



2024 : DHC : 4700



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

Date of decision: 05<sup>th</sup> JUNE, 2024

IN THE MATTER OF:

+ **W.P.(C) 15929/2023 & CM APPLs. 10225/2024, 19624/2024 & 19666/2024**

AAM AADMI PARTY

..... Petitioner

Through: Mr. Rahul Mehra, Sr. Advocate with  
Mr. Talha Abdul Rahman, Ms. Mani  
Gupta, Mr. Sreekar, Mr. Adnan, Mr.  
Rishikesh Kumar, Mr. Prateek  
Chadha Ms. Sonali Jain, Advocates.

versus

UNION OF INDIA THROUGH ITS SECRETARY & ANR.

..... Respondents

Through: Mr. Kirtiman Singh, CGSC with Mr.  
Waize Ali Noor, Mr. Varun Rajawat,  
Mr. Varun P. Singh, Mr. Aryan  
Agrawal, Mr. Kartik Baijal, Ms.  
Shreya V. Mehra and Ms. Vidhi Jain,  
Advocates for R-1 and 2

**CORAM:**

**HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD**

**JUDGMENT**

1. The Petitioner, a National Party, has approached this Court for a Writ of Mandamus directing the respondents to allot a housing unit on temporary basis to the Petitioner from the General Pool Residential Accommodation (GPRA) for office use on payment of license fee as provided to National Parties till an office is constructed by the Petitioner on the land which will be allotted for permanent use in accordance with the Consolidated Instructions for allotment of Government Accommodation from General Pool to National and State level Political Parties.



2. Shorn of unnecessary details, the facts, leading to the present Writ Petition are as under:

- a. The President of India sanctioned the allotment of Plots No. 23 and 24, DDU Marg, New Delhi, to the GNCTD on 15.02.2002 and 03.06.2002 respectively for setting up Family Courts in Delhi. The possession of said plots was taken by the GNCTD from the L&DO on 03.08.2006.
- b. On 22.03.2013, the petitioner party was registered as a Political Party under Section 29A of the Representation of People Act, 1952. On 20.12.2013, the Petitioner was recognised as a “State Party” in the National Capital Territory under the Election Symbols (Reservation and Allotment) Order, 1968. On being recognized as a State Party, a request was made by the Petitioner for allotment of land for construction of office and by a communication dated 10.02.2014, the L&DO offered Plots No.3, 7 & 8, MB Road, Sector VI, Saket, to the Petitioner for construction of its permanent office. However, the Petitioner rejected the said offer vide letter dated 24.06.2014 insisting on allotment of land in Central Delhi only.
- c. An Office Memorandum dated 09.11.2012 was issued by the L&DO *vis-a-vis* Policy guidelines for allotment of land to political parties wherein national political parties and State recognized parties having at least 7 MP’s were to be considered for allotment of land for construction of office building. The same were adopted by the GNCTD *vide* office memorandum dated 14.10.2015.



- d. Material on record indicates that the GNCTD *vide* communication dated 31.12.2015 allotted Bungalow No.206, Rouse Avenue to the Petitioner Party to use the same as its temporary office in its capacity as a state party.
- e. Material on record discloses that the Hon'ble Lt. Governor *vide* Order dated 12.04.2017 cancelled the allotment of Bungalow No. 206, Rouse Avenue, New Delhi, to the Petitioner herein.
- f. Aggrieved by the said Order, the Petitioner approached this Court by filing W.P.(C) 7319/2017 and this Court *vide* Order dated 23.08.2017 set aside the Order dated 12.04.2017, by which the allotment of Bungalow No.206, Rouse Avenue, to the Petitioner herein was cancelled. This Court remanded the matter back to the Lt. Governor to reconsider the matter and pass a reasoned Order after hearing the Petitioner.
- g. Material on record further discloses that the L&DO *vide* letter dated 18.09.2020, cancelled the allotment of Plots No. 23 & 24, DDU Marg which were allotted to the GNCTD for setting up Family Courts and in lieu of Plots No. 23 & 24, DDU Marg, a plot admeasuring 3.036 acres contiguous and adjacent to Rouse Avenue was allotted to the GNCTD for the same purpose, i.e. for setting up of Family Courts.
- h. *Vide* Office Memorandum dated 31.07.2014, the Directorate of Estates (DoE) issued the Consolidated Instructions for allotment of Government Accommodation from General Pool to National and State level Political Parties. Under the said guidelines, any Party recognized by the Election Commission



of India as a National Party is allowed to retain/secure allotment of one housing unit from the GPRA in Delhi for their office use for a period of three years and the Party has to secure a land in an institutional area for construction of its permanent office in the interregnum.

