



2025:DHC:9404-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Judgment reserved on: 09.10.2025
Judgment pronounced on: 29.10.2025

+ LPA 118/2020

SIVKAN EDUCATIONAL SOCIETYAppellant

Through: Mr. Ram Kumar, Advocate.

versus

DELHI DEVELOPMENT AUTHORITY & ORS.

.....Respondents

Through: Ms. Akshita Goyal, Advocate
for R-1 & R-2.

Ms. Sweety Singh, Ms. Diksha
Joshi and Ms. Meenakshi,
Advocates for R-3/GNCTD
through VC.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

J U D G M E N T

HARISH VAIDYANATHAN SHANKAR, J.

1. The present Letters Patent Appeal, instituted under Clause 10 of the Letters Patent, assails the **Judgment dated 08.01.2020¹** rendered by the learned Single Judge of this Court in W.P.(C) No. 8396/2018, titled "*Sivkan Educational Society v. Delhi Development Authority & Ors.*". By the Impugned Judgment, the learned Single Judge has rejected the prayers of the Appellant herein which read as follows:—

¹ Impugned Judgement



“a. To issue the writ of certiorari thereby quashing the order dated 25.09.2012 issued by the respondent being illegal and discriminatory.

b. To issue a writ of mandamus or any other appropriate order or direction, directing the respondents to allot the alternative land to the petitioner society in lieu of the allotment of land made on 09.09.2000 and further to issue the demand cum allotment letter to the petitioner society.

c. Any other further order(s) as this Hon’ble Court may deem fit and proper in the facts and circumstances of the present case.”

BRIEF FACTS:

2. The brief facts as necessary for adjudication of the present Appeal are as follows:-

A. The Appellant, *vide* application dated 24.06.1999, submitted a request to the Respondent seeking allotment of land at Dwarka for the purpose of establishing a Senior Secondary School. Along with the said application, the Appellant furnished all requisite documents, except the sponsorship letter from the Directorate of Education, which was subsequently filed. The said sponsorship letter unequivocally recorded that the sponsorship was granted for the establishment of a Senior Secondary School.

B. The said application traversed the requisite administrative channels and, upon due consideration by the competent authorities, culminated in the approval on file by the **Hon’ble Lieutenant Governor**² on 09.09.2000, for allotment of land at Sector-19, Dwarka in favour of the Appellant Society.

C. Subsequent thereto, it transpired that due to the presence of a high-tension electricity wire over the plot that was proposed for allotment to the Appellant herein, it would not be possible for

² Hon’ble LG



2025:DHC:9404-DB



the Appellant to establish a school. It also transpires that the said plot had also been allotted earlier to the Delhi Administration for establishing a Senior Secondary School.

- D. Confronted with the aforesaid circumstances, the Appellant addressed a series of representations to the Respondent-Authority, adverting to these issues and solicited the allotment of an alternative plot, suitable for the establishment of the proposed educational institution.
- E. Pursuant to the aforesaid developments, the Respondent apprised the Appellant that no alternative parcel of land was available in Dwarka for the establishment of a Senior Secondary School as originally proposed. However, the Respondent indicated that, should the Appellant be agreeable, a suitable plot could be considered for allotment for the purpose of establishing a Middle School, such land being readily available within the Dwarka area.
- F. The Appellant communicated its consent for the same and on the basis of such consent, a plot ad-measuring one (1) acre was proposed to the Appellant and to which the Appellant communicated its consent.
- G. However, *vide* communication dated 22.04.2004, the Respondent expressed its inability to process the allotment of land for the establishment of a Middle School, on the ground that the statutory precondition of sponsorship from the Directorate of Education for such an institution was not fulfilled. The Appellant was accordingly called upon to furnish the requisite sponsorship letter from the Directorate of



Education, in compliance with the prescribed procedure, so that its request for allotment could be duly considered further.

- H. The Appellant, however, *vide* its communication dated 31.08.2004, while referring to the earlier consideration of its case by the Respondent-Authority, urged the Respondent to correspond directly with the Directorate of Education, requesting that the requisite sponsorship letter for the establishment of a Middle School in favour of the Appellant be issued, thereby enabling further processing of the allotment proposal.
- I. Thereafter, *vide* Notification dated 19.04.2006, the **Delhi Development Authority (Disposal of Developed Nazul Land) Rules, 1981**³ were amended, thereby superseding the erstwhile regime of allotment of institutional land - including land for the establishment of schools - and introducing a system of disposal through public auction. The said amendments were brought into effect from 19.04.2006, marking a substantive policy shift in the mode of allotment of land for educational purposes.
- J. Subsequently, on 05.07.2011, the Respondent addressed a communication to the **Ministry of Urban Development**⁴, apprising it of a representation dated 06.11.2008 submitted by the Appellant, which had been considered by the Respondent on 14.05.2010. In the said correspondence, the Respondent conveyed that, upon review, it had been decided that cases in which no demand-cum-allotment letter had been issued, including that of the Appellant, could not be sustained, as no

³ Nazul Rules

⁴ MoUD



2025:DHC:9404-DB



enforceable right or claim to allotment had crystallised in such circumstances.

