



# ANKUR UDYOG LIMITED

## Steel Division

(A Unit of Ankur Udyog Limited)

19<sup>th</sup> January 2019

To,  
Director (Industry-1)  
Ministry of Environment, Forest & Climate Change,  
Indira Paryavaran Bhavan,  
Jorbagh Road, Jorbagh,  
New Delhi

**Sub: Environmental Clearance** for our **proposed Integrated Steel Plant** at Plot No. AL-2, Sector 23, GIDA Industrial Area, Village Sahbazganj & Domharmafi, Tehsil Sahjanwa, District Gorakhpur, Uttar Pradesh - **Reply to EDS** – Reg.

Ref: 1. Submission of Final EIA Report through MOEF web portal dated 16 -10- 2018  
2. Proposal No. IA/UP/IND/75680/2018  
3. EDS issued by honourable MOEF&CC on 17<sup>th</sup> January 2019

Sir,

With reference to the above, we are herewith submitting the clarification to the Essential Details Sought (EDS) by the Hon'ble Ministry for your kind consideration.

| Essential Details sought (EDS) by Honourable MoEF&CC issued on 17 <sup>th</sup> January 2019   | Reply to EDS  |
|--|---|
| You are requested to submit the status of orders of Hon'ble supreme court in the matter of Gorakhpur Textile park Vs State of Uttar Pradesh regarding land proposed for proposed project | <p>We would like to bring to your kind notice that, A case was filed in Hon'ble High Court of Allahabad vide Writ C, 1110 of 2011 on State Govt. Of U.P. against land allotment by GIDA to <b>ANKUR UDYOG LIMITED</b>.</p> <p>Subsequently Hon'ble High Court of Allahabad has dismissed the Writ petition vide order dated 02-07-2018.</p> <p>Then, the petitioner(s) approached Hon'ble Supreme Court of India. Accordingly Hon'ble Supreme Court of india has also dismissed the petition filed saying "<i>We see no reason to interfere with the well reasoned judgement of the High Court of Allahabad</i>".</p> |

Email - [ankurtmt@gmail.com](mailto:ankurtmt@gmail.com) • Tel - +91 9793800000, 9415243900

### Correspondence Address

Nakaha No. 2, Near Fertilizer Factory  
Gorakhpur - 273007, U.P.

### Factory Address

Plot No. AL-2, Sector 23, GIDA, NH-28  
Sahjanwa, Gorakhpur - 273209, U.P.

|  |   |
|--|---|
|  | <p>A copy of order issued by Hon'ble High Court on <b>02-07-2018</b> is enclosed as <b>ANNEXURE -1</b> &amp; A copy of order issued by Hon'ble Supreme Court on <b>16-01-2019</b> is enclosed as <b>ANNEXURE – 2</b> for your kind perusal.</p> |
|--|---|

Inview of the above we request your good selves to kindly consider our application in the forthcoming EAC meeting and issue Environmental Clearance for our proposed Integrated Steel plant at the earliest.

Thanking you sir,

Yours Sincerely

For, ANKUR UDYOG LTD. (STEEL DIVISION)



NIKHIL JALAN

Authorized Signatory / Director

High Court of Allahabad Order stating closure of Writ Petition (C) 1110 of 2011

1

**A.F.R**

**Reserved on 12.03.2018**

**Delivered on 02.07.2018**

**Case :- WRIT - C No. - 4513 of 2011**

**Petitioner :-** Gorakhpur Texpark Private Ltd.

**Respondent :-** State Of U.P. Thru' Principal Secry., Industrial Devp. & Ors

**Counsel for Petitioner :-** Rakesh Pande

**Counsel for Respondent :-** C.S.C.,Abhishek Misra,Dhananjay Awasthi,Nripendra Mishra

With

**Case :- WRIT - C No. - 1110 of 2011**

**Petitioner :-** M/S Gallant Ispat Limited

**Respondent :-** State Of U.P. And Others

**Counsel for Petitioner :-** S.K. Tiwari,Ravi Kant

**Counsel for Respondent :-** C.S.C.,Abhishek Mishra,Akhilanand Mishra,Dhananjay Awasthi,K.M. Mishra,Nripendra Mishra,Sanjay Kumar Tripathi

With

**Case :- WRIT - C No. - 1292 of 2011**

**Petitioner :-** Hirak Tie-Up Private Ltd.

**Respondent :-** State Of U.P. Thru' Prin. Secry., Industrial Devp. & Ors.

**Counsel for Petitioner :-** Ajay Kumar Singh,Ashish Kumar Singh

**Counsel for Respondent :-** C.S.C.,Dhananjay Singh,Nripendra Mishra

With

**Case :- WRIT - C No. - 71450 of 2011**

**Petitioner :-** M/S Gallantt Ispat Ltd.

**Respondent :-** State Of U.P. And Others

**Counsel for Petitioner :-** S.K. Tiwari,Rakesh Pande

**Counsel for Respondent :-** C.S.C.,Dhananjay Awasthi,Nripendra Mishra

**Hon'ble Pankaj Mithal,J.**  
**Hon'ble Saral Srivastava,J.**

(Delivered by Hon'ble Saral Srivastava, J.)