- i. Vide Order dated 10.04.2023, the Petitioner was recognised as a National Party by the Election Commission of India.
- j. On being recognised as a National Party, the Petitioner vide letter dated 17.04.2023 requested the DoE for allotment of a housing unit from the GPRA to be used as office premises until a parcel of land is allotted to it for construction of office premises. Vide letter dated 20.04.2023, the Petitioner requested the L&DO for allotment of a parcel of land for construction of office premises.
- k. It is stated that despite cancellation of Plots No. 23 & 24 DDU Marg, the said plots were not being handed over to the L&DO by the GNCTD. Therefore, vide Letter dated 10.01.2024, the L&DO requested the Chief Secretary, GNCTD to hand over Plots No. 23 & 24 DDU Marg to the L&DO.
- l. In **Civil Appeal No.1867/2006** titled as Malik Mazhar Sultan & Anr. v. U.P. Public Service Commission Through its Secretary & Ors., the Apex Court was considering the issue *vis-a-vis* projects of the High Court of Delhi pertaining to infrastructural requirements of the Delhi District Judiciary. In the said case, the Apex Court was apprised of the fact that a political party has encroached on a portion of a plot at Rouse Avenue which



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has been allotted to the High Court of Delhi. In the said matter, the Apex Court *vide* its Order dated 13.02.2024, directed the Chief Secretary, GNCTD; Secretary PWD and Finance Secretary to convene a meeting with the Registrar General of this Court regarding handing over of the plot at Rouse Avenue, a portion of which was in possession of the Petitioner herein. In the meantime, the Petitioner *vide* its letter dated 23.02.2024, requested the L&DO to allot Plots No.23 & 24, DDU Marg, to the Petitioner to use the same as its temporary office till a permanent plot is allotted to the Petitioner for construction of a permanent office. The Apex Court *vide* Order dated 04.03.2024 in C.A. 1867/2006 directed the Petitioner to vacate Bungalow No.206, Rouse Avenue by 15.06.2024 so that the land which has been allotted for the purpose of expanding the footprint of district judiciary can be duly utilised for such purpose on an expeditious basis. The Apex Court also directed the Petitioner to move the L&DO for allotment of an alternate land and also directed the L&DO to consider the said request for allotment in accordance with law and communicate its decision within a period of 4 weeks.

- m. Material on record discloses that *vide* letter dated 13.03.2024, the L&DO, informed the Petitioner that since Plots No. 23 & 24, DDU Marg are not in possession of L&DO, the same cannot be allotted to the Petitioner. The L&DO offered Plots No. P2 & P3 M.B. Road, Sector – VI, Saket, to the Petitioner to construct its permanent office *vide* letter dated 24.04.2024. The



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said offer has not been accepted by the Petitioner and the Petitioner filed W.P.(C) 15987/2023 for a direction to the L&DO to allot a suitable land to the Petitioner in New Delhi, preferably in a centrally located area to construct its permanent office.

- n. Since the Petitioner has to vacate Bungalow No.206, Rouse Avenue by 15.06.2024, the Petitioner has filed the present Writ Petition seeking a direction to the Respondents for allotment of a suitable accommodation of a housing unit under the GPRA to establish its office on a temporary basis till land is allotted to the Petitioner for construction of its permanent office.