- K. Notwithstanding the aforesaid communication, the Respondent-Authority, upon a subsequent review of the matter, reconsidered its earlier decision and, *vide* noting dated 21.01.2011, proposed that the case of the Appellant be placed once again before the MoUD for its reconsideration and appropriate orders.
- L. In response thereto, the MoUD issued a series of communications to the Respondent-Authority, clarifying that, under the framework of the Nazul Rules, the allotment of land to educational societies squarely fell within the jurisdiction of the Delhi Development Authority (“**DDA**”), and therefore, no prior approval of the Ministry was necessary. The Respondent was accordingly requested to take an independent and considered decision in the matter.
- M. The Appellant thereafter, *vide* a detailed representation dated 02.08.2013, once again approached the Respondent, reiterating the factual background of the case and articulating its grievances regarding the continued non-allotment of land for the establishment of either a Senior Secondary School or a Middle School. In the said representation, the Appellant further alleged discriminatory treatment, contending that several other societies, whose applications were subsequent in point of time, had been granted allotments and permitted to establish schools. It was additionally urged that, once the DDA had approved the allotment, there was no legal necessity for revalidation of the sponsorship by the Directorate of Education.



- N. Appellant specifically contended that it had been validly allotted a plot of land as early as in the year 2000, pursuant to the approval accorded by the Hon'ble LG, and that the subsequent amendments to the Nazul Rules in 2006, introducing the auction mechanism, could not retrospectively affect or nullify the Appellant's entitlement, as its allotment predated the said amendments and thus remained governed by the earlier regime of allotment.
- O. Upon receiving no response to the said communication, the Appellant herein preferred a Writ Petition being W.P.(C) 4066/2014 which came to be withdrawn on 27.10.2014. It was during these proceedings that a Note dated 25.09.2012 came to the notice of this Court and which would have considerable bearing on the present matter. It is also this note which ultimately came to be challenged in the Writ Petition. The said note reads as follows:-

“16. The writ petition avers that no copy of the “note”, dated 25th September, 2012, had been supplied to it, till the proceedings before this Court on 19th August, 2014. However, as the DDA placed pointed reliance on the said note, and the petitioner withdrew WP (C) 4066/2014 consequent on the production of the aforesaid note before this Court by the DDA, and the said note stands impugned in these proceedings, it becomes necessary to reproduce the said note, in extenso, thus:

“I have seen the submissions on file. DDA has not mentioned in their notes as to what efforts had been made by DDA since 2006 to put the process of allotment of school plots to private educational societies through option in practice after amendment of DDA (Disposal of Developed Nazul Land) Rules, 1981 vide notification No.K-20013/4/2006/DDVA dated 19.4.2006 by Government of India, MoUD. VC DDA may submit a status report on this.

As regards the case of Sivkan Education Society, notes in DDA files do not indicate



details of any work done by the Society in the field of school education since its registration on 28.1.1998 and there is no report about functioning of this Society or antecedents of its current management. Sponsorship of Directorate of Education, GNCTD was valid only for 5 years w.e.f. 15.9.1999 and had lapsed long back. Moreover, as there will be a huge difference in the rate of disposal of land through auction and that the concessional rates at which land was being allotted to such societies before 19.4.2006, allotment of land to any private educational Society except through auction as per current provisions of DDA (Disposal of Developed Nazul Land Rules) 1981 will have serious financial implications of revenue loss to the DDA running into crores of rupees and corresponding pecuniary gain to the society. The Govt. of India, MoUD have, left this sensitive issue to DDA for decision *vide* letter No. J-13036/10/2011-DDVA dated 07.09.2012 and have not approved allotment of land in the present case.

In view of the above, the allotment of land to private educational societies must necessarily be made through auction as per DDA (Disposal of Developed Nazul Land) Rules, 1981. DDA should, therefore, close all such pending requests for allotment of land, once for all, and implement the policy of allotment of school sites to private educational societies only through auction as per current provisions of DDA (Disposal of Developed Nazul Land) Rules 1981 as amended *vide* notification No. K-20013/4/2006/DDVA dated 19.4.2006 by Government of India, Ministry of Urban Development.”

