

उत्तर प्रदेश शासन
औद्योगिक विकास अनुभाग-4
संख्या-4106/77-4-23/133 अपील/23
लखनऊ: दिनांक- 16 जुलाई, 2024

मै0 एम0डी0 कार्पसर्व प्रा0 लि0 ... पुनरीक्षणकर्ता

बनाम

नोएडा औद्योगिक विकास प्राधिकरण, नोएडा ... विपक्षीगण

प्रस्तुत पुनरीक्षण याचिका मा0 उच्च न्यायालय के रिट याचिका संख्या 4601/2024 में पारित आदेश दिनांक 23.05.2024 के क्रम में दाखिल की गई है। मा0 न्यायालय द्वारा पारित आदेश निम्नवत् है:-

1. Heard Mr. Apoorva Tewari & Mr. Abhishek Khare, learned counsel for petitioner, learned State Counsel appearing on behalf of opposite party no.1 and Mr. Waseeq Uddin Ahmed, learned counsel for opposite party no.2.

2. Petition has been filed challenging a portion of order dated 21.12.2023 passed in Revision No.7795 of 2023 by the State Government so far as it relates to declaring the period commencing from 07.10.2020 till 23.11.2023 as zero period for which interest and penal interest should not be charged. Also under challenge is the demand notice dated 22.03.2024 in respect of aforesaid.

3. It has been submitted that petitioner was allotted plot no.A-7, Block A, Sector 136 Noida measuring 1950 square meters vide allotment letter dated 30.03.2011. The aforesaid lease was thereafter cancelled by opposite party no.2 on 07.10.2020 against which petitioner earlier filed writ petition but was remitted to file revision before the State Government under Section 41(3) of the Uttar Pradesh Urban Planning and Development Act, 1973 read with Section 12 of U.P. Industrial Area Development Act, 1976.

4. It is submitted that the revisional authority thereafter framed two issues with regard to adequate development having been carried out

by the Development Authority and whether any prior notice was issued to petitioner/revisionist before cancellation of lease.

5. It is submitted that although issue no.1 was decided against the revisionist, issue no.2 was decided in his favour due to which the revision was partly allowed with various directions in pursuance thereto being issued.

6. It is submitted that in the memorandum of revision, specific prayer had been made for declaration of the period commencing from cancellation i.e. 07.10.2020 till presentation of revision as zero period but the revisional authority has overlooked the aforesaid prayer.

7. Learned counsel has adverted to order passed by the revisional authority dated 26.10.2023 in appeal no.6515/77-4-23/appeal 98/23 to submit that in similar circumstances, the aforesaid relief has been granted to the revisionist in the said proceedings and therefore petitioner was liable to equivalent treatment.

8. Learned counsel for opposite parties do not dispute the factual aspects but submit that grant or rejection of the aforesaid relief is within the domain of the revisional authority.

9. Upon consideration of submissions advanced by learned counsel for parties and perusal of material on record, facts as narrated herein-above are undisputed.

10. From the record it also transpires that specific prayer had been made in the memorandum of revision for declaring the aforesaid period commencing from 07.10.2020 till date of presentation of revision as zero period. There is no mention in the impugned order with regard to said prayer although such a prayer appears to have been allowed by the revisional authority in similar circumstances as noticed herein-above.

11. Considering aforesaid facts and circumstances, without interfering with the impugned order dated 21.12.2023, the dispute is remitted to the opposite party no.1 i.e. Additional Chief Secretary, Department of Infrastructure and Industrial Development, Civil Secretariat, Government of U.P., Lucknow to consider prayer nos.3 and 4 of the

memorandum of revision afresh in the light of order passed in similar circumstances.

12. Appropriate orders after remand shall be passed by the concerned authority within a period of four weeks from the date a certified copy of this order is produced before the concerned authority. It is also directed that till final decision in the revision, the demand notice dated 22.03.2024 only so far as it relates to demand of interest and penal interest for the period 07.10.2020 till 23.11.2023 shall remain stayed and be subject to final decision passed in revision.

13. Learned counsel for petitioner undertakes on the basis of instructions that the revised demand excluding the aforesaid time period would be deposited within a period of 90 days from the date of receipt of demand notice.

14. For which purpose a revised demand notice may be issued to petitioner excluding the aforesaid time period.

15. With the aforesaid directions, petition stands disposed of.

2. इस पुनरीक्षण याचिका का निस्तारण आदेश संख्या 7795/77-4-23/133 अपील/23 दिनांक 21.12.2023 के द्वारा किया गया था, जिसको मा0 उच्च न्यायालय में प्रस्तुत रिट याचिका में challenge किया गया है। मा0 उच्च न्यायालय द्वारा अपने आदेश दिनांक 23.05.2024 में इस कार्यालय द्वारा पारित आदेश दिनांक 21.12.2023 को बहाल रखा गया है एवं यह निर्देशित किया गया है कि रिविजन में क्रमांक 3 एवं 4 पर वर्णित याचना पर भी शीघ्र निर्णय लिया जाए।

3. प्रस्तुत पुनरीक्षण याचिका में पारित आदेश दिनांक 21.12.2023 के द्वारा प्राधिकरण का आदेश दिनांक 07.10.2020 निरस्त किया गया है एवं भूखण्ड बिना किसी पुर्नस्थापना शुल्क के बहाल कर दिया गया है। इसी क्रम में मा0 उच्च न्यायालय द्वारा पारित निर्देशों के क्रम में यह भी आदेशित किया जाता है कि चूंकि भूखण्ड निरस्तीकरण के पश्चात् कोई भी कार्यवाही प्रश्नगत भूखण्ड पर नहीं की जा सकती थी, अतः ऐसी दशा में यह भी निर्देशित किया जाता है कि भूखण्ड निरस्तीकरण के आदेश दिनांक 07.10.2020 से भूखण्ड पुर्नस्थापना के आदेश दिनांक 21.12.2023 तक की अवधि का कोई दण्ड ब्याज याची संस्था से नहीं लिया जाएगा एवं इस अवधि का निःशुल्क समय विस्तारण संस्था को प्रदान किया जाएगा। यह भी आदेशित किया जाता है कि दिनांक 07.10.2020

से दिनांक 21.12.2023 तक की अवधि परियोजना पूर्ण करने हेतु अवधि में सम्मिलित नहीं की जाएगी।

तदनुसार एतद्वारा पुनरीक्षण याचिका निस्तारित की जाती है।


अनिल कुमार सागर
प्रमुख सचिव

संख्या:- 410611/77-4-21/133अपील/23 तददिनांक-

प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित:-

1. मुख्य कार्यपालक अधिकारी, नोएडा।
2. श्री गौरव शर्मा, अधिकृत हस्ताक्षरी, मे0 एम0डी0 कार्पसर्व, 6/35, सेक्टर-11, रोहिणी, नई दिल्ली-110085।
3. मो0 वली अब्बास, निदेशक, आई.टी. इन्वेस्ट यू0पी0 को विभागीय वेबसाइट पर अपलोड करने हेतु।
4. गार्ड फाइल।

आज्ञा से



(जयवीर सिंह)
संयुक्त सचिव