3. Notice in the Writ Petition was issued and replies have been filed. In the reply it has been contended that the Petitioner is in occupation of a housing unit from the year 2015 as a state party, and the Petitioner had been offered allotment of a parcel of land for construction of permanent office which was refused by the Petitioner and since the Petitioner has not constructed an office within three years of the allotment being offered to it, the Petitioner cannot now make a claim of allotment of a residential unit to be used as a temporary office. It is further stated in the reply that land is allotted to the National Parties on the basis of availability of a vacant land in the centrally located area and since the L&DO is not in possession of any land vacant in Central Delhi, the Petitioner has been offered parcels of lands in Saket. The Ministry of Urban Affairs, in its reply, has stated that the Respondent is facing an acute shortage of the GPRA on account of the redevelopment of seven GPRA Colonies which is currently underway and there is a long waiting list of eligible officers who are awaiting the allotment



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of these accommodations. It is, therefore, stated in the reply that the grant of housing a unit from the general pool to the Petitioner for office use is not feasible. It is further mentioned in the reply that there is no separate and exclusive pool for allotment of housing units from the GPRA to the Political Parties and as such various other eligible categories are entitled to an equal consideration for allotment of residential accommodation from the GPRA.

4. Mr. Rahul Mehra, learned Senior Counsel appearing for the Petitioner, contends that the Petitioner is seeking a temporary unit from the DoE for setting up its temporary office as it is a recognised National Party. He draws the attention of this Court to the Compendium of the Allotment of Government Residences (General Pool in Delhi) Rules, 1963 to contend that National Political Parties which have been recognized by the Election Commission of India shall be allowed to retain/secure allotment of one housing unit from General Pool in Delhi for their office use for a period of three (3) years during which the party would acquire a plot of land in an institutional area and will construct its own accommodation for party office. He further states that apart from allotment of a housing unit to be used as temporary office, the above-mentioned Rules also permit one residential accommodation to the Party President of the National Party provided that no other accommodation has been given to the Party President in any other capacity. Learned Senior Counsel for the Petitioner contends that out of a population of about 1.2 billion people, there are only six national parties, and recognition of any party as a National Party is of considerable significance. He states that only those parties which have secured not less than 6% of total valid votes polled in four or more States in last general election alone qualify to be a national party and, therefore, a National Party



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and its leaders, as representatives of the people are given privileges under the Indian Polity due to their special position and distinct features, commensurating with the role of in a multi-party democratic setup. He states that several National Political Parties have been given a residential unit in Delhi as their temporary office, in addition to centrally located land parcels for construction of their permanent office. He further states that this privilege is in addition to whatever may be made available to them as a State Party in the concerned State. He, therefore, contends that the Petitioner has been discriminated with inasmuch as the land which is allotted to the Petitioner to establish its permanent office is far away and not in a centrally located area. He states that the Petitioner is entitled to allotment of a housing unit from the GPRA under the Compendium of the Allotment of Government Residences (General Pool in Delhi) Rules, 1963 which the Petitioner has been wrongly denied. He states that Plots No. 23 & 24, DDU Marg are in the occupation of a Minister of the GNCTD who is prepared to give his allotment to the Petitioner for running its office and that since the Petitioner has to vacate Bungalow No.206, Rouse Avenue, the Petitioner, being a National Party, cannot be left without any office. He, therefore, states that equity demands that Plots No. 23 & 24, DDU Marg should be allotted to the Petitioner on temporary basis. Learned Senior Counsel appearing for the Petitioner draws the attention of this Court to the communication dated 18.09.2020, issued by the Ministry of Housing and Urban Affairs to the GNCTD allotting land measuring 3.036 Acres adjacent to the Rouse Avenue Court complex in lieu of Plots No. 23 & 24, DDU Marg. He also draws the attention of this Court to the Order dated 04.03.2024, passed by the Apex Court in IA 52071/2023 in CA 1867/2006,





wherein the Apex Court has also observed that the land measuring 3.036 Acres adjacent to the Rouse Avenue Court complex has been allotted to the GNCTD in lieu of Plots No. 23 & 24, DDU Marg. He draws the attention of this Court to Black's Law Dictionary to contend that the term '*in lieu of*' has been defined as '*instead of or in place of; in exchange or return for*'. He, therefore, states that there is an exchange of something in return for another thing. He, therefore, states that in lieu of Bungalow No.206, Rouse Avenue, which is in possession of GNCTD the Petitioner should be given Bungalow No.217, Rouse Avenue which forms a part of Plots No. 23 & 24, DDU Marg to run its office till construction of its permanent office.