P. Subsequent to the issuance of the aforesaid note, the Respondent undertook a re-consideration of the matter, as also noticed by the learned Single Judge in Paragraph 17 of the Impugned Judgment. This process of re-consideration gave rise to a series of inter-departmental exchanges between the office of the Hon’ble LG and the Respondent-Authority, wherein several queries and clarifications were sought and furnished in



relation to the Appellant's case, reflecting continued administrative deliberation on the issue. The relevant paragraph of the Impugned Judgment is reproduced hereinbelow for ready reference:-

“May please see the facts of the case regarding allotment of a plot to Shivkan Educational Society for construction of a Senior Secondary school at Dwarka. It has been submitted that though a plot of 2 acres was allotted to the Society on the approval of the then Hon'ble LG in the year 2000 on the basis of recommendation made by the Directorate of Education, Govt. of NCT of Delhi, the possession of the said plot would not be handed over due to passing of a high tension wire line over the plot. It was also informed that the plot has already been allotted to Directorate of Education, Govt. of NCT of Delhi for setting up of a Government school. Thereafter, efforts were made to allot an alternative plot to the Society that too of the smaller size of 4000 sqm. in Dwarka for setting up a Middle School; however, the same could also not be materialised.

As has been submitted above up to 89/N, it can be summarised that the Society was deprived of the allotment of a plot though it was entitled to it at that point of time and subsequent efforts to allot an alternative plot in view of the cancelled plot could not materialise due to no fault of the Society.

In view of the above facts and circumstances of the case, the request of the Society for reconsideration of an alternative plot as at 'X' at 89/N merits consideration.”

Q. The Appellant thereafter addressed several subsequent representations to the Respondent-Authority, seeking redressal of its grievance; however, these elicited no substantive response. Ultimately, *vide* communication dated 20.07.2016, the Respondent-Authority conveyed its final decision, stating that *“the matter has been examined thoroughly and the claim of the Society for alternative allotment does not merit any consideration and cannot be acceded to.”*



R. The Appellant, thereafter, filed the foundational Writ Petition impugning therein the final noting dated 25.09.2016 classifying it as an Order and also sought a *Mandamus* for allotment of an alternate plot predicated on the alleged allotment of land made on 09.09.2000.

APPELLANT'S CONTENTIONS:

3. Learned counsel for the Appellant has canvassed the following contentions challenging the impugned Judgment:-

- i. The principal contention urged on behalf of the Appellant is that the Nazul Rules do not operate retrospectively, and therefore, could not govern or unsettle an allotment which had already attained fruition in the year 2000. It was submitted that once approval for allotment had been duly accorded prior to the coming into force of the Amendment Rules, the subsequent substitution of the allotment regime with an auction mechanism could not lawfully divest or defeat the Appellant's vested entitlement, nor could the Appellant be non-suited on the basis of a later change in policy.
- ii. The Appellant further contends that there existed no legal or procedural requirement to obtain a fresh sponsorship from the Directorate of Education for the establishment of a Middle School. It is urged that the initial sponsorship, granted for setting up a Senior Secondary School, ought to have been treated as sufficient compliance with the requisite formalities. The Appellant would place reliance on various official file notings and internal communications to assert that the demand



for a renewed sponsorship was unwarranted, arbitrary, and contrary to the contemporaneous administrative record.

- iii. Learned Counsel for the Appellant would contend that there is a finality of policy dated 16.02.2001 wherein no fresh sponsorship would be required, however, no such policy has been placed on record.
- iv. Learned Counsel for the Appellant would also contend that the woes of the Appellant are the result of the Respondent's action insofar as they had wrongly allotted a plot to the Appellant in the first instance and what followed thereafter, could not be held as against the Appellant prejudicing their right to the allotment of the schools.

RESPONDENT'S CONTENTIONS:

4. Learned Counsel for the Respondent would submit that no enforceable or vested right ever accrued in favour of the Appellant, as no formal letter of allotment was ever issued by the competent authority. It is urged that the approval on file or internal notings cannot, in law, crystallize into an allotment unless duly communicated and acted upon. Consequently, it is contended that the Appellant's entire claim rests on an inchoate and non-existent foundation, and therefore, both the Writ Petition and the present Appeal are devoid of merit and liable to fail.

5. Learned counsel for the Respondent would contend that even the alternative proposal for allotment of a plot for establishing a Middle School could not fructify, since the requisite sponsorship letter from the Directorate of Education, being an essential precondition, was never produced by the Appellant.



ANALYSIS:

6. Heard the learned counsel for both parties and upon careful consideration of their submissions, this Court has meticulously examined the record and duly appreciated all material aspects of the matter.