1. We have heard Sri Ravi Kant, learned Senior Counsel assisted by Sri S.K. Tiwari, learned counsel for the petitioner M/s Gallant Ispat Limited; Sri Rakesh Pande, learned counsel appearing for the petitioner Gorakhpur Texpark Private Limited; Sri Ajay Kumar Singh, learned counsel appearing for the petitioner HIRAK Tie-up Private Limited; Sri Manish Goyal, learned Additional Advocate General appearing for the State of U.P; Sri Dhananjay Awasthi, Sri Shashi Nandan along with Sri H.R. Mishra, learned Senior Counsel appearing for the private respondents and perused the record.
2. Learned counsel for the petitioners states that Writ-A No.- 71450 of 2011 has become infructuous, therefore, the same may be dismissed as infructuous.
3. The Gorakhpur Texpark Private Limited in Writ-A No.- 4213 of 2011 has challenged the order dated 23.04.2010 passed by the Chief Executive Officer (hereinafter referred to as 'CEO'), Gorakhpur Industrial Development Authority, Gorakhpur (hereinafter referred to as 'GIDA'), whereby the allotment of plot situate in Sector-23 of GIDA in favour of the petitioner has been cancelled.
4. Further, the petitioners in all the writ petitions have questioned the illegality of the allotment letter dated 10.12.2010, whereby the plot no.AL-2, situate in Sector-23, GIDA, Gorakhpur has been allotted to one M/s Ankur Udyog Limited.
5. Since in all the writ petitions, common issues have cropped up, therefore, all the writ petitions have been heard together and are being decided by a common judgment.
6. The relevant facts for the purposes of deciding the controversy have been taken from the pleadings in Writ-A No.- 4513 of 2011.

The facts stated in other writ petitions shall be detailed at the relevant place.

7. The facts as culled out from the pleadings in Writ-A No.4513 of 2011 are that the petitioner Gorakhpur Texpark Private Limited was a company registered under the Companies Act. It had approached the GIDA, Gorakhpur for allotment of a plot under Bulk Land Policy. Acting upon the request of the petitioner, the Additional Chief Executive Officer, GIDA, Gorakhpur vide letter dated 19.06.2006 asked Sri S.K. Agrawal, Director, M/s Gorakhpur Texpark Private Limited to give consent with regard to the allotment of land situate in village Domharmafi and Sahbajganj, District Gorakhpur.

8. It transpires from the record that the Central Government had framed a scheme known as 'Scheme for Integrated Textile Parks (hereinafter referred to as 'SITP')'. The primary object of the scheme was to provide the industry with world-class infrastructure facilities for setting up their textile units. The scheme further provided that at each ITP, there would be a separate Special Purpose Vehicle (hereinafter referred to as 'SPV') formed with the representatives of local industry, financial institutions, State and Central Government. According to SITP, the SPV was to be a corporate body registered under the Companies Act.

9. The record reveals that Special Secretary, State of U.P. wrote a letter dated 31.03.2008 to the CEO, GIDA informing him the role of GIDA in the establishment of Textile Park. The said letter provided the conditions subject to which GIDA could collaborate for establishment of textile parks.

10. The petitioner, Gorakhpur Tex Park, [hereinafter referred as 'allottee company'] was allotted 81.54 acres of land situate in industrial Sector No.23 by allotment letter dt.14.11.2006 issued by C.E.O,GIDA for establishment of Textile Park. The allotment of land

was subject to conditions enumerated in allotment letter. The allottee company had been given the possession of land by GIDA on 06.05.2008.

**11.** The Sanctioning Officer, Udyog Bhawan, New Delhi informed the petitioner that the Project Approval Committee (hereinafter referred to as 'PAC') in its meeting held on 16.05.2008 approved the project of the allottee company. The cost of the project under SITP was Rs.97.54/- crores, out of which 39.01/- crores was to be provided as grant under the SITP by the Government of India. It further directed the petitioner to take immediate action for complying with the conditions stipulated for release of first part of first installment and submit the claim through Project Management Consultant.

**12.** It appears that meanwhile some dispute arose amongst the shareholders and the directors of the company in execution of the scheme as a result whereof the Central Government vide letter dated 23.12.2008 decided to withdraw the approval granted to the project of the allottee company under the scheme SITP.

**13.** It appears that a meeting of GIDA under the Chairmanship of Commissioner had taken place on 19.03.2010 in which one C.P. Agrawal, Managing Director of the allottee company had participated and informed that the allottee company could not arrange the matching fund due to which it was not possible to establish the textile parks. He further requested the GIDA that the money deposited by the allottee company for the purpose of land should be returned without making any deduction.

**14.** Acting upon the request of Sri C.P. Agrawal, GIDA asked the allottee company to provide a copy of resolution of Board of Directors resolving to return the land and deposit receipt of money in order to enable to GIDA to consider the refund of money to the allottee company in the next Board meeting of the GIDA. Again

CEO, GIDA wrote a letter dated 01.04.2010 to Sri S.K. Agrawal asking him to provide a copy of Board resolution and the original record in the office of GIDA by 05.04.2010 in order to enable it to proceed further in the matter.

**15.** It appears that in reference to the letter dated 01.04.2010, Sri Nitin Jalan, another Director of the petitioner company wrote a letter to the CEO, GIDA requesting him to inform the balance amount which the allottee company was liable to pay. The said letter further stated that in case the company decides to surrender the land, whether the amount of Rs.59.31 lakhs deposited by it towards 10% of cost of the land would be refunded alongwith the interest.

**16.** However, the CEO, GIDA passed an order on 23.04.2010 cancelling the allotment of land in favour of the allottee company. Subsequently, the land was allotted to M/s Ankur Udyog Limited [hereinafter referred as 'AUL'] vide allotment letter dated 10.12.2010.

**17.** In the aforesaid background, the allottee company has challenged the order dated 23.04.2010 passed by the CEO, GIDA cancelling the allotment of land and the order dated 10.12.2010 allotting the land in favour of AUL.