5. *Per contra*, Mr. Kirtiman Singh, learned CGSC, contends that the L&DO vide letter dated 18.09.2020, cancelled the allotment of Plots No. 23 & 24, DDU Marg which were allotted to the GNCTD for setting up Family Courts and in lieu of Plots No. 23 & 24, DDU Marg, a plot admeasuring 3.036 acres contiguous and adjacent to Rouse Avenue was allotted to the GNCTD for the same purpose. He, therefore, states that in view of the fact that GNCTD has been allotted a plot admeasuring 3.036 acres contiguous and adjacent to Rouse Avenue in lieu of Plots No. 23 & 24, DDU Marg, the GNCTD should hand-over the Plots No. 23 & 24, DDU Marg to the L&DO. He, therefore, states that the Petitioner not being the GNCTD cannot raise its claim on Plots No. 23 & 24, DDU Marg. He further states that on Plots No. 23 & 24, DDU Marg there is a Bungalow, being Bungalow No.217, Rouse Avenue, which is currently being occupied by a Minister of the Petitioner and in order to take back the possession of Plots No. 23 & 24, DDU Marg, the said Minister has been asked to vacate Bungalow No.217, Rouse Avenue and an alternative accommodation, being Bungalow No. 4, 8 Raj Niwas



Marg, Delhi, has been offered to the Minister. However, the Minister has requested for retention of the said Bungalow till 31.03.2025. He states that the request of the Minister to extend the retention of Bungalow No.217, Rouse Avenue, will be considered by the Government of India and the Petitioner, which is a political party, cannot, as a matter of right, claim the said land. He further states that there is acute shortage of general pool accommodations and no such accommodation is available at present.

6. Heard the learned Counsels for the parties and perused the material on record.

7. The facts of the case reveals that the President of India sanctioned the allotment of Plots No. 23 and 24, DDU Marg, to the GNCTD for setting up Family Courts in Delhi and the possession of said plots was taken by the GNCTD from the L&DO on 03.08.2006. Vide letter dated 18.09.2020, allotment of Plots No. 23 & 24, DDU Marg which were allotted to the GNCTD for setting up Family Courts, was cancelled in lieu which a plot admeasuring 3.036 acres contiguous and adjacent to Rouse Avenue was allotted to the GNCTD for the same purpose, i.e. for setting up of Family Courts. The letter dated 18.09.2020 reads as under:

“Sir,

*I am directed to convey the sanction of the President to the cancellation of the allotment of land measuring 1428 sq. mtrs. Of Plot No. 24, Deen Dayal Upadhyaya Marg (as per L&DO Plan No. 3944/1 ) and land measuring 1428 sq. mtrs. of Plot No. 23, Deen Dayal Upadhyaya Marg (as per LADO Plan No. 3944/1 ) to Government of NCT vide allotment letter No. L-II 11(714) / 2002) / 132 dt. 15-2-2002 and L - II - 11(713) / 2002) / 418 dt. 3-6-2002 respectively, which are consequently cancelled hereby.*



2. I am further directed to say that the President of India is pleased to sanction allotment of 3.036 acres comer plot contiguous and adjacent to the Rouse Avenue District Court Complex (as shown in L&DO's drawing No. 3963) to the Government of NCT **in lieu of** already allotted Plot No. 23 824, Pocket-12 at DDU Marg, for construction of additional numbers of court rooms.

3. The allotment is subject to the terms and condition which inter-alia include the following:-

1. The allottee will pay the land premium @ Rs.573.22 lakh per acres. The allotment rates are under revision and allottee shall pay the difference of premium if the land rats are revised by the Government retrospectively w.e.f. 1-4-2020.

2. The removal of structures/squatters in the allotted area, if any, will be the responsibility of allottee.

3. The date of allotment of the land will be the date of this letter.

4. The allottee will use the land only for the purpose for which it has been allotted and not for any other purpose.

5. The allottee will construct the building only after getting the plan approved from the concerned local body (NDMC) and other concerned authority,

6. The allottee will construct the building within a period of two years from the date of handing over of the land/this allotment letter.