7. At the very outset, we would like to set down our appreciation to the detailed analysis that has already been accorded by the learned Single Judge to the matter.

8. A perusal of the Impugned Judgment would evidence the detailed and thorough examination bestowed in the present matter. After advertng to the entire factual matrix with considerable clarity, the learned Single Judge has in his final analysis held as follows:—

“Analysis

31. It is plainly obvious, at the very outset, that the petitioner cannot maintain any claim for being allotted land to establish a Middle School, as the requisite sponsorship, by the DoE, was not forthcoming. Clause (e) of Rule 20 of the Nazul Land Rules prohibits allotment of Nazul land to public institutions, referred to in Rule 5 of the said Rules (which includes schools, colleges and universities), unless allotment, to such institution, is sponsored or recommended by the Department of the GNCTD or the Ministry of the Central Government. The concerned Department of the GNCTD, to issue such sponsorship, in the case of allotment to an educational institution, is, undisputedly, the DoE. This position, which flows from the Nazul Rules themselves, also stands recognized, by a Division Bench of this Court in *Trinagar Shiksha Pracharini Sabha v. D.D.A.6* There can be no cavil with this proposition, as the petitioner has itself placed, on record, under cover of an additional affidavit, communication, dated 15th September, 1999, from the DoE to the Commissioner (Land), DDA, sponsoring the allotment of land, to the petitioner, to establish a Senior Secondary School. The DDA relies on para 4 of the said document, which stipulates that the sponsorship would be valid for five years, to contend that the said period has expired. A reading of the said document reveals that the words “Senior Secondary” has been consciously inserted, in the blank space provided, therefor, at the head of the document, making it manifest that the sponsorship is *specifically* for establishment of a *Senior Secondary School*. The contention, of the petitioner, that, in view



of the said document, no separate sponsorship, for establishing and running a Middle School, was required, appears to be no more than the petitioner's wishful *ipse dixit*, bereft of any support known to law, statutory or otherwise.

32. As the applicant was desirous of being allotted land for the said purpose, the onus was on the petitioner to obtain, and furnish, sponsorship, from the DoE, entitling the petitioner to establish a Middle School. The petitioner failed to do so. Sans such sponsorship, allotment of land, to the petitioner, for establishing a Middle School would infract, straightaway, the express statutory proscription contained in Rule 20 of the Nazul Land Rules.

33. The petitioner has, therefore, only itself to thank, for allowing its chance of having land, allotted to it, for establishing a Middle School, to go abegging. The DDA had, vide its letter dated 22nd April, 2004 supra, specifically directed the petitioner to obtain sponsorship, from the DoE, for establishing a Middle School. Instead of making efforts towards that end, the petitioner responded, on 31st May, 2004, exhorting the DDA to approach the DoE, and inform the DoE regarding the requirement of such sponsorship. As to why the petitioner took such a misguided step, is not readily forthcoming; suffice it, however, to state that, as a result thereof, till the amendment of the Nazul Land Rules in 2006 – and, indeed, till today – the petitioner never obtained sponsorship, from the DoE, for establishing a Middle School. On 19th April, 2006, when the Nazul Land Rules were amended, therefore, the petitioner did not even have a legitimate expectation, much less a vested or enforceable right, to be allotted land for setting up a Middle School.

34. Resultantly, the chance of any allotment of land, to the petitioner, for establishing a Middle School, stands extinguished, as much by efflux of time and amendment of the Nazul Land Rules in the interregnum, as by the inaction, on the part of the petitioner, in which a lengthy securing sponsorship, by the DoE, for the said purpose. The said issue, therefore, no longer survives for consideration.

35. The alternative submission of the petitioner, for being allotted suitable land, on which it could establish and run a Middle School is, therefore, rejected.

36. Adverting, now, to the claim, of the petitioner, for allotment of a plot of land, for setting up of a Senior Secondary School.

37. Insofar as the issue of allotment, to the petitioner, of land to establish a Senior Secondary School, is concerned, the noting, dated 6th September, 2000, which was approved by the Hon'ble LG, reads thus:

“Shivkan Educational Society had requested for allotment of land for construction of a senior secondary school.

Department of Education, GNCTD has sponsored



the case of the society vide their letter dated 5.9.99 for construction of a senior secondary school.

IAC has recommended allotment of land for construction of a senior secondary school Sector 19, Dwarka.

As per the financial status of the society, they are in a position to make the payment towards the cost of plot. They have ₹ 1.11 crores in their account.