**18.** The petitioner M/s Gallant Ispat Limited [hereinafter referred as 'GIL'] in Writ-C No.-1110 of 2011 was allotted a plot consisting of an area of 116.961 acres of land in Industrial Area, Sector-23, GIDA for the purposes of integrated steel plant, captive power plant, spinning mill and modern roller plant mill etc.

**19.** It is pleaded in the writ petition that the GIL resolved to expand its unit , and consequently applied for allotment of a plot of an area of 40 acres situate in village Rahimabad on 04.01.2008. The GIDA vide letter dated 18.11.2008 asked the GIL to submit the justification for allotment of more land. GIDA after getting the reply from GIL, it appears, had decided to acquire 70 acres of land in

village Rahimabad in its meeting dated 03.07.2009 for expansion of second phase of GIL. According to the GIL, the proceeding for acquisition of land was not initiated.

**20.** It is pleaded that in the meantime, petitioner came to know about the cancellation of allotment of land allotted in favour of allottee company, and accordingly, the GIL requested the State Government vide letter dated 11.05.2010 to allot the aforesaid land of 81.54 acres to the GIL. The GIL failed in getting the allotment of the said land in its favour and the land in question was allotted to AUL which came to be challenged by GIL in one of the present writ petition.

**21.** In Writ-C No.1291 of 2011, the petitioner HIRAK TIE-UP Private Limited [hereinafter referred as 'HTPL'] was also one of the aspirant seeking allotment of 81.54 acres of land which fell vacant on account of cancellation of allotment in favour of Allottee Company. The HTPL could not succeed in getting the allotment in his favour as GIDA allotted the land to AUL. The action of GIDA in allotting the land to AUL was challenged by the HTPL in the above referred present writ petition.

**22.** GIDA had filed a separate counter affidavit in all the three writ petitions taking a common stand and, therefore, the counter affidavit of GIDA in Writ-C No.4513 of 2011 are referred herein.

**23.** It is pleaded in the counter affidavit that the allottee company was allotted land for the purposes of establishing different units relating to textiles as per the guidelines of the Ministry of Textiles, Government of India. The Government of India withdrew from the scheme by letter dated 23.12.2008. It is further pleaded that after the letter of the Government of India, Sri C.P. Agrawal informed the authorities regarding inability of the allottee company to establish the integrated textile parks. He, subsequently, participated in the meeting of the Industrial Development Council (hereinafter referred

to as ' IDC') on 19.03.2010 and acting upon the request of Sri C.P. Agrawal, GIDA decided to cancel the plot. It is stated that the allottee company had not challenged the letter dated 23.12.2008 issued by the Government of India withdrawing from the scheme, therefore, no relief can be granted to the allottee company unless the scheme of the Government of India is re-validated.

24. After the cancellation of the allotment of land of the allottee company, GIDA constituted a committee for costing the value of the land and the aforesaid committee on 28.04.2010 made a comparative statement with regard to the income which GIDA would earn by allotment of land to all the applicants or if the plot is sold after dividing it into in small plots. According to the costing committee report the GIDA could earn Rs.404.23 lakhs in case of allotment in favour of GIL, Rs. 785.83/- lakhs in case the allotment in favour of AUL and Rs.528.35/- if the plot is sub-divided in small plots. After the costing committee report, GIDA examined the claim of all the applicants namely HTPL, GIL and AUL. The committee after considering the case of all the applicants found the claim of AUL most suitable and consequently, recommended the allotment of land in favour of AUL. The CEO, GIDA on the basis of recommendation of the committee sought the advice of the Commissioner, who is ex-officio head of the GIDA Board, regarding the allotment of land in question. The Commissioner, thereafter, asked for comparative statement of all the applicants.

25. It appears that thereafter a detailed discussion had taken place between the Vice Chairman/Commissioner, GIDA and CEO, GIDA. GIDA was satisfied that if the land is allotted to AUL , it would give maximum financial benefit to GIDA and also fulfill the objective of the industrial growth as AUL is planning to set up an industry. The Vice Chairman/ Commissioner directed that the allotment of land should contain certain conditions which are to be adhered to by the AUL. It further pleaded that it was only a consultation by the CEO,

GIDA with the Vice Chairman /Commissioner, GIDA for allotment of land with an object to procure maximum benefit for GIDA. The allotment of land was done by the CEO, GIDA. It is further stated that the Board of Directors, GIDA in its 4<sup>th</sup> meeting under clause 13 have delegated the CEO with full powers regarding the allotment of plot etc. Clause 13 and Clause 18 of the Board Resolution are relevant in the present case which are reproduced herein-below:-

- |     |  |  |
|-----|--|--|
| 13- | प्राधिकरण के अधीनस्थ अधिकारियों/कर्मचारियों के संघ कार्य विभाजन प्रशासनिक/वित्तीय अधिकारों का तय करना। | पूर्ण अधिकार   |
| 18- | अधिकारों का प्रतिनिधान   | प्राधिकरण द्वारा प्रत्योजित अधिकारों में से कोई भी अधिकार मुख्य कार्यपालक अधिकारी द्वारा प्राधिकरण के निम्न अधिकारियों को प्रतिनिधान करने का पूर्ण अधिकारी है:-<br>1. अपर मुख्य कार्यपालक अधिकारी<br>2. उप मुख्य कार्यपालक अधिकारी |

प्रस्ताव है कि मुख्य कार्यकारी अधिकारी जो उपरोक्त भांति अधिकारों का प्रतिनिधापन किया जाय।

**26.** AUL had filed a counter affidavit in Writ-C No.1110 of 2011 stating therein that the GIL had not approached this Court with clean hands. It is stated that the GIL was allotted 116.961 acres of land as per their requirement for the first phase of the project. The GIL had ear-marked 75 acres of land situated in village Ujjikhor and Rahimabad, Tehsil Sahjanwan, District Gorakhpur adjacent to the land allotted to them for extension of their project, and therefore, there was no occasion for the GIL to apply for allotment of land which became available due to cancellation of allotment made in favour of allottee company.