7. *The trees, if any, standing on the plot shall remain as Govt. property and shall not be removed or otherwise disposed off without obtaining prior permission of the Lessor and concerned authority*
8. *The allottee will be required to construct the building in conformity with the architectural surroundings of the area.*
9. *The allottee will take up the matter with DDA or other agency to change the land use of allotted land, if required.*
10. *The allottee will complete all other formalities itself.*
11. *The President or his nominee may at any time inspect the site/land and premises thereon with or without any prior notice. Refusal to allow inspection shall be amount to violation of the terms calling for suitable action including re-entry of the property.*
12. *Non-fulfillment, non-compliance and violation of any of the aforesaid terms and conditions will amount to cancellation of the allotment of land.*
13. *The attention of the allottee is invited to the various directives under Swatch Bharat Mission and to adhere to the same strictly. They are required to ensure through their agencies to keep the construction material property sanitation/hygiene arrangements for laborers residing/working at site ensuring that no open defecation is observed.*
4. *The Government of NCT shall be required to pay the*



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*following amount:-*

*A. Premium Rs. 17,40,29,592.00*

*B. Paid towards Plot No.24(-) Rs. 776336.00*

*C. Paid towards Plot No.23(-) Rs. 776336.00*

*Total Rs. 17,24,76,920.00*

*if the above terms and conditions are acceptable, you are requested to make the payment of (Seventeen crore twenty four lakh seventy six thousand nine hundred twenty only) i.e. land premium along with an undertaking on Non-judicial Stamp Paper of Rs.10 to pay the difference of premium if the rates are revised by the Government retrospectively w.e.f. 01.04.2020 within 45 days from the date of issue of this letter, failing which this offer will be deemed to have been withdrawn and cancelled.*

***5. It is further mentioned that the possession of plot nos. 24 and 23 at Deen Dayal Upadhyaya Marg will be taken over at the time of handing over of the present plot.***

*6 The payments are to be made through RTGS/NEFT/AMPS only, or online through the Land & Development office's portal "Ido.gov.in/eServices". The details of Bank Account etc. for RTGS/NEFT/AMPS are as under.-*

<i>Bank's Name</i>	<i>AXIS BANK LTD.</i>
<i>Branch</i>	<i>Nirman Bhawan, New Delhi</i>
<i>Account No.</i>	<i>007010200032948</i>
<i>Bank's IFSC Code</i>	<i>UTIB0000007</i>
<i>TAN No.</i>	<i>DELL029850"</i>

*(emphasis supplied)*



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8. The purport of letter dated 18.09.2020, issued by the L&DO is that since the purpose for which the Plots No. 23 & 24, DDU Marg, were allotted to the GNCTD has been achieved, the allotment of Plots No. 23 & 24, DDU Marg to the GNCTD has been cancelled and it was directed that the possession of Plots No. 24 and 23 at DDU Marg will be taken over at the time of handing over of the plot admeasuring 3.036 acres contiguous and adjacent to Rouse Avenue.

9. In the meantime, Bungalow No.206, Rouse Avenue, which was in possession of the Delhi Administration, was allotted to the Petitioner, which was a State Party then, for running its party office on a temporary basis. Bungalow No.206, Rouse Avenue, comes within the plot admeasuring 3.036 acres, which has been allotted to the GNCTD for setting up of Family Courts. The Apex Court *vide* Order dated 04.03.2024 in C.A. 1867/2006 has directed the Petitioner to vacate Bungalow No.206, Rouse Avenue by 15.06.2024 so that the land which has been allotted for the purpose of expanding the district judiciary can be utilised for that purpose. The Apex Court had also directed the Petitioner to move the L&DO for allotment of an alternate land and had also directed the L&DO to consider the said request for allotment in accordance with law. In terms of the said Order, the L&DO has offered allotment of Plots No. P2 & P3, M.B. Road, Sector – VI, Saket, to the Petitioner. However, no response has been received by the L&DO from the Petitioner regarding the said offer.

10. This Court is in agreement with the submission of the learned Counsel for the Respondent that the Petitioner is not the GNCTD and Plots No.23 & 24, DDU Marg, were given to the GNCTD and not to the Petitioner and, therefore, the Petitioner does not have right to claim the said Plots. As



directed by the L&DO letter dated 18.09.2020, the possession of Plots No.23 & 24, DDU Marg, is to be handed over by the GNCTD to the L&DO. Material on record also discloses that the GNCTD is ready to hand over the two plots back to the L&DO.