Land measuring 2.0 acre may be allotted to Shivkan Educational Society for construction of a senior secondary school at the rate of ₹ 50 lakhs per acre +120% enhanced (prov.) Along with 2.5% ground rent.”

38. Mr. Bansal has contended that no enforceable, or vested right, in the petitioner’s favour, in the order, would enure, till actual allotment, to the petitioner, of the plot of land. He submits that the approval, by the Hon’ble LG, on 9th September, 2000, was only for the decision to allot a plot of land, to the petitioner, for establishing a Senior Secondary School. Till such time as actual allotment of the land takes place, Mr. Bansal would seek to submit, the right remains inchoate, and unenforceable in law. Mr. Bansal has placed reliance, in this context, on Sethi Auto Service Station.

39. Though there are certain superficial differences, between the facts of the case, as they obtained in Sethi Auto Service Station, vis-à-vis those obtaining in the present proceedings, in law, the case appears covered against the petitioner by the said decision.

40. The two appellants before the Supreme Court, in Sethi Auto Service Station¹ (referred to, hereinafter, as “the appellants”) owned petrol outlets, adjacent to each other. An eight-lane express highway was constructed, on the main road abutting the two outlets, as a result of which vehicular access to the outlets, was rendered practically impossible or, at any rate, was greatly restricted. As a consequence, running of the outlets, became financially unviable. The appellants approached the DDA, seeking resitment.

41. The Screening Committee of the DDA, after initially approving the allotment of two alternative sites to the appellants, backtracked during its final confabulations on the issue, wherein it disapproved the proposal, and opined that the alternative sites ought to be auctioned. The proposal for relocation of the two petrol pumps was also disapproved, subsequently, by the Vice Chairman of the DDA.

42. It was in these circumstances that the owners of the two petrol outlets approached this court, under Article 226 of the Constitution of India.

43. The outlets claimed that, by virtue of the approval by the Screening Committee of the DDA, to allot alternative sites, a legitimate expectation had been created in their minds. The outlets also alleged discrimination as, in their submission, other similarly situated outlets had been relocated.



44. The Supreme Court observed that all decisions, that had been taken on the requests of the two outlets, for relocation/ resitement, had been taken by way of notings in the official file, without any order of resitement/relocation having ever been communicated to either of the appellants. Relying on its earlier decisions in ***Bachhittar Singh v. State of Punjab*** and ***Laxminarayan R Bhattad v. State of Maharashtra***, the Supreme Court held, in paras 14, 15 and 16 of the report, thus:

“14. It is trite to state that notings in a departmental file do not have the sanction of law to be an effective order. A noting by an officer is an expression of his viewpoint on the subject. It is no more than an opinion by an officer for internal use and consideration of the other officials of the department and for the benefit of the final decision-making authority. Needless to add that internal notings are not meant for outside exposure. Notings in the file culminate into an executable order, affecting the rights of the parties, only when it reaches the final decision-making authority in the department, gets his approval and the final order is communicated to the person concerned.

the rights of the parties, only when it reaches the final decision-making authority in the department, gets his approval and the final order is communicated to the person concerned.

15. In *Bachhittar Singh v. State of Punjab* [AIR 1963 SC 395 : 1962 Supp (3) SCR 713] , a Constitution Bench of this Court had the occasion to consider the effect of an order passed by a Minister on a file, which order was not communicated to the person concerned. Referring to Article 166(1) of the Constitution, the Court held that order of the Minister could not amount to an order by the State Government unless it was expressed in the name of the Rajpramukh, as required by the said article and was then communicated to the party concerned. The Court observed that business of State is a complicated one and has necessarily to be conducted through the agency of a large number of officials and authorities. Before an action is taken by the authority concerned in the name of the Rajpramukh, which formality is a constitutional necessity, nothing done would amount to an order creating rights or casting liabilities to third parties. It is possible, observed the Court, that after expressing one opinion about a particular matter at a particular stage a Minister or the Council of Ministers may express quite a different opinion which may be opposed to the earlier opinion. In such cases, which of the two opinions can be regarded as the “order” of the State Government? It was held that opinion becomes a decision of the Government only when it is



communicated to the person concerned.

16. To the like effect are the observations of this Court in *Laxminarayan R. Bhattad v. State of Maharashtra* [(2003) 5 SCC 413], wherein it was said that a right created under an order of a statutory authority must be communicated to the person concerned so as to confer an enforceable right.”