**27.** In the supplementary counter affidavit of AUL, it is averred that on 15.09.2010, GIL approached SEBI for issuance of a public issue of its shares through an IPO for raising Rs.40 crores from the share market. It is averred that a perusal of offere document

(prospectus) indicated that same included the entire first phase of project and the second phase of project. The said document did not mention that GIL had any additional requirement of land nor any future plan was disclosed. It is also stated that the allotment of land in favour of AUL was in accordance with law after examining the matter in detail.

**28.** Sri Rakesh Pande, learned counsel appearing for the petitioner Gorakhpur Texpark Private Limited has contended that the order of cancellation of allotment of land in favour of allottee company was in breach of principles of natural justice inasmuch as the CEO before passing the said order did not give any notice or opportunity of hearing to the allottee company as such the cancellation order is illegal and not sustainable.

**29.** He has further urged that the allotment of land in favour of AUL has been done by Additional Chief Executive Officer (hereinafter referred to as 'ACEO') who is not empowered to issue allotment order. He submits that under Section 7 of the U.P. Industrial Area Development Act, 1976 (hereinafter referred to as 'Act, 1976') the power to sell, lease or otherwise transfer by allotment any land or building belonging to the Authority is with the Authority. The Authority can delegate the said power to the CEO. He further placed reliance on Section 4 of the Act, 1976, which defines CEO, to contend that under Section 4(3) of Act, 1976, CEO shall exercise the power and perform such duties which have been delegated to him by the Authority or which have been specified in the Regulations. The submission is that the Authority can delegate the power vested in it under Section 7 of the Act, 1976 with regard to sell, lease or transfer the land to the CEO, but the CEO is not empowered under the Act, 1976 to delegate his power to ACEO or any other officer and as such the letter of allotment in favour of AUL issued by the ACEO is without jurisdiction.

**30.** Sri Ravi Kant, learned Senior Counsel appearing for the

petitioner M/s Gallant Ispat Limited and Sri Ajay Kumar Singh, learned counsel appearing for the petitioner Hirak Tie-up Private Limited has adopted the submissions of Sri Rakesh Pande on the issue that the allotment letter in favour of AUL was issued by the ACEO who was not competent to issue the same. Learned Senior Counsel further submits that the allotment of land in favour of AUL was made arbitrarily inasmuch as no notice/advertisement to auction the land in question was published in any newspaper inviting the applications from open market and as such the allotment of land in favour of AUL is in violation of Article 14 of the Constitution of India.

**31.** Sri Dhananjay Awasthi, learned counsel for GIDA refuting the submissions of the learned counsel for the petitioner has submitted that the allottee company has no locus to challenge the order impugned in the writ petition inasmuch as the land was allotted to the allottee company to establish different units relating to textiles under SITP, and after withdrawal of Central Government from the scheme by letter dated 23.12.2008, the purpose for allotment of land had failed. He further submits that one of the directors Sri C.P. Agrawal had participated in the meeting of Authority on 19.03.2010 and showed inability to meet the matching fund needed for the project. He further submitted that the allottee company had been refunded Rs. 59,31,202/- by cheque no.059382 dated 07.07.2010 by GIDA towards refund of amount deposited by the allottee company.

**32.** He submits that a perusal of the impugned order indicates that the CEO has recorded a clear finding that allottee company has failed to manage matching fund due to which the Central Government withdrew from the scheme and further the allottee company had failed to comply with the conditions no. 5 to 13 of the allotment letter. He submits that since the allottee company has not challenged the letter of the Central Government dated 18.12.2008 withdrawing from the scheme, therefore, the allottee company has no

locus to challenge the cancellation order. He further submits that admittedly as a result of non compliance of conditions no. 5 to 13 and 15 of the allotment letter by the allottee company, the allotment was cancelled. Thus, no useful purpose would be served by giving opportunity of hearing on the admitted facts as it would be a futile exercise.

**33.** He further submits that the CEO was involved in the process of decision making for the purposes of allotment of land in dispute and he passed the order for allotting the land in favour of AUL and only a ministerial work was done by the ACEO in issuing the allotment letter. He further submits that the Board Resolution No.34 has delegated the power to the CEO to further sub-delegate to the ACEO and therefore, the CEO vide letter dated 02.08.2008 authorized the ACEO to discharge the functions of executions of lease etc. The submission is that the ACEO was competent to issue the allotment letter and there is no illegality or infirmity in issuing allotment letter in favour of AUL.

**34.** He further contends that the case of all the applicants was considered and, therefore, there was no arbitrariness on the part of the authorities in allotting the land in question to AUL. He further submits that it is not open to the GIL and HTPL to raise a plea of arbitrariness on the part of the authorities in not issuing advertisement for allotment of land in question.

**35.** Sri Shashi Nandan, learned Senior Counsel appearing for AUL submits that the cancellation of plot in question allotted in favour of allottee company was in accordance with law as the allottee company did not comply with the conditions of allotment, hence there was no illegality in the order of cancellation. Since the cancellation of allotment was in accordance with law, therefore, the allottee company has no locus to challenge the allotment of land in favour of AUL.