11. In view of the above, this Court is not prepared to accept the prayer of the Petitioner to issue a Writ of Mandamus to the L&DO to permit the Petitioner to establish its office at Plots No.23 & 24, DDU Marg, a portion of which is currently in possession of a Minister of the Petitioner.

12. However, the fact that the Petitioner is a National Political Party cannot be overlooked. Clause 26 of the OM No.12014/2/96-Pol.II(Vol.II) dated 31.07.2014, issued by DoE, deals with Consolidated guidelines for allotment of GPRA to Political parties, reads as under:

*“26. Consolidated guidelines for allotment of GPRA to Political parties:*

*(i) The National Political Parties, which have been recognised as such by the Election Commission of India, shall be allowed to retain/secure allotment of one housing unit from General Pool in Delhi for their office use on payment of licence fee under FR 45A i.e. the normal licence fee.*

*(ii) The said accommodation will be provided for a period three years during which the party would acquire a plot of land in an institutional area and will construct its own accommodation for party office.”*

13. A perusal of the said Clause indicates that National Political Parties have a right to retain/secure allotment of one housing unit from General Pool in Delhi for their office use on payment of licence fee and the said accommodation will be provided for a period three years during which the



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party would acquire a plot of land in an institutional area and will construct its own accommodation for party office. The Petitioner was offered Plots No.3, 7 & 8, MB Road, Sector VI, Saket, for construction of their office in their capacity as a State Party in 2014, however, the offer was rejected by the Petitioner. It is the case of the Respondents that had the Petitioner taken the land offered to them in 2014, their office would have been constructed by 2017 and the Petitioner would have had a permanent office. It is also the case of the Respondents that the Petitioner was allotted Bungalow No.206, Rouse Avenue on 31.12.2015 to be used as its temporary party office and the Petitioner should have constructed its office in the meantime. The said argument cannot be accepted. The fact that the Petitioner has not accepted the allotment of Plots No.3, 7 & 8, MB Road, Sector VI, Saket, for construction of their permanent office as a State Party in 2014 or the fact that the Petitioner has not responded to the offer of the L&DO regarding allotment of Plots No. P2 & P3 M.B. Road, Sector – VI, Saket, to the Petitioner for construction of its Party Office as a National Party in 2024, is of no consequence and cannot be taken an argument to deny the Petitioner a temporary accommodation to be used as a party office for a period of three years as the claim of the Petitioner is on the basis of the fact that it is a National Party. The fact as to whether the Petitioner would be entitled to a plot of land in Central Delhi or not is subject matter of another Writ Petition, i.e. W.P.(C) 15987/2023. The dispute regarding allotment of land to the Petitioner cannot be a reason to deprive the Petitioner from its entitlement to be given a housing unit to be used as a temporary office in accordance with the Consolidated Instructions for allotment of Government Accommodation from General Pool to National and State level Political Parties. On being





recognised as a National Party, the Petitioner *vide* letter dated 17.04.2023 and 22.08.2023 has requested the DoE for allotment of a housing unit from the GPRA to be used as an office premises until a parcel of land is allotted to it for construction of office premises. There is no material on record to show that the said request of the Petitioner has been rejected. This Court can take judicial notice of the fact that there has always been pressure on the Pool of house available for allotment to the officers but that pressure has not deterred allotment of houses to other political parties for office purposes in accordance with the Consolidated Instructions for allotment of Government Accommodation from General Pool to National and State level Political Parties. The fact that there is a huge pressure cannot be the only reason for the Respondents to deny the Petitioner its right to be allotted an accommodation from the GPRA for setting up its party office.

14. The Respondents are directed to consider the request of the Petitioner within six weeks from today and take a decision by passing a detailed order as to why even one housing unit from the GPRA cannot be allotted to the Petitioner when all other political parties have been allotted similar accommodation from the GPRA. Let a detailed order deciding the request of the Petitioner be provided to the Petitioner so that the Petitioner can take other remedial steps available to it under law if the request of the Petitioner is not being considered adequately.

15. The petition is disposed of with above observations, along with pending application(s), if any.

**SUBRAMONIUM PRASAD, J**

**JUNE 05, 2024**

*Rahul*