(Underscoring supplied; italics in original)

45. In view of the above legal position, the Supreme Court held that the recommendations of the Technical Committee of the DDA had never fructified into any order, communicated to the appellants, resulting in the conferment, on them, of any legal right. Para 22 of the report is also relevant, in this regard, and reads as under:

“22. From the afore-extracted notings of the Commissioner and the order of the Vice-Chairman, it is manifest that although there were several notings which recommended consideration of the appellants' case for relocation but finally no official communication was addressed to or received by the appellants accepting their claim. After the recommendation of the Technical Committee, the entire matter was kept pending; in the meanwhile a new policy was formulated and the matter was considered afresh later in the year 2004, when the proposal was rejected by the Vice-Chairman, the final decision-making authority in the hierarchy. It is, thus, plain that though the proposals had the recommendations of the State Level Coordinator (Oil Industry) and the Technical Committee but these did not ultimately fructify into an order or decision of DDA conferring any legal rights upon the appellants. Mere favourable recommendations at some level of the decision-making process, in our view, are of no consequence and shall not bind DDA. We are, therefore, in complete agreement with the High Court that the notings in the file did not confer any right upon the appellants as long as they remained as such. We do not find any infirmity in the approach adopted by the learned Single Judge and affirmed by the Division Bench, warranting interference.”

not find any infirmity in the approach adopted by the learned Single Judge and affirmed by the Division Bench, warranting interference.”

(Emphasis supplied)

46. Though the law, as laid down in the afore-extracted passages from *Sethi Auto Service Station*¹ (which stands reiterated, by this Court, in *Bhagwan Mahavir Education Society*⁴), is by itself sufficient to non-suit the petitioner, para 32 of the report, which deals with the plea of legitimate expectation, as advanced by the appellants before the Supreme Court, also merits reproduction,



thus:

“32. An examination of the aforementioned few decisions shows that the golden thread running through all these decisions is that a case for applicability of the doctrine of legitimate expectation, now accepted in the subjective sense as part of our legal jurisprudence, arises when an administrative body by reason of a representation or by past practice or conduct aroused an expectation which it would be within its powers to fulfil unless some overriding public interest comes in the way. However, a person who bases his claim on the doctrine of legitimate expectation, in the first instance, has to satisfy that he has relied on the said representation and the denial of that expectation has worked to his detriment. The Court could interfere only if the decision taken by the authority was found to be arbitrary, unreasonable or in gross abuse of power or in violation of principles of natural justice and not taken in public interest. But a claim based on mere legitimate expectation without anything more cannot ipso facto give a right to invoke these principles.”
o give a right to invoke these principles.”

(Emphasis supplied)

47. It is difficult to distinguish the facts of the present case from those that obtained in *Sethi Auto Service Station*¹. In the present case, too, it is not disputed that no allotment letter was ever issued to the petitioner. Any right, as claimed by the petitioner, is based entirely on file notings on the official files.

48. Prior to their metamorphosing into communicated orders, such file notings confer no right, as held in *Bachhittar Singh* and followed in *Sethi Auto Service Station* as well as, later, in *Pimpri Chinchwad New Township Development Authority v. Vishnudev Cooperative Housing Society*. That apart, given the amount of vacillation exhibited, by the DDA as well as the MoUD, it is not possible even to hold that either authority consistently expressed the view that the petitioner was entitled to be allotted a plot, for establishing a Senior Secondary School.

49. No right having, thus, fructified in favour of the petitioner, the petitioner cannot lay any claim to allotment of land, for setting up of a Senior Secondary School.

50. Besides, with effect from 19th April, 2006 the Nazul Land Rules were amended, to replace the pre-existing system of allotment at pre-determined rates, by auction, in the case of educational institution, such as the petitioner. Inasmuch as no right vested in the petitioner, on the date of the said amendment, it cannot be said that, by applying the amendment, the DDA was divesting the petitioner of any right.

plying the amendment, the DDA was divesting the petitioner of



any right.

51. That apart, the documents on record indicate that no alternative plot, where a Senior Secondary School could be established, was available in Dwarka. The record reveals that the first reference, by the petitioner, to the existence of available plots for establishment of Senior Secondary Schools in Dwarka, is in the petitioner's representation dated 23rd November, 2015. Even if this were assumed to be so, it would be of no help to the petitioner, as, much before 2015, the policy of allotment of land to societies desirous of establishing educational institutions had been done away with, and substituted by the auction procedure. There is no whisper of any averment, in any of the representations addressed by the petitioner prior to 2006 (when the Nazul Rules were amended), of plots, for establishing Senior Secondary schools being available in Dwarka. Rather, the avowed case, on which the parties appear to be *ad idem*, is that the sole plot which was so available already stood allotted to the Delhi Administration – which was why the petitioner agreed to the proposal to establish a Middle School. Even if, for a moment, it were to be presumed that the petitioner had an enforceable right to be allotted a plot for establishing a Senior Secondary School, the right could translate into reality only if a plot were available, and not otherwise. No *mandamus* can issue, to the DDA, to allot a plot, to the petitioner, for establishing a Senior Secondary School, even if the approval, therefor, by the Hon'ble LG, had actually been communicated to the petitioner, if no such plots were actually available. An enforceable legal right to allotment must necessarily predicate the existence of a plot which could be allotted. The court cannot issue a *mandamus* to the DDA to do the impossible. Water cannot be wrung out of a stone.