36. With regard to the GIL, he submits that GIDA had acquired 193 acres of land out of which 106 crores of land was allotted GIL as per their requirement and 70 acres of land was allotted to M/s allottee company. He further submits that GIL had identified the land in village Rahimabad for expansion of its project, and the GIDA proceeded with the procedure for initiating acquisition of land identified by GIL. He further submits that GIL had approached the State Government against the allotment of land in favour of AUL. The State Government on 13.12.2010 stayed the proceedings, but subsequently the State Government vacated the interim order dated 19.12.2010 after having been satisfied that there was no illegality in allotting the land in question in favour of AUL. He placed a supplementary counter affidavit filed by AUL in Writ-C No.1110 of 2011 to indicate that GIL has no requirement of additional land for expansion purpose as they have decided to proceed with the expansion work at existing site. The submission is that the writ petition filed by GIL is not maintainable and the petitioners are not entitled for any relief under Article 226 of the Constitution of India.

37. Sri Manish Goyal, learned Additional Advocate General appearing for the State of U.P has placed reliance upon the guidelines laid down in the Government Order dated 30.11.2006 wherein a scheme was laid for the purposes of attracting those entrepreneurs who were interested in investing more than Rs.100 crores. He submits that a complete mechanism was provided in the said G.O. for allotment of land and the allotment has been made strictly in accordance with the provisions contained in the Government Order dated 30.11.2006. He submits that under Clause 2.23 of the said G.O., those entrepreneurs, who were desirous of investing minimum Rs.100 crores, were entitled to approach for allotment of land to GIDA. For that, entrepreneurs had to submit an application under paragraph 3.2 of the said G.O. to the Nodal Agency. The Nodal Agency after verifying the proposal of the

entrepreneurs sent the proposal to the high level committee. If the proposal is accepted by the high level committee only then the letter of comfort would be issued to the entrepreneurs stipulating the conditions. He further places reliance upon 11.1 to indicate the constitution of high level committee. 11.4 of the said G.O. defines scrutiny committee. Thus the submission is that G.O. dated 30.11.2006 provides a complete mechanism for allotment of the land. He further places reliance upon paragraph 8 of the G.O. with regard to the procedure of the acquisition of land for those entrepreneurs whom letters of comfort has been issued.

**38.** Sri Rakesh Pande, in rejoinder submits that Allotee Company is ready and willing to establish Textile Park. He further submits that had an opportunity be given to the allottee company; it would have satisfied the authorities that they have funds to establish the project.

**39.** Sri Ravi Kant, learned Senior Counsel in rejoinder submits that the allotment of land to AUL was not under the G.O. dated 30.11.2006 nor the policy framed under the said G.O. was followed by the authorities in allotting the land.

**40.** We have considered the rival submissions of the parties and have perused the record.

**41.** On the basis of pleadings, the following three questions emerge in the present writ petition for determination:

(i) Whether the order dated 23.04.2010 passed by the CEO cancelling the allotment of land allotted in favour of allottee company was not sustainable being in violation of principles of natural justice.

(ii) Whether the delegation of power by the CEO, GIDA to ACEO, GIDA for issuing or executing an allotment order in favour of AUL was beyond his competence as there is no provision under the U.P. Industrial Development Corporation Act which empowers the CEO to delegate his powers to any

other authority.

(iii) Whether the allotment of land in favour of AUL was an arbitrary exercise of power by the authorities as no advertisement was issued for auctioning the land in question.

**42.** We would first deal with the first question as to whether the cancellation of allotment of land allotted in favour of M/s Gorakhpur Texpark Private Limited was in violation of principles of natural justice.

**43.** Learned counsel for the petitioner has submitted that the land was allotted to the allottee company under bulk land policy in the year 2006; even if the Central Government had withdrawn from the scheme by letter dated 23.12.2008, the allottee M/s Gorakhpur Texpark Private Limited was ready to establish the project.

**44.** At this stage, it is useful to notice the order dated 23.04.2010 passed by CEO, GIDA. A perusal of the said order indicates that the same has been passed by the authority on the ground that the Central Government had withdrawn from the scheme vide letter dated 23.12.2008 and one of the directors of the allottee company Sri C.P. Agrawal had participated in the meeting dated 19.03.2010 of Industrial Development Corporation and showed its inability to arrange the matching fund. The cancellation order further recites that the allottee company could not comply with the condition no.5 of the allotment letter according to which the allottee company had to deposit the interest on every six months on the balance amount of premium and further the first installment of premium was due on 01.01.2009 ; the notices have been issued to the allottee company for payment of interest and installment of premium but the allottee company did not deposit the interest and installment of premium in time. The said order further recites that the allottee company was also liable to pay lease rent and maintenance expenses which was also not deposited by the allottee company. According to the said

order, under the terms and conditions of the allotment letter, the construction on the land in dispute was to be completed within two years.

**45.** The CEO after considering all these facts recorded finding that the petitioner company did not comply with the conditions no.5 to 13 of the allotment letter, and consequently, the allotment of the allottee company was cancelled by the CEO in exercise of power under Sections 13 and 14 of the Act, 1976.

**46.** There is no pleading in the writ petition disputing the correctness of finding recorded by the CEO with regard to the breach of conditions of allotment letter by the allottee company.

**47.** Since the petitioner has not assailed the finding regarding non-compliance of the allotment conditions, therefore on admitted facts that the allottee company did not comply with the conditions of the allotment letter, we find that no useful purpose would be served by giving the opportunity of hearing to the allottee company by CEO before passing the cancellation order.

