the later part of paragraph 2 of the order, it even cancels or disapproves the future allotments or allotments yet to be made. If at all one has to spell out a reason for the passing of this blanket order, the same appears to be contained in the first part of paragraph 2 of the same and is that the recommendations or allotments had been made by the "former Chairman of the Improvement Trusts". Nothing more than this has been said in the order or in the written statements.

(4) No doubt, these allotments, in order to be effective, had to have the approval of the State Government but this approval essentially had to be guided and exercised within the frame work of the rules referred to above. It cannot possibly be imagined that after the State Government had framed "the rules" for the guidance of the Improvement Trusts for the allotment of plots, it in its capacity to supervise the working or carrying out the requirements of the rules by the Trusts would itself not be guided by the said rules. All that the State Government can examine or go into before granting or not grantings its approval is to see as to whether the various Trusts have acted within the frame work of the rules while making allotments. It just cannot disapprove or decline to grant approval for any reason or no reason. Apparently the impugned order appear to be in the nature of *Farmane-e-Shahi*. It cannot thus be styled as anything else than 'arbitrary'. By now it is

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well laid down that where the Government is dealing with the public, whether by way of giving jobs or entering into contracts or issuing quotas or licences or making allotments or granting other forms of largess, the Government cannot act arbitrarily at its sweet will and, like a private individual, deal with any person it pleases, but its action must be in conformity with standard or norm which is not arbitrary, irrational or irrelevant. The power or discretion of the Government in the matter of grant of largess including award of jobs, contracts, quotas, licences, allotments etc. must be confined and structured by rational, relevant and non-discriminatory standard or norm and if the Government departs from such standard or norm in any particular case or cases, the action of the Government is liable to be struck down, unless it can be shown by the Government that the departure was not arbitrary, but was based on some valid principle which in itself was not irrational, unreasonable or discriminatory. Any such action on the part of the Government would be violative of the equality enshrined in Article 14 of the Constitution. This is what has been ruled by the Supreme Court in this regard in *Ramana Dayaram Shetty v. The International Airport Authority of India and others*, (1):

“This rule also flows directly from the doctrine of equality embodied in Article 14. It is now well settled as a result of the decisions of this Court in *E. P. Royappa v. State of Tamil Nadu* (2) and *Maneka Gandhi v. Union of India* (3) that Article 14 strikes at arbitrariness in State action and ensures fairness and equality of treatment. It requires that State action must not be arbitrary but must be based on some rational and relevant principle which is non-discriminatory: it must not be guided by any extraneous or irrelevant consideration, because that would be denial of equality. The principle of reasonableness and rationality which is legally as well as philosophically an essential element of equality or non-arbitrariness is projected by Article 14 and it must characterise every State action, whether it be under authority of law or in exercise of executive power without making of law. The State cannot, therefore, act arbitrarily in entering into relationship, contractual or otherwise with a third party, but its

(1) A.I.R. 1979 S.C. 1628.

(2) (1974) 2 S.C.R. 348 (A.I.R. 1974 S.C. 555).

(3) (1978)(i) S.C.C. 248.

action must conform to some standard or norm which is rational and non-discriminatory.”

It is thus patent in the light of the above noted authoritative pronouncement that the impugned blanket order of the Government which, as already pointed out, is not supported by any rational or logic or reason leading to the passing of the same, is wholly arbitrary. In the light of this conclusion of mine, I need not go into other assertions levelled on behalf of some of the petitioners that the whole basis or the reason for the passing of this order is the change of the Government which had taken place between the dates of the allotments in favour of the petitioners and the date of the passing of this order.

(5) In all fairness to the learned counsel for the respondents it may be pointed out here that the Division Bench of this Court in (*Jagdish Rai Chawla v. The State of Punjab, etc.*)(4) on which firm reliance is placed by them to contend that the petitioners in the case in hand do not deserve to be heard as no legal right had come to rest in them prior to the passing of the impugned order by the State Government, does not apply to the facts of these cases. In that case not only the very eligibility of the petitioner for allotment of a plot in his favour was lacking but the action of the State Government was also taken under Section 72-C of the Punjab Town Improvement Act, 1922. All that has been laid down in this judgment is that before annulment or cancellation of the resolution of the Trust by the State Government in exercise of its statutory powers under the above noted section, the petitioner who claimed to have derived some benefit under the resolution of the Trust was not entitled to be heard. No such situation exists in these cases. Here the challenge of the petitioners to the impugned blanket order is not on the ground that they have not been heard before the passing of that order. Rather their whole challenge is that the order itself is arbitrary and violative of the principle laid down in article 14 of the Constitution of India.

(6) For the reasons recorded above, I allow these petitions and set aside the above noted blanket orders passed by the State Government in September, 1980 and the individual orders passed by the Trust cancelling the allotments made in favour of the petitioners. They are also held entitled to the costs of this litigation which I determine at Rs. 300 in each case.

N.K.S.

(4) C.W. 3231 of 1982 decided on 15-5-83.