52. In any event, in the absence of any right having vested in the petitioner, to allotment of a plot for establishing a Senior Secondary School, the question of whether there did, or did not, exist any such plots, pales into insignificance.

53. The case is, undoubtedly, unfortunate. The petitioner appears to have been motivated, throughout, by laudable objectives, and, had the DDA deigned to accommodate the request of the petitioner, perhaps, the interests of education may have been best subserved. The DDA was unable to do so, however, and this Court is equally unable to provide succour to the petitioner. The writ court cannot act solely on equity, and, sans the existence of a legal right, in favour of the petitioner, as well as a corresponding legal duty, or the respondent, to act in furtherance thereof, no *mandamus* can issue.

54. It is clarified, therefore, that if, within the constrictive parameters of the law, it is possible to allot land, to the petitioner, to set up an educational institution, this judgement shall not impede the DDA, in any manner, from doing so. This Court has adjudicated only on the rights of the petitioner as they emanate in



law, and on the sustainability, on merits, of the prayer, of the petitioner, for issuance of a mandamus to the DDA.
mandamus to the DDA.

Conclusion

55. Resultantly, the writ petition is dismissed, with no orders as to costs.”

9. We find no reason to interfere with the extremely detailed judgment of the learned Single Judge.

10. As is evident, the core of the controversy rests upon an appreciation as to whether any vested right accrued in favour of the Appellant. The foundational Writ Petition itself was predicated on mere internal file notings. This aspect has been dealt with by the learned Single Judge with considerable clarity and specificity in the Impugned Judgment.

11. The legal principle governing the effect of internal file notings was first settled by the Constitution Bench of the Hon’ble Supreme Court in ***Bachhittar Singh v. State of Punjab***⁵, which held that a mere noting on an official file does not constitute an order of the Government unless it is duly approved by the competent authority and officially communicated to the concerned party, as only then does it acquire legal efficacy. The relevant excerpts of the said judgement are reproduced hereinbelow for reference:-

“9. The question, therefore, is whether he did in fact make such an order. Merely writing something on the file does not amount to an order. Before something amounts to an order of the State Government two things are necessary. The order has to be expressed in the name of the Governor as required by clause (1) of Article 166 and then it has to be communicated. As already indicated, no formal order modifying the decision of the Revenue Secretary was ever made. Until such an order is drawn up the State Government cannot, in our opinion, be regarded as bound by what was stated in the file. As long as the matter rested with him the Revenue Minister could well score out his remarks or minutes on

⁵ AIR 1963 SC 395



the file and write fresh ones.

10.Thus it is of the essence that the order has to be communicated to the person who would be affected by that order before the State and that person can be bound by that order. For, until the order is communicated to the person affected by it, it would be open to the Council of Ministers to consider the matter over and over again and, therefore, till its communication the order cannot be regarded as anything more than provisional in character.”

(emphasis added)

12. This principle has since been consistently applied and reiterated in ***Sethi Auto Service Station v. D.D.A.***⁶, ***Pimpri Chinchwad New Township Development Authority v. Vishnudev Cooperative Housing Society***⁷, ***Mahadeo v. Sovan Devi***⁸, ***Municipal Committee, Barwala, District Hisar, Haryana through its Secretary/President v. Jai Narayan and Company and Another***⁹, and ***Delhi Development Authority v Hello Home Education Society***¹⁰, wherein the Hon’ble Court has emphasized that mere internal notings in a departmental file and in-principle approvals do not confer a vested right. The relevant excerpts of the ***Sethi Auto*** (*supra*) has been reproduced hereinbelow for reference:-

“14. It is trite to state that notings in a departmental file do not have the sanction of law to be an effective order. A noting by an officer is an expression of his viewpoint on the subject. It is no more than an opinion by an officer for internal use and consideration of the other officials of the department and for the benefit of the final decision-making authority. Needless to add that internal notings are not meant for outside exposure. Notings in the file culminate into an executable order, affecting the rights of the parties, only when it reaches the final decision-making authority in the department, gets his approval and the final order is *communicated* to the person concerned.