**48.** Even if we assume that the argument of learned counsel for the allottee company as regards the violation of principles of natural justice is correct and has substance inasmuch as if the opportunity of hearing was given to the allottee company, the allottee company would have demonstrated that it had arranged the matching fund and could establish the project. In our opinion the said argument has no substance in the facts of the present case inasmuch as the allotment of land was subject to terms and condition of the allotment letter and consequence of non compliance or violation of conditions of allotment would result in cancellation of allotment.

**49.** It is settled principles of law that if on admitted facts only one conclusion can be arrived at, the Court would refuse to quash the said order on the ground of violation of principles of natural justice as no useful purpose would be served by giving opportunity of

hearing to the allottee company. Thus, the contention of the allottee company that the order is passed in violation of the principles of natural justice is rejected.

50. On the issue as to whether the District Magistrate could delegate the power to Additional CEO to issue allotment letter in favour of AUL, it would be useful to notice Section 2 (b), Section 4(3), Section 6 (2) (f), Section 7 and Section 12 of the Act, 1976 in order to appreciate the submissions of the learned counsel for the parties and as such the same are extracted herein-below:

**“2. Definitions.-- In this Act--**

(a).....

(b) “Authority” means the Authority constituted under Section 3 of the Act;

**4. Chief Executive Officer.-- (1).....**

(2).....

(3) *The Chief Executive Officer shall exercise such powers and perform such duties as may be specified in the regulations or delegated to him by the Authority.*

**6. Function of the Authority.-- (1).....**

(2) *Without prejudice to the generality of the objects of the Authority, the Authority shall perform the following functions--*

(a)...

(b)....

(c)...

(d)...

(e)...

(f)..*to allocate and transfer either by way of sale or lease or otherwise plots of land for industrial, commercial or residential purposes;*

**7. Power to the Authority in respect of transfer of land.--** *The Authority may sell, lease or otherwise transfer whether by auction, allotment or otherwise any land or building belonging to the Authority in the industrial development area on such terms and conditions as it may, subject to any rules that may be made under this Act, think fit to impose.*

**12. Applications of certain provisions of President's Act XI of 1973.--***The provisions of Chapter VII and Sections 30, 32, 40, 41, 42, 43, 44, 45, 46, 47, 49, 50, 51, 53 and 58 of the Uttar Pradesh Urban Planning and Development Act, 1973, as re-enacted and modified by the Uttar Pradesh President's Act (Re-enactment with Modifications) Act, 1974, shall mutatis mutandis apply to the Authority with adaptation that--*

*(a) any reference to the aforesaid Act shall be deemed to be a reference to this Act;*

*(b) any reference to the Authority constituted under the aforesaid Act shall be deemed to be a reference to the Authority constituted under this Act; and*

*(c) any reference to the Vice-Chairman of the Authority shall be deemed to be a reference to the Chief Executive Officer of the Authority.”*

**51.** Section 51 of the Uttar Pradesh Urban Planning and Development Act, 1973 (hereinafter referred to as 'Act, 1973') has been adopted by Section 12 of the Act, 1976. Section 51 of the Act, 1973 provides for power to delegate. Section 51 of the Act, 1973 is extracted herein-below:

**“51. Power to delegate.--** *The State Government may by general or special order, direct that any power exercisable by it under this Act except the power to make rules, may also be exercised by such officer in such cases and subject to such conditions, if any, as may be specified therein.*

*(2) The Authority, may, by general or special order, direct that any power exercisable by it under this Act except the power to make*

*regulations or bye-laws, may also be exercised by such officer or local authority, in such cases and subject to such conditions, if any, as may be specified therein.*

*(3) The Vice-Chairman of the Authority may by general or special order direct that any power exercisable by him under the Act may also be exercised by such officer of the Authority in such cases and subject to such conditions, if any, as may be specified therein.”*

52. Considering the complexity in running day to day administration and further to achieve the object of Act, 1976, the legislature thought it appropriate and necessary to give authority to delegate its power to other officers by adopting Section 51 of Act, 1973 in the Act, 1976.

53. Section 51(3) of Act, 1973 confers the power upon the vice chairman of the authority to delegate any power to be exercised by it under the act to such officer of the authority and subject to such conditions, if any, as may be specified. Section 12 of the Act, 1976 provides that any reference to the vice chairman of the authority in Section 51 of the Act, 1973 shall be deemed to be a reference to the CEO of the Authority. Thus, by virtue of adoption of Section 51 of Act, 1973 in the Act, 1976, the CEO has been vested with the power to delegate its power under the Act, 1976.

54. Under Section 4(3) of the Act, 1973, the CEO shall perform such duties which are delegated to him by the Authority. The authority in exercise of power conferred to it under the Act, 1976 had passed resolution no.4.13 delegating powers and duties to be discharged by the CEO.

55. Paragraphs 11 and 18 of the said resolution as extracted herein-above clearly indicates that the CEO has been authorized to approve the construction and other development works and also vested with the power to lay down the terms and conditions of the agreement etc. Paragraph 18 of the said resolution further authorizes the CEO to delegate his power to ACEO or Deputy CEO as

mentioned in the said paragraph.

**56.** In this context, it is important to notice that by paragraph 18 the authorities have defined officers to whom the CEO can delegate his power. Thus, it is evident from record that the CEO was authorized by the authority to delegate his power only to those officers mentioned in paragraph 18 and not to any other officers.

