

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

WRIT PETITION NO.324 OF 2004

Sunita Murlidhar Wadhwani,
Age 35 years, Occu. Household,
Through her General Power of
Attorney Holder
Murlidhar s/o Virumal Wadhwani,
Age 55 years, Occ. Business,
R/o Mahavir Nagar, Sawedi Road,
Ahmednagar

... PETITIONER

VERSUS

1. The State of Maharashtra
(Through Secretary, Urban
Development Department,
Mantralaya, Mumbai)
Copy served on Government
Pleader, High Court of Bombay,
Bench at Aurangabad)
2. Ahmednagar Municipal Corporation
(Notice to be served on
Municipal Commissioner)
3. The Ahmednagar Zilla Sahakari
Dudh Vyavsayik Sangh Limited,
Sawedi Road, Ahmednagar

(Notice to be served on
General Manager of the Sangh)
4. Nandkumar s/o Bastulal Kangala,
Age 56 years, Occ. Pensioner,
R/o Bungalow No.1-A, Final Plot No.38,
Gaikwad Mala, Balikashram Road,
Ahmednagar.
5. Nagar Taluka Sahakari Dudh
Sangh Ltd., Ahmednagar.

... RESPONDENTS

.....
Shri V.S. Bedre, Advocate for petitioner
Shri G.K. Thigale, A.G.P. for State
Shri V.P. Latange, Advocate for respondent No.2
Shri V.D. Hon, Senior Counsel for respondents No.3 & 5
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W I T H

WRIT PETITION NO.327 OF 2004

1. Ramchandra s/o Hemandas Kukreja,
Age 58 years, Occu. Business,
 2. Maniklal s/o Kawdamal Kukreja,
Age 54 years, Occu. Business,
- Both R/o Mahaveer Nagar,
Behind Hotel Oberoi,
Savedi Road, Ahmednagar. ... PETITIONERS

VERSUS

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(Through Secretary, Urban
Development Department,
Mantralaya, Mumbai)
Copy served on Government
Pleader, High Court of Bombay,
Bench at Aurangabad)
2. Ahmednagar Municipal Corporation
(Notice to be served on
Municipal Commissioner)
3. The Ahmednagar Zilla Sahakari
Dudh Vyavsayik Sangh Limited,
Savedi Road, Ahmednagar

(Notice to be served on
General Manager of the Sangh)
4. Nandkumar s/o Bastulal Kangala,
Age 56 years, Occ. Pensioner,
R/o Bungalow No.1-A, Final Plot No.38,

Gaikwad Mala, Balikashram Road,
Ahmednagar.

5. Nagar Taluka Dudh Sangh Ltd.,
Ahmednagar. ... RESPONDENTS

.....
Shri V.S. Bedre, Advocate for petitioner
Shri G.K. Thigale, A.G.P. for State
Shri K.N. Lokhande, Advocate for respondent No.2
Shri V.D. Hon, Senior Counsel for respondents No.3 & 5
.....

WITH

WRIT PETITION NO.339 OF 2004

World Renewal Spiritual Trust,
Registered Public Trust,
Through its Trustee,
Shri Ramesh Nanalal Shah,
Age 67 years, Occu. Chartered
Accountant, R/o Bombay, through
his General Power of Attorney,
Brahmakumari Rajeshwariji
Age 47 years, Occu. Social Service,
R/o Prajapita Brahmakumari
Ishwariya Vishwa Vidyalaya,
Behind Hotel Oberoi, Savedi Road,
Ahmednagar ... PETITIONER

VERSUS

1. The State of Maharashtra
(Through Secretary, Urban
Development Department,
Mantralaya, Mumbai)
Copy served on Government
Pleader, High Court of Bombay,
Bench at Aurangabad)
2. Ahmednagar Municipal Corporation
(Notice to be served on
Municipal Commissioner)

3. The Ahmednagar Zilla Sahakari
Dudh Vyavsayik Sangh Limited,
Savedi Road, Ahmednagar

(Notice to be served on
General Manager of the Sangh)

4. Nandkumar s/o Bastulal Kangala,
Age 56 years, Occ. Pensioner,
R/o Bungalow No.1-A, Final Plot No.38,
Gaikwad Mala, Balikashram Road,
Ahmednagar.

5. Nagar Taluka Dudh Sangh Ltd.,
Ahmednagar.

... RESPONDENTS

.....
Shri V.S. Bedre, Advocate for petitioner
Shri G.K. Thigale, A.G.P. for State
Shri K.N. Lokhande, Advocate for respondent No.2
Shri V.D. Hon, Senior Counsel for respondents No.3 & 5
.....

CORAM: S.V. GANGAPURWALA AND
A.I.S. CHEEMA, JJ.

DATED: 5th May, 2015.

ORAL JUDGMENT (Per S.V. Gangapurwala, J.):

1. Mr. Bedre, learned counsel for the petitioners submits that, initially the petitioners had filed Writ Petition Nos.2825/2001, 2833/2001 and 2827/2001. In one of the said writ petitions, the challenge was to the cancellation of the layout, whereas in remaining two petitions the challenge was to the grant of construction policy. The learned counsel submits that, this Court had directed the petitioners to avail a remedy under

Section 47 of the Maharashtra Regional and Town Planning Act. Pursuant to the said order of this Court, the petitioner had approached the respondent/ State. However, the respondent/ State, without affording any opportunity of hearing to the petitioners, and without assigning any reasons, has rejected the appeal filed by the petitioners. According to the learned counsel, the principles of natural justice have not been followed.

2. Mr. Lokhande, learned counsel for Municipal Corporation submits that the layout was cancelled by the authority, inter alia the construction permission also did not survive.

3. The learned A.G.P. submits that, as the layout itself was cancelled, the construction permission also was cancelled.

4. We have also heard Mr. Hon, learned counsel for respondent No.3.

5. This Court, vide order dated 20.1.2003, passed in Writ Petition Nos.2825/2001, 2833/2001 and 2827/2001, had permitted the petitioners to resort to the remedy under Section 47 of the Maharashtra Regional and Town Planning Act and the authority was directed to consider the same after hearing the petitioners so also the respondents and the intervener.

6. From the perusal of the order, it nowhere appears that the respondent/ State, while deciding the appeal, has given any opportunity of hearing to the parties, nor the order gives any specific reasons. The respondent/ State was dealing with a quasi judicial proceedings. Whenever order is passed, the same being quasi judicial in nature, the order has to be supported with reasons. Reasons are lifeline of any quasi judicial order passed. The reasons depict the application of mind on the part of the authority in passing the order.

7. The impugned order is bereft of any reasons. The impugned order states that the hearing was conducted before the Hon'ble State Minister and as per the order given by the Hon'ble State Minister, the same is communicated by the Deputy Secretary. The order nowhere gives any reasons.

8. In light of the above, it would be appropriate to relegate the parties before the respondent/ State for deciding the appeal filed by the petitioners under Section 47 or otherwise of the Maharashtra Regional and Town Planning Act on its own merits.

9. In light of the above, we pass the following order :

The impugned order is quashed and set aside. The

parties are relegated before the respondent No.1, who shall decide the appeal filed by the petitioners under Section 47 of the Maharashtra Regional and Town Planning Act or otherwise on its own merits in accordance with law and shall pass the order upon giving reasons. The parties shall appear before the respondent No.1 on 18.6.2015.

The respondent shall decide the said proceedings expeditiously preferably within eight months from the date of appearance.

Rule accordingly disposed of. All contentions of respective parties are kept open. No costs.

(A.I.S. CHEEMA, J.)

(S.V. GANGAPURWALA, J.)