15. In ***Bachhittar Singh v. State of Punjab*** [AIR 1963 SC 395 :

⁶ (2009) 1 SCC 180

⁷ (2018) 8 SCC 215

⁸ (2023) 10 SCC 807.

⁹ (2022) SCC Online SC 376

¹⁰ (2024) SCC OnLine SC 33



1962 Supp (3) SCR 713] , a Constitution Bench of this Court had the occasion to consider the effect of an order passed by a Minister on a file, which order was not communicated to the person concerned. Referring to Article 166(1) of the Constitution, the Court held that order of the Minister could not amount to an order by the State Government unless it was expressed in the name of the Rajpramukh, as required by the said article and was then *communicated* to the party concerned. The Court observed that business of State is a complicated one and has necessarily to be conducted through the agency of a large number of officials and authorities. Before an action is taken by the authority concerned in the name of the Rajpramukh, which formality is a constitutional necessity, nothing done would amount to an order creating rights or casting liabilities to third parties. It is possible, observed the Court, that after expressing one opinion about a particular matter at a particular stage a Minister or the Council of Ministers may express quite a different opinion which may be opposed to the earlier opinion. In such cases, which of the two opinions can be regarded as the “order” of the State Government? It was held that opinion becomes a decision of the Government *only when it is communicated to the person concerned*.

22. From the afore-extracted notings of the Commissioner and the order of the Vice-Chairman, it is manifest that although there were several notings which recommended consideration of the appellants' case for relocation but finally no official communication was addressed to or received by the appellants accepting their claim. After the recommendation of the Technical Committee, the entire matter was kept pending; in the meanwhile a new policy was formulated and the matter was considered afresh later in the year 2004, when the proposal was rejected by the Vice-Chairman, the final decision-making authority in the hierarchy. It is, thus, plain that though the proposals had the recommendations of the State Level Coordinator (Oil Industry) and the Technical Committee but these did not ultimately fructify into an order or decision of DDA conferring any legal rights upon the appellants. Mere favourable recommendations at some level of the decision-making process, in our view, are of no consequence and shall not bind DDA. We are, therefore, in complete agreement with the High Court that the notings in the file did not confer any right upon the appellants as long as they remained as such. We do not find any infirmity in the approach adopted by the learned Single Judge and affirmed by the Division Bench, warranting interference.”

(emphasis added)

13. As rightly held by the learned Single Judge, the noting dated 06.09.2000 (*supra*) is merely recommendatory in nature and does not,



by itself, create or confer any enforceable right in favour of the Appellant. The said noting, at best, indicates that land *may be allotted* to the Appellant for the purpose of establishing a Senior Secondary School, which clearly falls short of constituting a definitive act of allotment.

14. Having arrived at the conclusion that no enforceable or vested right ever accrued in favour of the Appellant, the issue of examining the applicability of the 2006 Amendment Rules in a retrospective manner becomes otiose. Once it is established that the Appellant had no subsisting right to claim allotment, the question of whether such right stood affected by the amendment does not arise for consideration.

15. Adverting now to the question of sponsorship by the Directorate of Education for the establishment of a Middle School, we find ourselves in full agreement with the learned Single Judge that the absence of such sponsorship strikes at the very root of the Appellant's claim. The statutory framework governing allotment of institutional land unequivocally mandates sponsorship as a sine qua non for consideration.

16. The submission advanced on behalf of the Appellant, that the requirement of sponsorship stood obviated as the need for an alternate plot arose solely due to the Respondent's own lapse, does not commend acceptance.

17. Even assuming, for the sake of argument, that the Respondent had committed an error in the initial allotment, such inadvertence cannot operate to nullify a statutory precondition. The mandate of law cannot be diluted or waived on grounds of equitable considerations or administrative oversight.



2025:DHC:9404-DB



18. We also note, with due emphasis, that the sponsorship earlier obtained by the Appellant was expressly confined to the establishment of a Senior Secondary School. The categories of Senior Secondary and Middle Schools stand on distinct statutory footings, each necessitating an independent sponsorship specific to the proposed institution. In the absence of such sponsorship, the Appellant's entitlement to consideration for allotment must necessarily fail.

CONCLUSION:

19. In view of the foregoing discussion, and having regard to the settled principles of law governing the subject, we are of the considered view that no occasion arises for this Court to interfere with the well-reasoned and meticulously articulated judgment rendered by the learned Single Judge. The Impugned decision reflects a comprehensive appraisal of the facts and a correct application of the governing legal principles, warranting no appellate interference.

20. Accordingly, the present Appeal along with pending application(s), if any, stands dismissed.

21. No order as to costs.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.

OCTOBER 29, 2025/tk/kr