**57.** It reflects from the record that GIDA had constituted a costing committee to compare the income to be earned by GIDA in case of allotment of land to various applicants. Thereafter, a committee was constituted consisting of ACEO, Deputy Manager (Planning), Officer on Special Duty and the Deputy Manager (Property) to consider the case of all the applicants. A comprehensive report was submitted by the said committee with respect to all the applicants namely GIL, HTPL and AUL. The said committee after analyzing the need, requirement and conduct with regard to their sincerity for establishing the project found AUL the most suitable for allotment of the land. The committee, thereafter, submitted a report to the CEO, GIDA making a recommendation in favour of AUL. The CEO consulted the matter with the Commissioner/Vice Chairman, GIDA for allotment of land in question. It further transpires from the record that the Commissioner/Vice Chairman, GIDA sought comparative statements of all the applicants. A comparative statements of all the applicants was submitted to the CEO, and the CEO thereafter consulted the matter with the Commissioner/Vice Chairman, GIDA.

**58.** The record further reveals that the Vice Chairman/Commissioner, GIDA put certain conditions which the AUL had to abide by. Thereafter, CEO on 09.12.2010 passed an order. The said order is at page 14 of the note-sheet of GIDA and was placed before us during the course of arguments. The order dated 09.12.2010 is extracted herein-below:

"उपाध्यक्ष – गीडा/मंडलायुक्त महोदय द्वारा दी गयी सशर्त अनुमति

के क्रम में ACEO-GIDA कृ० अग्रेतर कार्यवाही करें।

A.K. Shukla  
09.12.2010  
C.E.O."

**59.** Thus, it is clear from the record that CEO had been involved in the process of allotment of land and had passed the order of allotment of land in favour of AUL by making an endorsement on the note-sheet which has been extracted herein-above.

**60.** In the instant case, petitioners are not disputing the power of the Authority to delegate its power to the CEO, but what they are questioning is the delegation of power by CEO to the ACEO for the purposes of issuance of allotment letter inasmuch as said delegation of power by CEO was beyond his competence.

**61.** In our opinion the said submission of the learned counsel for the petitioner lacks merit for the reason that CEO was conferred power to delegate his power to officers mentioned in paragraph 18 of the resolution no. 4.13. It is noteworthy to mention that Authority has not given unbridled power to the CEO to delegate its power to any officer rather it has specified the officers to whom CEO can delegate his power.

**62.** Secondly, in the instant case the CEO has passed the order of allotment by making a note on the note-sheet and thereafter, only a ministerial work of issuing the allotment letter was given to ACEO. Thus, the final decision to allot the land as it manifest from the facts detailed above was that of CEO and as such there was no delegation by the CEO with regard to his power to allot the land.

**63.** Thirdly, the power of CEO to delegate its power to other authority emanates from Section 12 of Act, 1976 by adopting Section 51 of Act, 1973 which confers power upon the CEO of the Authority to delegate its power to such officer of the authority subject to conditions, if any, as may be specified by him in this respect.

64. Now we would deal with the judgments relied upon by the learned counsel for the petitioners on the said issue.

65. In **Sidhartha Sarawgi Vs. Board of Trustees for the Port of Kolkata and Ors. AIR 2015 SC 1271**, the petitioner had questioned the legality of the termination of the lease by the Land Manager as according to the petitioner the power to terminate the lease was conferred on the chairman, and therefore, the notices issued by the Land Manager for eviction of petitioner was without jurisdiction. The Apex Court in the said judgment has laid down distinction between the essential and non-essential functions of the delegate in construing the scope and extent of delegated power. The Apex Court held that there cannot be sub-delegation of any essential functions but in order to achieve the intended object of the delegation, the non-essential function can be sub-delegated. The Apex Court found that the notices issued by the Land Manager was based on the decision by the competent authority to terminate the lease. Consequently, the Apex Court upheld the validity of the notices issued by the Land Manager of the Kolkata Port Trust.

66. In **Sahni Silk Mills (P) Ltd. and another Vs. Employees' State Insurance Corporation 1994 (5) SCC 346**, the Apex Court has held the resolution dated 28.02.1976 of the Corporation whereby the Corporation, while exercising the power under Section 94-A of the Employees' State Insurance Corporation Act, 1948 has delegated the power to recover damages under Section 85-B of the Act to the Director General or any other officer authorized by him was bad in law. Paragraph 10 of the said judgement is useful in the context of the present case and the same is reproduced herein-below:-

*“10. So far as the present Section 94-A is concerned, it says that the Corporation subject to any regulation made by the Corporation in that behalf, may direct that particular or any of the powers and functions which may be exercised or performed by the Corporation, may, in relation to such matters and subject to such conditions, if*

*any, as may be specified "be also exercisable by any officer or authority, subordinate to the Corporation". Section 94-A does not specifically provide that any officer or authority subordinate to the Corporation to whom the power has been delegated by the Corporation, may in his turn authorise any other officer to exercise or perform that power or function. But by the resolution dated 28-2-1976 the Corporation has not only delegated its power under Section 85-B(1) of the Act to the Director General, but has also empowered the Director General to authorise any other officer to exercise the said power. Unless it is held that Section 94-A of the Act, enables the Corporation to delegate any of its powers and functions to any officer or authority subordinate to the Corporation, and he in his turn can sub-delegate the exercise of the said power to any other officer, the last part of the resolution dated 28-2-1976 cannot be held to be within the framework of Section 94-A. According to us, Parliament while introducing Section 94-A in the Act, only conceived direct delegation by the Corporation to different officers or authorities, subordinate to the Corporation, and there is no scope for such delegate to sub-delegate that power, by authorising any other officer to exercise or perform the power so delegated."*

**67.** This Court in **Nand Lal Jaiswal Vs. Secretary, Government of U.P., Energy Department, Lucknow and others 2012 (2) AWC 2055 (LB)**, has held that the delegation of power by the selection committee to the State Government under Section 85 (5) of Electricity Act, 2003 was invalid inasmuch as the selection committee was to record the finding on each case in pursuance of Section 85(5) and it was not open to the selection committee to delegate its power to the State Government to look into the matter as per provisions of Section 85(5) of the Electricity Act, 2003.

**68.** A reading of the aforesaid judgments also indicates that the Apex Court has also laid down distinction between the essential and non-essential functions of the delegate in construing the scope and

extent of delegated power. The Apex Court has held that while essential functions which have been delegated to an officer by a competent authority could not be further sub-delegated, but non-essential functions can be sub-delegated to the authorities.

**69.** In the instant case, from the facts it is clear that CEO was delegated the power by the authority to exercise the power and duty with regard to transfer or lease of the land. The CEO was involved in the process of allotment and final decision to allot the land in favour of AUL was taken by the CEO. The allotment of land by the authority can easily be segregated in two parts. The first part is the decision to allot the land which can only be made by the authority competent to take such decision after following the procedure and due deliberation and looking into various factors like interest of the authority or collaboration, conduct of the applicant, financial capability of the applicant etc.; and the second part is completion of formalities like execution of lease deed, issuance of allotment letter etc.

**70.** In our opinion, Addl. CEO, GIDA has not committed any illegality in issuing allotment letter in favour of AUL for the reason that the essential function of the allotment of land namely the decision to allot the land was discharged by CEO and only mechanical or non-essential part namely issuance of allotment letter was performed by ACEO. Secondly, the CEO has power by virtue of Section 12 of ACT, 1976 to delegate his power to other officers of the authority. Thus, we do not find force in the submission of the learned counsel for the petitioner that ACEO was not competent to issue the allotment letter in favour of AUL.

**71.** Now coming to the questions raised by Sri Ravi Kant, learned Senior Counsel that no advertisement was issued by the authority with regard to the land in question calling for application from open market and, therefore, action of respondents in allotting the land in favour of AUL was hit by Article 14 of the Constitution of India. In

this regard, we would note that the authority has considered the claim of all the applicants including the GIL, therefore, it is not open to the GIL to challenge the allotment in favour of new allottee on the ground that it was hit by Article 14 of the Constitution of India. Further we may record that the allotment of land has been done under the G.O. dated 30.11.2006 which was with respect to a particular class of entrepreneurs who are interested in establishing a project of not less than 100 crores. The said government order provided a complete mechanism and checks and balance for allotting the land to the entrepreneurs who were eligible to establish industries under the said government order. Thus, the judgments relied upon by the learned counsel for the GIL on the issue of violation of Article 14 of the Constitution of India are not applicable in the facts of the present case.

72. Thus, for the reasons given above, all the writ petitions lack merit and are dismissed and the Writ-A No.- 71450 is dismissed as infructuous. There shall be no order as to costs.

**Order Date :-02.07.2018**

S.Sharma

ITEM NO.9

COURT NO.6

SECTION XI

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 27615/2018

(Arising out of impugned final judgment and order dated 02-07-2018 in WC No. 4513/2011 passed by the High Court Of Judicature At Allahabad)

GORAKHPUR TEXPARK PRIVATE LTD.

Petitioner(s)

VERSUS

THE STATE OF UTTAR PRADESH &amp; ORS.

Respondent(s)

(IA NO. 137336/2018-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

FILE ADDITIONAL

WITH

SLP(C) No. 30927/2018 (XI)

Date : 16-01-2019 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN  
HON'BLE MR. JUSTICE NAVIN SINHA

For Petitioner(s) Mr. Mukul Rohatgi, Sr. Adv.  
Mr. Ranjit Kumar, Sr. Adv.  
Mr. Tanuj Bhushan, Adv.  
Ms. Nandita Chauhan, Adv.  
Ms. Neha Goel, Adv.  
Mr. Md. Farman, AOR

Mr. Sudhir Chand Aggarwal, Sr. Adv.  
Mr. Vijay Hansaria, Sr. Adv.  
Mr. Shekhar Prit Jha, AOR  
Ms. Sushmita Mahala, Adv.

For Respondent(s) Mr. Tushar Mehta, SG  
Mrs. Swarupama Chaturvedi, AOR

Mr. M. C. Dhingra, AOR  
Mr. Gaurav Dhingra, Adv.  
Mr. Piyush Kant Roy, Adv.  
Mr. Vikrant Yadav, Adv.  
Ms. Shoba Gupta, Adv.

Mr. Shyam Divan, Sr. Adv.  
Mr. C.U. Singh, Sr. Adv.  
Mr Kabir Ghosh, Adv.

Mr. Kundan Kumar Lal, AOR

UPON hearing the counsel the Court made the following  
O R D E R

Having heard learned senior counsel and extensive arguments on both sides, we are of the view that SLP (C) No. 27615/2018 is dismissed with cost of Rs. 50,000/- (Rupees Fifty Thousand Only) to be deposited within a period of two weeks from today to the credit of Supreme Court Middle Income Group Legal Aid Society.

So far as SLP (C) No. 30927/2018 is concerned, the same is also dismissed. We see no reason to interfere with the well reasoned judgment of the High Court.

Pending applications, if any, stand disposed of.

(MANAV SHARMA)  
COURT MASTER (SH)

(KAILASH CHANDER)  
ASSISTANT REGISTRAR